

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 8 November 2000

The Council met at half-past Two o'clock

MEMBERS PRESENT:

THE PRESIDENT

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

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

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

THE HONOURABLE DAVID CHU YU-LIN

THE HONOURABLE CYD HO SAU-LAN

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

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

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

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

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

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

THE HONOURABLE NG LEUNG-SING

PROF THE HONOURABLE NG CHING-FAI

THE HONOURABLE MARGARET NG

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

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE CHEUNG MAN-KWONG

THE HONOURABLE HUI CHEUNG-CHING

THE HONOURABLE CHAN KWOK-KEUNG

THE HONOURABLE CHAN YUEN-HAN

THE HONOURABLE BERNARD CHAN

THE HONOURABLE CHAN KAM-LAM

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

THE HONOURABLE LEUNG YIU-CHUNG

THE HONOURABLE SIN CHUNG-KAI

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

DR THE HONOURABLE PHILIP WONG YU-HONG

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

THE HONOURABLE HOWARD YOUNG, J.P.

DR THE HONOURABLE YEUNG SUM

THE HONOURABLE YEUNG YIU-CHUNG

THE HONOURABLE LAU CHIN-SHEK, J.P.

THE HONOURABLE LAU KONG-WAH

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

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

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

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

THE HONOURABLE CHOY SO-YUK

THE HONOURABLE ANDREW CHENG KAR-FOO

THE HONOURABLE SZETO WAH

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

THE HONOURABLE LAW CHI-KWONG, J.P.

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

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

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

THE HONOURABLE LI FUNG-YING, J.P.

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

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

THE HONOURABLE MICHAEL MAK KWOK-FUNG

THE HONOURABLE ALBERT CHAN WAI-YIP

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

DR THE HONOURABLE LO WING-LOK

THE HONOURABLE WONG SING-CHI

THE HONOURABLE FREDERICK FUNG KIN-KEE

THE HONOURABLE IP KWOK-HIM, J.P.

THE HONOURABLE LAU PING-CHEUNG

MEMBERS ABSENT:

THE HONOURABLE ALBERT HO CHUN-YAN

THE HONOURABLE LEE CHEUK-YAN

THE HONOURABLE WONG YUNG-KAN

PUBLIC OFFICERS ATTENDING:

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

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

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

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

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

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

MR LAM WOON-KWONG, G.B.S., J.P.
SECRETARY FOR HOME AFFAIRS

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

MRS FANNY LAW FAN CHIU-FUN, J.P.
SECRETARY FOR EDUCATION AND MANPOWER

MS SANDRA LEE SUK-YEE, J.P.
SECRETARY FOR ECONOMIC SERVICES

MR KEVIN HO CHI-MING, J.P.
SECRETARY FOR TRANSPORT

MR GREGORY LEUNG WING-LUP, J.P.
SECRETARY FOR HEALTH AND WELFARE

CLERKS IN ATTENDANCE:

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

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

MS PAULINE NG MAN-WAH, ASSISTANT SECRETARY GENERAL

TABLING OF PAPERS

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

Subsidiary Legislation/Instruments	<i>L.N. No.</i>
Control of Obscene and Indecent Articles (Amendment) Regulation 2000.....	288/2000
Public Health and Municipal Services (Fees and Charges) (Museums) Regulation	289/2000
Road Traffic (Village Vehicles) (Amendment) Regulation 2000.....	290/2000
Legal Practitioners (Fees) (Amendment) Rules 2000.....	291/2000
Tax Reserve Certificates (Rate of Interest) (No. 10) Notice 2000.....	292/2000
Civil Aviation (Insurance) Order (Cap. 448 Sub. Leg.) (Commencement) Notice 2000	293/2000
Road Traffic Legislation (Amendment) (No. 2) Ordinance 2000 (50 of 2000) (Commencement) Notice 2000.....	294/2000

Other Papers

- No. 25 — The Government Minute in response to the Twelfth Annual Report of the Ombudsman issued in June 2000
- No. 26 — Hong Kong Tourist Association
Annual Report 1999/2000

ADDRESSES

PRESIDENT (in Cantonese): Addresses. The Chief Secretary for Administration will address the Council on the Government Minute in response to the Twelfth Annual Report of the Ombudsman issued in June 2000.

The Government Minute in response to the Twelfth Annual Report of the Ombudsman issued in June 2000

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, the Twelfth Annual Report of the Ombudsman was tabled to the Legislative Council on 21 June this year. The Government undertook then to prepare a Government Minute in response to the recommendations made by the Ombudsman with respect to the cases set out in Annexes 6 and 10 of the Annual Report to allow the Ombudsman and the public to monitor the implementation of the relevant recommendations by the Government and public organizations. The Government Minute is now tabled before this Council.

The Government Minute covers the complaint cases into which the Ombudsman has completed investigation and in respect of which recommendations have been made, and three cases into which the Ombudsman has initiated investigation direct. Most Policy Bureaux and departments involved in these cases have fully accepted the recommendations made by the Ombudsman and taken follow-up actions. Only a few Policy Bureaux or departments involved have yet to fully accept the recommendations made by the Ombudsman due to insufficient resources or operational restraints. The reasons are set out in the Government Minute.

The organizations related to the cases covered by the Government Minute include the Hong Kong Arts Development Council and the Hospital Authority. Although they are not government departments, they bear the responsibility of being accountable to the public and have provided us with information showing what follow-up actions they have taken in response to the recommendations made by the Ombudsman.

The contribution made by the Ombudsman in handling public complaints against maladministration and in enhancing the quality of public administration is evident to all. We also appreciate the public aspiration for increased

transparency and accountability of the Government. The Government will continue to endeavour to assist the Ombudsman to fulfill its duties and make joint efforts in providing public services of an even higher standard.

Should Members wish the Government to further elaborate any part of the Government Minute, we will be pleased to provide the relevant information.

Thank you, Madam President.

PRESIDENT (in Cantonese): The Secretary for Economic Services will address the Council on the Hong Kong Tourist Association Annual Report 1999/2000.

Hong Kong Tourist Association Annual Report 1999/2000

SECRETARY FOR ECONOMIC SERVICES (in Cantonese): Madam President, I have the pleasure to table the Hong Kong Tourist Association (HKTA) Annual Report 1999/2000.

For the year 1999-2000, the HKTA's total income was \$576 million, of which over 95%, that is, \$548.7 million was government subvention. On the expenditure side, total expenditure amounted to \$575 million, of which \$320 million was spent on marketing activities, and the rest on staff costs and other operational expenses.

At present, the HKTA has offices in 14 cities and six representatives elsewhere. Apart from promoting and marketing Hong Kong as a tourist destination, these offices and representatives provide information about travel in Hong Kong to the local tourism trades and media to facilitate the arrangement of tours to Hong Kong.

In the face of keen competition, the HKTA spares no effort in promoting tourism. In order to clearly define the needs of tourists, the HKIA conducted a global market research in 1999-2000 and published the "Five-Year Marketing Plan" in February this year, laying down clearly the global and regional marketing strategies and objectives. The Plan sets out the major tasks, which include attracting high-yield visitors to Hong Kong, developing new market segments, and stepping up promotion in new markets such as the Middle East and India.

The HKTA has been working hand in hand with the tourism authorities in the Mainland and within the Asian region to promote "multi-destination" itinerary. A prime example of success is the Pearl River Delta Tourism Marketing Organization jointly formed by the HKTA, the Guangdong Provincial Tourism Bureau and the Macau SAR Government Tourist Office. The Organization launched a website last month to provide travel information for the convenience of tourists.

On overseas promotional and marketing efforts, the "Hong Kong — City of Life" marketing campaign, launched since early 1998, has borne fruit. It has successfully established a remarkable image and a prominent position for Hong Kong in overseas markets. To enhance the effectiveness of promoting Hong Kong overseas in the year ahead, the HKTA will expand the use of e-marketing and revitalize the worldwide marketing campaign — the "City of Life" Campaign.

Moreover, the HKTA has optimized the use of resources, strengthened co-operation with the tourism industry, the media and the private sector, such as establishing strategic partnerships and alliances, to enhance the effectiveness of their promotion and marketing. Co-operation with *National Geographic*, a travel magazine, and Virgin Radio in the United Kingdom and other media bodies, has also been received positively.

Both the Government and the HKTA attach great importance to enhancing the quality of service and promoting Hong Kong's hospitality culture. In this regard, the HKTA has launched the "Quality Tourism Services" Scheme and the "Be A Good Host" Campaign, and in addition it also conducts visitor surveys on a regular basis to assess the level of satisfaction of tourists of their visits in Hong Kong. These surveys also provide reference for the HKTA to constantly review and improve our tourism products.

To discharge its duty of promoting and marketing Hong Kong more effectively, the HKTA has completed a "Strategic Organization Review" (SOR). The SOR confirmed that the HKTA should focus on global marketing. We will introduce a bill into the Legislative Council in the current Session to amend the Hong Kong Tourist Association Ordinance to give effect to the recommendations of the SOR.

Madam President, I would like to express my sincere thanks to Mr LO Yuk-sui, HKTA's former Chairman, for his invaluable contribution to promoting tourism during his four-year tenure. I would also like to thank the incumbent Chairman, the Honourable Mrs Selina CHOW, for taking on the arduous task of leading the HKTA to implement the recommendations of the SOR and help develop tourism in Hong Kong. Finally, I would like to take this opportunity to thank Mrs Amy CHAN, HKTA's former Executive Director and the staff members of HKTA for their hard work. The HKTA will continue to work closely with the Government and the industry to bring tourism development to another new height.

Thank you, Madam President.

PRESIDENT (in Cantonese): Miss Cyd HO will address the Council on the Prison (Amendment) Rules 2000, which are subsidiary legislation laid on the table of the Council on 11 October 2000.

Prison (Amendment) Rules 2000

MISS CYD HO (in Cantonese): Madam President, thank you for allowing me to speak on the Prison (Amendment) Rules 2000 here. The Amendment Rules were published in the Gazette on 5 October 2000, and tabled before the Legislative Council on 11 October 2000.

I speak in my capacity as the Chairman of the Subcommittee on the Amendment Rules. The Subcommittee was formed by the House Committee on 13 October. Apart from the Prison (Amendment) Rules 2000, the Subcommittee also deliberated on the Immigration (Vietnamese Migrants) (Detention Centres) (Amendment) Rules 2000 and the Probation of Offenders (Amendment) Rules 2000.

The Subcommittee supports the Administration's proposal in the Prison (Amendment) Rules 2000 of allowing Non-official Justices of the Peace (JPs) to choose either Official JPs or Non-official JPs as their visiting partner in their visits to custodial institutions. However, members of the Subcommittee have certain views on JP visits to custodial institutions.

Under Rule 222 of the Prison Rules, the names of two visiting justices will be furnished by the Chief Secretary for Administration to the Commissioner of Correctional Services (the Commissioner). Other JPs not on the list are required to give advance notification to the Administration Wing if they would wish to visit the prisons/hostels so that the Director of Administration can confirm their identity to the Commissioner.

Rule 222 also stipulates that not more than two visiting JPs would visit a prison at one time. Although the Commissioner is empowered to exercise discretion to allow other JP(s) to view the prison during the same visit, these JPs other than those visiting under the JP visits system will not have the responsibilities and powers as the visiting JPs.

Members of the Subcommittee are of the view that the administrative arrangements prescribed under Rule 222 of the Prison Rules are overly restrictive for JPs to perform their functions and powers under section 5 of the Justices of the Peace Ordinance. Members requested that the Administration should study the proposal of allowing JPs to conduct impromptu JP visits to prisons and other correctional institutions without the need for prior arrangement made by the Director of Administration or the Commissioner. Some members also suggested that the Administration should examine the feasibility of allowing more than two JPs to be entitled to the same responsibilities and powers as provided for in the Prison Rules to visit a prison at one time. The Administration has undertaken to examine these two proposals.

Members also agreed that the issues should be referred to the Panel on Home Affairs for follow-up. The Administration has undertaken to report to the relevant Legislative Council Panel as soon as practicable.

Thank you, Madam President.

ORAL ANSWERS TO QUESTIONS

PRESIDENT (in Cantonese): Questions. Question time normally does not exceed one and a half hours, with each question being allocated about 12 to 15 minutes. The Member who asks a question has priority to ask the first supplementary, after which other Members may ask their supplementaries. Supplementaries should be as concise as possible so that more supplementaries

may be asked by Members. Members should not ask more than one question. Otherwise, I will ask them to put their supplementaries anew.

First question.

Disposal of Tested Products by Consumer Council

1. **MR LAU WONG-FAT** (in Cantonese): *Madam President, regarding how the Consumer Council disposes of the products which are still usable after testing, especially those more expensive ones, will the Government inform this Council whether it knows:*

- (a) *the current practice of the Consumer Council; and*
- (b) *if the Consumer Council has arranged selling the tested products to its staff members by private sales; if it has, the criteria used in deciding on the kinds of products to be disposed of by selling to its staff members instead of open auction, as well as the mechanism for setting the sale prices of such products?*

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

- (a) If a product sample tested by the Consumer Council is found to be of acceptable quality after testing, the Head of the Research and Survey Division of the Council will examine its condition and take into account factors such as whether the product is of use to the Consumer Council and its purchase price, before making a recommendation to the Consumer Council's Chief Executive on its disposal. In general, samples which are still usable are disposed of in the following ways: items which are of use to the Consumer Council (for example, table fans, batteries, and so on) will be used in its office and consumer advice centres; samples suitable for users with special needs (such as wheelchairs) will be donated to charity; and other general items will be sold internally to members and staff of the Consumer Council.

- (b) The Consumer Council and its Research and Testing Committee and Staff and Finance Committee have considered carefully the issue of tested product samples' disposal. Their conclusion is that usable samples after testing should be sold internally to help recover part of the purchase cost for the samples. As to the method of disposal, the Consumer Council does not consider it appropriate to assume the role of a vendor of products in the open market, and it also does not have the expertise of a professional auctioneer. Furthermore, the costs associated with conducting open auctions, for example, in advertising, hiring venues, paying commission, and so on, are not cost effective. The Consumer Council has therefore decided to dispose of such samples to Consumer Council members and staff by means of internal sale or by accepting the highest tender, and not by public sale or auction.

When a sample is sold to Consumer Council members and staff by internal sale or tenders, the sale price or base price is generally set at 30% of the original price. This resale price level is broadly in line with those set by consumer organizations overseas. In setting the sale price of the sample, the Consumer Council will consider two main factors. First, in the course of testing, the sample may have been opened up, subjected to durability testing or operated under adverse conditions. There may be some degree of wear and tear. Second, product testing is a long and meticulous process. After thorough testing and the publication of results, the Consumer Council will also keep the sample for a minimum of 12 weeks, so that the sample may be retested if the results are challenged. This practice follows the guidelines issued by the International Consumers Research and Testing Limited. By the time the sample is resold, it is already a used product.

MR LAU WONG-FAT (in Cantonese): *Madam President, will the Government urge the Consumer Council to review the existing arrangement for the disposal of tested products and consider methods such as open auction on the Internet to enhance its transparency and preclude the opportunity of people abusing their power to seek personal gain?*

SECRETARY FOR ECONOMIC SERVICES (in Cantonese): Madam President, I will ask the Consumer Council to consider the Honourable LAU Wong-fat's suggestion. However, I wish to add that, according to the information I have, few samples can be resold after testing by the Consumer Council since the degree of wear and tear of some samples may have rendered them unsafe. Besides, many food products cannot be resold because they are not suitable for consumption anymore.

DR TANG SIU-TONG (in Cantonese): *Madam President, if some products cannot be sold and no staff wants them, what will the Consumer Council do with the products?*

SECRETARY FOR ECONOMIC SERVICES (in Cantonese): Madam President, as I said, not all samples will be sold since a lot of them are no longer usable. Moreover, some samples will be retained and used in the Consumer Council's office. Therefore, only a very small number of them will be sold or offered by tender. Also, the Consumer Council needs not buy every product. Under certain circumstances, the Consumer Council will join some international testing organizations. After paying some fees or membership fees, the testing will be conducted by the international testing organization, after which the results will be announced by the Consumer Council. Thus, the Consumer Council does not necessarily have to purchase products for every testing.

PRESIDENT (in Cantonese): Dr TANG, do you consider the Secretary has not answered your supplementary question?

DR TANG SIU-TONG (in Cantonese): *Yes, the Secretary has not answered my supplementary question.*

PRESIDENT (in Cantonese): Dr TANG, please repeat your question. Maybe the Secretary did not hear it clearly.

DR TANG SIU-TONG (in Cantonese): *My supplementary question was: If some of the tested samples cannot be sold after an internal offer, how will the Consumer Council dispose of them? Will the Consumer Council donate the samples to charity or dispose of them in other ways?*

SECRETARY FOR ECONOMIC SERVICES (in Cantonese): Madam President, according to my information, there are no unsold samples since not all samples are offered for sale. Some samples will be used in the Consumer Council's office, while some will be donated to charity.

MR HOWARD YOUNG (in Cantonese): *Madam President, my supplementary question is similar to Dr TANG's. It is about what happens if not all samples are sold. If I heard it correctly, the Secretary said that there were no unsold samples. In fact, if many samples are already damaged, I wonder if they are worth 30% of the original price. If the reserve price of the samples offered by tender is set at 30% of the original price, have there really been no cases in which samples cannot be sold and the Consumer Council does not know how to dispose of them?*

SECRETARY FOR ECONOMIC SERVICES (in Cantonese): Madam President, in the past 24 months, the Consumer Council sold some products by tender only once. In that sale by tender, all the products were sold. During the past 24 months, the Consumer Council also offered products for sale on three occasions and all the products were sold on each occasion.

DR LUI MING-WAH (in Cantonese): *Madam President, I believe many products used for testing by the Consumer Council, especially electrical products, have a high residual value, since the Consumer Council does not carry out destructive testing. In that case, it seems too restrictive to sell them to staff of the Consumer Council only. Can the offer be extended to all government staff so that they can bid for the products on-line? The scope would seem too wide if the offer is extended to everyone, but can it be extended to staff of government departments?*

SECRETARY FOR ECONOMIC SERVICES (in Cantonese): Madam President, I will ask the Consumer Council to consider this suggestion. But I hope Members will understand there are indeed not that many products that can be sold. As I said, many food products cannot be resold. There are also some cases where the Consumer Council does not have to buy products at their original price for testing, or it will borrow samples for testing. In any case, Madam President, I will ask the Consumer Council to consider the Honourable Member's suggestion.

MR HENRY WU (in Cantonese): *Madam President, the Secretary mentioned that only very few products would be sold to staff of the Consumer Council. Does the Secretary have any actual figures, such as in dollar terms, showing how many samples were put on sale or how many were thrown away?*

SECRETARY FOR ECONOMIC SERVICES (in Cantonese): Madam President, I do not have the detailed figures on hand. But I can tell the Honourable Member that in the past 24 months, the Consumer Council spent only some \$1.4 million on buying samples. Thus, the amount was not as great as we might imagine.

MR HENRY WU (in Cantonese): *Madam President, I wonder if the Secretary can provide the relevant information.*

PRESIDENT (in Cantonese): Mr WU, are you asking the Secretary to give a written reply?

MR HENRY WU (in Cantonese): *Yes, a written reply.*

SECRETARY FOR ECONOMIC SERVICES (in Cantonese): Madam President, I will give a written reply. (Annex I)

PRESIDENT (in Cantonese): Second question.

Inappropriate Location of Drying Racks of Units in PRH Estates

2. **MR FRED LI** (in Cantonese): *Madam President, at present, as the drying racks of units in some Harmony-type Public Rental Housing estates are installed outside the kitchen window and are very close to the exhaust points of the range hoods, clothes drying on these racks may be stained easily. For this reason, some tenants have installed drying racks at other positions on the external walls of their units, and subsequently have received warning letters issued by the Housing Department demanding the removal of the unauthorized drying racks or else they may have their tenancies terminated. In this connection, will the Government inform this Council:*

- (a) *of the names of the housing estates which have drying racks installed outside the kitchen window of their units, and the respective numbers of housing blocks and units involved;*
- (b) *of the specific measures in place to tackle the problem; and*
- (c) *whether it will consider allowing the tenants to keep the unauthorized drying racks already installed, and permitting tenants of such estates to install drying racks at other positions on the external walls of their units; if not, of the reasons for that?*

SECRETARY FOR HOUSING (in Cantonese): Madam President, a list of public rental housing estates of Harmony type with drying racks installed outside kitchen windows is tabled, together with the number of blocks and units involved.

To avoid the staining of clothes on drying racks, tenants are advised to follow the guidelines issued by the Housing Authority (HA) on how to install exhaust fans and grease trays for collecting exhaust fan residue. An alternative is to use drying rails provided in the bathrooms.

For safety reason, the HA does not allow tenants to put up or retain any unauthorized drying racks on external walls. Nor will it permit the installation of drying racks other than at specified locations so that the risk of injury to the public as a result of falling objects is reduced to a minimum.

Public rental housing estates of Harmony type
with drying racks installed outside kitchen windows

<i>Estate</i>	<i>Number of blocks</i>	<i>Number of flats</i>
Cheung Hang	2	1 511
Choi Fai	2	1 351
Chung On	2	1 567
Fu Tung	3	1 664
Hau Tak I	6	4 271
Hing Tung	3	2 043
Ka Fuk	3	2 045
Kai Tin	3	2 355
Kam Peng	1	252
Ko Yee	2	914
Kwai Chung	3	2 132
Kwai Fong	3	2 036
Kwai Shing (East)	3	1 701
Kwong Tin	4	2 453
Lai On	5	1 438
Lee On	5	3 632
Lok Fu	4	1 640
Ma Hang	4	658
Ming Tak	2	1 561
On Yam	8	5 492
Pak Tin	5	1 171
Ping Tin	4	3 084
Sau Mau Ping I	2	823
Sau Mau Ping III	2	1 582
Shek Lei I	2	1 515
Shek Lei II	2	1 321
Shek Yam (East)	3	2 490
Sheung Tak	5	3 780
Siu Sai Wan	3	2 008
Tai Wo Hau	3	2 156
Tin Shui I	7	4 615
Tin Shui II	5	3 170
Tin Tsz	4	3 392

<i>Estate</i>	<i>Number of blocks</i>	<i>Number of flats</i>
Tin Wan	4	3 036
Tin Yiu I	1	633
Tin Yiu II	6	3 823
Tsui Ping (South)	4	3 158
Tsz Ching	4	2 542
Tsz Lok	7	4 931
Tsz Man	3	2 043
Wah Sum	2	1 481
Wang Tau Hom	4	1 768
Wong Tai Sin (Lower) I	7	3 158
Yiu Tung	11	5 305
Total: 44	168	103 701

MR FRED LI (in Cantonese): *Madam President, having clothes stained is just one of the three shortcomings of the poor positioning of the drying racks. I hope the Secretary is aware of the other two shortcomings. Firstly, cigarette butts and rubbish often fall from upper floors, and kitchens are where such garbage is often thrown out of. Hence, tenants are reluctant to dry their clothes outside their kitchens. In addition, sunshine cannot fall directly onto the racks as they are erected on the caved in parts of the buildings. So, tenants can only dry their clothes in the shade. Can the Government overcome this problem by using alternative designs that can allow tenants to dry their clothes properly without having to worry about stains or having to dry them in the shade?*

SECRETARY FOR HOUSING (in Cantonese): *Madam President, the HA notes that the drying racks are positioned in the caved in parts of the buildings so that minimal danger is caused to the public because only maintenance personnel or inspectors will access these areas. Installing drying racks in other parts of the buildings would mean greater hazards for the public. Therefore, drying racks must be positioned as they are. As the Honourable Fred LI pointed out, although not much sunlight may reach these parts directly, tenants may still dry their clothes there. Nevertheless, the HA has planned a review of building designs for housing estates to be built next year to see which parts of the buildings are best suited for drying clothes.*

MISS CHOY SO-YUK (in Cantonese): *Madam President, the positioning of these drying racks is obviously unreasonable, as clothes will be stained. Does it show that the Government has not considered the needs of housewives or those of the women when it first designed the buildings?*

SECRETARY FOR HOUSING (in Cantonese): Madam President, I trust the design has nothing particular to do with women or housewives. Anyone doing laundry work faces similar problems. Regarding grease, as I said in the main reply, when tenants follow the guidelines issued by the HA on how to install exhaust fans and grease trays for collecting exhaust fan residue, grease will be collected in the grease trays after falling onto the blades of the exhaust fans. If tenants clear the trays regularly, grease will not spill to cause stains on clothes. So, in this respect tenants are largely responsible.

MR WONG SING-CHI (in Cantonese): *Madam President, many Members pointed out that the positioning of drying racks are grossly improper as stains will easily be caused by rubbish falling from upper floors. If tenants insist on drying clothes as they do now as a form of civil disobedience, will their tenancies be terminated?*

SECRETARY FOR HOUSING (in Cantonese): Madam President, indeed wherever the drying racks are positioned, they may still catch rubbish falling from upper floors. It is an offence to discard rubbish from height and we may take legal action against such behaviour. At buildings under the management of the HA, management staff will monitor the situation by frequent patrols and closed-circuit television (CCTV). If such behaviour is detected and the CCTV can videotape the incident as evidence, action will be taken. Where necessary, notices to terminate tenancy will be issued.

MR FRED LI (in Cantonese): *Madam President, the Secretary appears not to understand the relevant design. The grease to which I referred is not the grease from the exhaust fans, but the grease from exhaust points of pipes connected to the range hoods. Installing grease trays cannot solve the problem as the grease is expelled from the exhaust pipes and the drying racks are located immediately under them. So, grease trays will not help. The grease will stain the clothes.*

Madam President, the Secretary must understand that it is not a problem with the exhaust fans. When the problem persists, how can tenants prevent their clothes from being stained?

SECRETARY FOR HOUSING (in Cantonese): Madam President, I understand the problem perfectly. The HA has studied the situation and told me that the advice can help solve the problem of clothes being stained on the drying racks. If Mr Fred LI has doubts, I will inform the HA accordingly so that it can take his comments into consideration when designing drying racks next year.

DR LUI MING-WAH (in Cantonese): *Madam President, I agree with what Mr Fred LI said. Installing grease trays will not solve the problem. This is the fact. The Secretary will understand after thinking over it carefully. Since tenants find the drying racks inconvenient to use, why do we not allow them to install the drying racks elsewhere? Certainly, doing so may pose hazards but the problem can be solved. Will the Secretary inform this Council whether he would invite the Hong Kong Productivity Council (HKPC) to solve the problem of falling drying racks? If this can be done, the problem can then be solved.*

SECRETARY FOR HOUSING (in Cantonese): Madam President, the problem relates to the overall design. As I said a moment ago, the HA will revise the design of buildings to be constructed next year. It will certainly take into consideration the scenarios mentioned by Mr Fred LI and Dr the Honourable LUI Ming-wah.

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

DR LUI MING-WAH (in Cantonese): *Madam President, the part on whether the Secretary would invite the HKPC to solve the problem of falling drying racks. But he was talking about the design of new housing estates in future.*

SECRETARY FOR HOUSING (in Cantonese): Madam President, at present there are certain requirements in connection with the design of housing estates. Nevertheless, I will relay Dr LUI's suggestion to the HA.

DR YEUNG SUM (in Cantonese): *Madam President, I am glad to hear the Secretary indicate that he would consider improving the drying facilities. However, what will the Government do with the design problem now found in the 168 Harmony blocks?*

SECRETARY FOR HOUSING (in Cantonese): Madam President, as I said a moment ago, the HA has given some thoughts to the alternative positioning of drying racks. Unfortunately, the existing design does not permit the erection of the racks elsewhere. Now some tenants have installed drying racks outside the windows of their sitting rooms. But if clothes, iron rails or bamboo sticks should fall from such positions, the safety of pedestrians will be severely compromised. Therefore, under the existing design, there are no positions other than the external walls outside the kitchens that are suitable for the erection of drying racks. The HA is aware of the situation. Despite that, there is nothing that can be done at the moment to improve the situation, given the specific design of the buildings.

PRESIDENT (in Cantonese): Third question.

Appointment of Members of Public to Advisory and Statutory Bodies

3. **MR NG LEUNG-SING** (in Cantonese): *Madam President, regarding the Government's appointment of members of the public to advisory and statutory bodies, will the Government inform this Council:*

- (a) *of the basic criteria adopted for making such appointments; the policy set for the appointment of professionals to such bodies; the respective proportions of members belonging to the engineering, architectural and planning professions in the relevant bodies, and whether the Government has assessed if such proportions are adequate; if so, of the assessment result;*

- (b) *whether it has issued guidelines to appointees, stating clearly their rights and duties, the performance assessment mechanism as well as the reward and punishment system; and how the appointees' performance is monitored; and*
- (c) *of the mechanism for reviewing matters relating to such appointments?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, I give my reply as follows:

- (a) The Government's objective of setting up advisory and statutory bodies is to seek public views on policy issues to provide reference and a basis for policy formulation. Apart from providing advice, some statutory bodies also perform such duties and exercise such rights as conferred on them by the relevant legislation. Our policy is to appoint suitable individuals to advisory and statutory bodies in accordance with the functions and operational requirements of these bodies. In considering appointments, we will take into account the prospective appointees' abilities, expertise, experience, integrity and commitment to public service.

Under the existing mechanism, relevant advisory and statutory bodies have enlisted the participation of professionals in this community service. Relevant bureaux and departments will, according to the functions of individual bodies, select suitable candidates and make recommendations for consideration by the Government to appoint professionals to these bodies on a personal basis. Moreover, should such bodies have genuine need, the relevant bureaux and departments may invite professional organizations to elect or nominate representatives to serve on these bodies. The election or nomination mechanism of some statutory bodies is clearly stipulated in the relevant legislation governing these bodies.

According to our understanding, among the 370 major advisory and statutory bodies, 52 bodies are performing functions relevant to the engineering, architectural and planning/surveying sectors. There

are altogether 1 053 members on these 52 bodies. Among them, 244 non-official members are from the engineering sector, 106 non-official members from the architectural sector and 97 non-official members from the planning/surveying sector; totalling 447 non-official members from the above three professional sectors and representing 42% of the total number of members on these bodies.

Having regard to the operational requirements of bodies relevant to the sectors mentioned above, we consider that there is already an adequate number of professionals serving on these bodies. Relevant bureaux and departments will continue to review, from time to time, the composition of such bodies to ensure that there are sufficient members from the relevant sectors on the one hand, and a balanced composition is achieved to facilitate useful exchange of different views on the other.

- (b) In order to ensure that members of advisory and statutory bodies are aware of the functions of the relevant bodies as well as their duties, rights and responsibilities, we have issued guidelines requesting bureaux and departments to provide adequate information to the prospective appointees, prior to their appointment, to ensure that they have a clear understanding of their duties. Where necessary, further briefings will be provided to the appointees after they have been appointed. The relevant guidelines also require Bureau Secretaries and Heads of Departments to evaluate regularly the performance of appointed members sitting on these bodies, taking into account factors such as whether they have attended meetings, whether they are competent in performing their duties and their length of service, to facilitate consideration of their re-appointment. As the majority of the non-official members of advisory and statutory bodies are serving on these bodies on a voluntary and unremunerated basis, we consider that it is not appropriate to put in place a reward and punishment system.
- (c) The Home Affairs Bureau will review, from time to time, the overall appointment arrangements and procedures and, where appropriate, update the relevant guidelines.

MR NG LEUNG-SING (in Cantonese): *Madam President, I thank the Secretary for furnishing us with some general data in respect of this mechanism. It is mentioned in the third paragraph under part (a) of the Secretary's main reply that 52 bodies are performing functions relevant to the engineering, architectural and planning/surveying sectors. It is further mentioned that among the 1 053 members currently on these 52 bodies, 42% or a total of 447 non-official members are from those three professional sectors. With regard to this proportion of 42%, may I ask the Secretary whether the Government has exchanged views with the relevant professional organizations before it is satisfied that there is no composition mismatch and that the relevant professionals serving on those 52 bodies are sufficiently covered, or it is only the Government's own assessment that the proportion should be enough to enable professionals to participate in the work of those bodies? If the latter should be the case, could the Secretary inform this Council whether the Government would conduct similar exchanges with the relevant professional organizations in the future?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): *Madam President, regarding the question of whether or not the Government has exchanged views with the professional organizations concerned, I believe only the Bureau Secretaries or Heads of Departments on the relevant committees or bodies are able to answer. Nevertheless, according to my experience, actually many professional organizations have very often taken the initiative to reflect to the relevant bureaux and departments their views on the representativeness of certain advisory committees or statutory bodies. Moreover, if the relevant Bureau Secretaries and Heads of Departments should have received any such views, I believe they would certainly take them into due consideration.*

DR RAYMOND HO (in Cantonese): *Madam President, I have seen the list that sets out those 370 major advisory and statutory bodies. I find that the Government considers the engineering sector is related mainly to the field of transport infrastructure, but in fact the engineering sector comprises 16 different professions. In my opinion, the Government has overlooked the importance of the engineering sector in several particularly broad areas like industrial undertakings, information technology and environmental protection. I consider that the participation of the engineering sector must be enlisted in these areas.*

In this connection, although many members of the sector have joined their respective Institutions of Engineers, there are still many who have not. At present, there are about 20 000 engineers working outside Hong Kong. For my part, I am prepared to explain to the Secretary who should be included in the engineering sector. On the other hand, could the Secretary explain to this Council whether members of the engineering sector are mainly appointed to those infrastructure-related advisory bodies to the neglect of other areas?

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, at present, when the Home Affairs Bureau make recommendations for consideration by the relevant bureaux and departments, we will take into account a spectrum of factors. So, it is not true to say that we recommend the appointment of engineers to certain bodies simply because the functions of those bodies are related to only infrastructural projects. In many cases, although the relevant candidates do come not from the infrastructural sector or are even engaged in trades that do not have any direct connection with infrastructural projects, we will still suggest to the Bureau Secretaries and Heads of Departments to consider appointing them in the light of their excellent performances and good records. Nevertheless, if any relevant professional organizations or individual professional bodies should consider that the participation of their members in some specific committees would serve to enhance the effectiveness and representativeness of the relevant committees, they are most welcome to put forward their suggestions to us.

MR JAMES TIEN (in Cantonese): *Madam President, it is mentioned in part (b) of the main reply that the Home Affairs Bureau has issued guidelines to the various Policy Bureaux, and that the relevant guidelines also require Bureau Secretaries and Heads of Departments to evaluate regularly the performance of appointed members to see if they are competent in performing their duties. In this connection, may I ask the Secretary whether the term "competent" means that the appointed member concerned has tried his or her best to support the Government when sitting on the advisory body under the relevant Policy Bureau? Could the Secretary inform this Council whether those appointed members who have always been opposed to the views of the Government stand a slim chance of re-appointment?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, the answer is in the negative. *(Laughter)* As I pointed out in my main reply, the Government's most important objective of setting up advisory and statutory bodies is to enable the non-official members to draw on their professional knowledge, experience and expertise to provide us with advice on policy issues, so that we can do a better job of policy formulation and discharging our duties. Hence, by putting forward opposing views or criticisms to the Government, the relevant non-official members are in fact giving full play to the important role of our consultative framework. As regards evaluating the performance of appointed members to find out whether they are competent in performing their duties, we certainly will not base our evaluation on their support or otherwise for our proposals.

MR ERIC LI (in Cantonese): *Madam President, could the Secretary inform this Council whether the Government would consider enhancing the transparency of these bodies by such means as conducting meetings in public as far as possible, so as to further enhance the impartiality and independent status of these bodies? In the event that meetings cannot be conducted in public, will the Administration make available to the public (say, by uploading onto the Internet) the resume and experience of the appointed members, their rates of attendance at meetings, or even some of the minutes of meetings, so that members of the public can monitor their performance more easily? Moreover, since most of the chairpersons of these bodies are not government officials, when considering the appointment or re-appointment of appointed members, will the Government take into account the comments made about them by the non-official chairpersons of the relevant bodies?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, with regard to the transparency of the operations of these bodies, we have emphasized the point almost every time we revised the relevant guidelines. We particularly suggest these bodies making public as far as possible all the matters they have discussed so long as the documents concerned are not classified. According to our understanding, upon adjourning their meetings very often either the chairpersons or the representative members of many advisory and statutory bodies will give a brief account of their discussions to the media. Besides, certain individual bodies, if they should consider it appropriate, might even open their discussions to the public and the media. At any rate, we can give

Honourable Members an assurance in this connection that the relevant Policy Bureaux and departments will continue to keep a close watch on the issue of transparency, and to further enhance the transparency of these bodies in the light of the changes in society as far as possible. Concerning the question of whether or not we should fully make public information that may possibly contain personal data like personal resume, I would say I still have reservations about that. This is because I need to consult the Personal Data (Privacy) Ordinance to ascertain whether the personal data of these appointed members should be made public. As to other information like the rate of attendance, insofar as I understand it, in many cases the secretariats of most of these bodies would provide such information upon request. Regarding whether we would consult chairpersons of relevant bodies on the performance of individual appointed members, I am afraid it is hardly possible for me to reply the Member on behalf of all the relevant Bureau Secretaries and Heads of Departments. However, from my personal experience, I believe my colleagues would have informal consultations with the relevant chairpersons.

PROF NG CHING-FAI (in Cantonese): *Madam President, may I ask the Secretary whether he would, when appointing members to these bodies, take into account the possibility that certain individuals might not have enough time to perform their duties after accepting a number of public offices? Could the Secretary inform this Council whether the Government has made any assessment in this respect; and whether the present situation should be considered grave?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, according to our current overall statistics, there are altogether some 5 650 appointees holding the 9 000-odd posts on the existing 370 advisory and statutory bodies. In other words, each of the non-official members is currently holding 1.7 posts on average. Judging from this average number, the actual situation has not yet gone "out of control". Moreover, one of the principles specified under the relevant guidelines issued by us also suggests Policy Bureaux and departments to avoid as far as possible allowing any appointees to serve on more than six of such bodies. Besides, we also hope that each appointee will not serve on the same body for more than six years. On the other hand, we are also aware that certain appointed members have become very popular because of their excellent performance, so much so that many Policy Bureaux and departments have offered them appointments, thereby rendering some appointed members

overburdened by public service and too busy to attend to their duties. Nevertheless, we will keep the situation under close monitoring. For the part of the Home Affairs Bureau, for example, we would provide Policy Bureaux with relevant information in this respect when making recommendations for their consideration, with a view to enabling Policy Bureaux and departments to avoid appointing some "overloaded" appointed members and preventing such appointed members from taking up more public service offices.

PRESIDENT (in Cantonese): Prof NG Ching-fai, which part of your supplementary has not been answered?

PROF NG CHING-FAI (in Cantonese): *Madam President, the Secretary has answered my supplementary, but may I have a follow-up, please?*

PRESIDENT (in Cantonese): You may, but you must wait for another turn.

PROF NG CHING-FAI (in Cantonese): *I only wish to ask the Secretary about the highest number of offices taken on record.*

PRESIDENT (in Cantonese): Prof NG, please resume your seat first. *(Laughter)* I will not ask the Secretary to give his answer here. However, if the Secretary considers it convenient, he may provide the answer in writing later on.

SECRETARY FOR HOME AFFAIRS (in Cantonese): With pleasure. (Annex II)

PRESIDENT (in Cantonese): This shall be the last supplementary, as the Council has spent more than 15 minutes on this question already. Miss CHOY So-yuk.

MISS CHOY SO-YUK (in Cantonese): *Madam President, according to part (c) of the Secretary's main reply, the Home Affairs Bureau will, where appropriate, update the relevant guidelines. As far as I know, some of the advisory and statutory bodies, such as the Hong Kong Trade Development Council, do not have even one single representative from the exhibition services sector in their composition, and the number of women serving on it is also very small. In this connection, may I ask the Secretary whether the Home Affairs Bureau will consider specifying a minimum proportion of members or professionals from the relevant sectors and a minimum proportion of women in the composition of these bodies when updating the guidelines in the future?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): *Madam President, we will regularly review and update the relevant guidelines. For example, we have started to conduct an overall review of the current situation to see if it is necessary to update the guidelines in this respect in the future. Hence, we will take into consideration the suggestions made by the Honourable CHOY So-yuk just now. But then again, Madam President, I should like to add that if we should mandatorily require certain committees or bodies to have a specified proportion of members from certain sectors in their composition, it would pose some difficulties in practice. Moreover, it might not be appropriate at all for us to do so either, having regard to the different nature, operation and needs that different bodies have. At any rate, I do appreciate the rationale of Miss CHOY So-yuk for putting forward this suggestion. In particular, we will certainly keep a close watch on the proportion of women in the composition of these bodies.*

PRESIDENT (in Cantonese): *Fourth question.*

Women Participation in Subcommittees under Housing Authority

4. **MISS CHOY SO-YUK** (in Cantonese): *Madam President, the theme of the United Nations' "World Habitat Day" this year is "Women in Urban Governance". In this connection, will the Government inform this Council whether it knows if the Hong Kong Housing Authority (HA):*

- (a) *has assessed whether the proportions of female members in its committees are appropriate; if so, of the assessment results; if not, the reasons for that;*
- (b) *plans to increase the proportions of female members in such committees; and*
- (c) *plans to put the ideas of the theme into practice; if so, of the details?*

SECRETARY FOR HOUSING (in Cantonese): Madam President, in making appointments to its committees, the HA takes into account candidates' working experience, expertise, knowledge of housing matters and dedication to public service. Gender is not a consideration, and proportion by sex is irrelevant.

As such, the HA has no specific plan to increase the proportion of female members in committees. Nor is it necessary for the HA to pursue the theme "Women in Urban Governance".

MISS CHOY SO-YUK (in Cantonese): *Madam President, the main reply given by the Secretary is one of the shortest, irrelevant, uninformative replies I have ever seen in the past three years in my capacity as a Legislative Council Member. Given the Secretary's reluctance to give a positive response to the United Nations' theme "Women in Urban Governance", does it imply that the Government considers the theme "superfluous"? Can the HA, being the biggest housing provider in Hong Kong, completely ignore women's participation?*

SECRETARY FOR HOUSING (in Cantonese): Madam President, I take exception to Miss CHOY's point of view. As I mentioned in the main reply, in making appointments to committees under the HA, a variety of factors will be taken into consideration. Women who meet the criteria and are identified by the HA as suitable candidates will be appointed. Indeed, I can tell Miss CHOY that the number of the women appointed to the committees is not small as she would have imagined: female members account for 23% of the total number of committee members. Madam President, I would like to point out that the HA has an extensive scope of work, which includes construction planning, actual

construction, management, sales, rental, and so on, covering wide areas of knowledge. Suitable candidates with relevant knowledge in these areas will be considered by the HA. Judging from the present situation, however, the HA has only been able to appoint female members to a certain extent. Therefore, as I mentioned earlier, the woman participation rate stands at approximately 23% only. Should it come to the HA's notice that more and more women have the relevant interests and expertise, it will definitely appoint more woman members.

MR TAM YIU-CHUNG (in Cantonese): *Madam President, in designing housing estates and buildings, I hope the HA — particularly its designers — can get a better understanding of the needs of various tenants. Let me take the elderly as an example. The housing units designed by the designers commissioned by the HA might not be able to meet the actual needs of the elderly. This is why Miss CHOY So-yuk raised the proposal of appointing woman members to help architects and designers of the HA with their work. Does the Secretary agree to this point?*

SECRETARY FOR HOUSING (in Cantonese): *Madam President, if a woman perspective is required in housing design or in any other areas, the HA will definitely invite women with such expertise to join the committees. I believe if such a need does arise in future, the HA will consider it. What we have encountered so far is relatively general in nature, irrespective of gender and age. Of course, the HA will take into account the special needs of elderly or handicapped people, and these are reflected in the design. As regards the participation of women in the committees, there is no indication that women's comments are particularly required in design matters. But I believe the HA will keep it in view.*

MISS CHOY SO-YUK (in Cantonese): *Madam President, the oral question raised by Mr Fred LI earlier has actually demonstrated some design problems. Will the Secretary inform this Council whether the Government will evaluate the designs of all housing estates under the Housing Department — including the designs of housing units and their overall appearance — in the light of women's needs? Moreover, will the design be improved in future to accommodate the needs of women?*

SECRETARY FOR HOUSING (in Cantonese): Madam President, I will forward Miss CHOY's comment to the HA for its consideration.

PRESIDENT (in Cantonese): Fifth question.

Training Costs of Engineering Students and Employment Situation of Engineering Graduates

5. **DR RAYMOND HO** (in Cantonese): *Madam President, regarding the costs of training full-time engineering students in local universities and the employment situation of engineering graduates, will the Government inform this Council of:*

- (a) *the annual average unit costs of training engineering students at present, and how such costs compare to the costs of training students in other academic disciplines;*
- (b) *the number of engineering graduates in each of the past four academic years, and whether it knows the respective numbers and percentages of those graduates who obtained employment relevant to their studies; and*
- (c) *the number of fresh graduates in engineering studies employed by various government departments in each of the past four academic years, and the respective percentages of such graduates in all engineering graduates of the same year?*

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

- (a) According to the figures provided by the University Grants Committee (UGC) for the 1998-99 academic year, the annual average student unit cost for engineering undergraduates was around \$234,000 whilst that for undergraduates from all disciplines in general was \$226,000.

- (b) The number of full-time engineering graduates in the past four years ranged between 1 850 and 2 200. A breakdown is shown in Table 1.

Table 1

<i>Year</i>	<i>1996</i>	<i>1997</i>	<i>1998</i>	<i>1999</i>
Number of graduates	1 858	2 072	2 198	2 143

According to the employment surveys on engineering graduates conducted by the institutions in the past four years, some 60% to 75% of the respondents obtained full-time employment relevant to their fields of studies by the end of the graduation year. A breakdown is shown in Table 2. The overall employment situation of engineering graduates was, in fact, better than the average employment situation of graduates from all disciplines.

Table 2

<i>Year</i>	<i>1996</i>	<i>1997</i>	<i>1998</i>	<i>1999</i>
(a) Number of respondents	1 620	1 774	1 970	1 972
(b) Number of respondents obtaining full-time employment relevant to their fields of studies	1 198	1 293	1 237	1 277
(b) as a percentage of (a)	74%	73%	63%	65%

- (c) We do not compile statistics on the number of engineering graduates employed by all government departments. A total of some 65 to 70 engineering graduates were employed each year as engineering trainees by various government works departments and the Environmental Protection Department (EPD) in each of the past four years from 1996 to 1999. A breakdown is shown in Table 3.

Table 3

<i>Year</i>	<i>Number of engineering graduates employed as engineering trainees by various government works departments and the EPD in that year</i>
1996	66
1997	65
1998	70
1999	71

Our record does not show the exact year of graduation of the engineering trainees or whether they are local graduates. Therefore, we are unable to compare these figures with the total number of local engineering graduates over the same period.

DR RAYMOND HO (in Cantonese): *Madam President, I would like to do some calculations with the Secretary. As some 2 000 engineering graduates are trained each year, about \$450 million is required. According to the figures in Table 2 of the main reply, two thirds of the graduates had responded to the surveys; and two thirds of the respondents were able to obtain employment in their year of graduation. As far as I understand it, it is possible — and I stress possible — that many of those who did not respond were feeling down for failing to find a job, and they, therefore, did not respond to the surveys. So, if the majority of those graduates who did not respond failed to land a job, the percentage of graduates who were able to find a job would be as low as 40%, or even lower than the average figure.*

Anyhow, the amount of engineering work available has been on the decline, and the industry is well aware of this. Under such circumstances, as five of the eight universities are now offering engineering programmes, will the Government consider conducting a review to ascertain what programmes can better cope with the current needs of society, or will it consider adjusting the number of graduates in line with the demand in society?

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, the percentage of graduates responding to the employment survey each year is, in fact, fairly stable. Take the year 1999 as an example. As many as 92% of the graduates responded, of whom 82% obtained full-time employment. While 65% of the graduates obtained employment relevant to their fields of studies, there were actually 13% of the graduates pursuing further studies and those who claimed to be unemployed accounted for about 4% only. Further, in 1996 and 1997 when the economy was flourishing and the employment situation satisfactory, there were, in fact, over 10% of the graduates choosing not to work in fields relevant to their studies each year. Unemployed graduates accounted for 2%, and at least 10% of the graduates chose to continue with their studies. Therefore, judging from these figures, we consider that the existing mechanism which determines how many engineering students should be trained up each year is operating well. In fact, each institution has some advisory committees that maintain close liaison with the relevant industries. They will, base on the employment rate of graduates in each discipline, adjust the number of places of the relevant programmes. We now have six major academic disciplines. The relevant committee will make reference to the employment rate of graduates in the relevant discipline each year to adjust the actual number of places to be offered.

PRESIDENT (in Cantonese): Dr Raymond HO, which part of your supplementary question has not been answered?

DR RAYMOND HO (in Cantonese): *Madam President, my supplementary question is: Will the Government take the initiative to review the engineering programmes in those five universities to examine if there are too many or too few places provided under the various programmes?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, concerning our financial arrangements with the universities, the universities actually enjoy a high degree of autonomy. With regard to the student intake of each faculty, the employment of graduates of several faculties is mainly related to government bodies. They include doctors, nurses, social workers, teachers, and so on. Given that their employment requires the use of public money, we will, as a general practice, provide guiding statistics for the

universities in respect of those faculties. As regards places of the engineering faculty, as I said just now, the universities will liaise with the industry through the respective advisory committee under the faculty and adjust the number of places accordingly. For instance, the places of manufacturing engineering have been reduced in recent years but on the contrary, those for computer, electronic, mechanical, information and system engineering have increased. So, adjustments have already been made by the parties concerned.

MR YEUNG YIU-CHUNG (in Cantonese): *Madam President, will the Secretary tell us the criteria adopted by the UGC to determine the places of each discipline, and whether these criteria are subject to regular review?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, we provide funding for universities on a triennial basis. The next triennium will be 2001 to 2004, and a year ago we already started discussions with various institutions and the UGC on the student intake. As I mentioned just now, the Government will provide sort of guiding statistics only for several faculties, for example, those that train up doctors, paramedical personnel, social workers, teachers, and so on. It is mainly because most of the graduates of these faculties will work in publicly-funded bodies or government departments, and therefore, our surveys on manpower supply and demand relating to these disciplines are more accurate. As for other faculties, the universities basically enjoy a high degree of autonomy in deciding the actual number of places. The universities can also make adjustments flexibly in the triennium for which government funding is provided.

MR HENRY WU (in Cantonese): *Madam President, in part (b) of her reply to the main question, the Secretary mentioned employment surveys. May I ask the Secretary whether inquires were made in these surveys about the salary of graduates, including the highest and lowest level of their salary on average; and how do these figures compare to those on other graduates?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, I believe each university, in conducting these surveys, has recorded the entry pay of their graduates, but I do not have these statistics on

hand now. If Honourable Members consider it necessary to obtain these statistics, I can ask the universities to provide the relevant information. (Annex III)

DR RAYMOND HO (in Cantonese): *Madam President, in part (c) of the main reply, the Secretary stated that the record available does not specify the exact year of graduation of the engineering trainees or whether they are local graduates. I must say that I am astonished to learn about this. It is because there are a total of eight works departments in the Government, training some 70 engineers each year. I believe it should not be so difficult to collect such information, particularly as some incidents have occurred recently. That is, having worked in the Government for three years and received three years of intensive training, some engineering students who graduated in recent years found that they did not stand a chance of further employment in the Government, and many of them might have to leave the Government after working for two years and seek employment in the private sector. They are very much discontented and have staged an overnight sit-in and met with the Chief Executive. After all these incidents, they are still dissatisfied with the current situation. As the Government should be dealing with these matters now, why did the Secretary say that no substantial information can be provided? Can the Secretary tell us that the Government very much appreciates the situation of students who graduated in recent years, and that it is aware that some of them are taking examinations to obtain professional qualification and some are going to take those examinations, and that it will have regard for their future employment opportunities, whether in the Government or in the private sector, and that the Government will continue to devote greater efforts in this regard?*

SECRETARY FOR WORKS (in Cantonese): Madam President, in fact, the information in part (c) of the main reply was mainly provided by government works departments. As Members may know, government works departments employ dozens of engineering trainees each year in the hope that they can immediately engage in the engineering field after graduation. In employing these students as engineering trainees, our main purpose is to support the development of the local engineering profession and provide necessary practical training for engineering graduates to enable them to obtain the qualification of professional engineers. In so doing, our purpose is not — and I repeat not — simply to fill vacancies of engineers in the Civil Service. The annual

recruitment exercise of engineering trainees is open not only to local university graduates. Overseas graduates can also send in their applications. The Government employs dozens of engineering trainees each year and of course, we can collect their information gradually to find out the respective numbers of local and overseas graduates. However, as we normally do not collate information specifically for this purpose, we cannot provide the relevant data immediately.

In his supplementary question, Dr HO also spoke of the situation of some engineering trainees after they have completed training. In fact, as there was no engineering vacancy in the Government at that time, we alternatively offered them employment on non-civil servant agreement terms to give them the chance to engage in practical engineering work and contribute to the industry.

PRESIDENT (in Cantonese): Sixth question.

Building a New Road between the Peak and Aberdeen

6. **MR JAMES TIEN** (in Cantonese): *Madam President, at present, the transport links between the Peak and Aberdeen, two popular tourist attractions, are rather inconvenient, particularly since the roads to the Peak area are often congested. In this connection, will the Government inform this Council whether it will consider constructing a road to connect the two places for the convenience of tourists; if not, of the reasons for that?*

SECRETARY FOR TRANSPORT (in Cantonese): Madam President, at present, motorists can travel between the Peak and Aberdeen by way of Peak Road, Stubbs Road, Wong Nai Chung Gap Road, Nam Fung Road and Wong Chuk Hang Road. Despite local congestion caused by individual slope works and road works, or by vehicles queuing to enter the car park at Peak Galleria on holidays, the traffic conditions along these roads are generally good. It takes motorists only 20 to 30 minutes to travel between these two places. As we anticipate that the capacity of these roads will be able to meet the traffic demand up to 2011, at this stage we have no plan to build a new road link between the Peak and Aberdeen.

What is more, between the Peak and Aberdeen lie the Aberdeen Country Park and green belts. The Peak is 487 m above Aberdeen while the horizontal distance between them measures only 2 950 m, forming a steep gradient of 1:6. If we are to build a direct road link between these two places that conforms to the safety standards, a zigzag alignment will have to be adopted because of topographical constraints. This will take up much of the land of the Country Park, and substantial felling of trees is necessary. We therefore are of the view that building a road to link the two places will have grave environmental and visual implications, and its construction will not help to attract tourists.

To deal with the congestion caused by road works, the Administration plans to adopt a two-pronged approach for better management of such works. Firstly, we will step up our monitoring of public works to check the need for and the timing of road closure through a licensing procedure. The Secretary for Works has consulted the Panel on Planning, Lands and Works on this particular issue earlier this week. In addition, the Administration will also propose improvements on traffic management with regard to the closing of roads for public works. We will shortly submit our proposals to the Transport Panel, and hope that this two-pronged approach can minimize the impact of road works on traffic.

MR JAMES TIEN (in Cantonese): *Madam President, the Government has stated in its main reply that at present, motorists can travel between the Peak and Aberdeen by way of Peak Road, Stubbs Road, Wong Nai Chung Gap Road, Nam Fung Road and Wong Chuk Hang Road, and it takes them 20 to 30 minutes to travel between these two places. The Government also anticipates that the capacity of these roads will be able to meet the traffic demand up to 2011. However, around 12 million tourists visit Hong Kong every year and the Hong Kong Tourist Association (HKTA) estimates that 22 million, 10 million more, tourists will visit Hong Kong by 2010, yet, the Government has still claimed that the capacity of these roads will be acceptable. Can the Government inform this Council of the time that it will take to travel between these two places at that time? Will it take an hour or one and a half hours instead of 30 minutes then.*

SECRETARY FOR TRANSPORT (in Cantonese): Madam President, we estimate that the traffic flow will increase by 2011 but the increase will not sufficiently saturate the capacity of these roads. Therefore, the traffic

conditions along these roads at that time will not be very much different and the time that it will take to travel between these two places then will also be more or less the same.

MRS SELINA CHOW (in Cantonese): *Madam President, the Secretary has stated in its main reply that motorists can travel between the Peak and Aberdeen by way of Peak Road, Stubbs Road, Wong Nai Chung Gap Road, Nam Fung Road and Wong Chuk Hang Road. Can the Secretary inform this Council if five roads or only one road can be used to travel from Magazine Gap Road to the Peak? In fact, only the Peak Road can be used and it is not true that five roads can be used. I request the Secretary to clarify this point. Can the Secretary also tell us if the Government has plans to widen this section of the Peak Road? It is indeed necessary.*

SECRETARY FOR TRANSPORT (in Cantonese): *Madam President, the road sections mentioned by me earlier are essential routes for travelling between the Peak and Aberdeen. There is only one road, the Peak Road, along which motorists can travel from Magazine Gap Road to the Peak. The alignment of Peak Road is rather old and its standard lags behind that of new roads. And as there are slopes on both sides of Peak Road, widening works must be preceded by large-scale slope improvement works. At present, we do not have any plan to widen Peak Road.*

MR HOWARD YOUNG (in Cantonese): *Madam President, I believe the crux of the problem is that traffic congestion is frequent at the Peak Road section and motorists do not have any alternative. Although the Government cannot widen Peak Road yet, can it designate more lay-by along the road? This way, when coaches stop at the lay-by while tourists go sightseeing, following vehicles can pass and this will help relieve traffic congestion. If the Government does not want to carry out a large-scale project to widen the entire Peak Road, is this a compromise proposal?*

SECRETARY FOR TRANSPORT (in Cantonese): *Madam President, we note that there is only one place along Peak Road at which a roadside lay-by or coach staging can be designated. In fact, most of the road sections of Peak Road*

facing Aberdeen are built along a cliff and it is fairly difficult to reserve space for a lay-by or coach staging. Besides, it will affect the landscape and necessitate the felling of trees. Thus, I think this is not at all feasible, but if Members can propose other places to be designated as lay-by, we will surely consider them.

DR TANG SIU-TONG (in Cantonese): *Madam President, the Secretary has said that the gradient between the Peak and Aberdeen is steep like a cliff, can the Government consider solving the problem by means of gondolas or tramways?*

SECRETARY FOR TRANSPORT (in Cantonese): Madam President, we believe the use of other modes of transport can certainly relieve the burden of the road but as far as I know, the HKTA is now conducting a relevant study and one of the items being studied is the feasibility of the construction a gondola facility between Aberdeen and the Peak. I believe this will certainly be helpful to tourists travelling between Aberdeen and the Peak, but the road traffic burden will not be greatly relieved because the capacity of gondolas is limited.

MR TOMMY CHEUNG (in Cantonese): *Madam President, may I ask the Secretary if he has ever used Peak Road and if he has encountered the dangerous sight of two coaches driving head-on along the road? Having witnessed such a situation, will the Secretary reconsider widening this road?*

SECRETARY FOR TRANSPORT (in Cantonese): Madam President, I often use Peak Road and I also note that coaches driving head-on along Peak Road will experience inconvenience especially at the curves. As a result of the inconvenience, the traffic condition is not so unimpeded but the situation is not too serious. Certainly, we can adopt various measures such as widening the curves. In fact, we have already carried out the relevant works at curves that can be widened, but similar works cannot be carried out at other curves affected by slopes and cliffs. We will continue to find out at which curves improvement works can be carried out. Nevertheless, the above situation will be more inconvenient for residents living nearby but less so for tourists.

DR RAYMOND HO (in Cantonese): *Madam President, my supplementary is similar to that of Dr TANG Siu-tong but I will raise a question about gondolas in another form. As the Peak and Aberdeen are tourist spots, will the Government consider inviting the private sector to make suggestions and investments so that it does not need to use public money to construct gondolas connecting the two tourist spots?*

SECRETARY FOR TRANSPORT (in Cantonese): Madam President, I would like to thank Dr HO for his proposal. If possible, the Government also hopes that the private sector can provide capital and technologies for the construction of the gondolas.

PRESIDENT (in Cantonese): The oral question time shall end here.

WRITTEN ANSWERS TO QUESTIONS

Visits between Local Officials and Mainland Officials

7. **MR YEUNG YIU-CHUNG** (in Chinese): *Madam President, regarding visits between officials of Hong Kong government departments and their mainland counterparts, will the Government inform this Council:*

- (a) *of the numbers of visits paid by Hong Kong officials and participants, as well as those in respect of mainland officials, in each of the past five years;*
- (b) *of the existing guidelines and mechanism for the arrangements of these visits; and*
- (c) *whether it has plans to increase such visits; if so, of the details for that?*

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Chinese): Madam President, the numbers of official visits between bureaux and departments of the Government of Hong Kong and the mainland authorities in the past five years are as follows:

	<i>Hong Kong official delegations visiting Mainland</i>	<i>Mainland official delegations visiting Hong Kong</i>	<i>Total no. of delegations</i>
1996	846	921	1 767
1997	1 152	836	1 988
1998	1 121	909	2 030
1999	1 581	1 046	2 627
2000 (January - September)	981	858	1 839

As the data have been compiled on the basis of the numbers of delegations, we are unable to provide statistics on the numbers of officials taking part in these visits.

Generally speaking, bureaux and departments of the Government of the Hong Kong Special Administrative Region (SAR) will organize exchanges and visits, and establish working contacts with their mainland counterparts having regard to their operational needs. The Constitutional Affairs Bureau (CAB) is responsible for co-ordinating these official visits. The CAB will liaise with the Hong Kong and Macao Affairs Office of the State Council as necessary to assist the relevant parties on both sides in establishing contacts expeditiously and efficiently for the purpose of organizing such visits, and to ensure that these visits are conducted in line with the principles of "one country, two systems" and "a high degree of autonomy".

The CAB will continue to provide advice and information to bureaux and departments and make necessary practical arrangements for organizing visits between the SAR Government and the mainland authorities in accordance with the Basic Law and the "one country, two systems" principle. We will also encourage bureaux and departments to establish direct contacts with their mainland counterparts on specific subjects as appropriate. In fact, many bureaux and departments have already established such direct and close contacts with their mainland counterparts in various areas of work.

Conflicts among Prisoners

8. **MISS EMILY LAU** (in Chinese): *Madam President, it has been reported that a hunger strike is brewing among 50 local prisoners currently serving their sentences in Ma Po Ping Prison on Lantau Island to protest against officers of the Correctional Services Department (CSD) therein for being partial to mainland prisoners in dealing with conflicts among prisoners. In this connection, will the executive authorities inform this Council:*

- (a) *whether there have been conflicts between local and mainland prisoners in that prison in the past six months; if so, of the details;*
- (b) *whether they have investigated if the way and procedure adopted by CSD officers in dealing with conflicts among prisoners are appropriate and impartial; if they have not, whether the relevant authorities will inquire into the incidents; and*
- (c) *of the measures in place to minimize conflicts among prisoners?*

SECRETARY FOR SECURITY (in Chinese): Madam President,

- (a) Arising from a verbal dispute over some trivial matters, a minor scuffle between five local prisoners and two prisoners from the Mainland occurred on 17 October 2000 in the dining hall of Ma Po Ping Prison. Prison staff on the spot immediately intervened and stopped the scuffle. An investigation carried out afterwards in accordance with established procedures revealed that the incident was an isolated case involving only the seven prisoners in question but not others. Disciplinary actions were taken against all the seven prisoners and there was no question of the prison management being partial to any prisoners in dealing with the case. Since the incident, no prisoner was reported to have refused food or was planning to refuse food in the prison.

Apart from the above, there were three other incidents of conflict between local and mainland prisoners in Ma Po Ping Prison in the past six months. All were triggered by disputes over trivial matters and each incident involved only one local and one mainland prisoner.

In accordance with established procedures, all three incidents were duly investigated and disciplinary actions taken against all the prisoners concerned.

- (b) As mentioned in paragraph (a) above, proper investigations have been conducted into all the incidents of conflict and disciplinary actions taken against all prisoners concerned. There is no evidence to suggest that any prison staff had handled these incidents in an unfair manner or failed to follow the established procedures. As such, there is no need to conduct further investigation into the incidents.
- (c) The CSD is committed to following its service motto "We Care" in taking sentenced persons into its custody, in a bid to facilitating their rehabilitation for reintegration into society after discharge. Indeed, helping prisoners to live in harmony with people of different backgrounds, both within prisons and in the community generally, is an important part of CSD's duties. Through education, counselling and work such as organizing regular group activities and hobby classes, the CSD strives to cultivate in prisoners the concept of mutual respect and acceptance and to encourage them to establish harmonious relationship with one another. As a result, possible conflicts between prisoners can be reduced as far as possible.

Air Quality in MTR Train Compartments

9. **DR RAYMOND HO** (in Chinese): *Madam President, regarding the air quality in train compartments of the Mass Transit Railway (MTR), will the Government inform this Council whether it knows if the MTR Corporation Limited:*

- (a) *measures the concentrations of carbon dioxide in train compartments on a regular basis; if so, of the details;*
- (b) *plans to install instruments in train compartments for measuring carbon dioxide concentrations; and*
- (c) *plans to take measures to improve the air quality in train compartments; if so, of the details?*

SECRETARY FOR TRANSPORT (in Chinese): Madam President, the MTR Corporation Limited has pledged to maintain a cool, pleasant and comfortable train environment. The Corporation has put in place an annual programme to monitor the air quality, including carbon dioxide concentrations, inside MTR railway premises and train compartments. The Corporation also conducts ad hoc air quality measurements. Air quality inside train compartments is in full compliance with the guidelines set by the United States Department of Transportation designed for mass transit subway systems.

The MTR system is designed to provide and maintain adequate ventilation in all railway premises, including train compartments. Given the design standards used by the MTR for ventilation systems on trains and in tunnels, the Corporation does not consider that fixed measuring instruments inside train compartments are necessary. However, the Corporation has developed contingency plans to ensure air quality standard. These include the automatic activation of tunnel fans if any train is stopped in a tunnel for more than 150 seconds and the regulating of passenger flow at station entrance gates to concourse and platform levels to prevent too many passengers crowding into these areas.

A robust ventilation system is installed in the MTR which provides fresh air into the system and tunnels to maintain an acceptable travelling environment. Intake air into the system is filtered and the system is properly maintained on a weekly basis. 24-hour monitoring is conducted by the Corporation's Operation Control Centre to ensure proper functioning of the system. The train-borne ventilation system is being modified to respond to the congestion level inside individual train compartments, so that the greater the number of passengers, the greater the ventilation volume. Currently, 65% of the MTR train fleet has been modified and the whole modernization project is expected to be completed by 2001.

Maintenance Plans for the Grave of Dr SUN Yat-sen's Mother

10. **MR FRED LI** (in Chinese): *Madam President, the Government indicated in May this year that it was contacting Dr SUN Yat-sen's descendents with a view to formulating long-term maintenance plans for the grave of Dr SUN Yat-sen's mother situated in Sai Kung. In this connection, will the Government inform this Council:*

- (a) *of the progress made in formulating the maintenance plans; the anticipated time for carrying out the repairing work and the estimated costs per annum; and*
- (b) *whether it has plans to declare the grave as a monument; if so, of the details; if not, the reasons for that?*

SECRETARY FOR HOME AFFAIRS (in Chinese): Madam President, my replies to the Honourable Fred LI's questions are as follows:

- (a) Emergency repair works to the grave of Dr SUN Yat-sen's mother to protect the grave from exposing to the elements was completed in October 2000. The Antiquities and Monuments Office will continue to monitor the condition of the grave. Repairs will be carried out as and when necessary with the consent of Dr SUN's descendents.
- (b) The Antiquities Advisory Board is undertaking studies to consider whether to declare the grave a monument.

Hong Kong as Transit Point for Smuggling Illegal Immigrants

11. **MISS EMILY LAU** (in Chinese): *Madam President, on 18 October this year, officers of the Customs and Excise Department (Customs officers) found 26 male mainlanders hiding in a container, intending to sneak into the United States illegally. In this connection, will the executive authorities inform this Council:*

- (a) *of the respective average numbers of inbound and outbound containers inspected by Customs officers every day at present;*
- (b) *whether they have any plans to increase the number of containers inspected;*
- (c) *of the progress of the discussions between the Administration and the relevant mainland authorities on preventing unlawful elements from using Hong Kong as a transit point for smuggling illegal immigrants, and the new measures to combat such activities; and*

- (d) *whether they plan to publicize overseas the actions and measures they have taken to combat unlawful elements using Hong Kong as a transit point for smuggling mainlanders to foreign countries?*

SECRETARY FOR SECURITY (in Chinese): Madam President,

- (a) The Customs and Excise Department (the Customs) adopts a risk management approach and profiling techniques in selecting containers for inspection. On average, they conduct checks on some 120 outbound containers and 13 inbound containers at the Kwai Chung Container Terminal per day.
- (b) Since the discovery of the incidents of migrant smuggling using soft-top and altered general-purpose containers in the United States and Canada early this year, the Customs has increased the number of checks on containers at Kwai Chung Container Terminal, especially on those bound for North America. Consideration will be given to further increasing the number of checks on containers. A more productive approach being pursued by the Customs is to make the best use of technology, for example, deployment of carbon dioxide detectors and mobile x-ray units, and to secure the co-operation of the shipping companies and container terminal operators in reporting irregularities to the Customs.
- (c) The Administration maintains close liaison with the relevant authorities in Guangdong and other provinces to prevent the entry of illegal migrants, and to exchange intelligence on migrant smuggling syndicates. A joint task force was set up recently between the Guangdong Provincial Public Security Bureau and the Immigration Department to investigate forgery of travel documents and migrant smuggling. The Director of Immigration has also reached agreement with the Fujian Provincial Public Security Bureau to establish a liaison channel to enhance the exchange of intelligence on migrant smuggling activities. Enforcement agencies from both sides will co-operate in taking enforcement actions against such illicit activities.

Our disciplined forces adopt a well-co-ordinated and multi-pronged approach in tackling the problem of migrant smuggling. Their strategies, efforts and measures are constantly reviewed so as to ensure effectiveness at all times. Currently the following measures are adopted:

- (i) The Hong Kong Police Force has set up a special team under the Organized Crime and Triad Bureau to collect intelligence, investigate suspected organizers of migrant smuggling, and to conduct joint investigations with overseas enforcement agencies.
- (ii) The Customs' terminal patrol teams have been deployed on shifts on a round-the-clock basis to check containers within the Kwai Chung container yard and at the berth side paying special attention to containers which may have been modified for human smuggling purpose.
- (iii) The Customs has deployed specialized equipment such as carbon dioxide detectors for detecting the presence of human beings inside cargo containers.
- (iv) The Immigration Department's ship rummaging teams have stepped up searches on United States-bound vessels.
- (v) The police, the Customs and the Immigration Department have stepped up liaison with the local consulates and foreign authorities to enhance intelligence exchanges on forgery and migrant smuggling syndicates and related trends.
- (vi) The Customs has held a number of seminars with the local shipping industry to enhance their awareness of the problem and to encourage them to refer any suspicious new clients and their containers to the police and the Customs for investigation. A hotline has been set up for reporting any suspected migrant smuggling activities.
- (vii) The Immigration Department has stepped up surveillance operations at the transit lounge, transfer areas and departure

gates to combat the use of the airport as a transit location for migrants who enter on legitimate travel documents which are then exchanged for forged or unlawfully acquired third country documents.

As a busy air and sea hub, Hong Kong is vulnerable to allegations of migrant trafficking. However, with the various measures taken by our disciplined forces mentioned above, we are confident that Hong Kong will not be used as a base for migrant trafficking.

- (d) As regards overseas publicity, we take a proactive and positive approach to explain our policy and measures to combat migrant trafficking at every suitable opportunity including meetings with officials overseas, and in relevant international fora. Recent examples are:
- (i) The Commissioner of Customs and Excise explained the measures and mechanisms in detecting and preventing migrant trafficking during his visit to the United States last September;
 - (ii) Our Immigration Department officials attended the "Asian Region Anti-Smuggling and Trafficking Conference" in Bangkok, and the "6th Pacific Rim Immigration Intelligence Conference" in Hawaii last August; and
 - (iii) Our Immigration Department officials attended the "22nd International Asian Organized Crime Conference" in San Francisco last April and delivered a presentation on "Human Smuggling — Hong Kong's Perspective".

Hong Kong will co-host the next annual plenary meeting of the Inter-governmental Asia-Pacific Consultations on Refugees, Displaced Persons and Migrants together with the United Nations High Commissioner for Refugees and the International Organization for Migration on 13 and 14 November 2000. The meeting will discuss, among other things, international co-operation to tackle the problem of migrant trafficking.

Issuance of the First Demand for Rates

12. **MR WONG YUNG-KAN** (in Chinese): *Madam President, a Home Ownership Scheme flat owner who has moved into his flat over one year told me that he had never received the Demand for Rates relating to the unit. In this connection, will the Government inform this Council:*

- (a) *of the usual time gap between the issuance of an Occupational Permit and the issuance of the first Demand for Rates in respect of a newly completed residential building; whether it plans to shorten the duration; if not, of the reasons for that;*
- (b) *of the number of cases in the past three years in which the Administration failed to issue the first Demand for Rates within the above duration, and whether it has estimated the loss in interest due to the resultant delayed collection of rates; and*
- (c) *as the first Demand for Rates may cover the rates for several quarters, whether ratepayers will be allowed to pay by instalments; if not, of the reasons for that?*

SECRETARY FOR THE TREASURY (in Chinese): Madam President, under section 28 of the Rating Ordinance (Cap. 116) and regulation 3 of the Rating (Effective Date of Interim Valuation) Regulation, rates become payable on a newly completed domestic unit 90 days after the completion of the unit. Generally speaking, completion refers to the issuance of an occupation permit or, for Home Ownership Scheme flats, a document signed by the Director of Housing certifying that the building is completed. Therefore, the owner or occupier of a newly completed domestic unit is not liable for rates before this date.

Most ratepayers in newly completed domestic premises receive their first Demand for Rates within 11 months after rates first become payable. This lead time is required by the Rating and Valuation Department to prepare the rating assessments and issue of the rates demands. The assessment work includes taking measurement of the properties, collecting the particulars of owners and occupiers, analysing rental information and assessing the rateable values.

The target lead time for first issue of Demand for Rates for newly completed premises set by the Rating and Valuation Department and the actual performance achieved in the last three years are as follows:

<i>Financial Year</i>	<i>Target set out in the Controlling Officer's Report in the Estimates</i>	<i>Actual Performance</i>
1997-98	To issue 90% of the first Demand for Rates within 12 months	95%
1998-99	To issue 85% of the first Demand for Rates within 11 months	91%
1999-2000	To issue 80% of the first Demand for Rates within 11 months ^{Note}	92%

Note: As the Rating and Valuation Department is required to carry out annual revaluation of rateable values for all properties in the territory since 1999-2000 (before then revaluation was conducted every three years), the target for this financial year was slightly adjusted downwards.

The Department has consistently performed better than its pledges. Given the small percentage of cases where the first Demand for Rates were not issued within the pledged period, any potential interest loss so incurred should not be significant.

The Department is actively examining ways to further streamline the procedures in order to reduce the lead time required. However, as there are about 80 000 new properties to be assessed to rates each year, the Department will require considerable additional resources, if the lead time is to be substantially reduced. We will nevertheless explore how best to achieve this objective in a cost-effective manner.

Under section 22 of the Rating Ordinance, rates must be paid before the due date shown on the rates demand and late payments will be surcharged. The minimum period for settlement of a first Demand for Rates as specified in the Ordinance is 28 days. However, considering that the amount demanded in the first rates demand for a new property may cover the rates for several quarters, the Rating and Valuation Department normally extends the due date to the end of the second month following the issuance of the first Demand for Rates, so as to give more flexibility to ratepayers. Therefore, depending on the date of issue of the demand, a ratepayer normally has about 60 to 90 days to settle the first Demand for Rates. We consider this a reasonable period and do not propose to allow settlement by instalments.

Violence and Crimes in Schools

13. **MR LAU KONG-WAH** (in Chinese): *Madam President, it was reported last month that a student of a secondary school in Aberdeen alleged that he had been subjected to extortion and assaults for a long time by schoolmates who claimed to have triad background, and numerous complaints on this made by his parents to the school and the Education Department had not been taken seriously. Regarding violence and crimes in schools, will the Government inform this Council:*

- (a) *whether the Administration has received any complaints concerning students of that school being beaten by schoolmates over the past year; if so, how such complaints have been followed up;*
- (b) *of the total number of complaints received concerning students being treated violently by schoolmates in the past three years; whether such cases are on an upward trend, and of the districts where more schools are involved in such complaints;*
- (c) *how these complaints have been followed up; the number of prosecutions instituted by the police against the perpetrators in the past three years, and whether psychological counselling has been provided to the student victims; if it has not, of the reasons for that; and*

- (d) *whether undercover policemen disguised as students or staff have been deployed to schools to investigate such crimes over the past three years; if so, of its effectiveness; and whether there are other measures in place to combat such offences?*

SECRETARY FOR SECURITY (in Chinese): Madam President, based on the information provided by the police, the Education Department and the Social Welfare Department, our replies are as follows:

- (a) In the past year, the Aberdeen Division of the police received three reports of common assault which happened in the school mentioned in the above question. The victim of the three cases is the same student, and all the incidents were related to minor disputes. The police investigated the first case and no criminal elements were found. Investigation into the case had been terminated. In the other two cases, the police have arrested two students involved in the case and interviewed nine witnesses. The police are continuing with the investigation into these two cases.

The school social worker serving the school in question has also dealt with the cases concerned. When such incidents occur, the school social workers will fully co-operate with the school, contact the parents of the students concerned, and try to gain a better understanding of the case in order to assess whether the scuffle is caused by peer problems or is triad-related. Depending on the specific nature of individual cases, school social workers will provide appropriate services such as counselling the students and educating the parents on how to handle similar incidents. If necessary, they will refer the cases to other professionals, including clinical psychologists, for assistance to students and parents. School social workers will also arrange support groups for those students in need. The objective is to strengthen the students' ability and technique in self-protection and handling difficulties and disputes. If it is found that the incident is triad-related, school social workers will refer the case to the police subject to the agreement of the school and parents.

- (b) The number of complaint cases involving violence submitted by students received by the police in the past three years is as follows:

<i>Regions</i>	<i>(A)</i> <i>1998</i>	<i>(B)</i> <i>1999</i>	<i>(C)</i> <i>1999</i> <i>(January to</i> <i>September)</i>	<i>(D)</i> <i>2000</i> <i>(January to</i> <i>September)</i>	<i>Change (%)</i> <i>[comparing</i> <i>(C) and (D)]</i>
Hong Kong	17	46	32	28	-12.5
Kowloon East	24	25	13	26	+100
Kowloon West	23	30	21	31	+47.6
New Territories	29	48	32	38	+18.8
South					
New Territories	57	85	46	60	+30.4
North					
Marine	0	1	1	0	-100
Total	150	235	145	183	+26.2

Comparison of the figure for the same period of 1999 and that of 2000 indicates that the number of cases has increased by 26.2%. Based on the crime figures for 2000 (January to September), the districts with the highest number of this type of complaint cases are as follows:

<i>Region</i>	<i>District</i>	<i>Number of Cases</i>
New Territories North	Tai Po	34
New Territories South	Sha Tin	19
New Territories North	Yuen Long	15
Kowloon West	Sham Shui Po	14
Hong Kong	Eastern	14

- (c) The police will conduct in-depth investigation into each of the cases reported. It involves interviewing the parents of the victims, staff of the school and witnesses, and collecting information and evidence. Depending on the circumstances, the police will liaise with other government departments, such as the Social Welfare Department and the Education Department, to follow up the case. If sufficient

evidence is available, the police will arrest the perpetrators. In accordance with the established criteria and depending on the circumstances of individual cases, the police will consider cautioning the perpetrators under the Superintendents' Discretion Scheme or referring the case to court.

Since the police do not keep separate statistics on the number of cases involving violence at schools in which prosecutions have been instituted, we provide below the number of persons arrested in such cases in the past three years for reference:

<i>Region</i>	<i>(A)</i> <i>1998</i>	<i>(B)</i> <i>1999</i>	<i>(C)</i> <i>1999</i> <i>(January to</i> <i>September)</i>	<i>(D)</i> <i>2000</i> <i>(January to</i> <i>September)</i>	<i>Change (%)</i>
Hong Kong	29	76	53	47	-11.3
Kowloon East	25	39	23	40	+73.9
Kowloon West	40	49	31	36	+16.1
New Territories South	46	76	41	40	+2.4
New Territories North	85	127	66	69	+4.5
Marine	0	0	0	0	/
Total	225	367	214	232	+8.4

The arrest figures will be higher than the number of prosecutions instituted. This is because such crimes are usually committed jointly by perpetrators involving more than one student, and not all the students arrested will be prosecuted. Taking into account the circumstances of the case and the age of the students, a significant proportion of students arrested will be cautioned under the Superintendents' Discretion Scheme, instead of being prosecuted. The actual number of prosecutions should therefore be lower than the figures set out in the above table.

Regarding psychological counselling services, in general, school social workers and student guidance teachers/officers will provide

counselling and other follow-up services to students and their family members who suffered from violent acts. Moreover, the schools or parents may refer the students concerned to the Regional Education Offices or Psychological Services Sections of the Education Department for counselling by educational psychologists. If needed, family services centres, schools social services and other relevant service units of the Social Welfare Department and non-governmental organizations will refer the cases to clinical psychologists, so as to provide more in-depth counselling services for the students. In order to enhance the ability of schools in handling and preventing violence at schools, the Education Department will provide appropriate supporting services for schools taking into account their needs.

- (d) In the past three years, the police have, on four occasions, deployed undercover officers to investigate triad-related crimes in schools. This technique is generally found to be more direct and effective than the other common investigative methods.

The police take a serious view of crimes related to youth and students. Existing measures mainly focus on maintaining good communications with the schools. Each district has designated officers responsible for collecting intelligence on crimes involving schools in the district and their students. Moreover, the police will join hands with other government departments in holding forums and seminars to brief students on youth crimes and enhance anti-crime knowledge. Some of the police districts have also set up Scout units and arranged for young persons who have been cautioned under the Superintendents' Discretion Scheme to join the Scout activities. All these measures help prevent youth crime.

Proposals to Relieve Congestion at Immigration Counters at Lo Wu Control Point

14. **MR HOWARD YOUNG:** *Madam President, in order to relieve the heavy congestion at immigration counters at Lo Wu Control Point, especially at weekends and during holidays, will the Government inform this Council whether it knows if the Kowloon-Canton Railway Corporation (KCRC) has conducted feasibility studies respectively on:*

- (a) *the provision of through train service between Hung Hom and Shenzhen, with immigration clearance for the Hong Kong side conducted at Hung Hom; and*
- (b) *the addition of a stop in Shenzhen for the through train service between Hung Hom and Guangzhou;*

if so, of the results of the studies; if not, the reasons for that?

SECRETARY FOR TRANSPORT: Madam President, the KCRC operates a non-stop through train service between Hung Hom and Lo Wu — the Lo Wu Express, as a chartered service during long holidays and festive periods. At the Hung Hom Station, passengers first complete their immigration clearance for Hong Kong side before they get on the Lo Wu Express. Upon arrival at the Lo Wu Station, passengers proceed directly to the Joint Inspection Building at Shenzhen for immigration and customs clearance.

Five Lo Wu Express trains chartered by local travel agencies were operated during the 2000 Chinese New Year Holidays and Ching Ming/Easter Holidays. Each Lo Wu Express train carried 600 to 1 100 passengers.

The Lo Wu Express trains require prior booking and the service frequency is limited. The service cannot be operated on a more regular basis due to operational constraints and its effects on East Rail train schedules. The KCRC can only allocate limited number of slots everyday for the Lo Wu Express to depart from the Hung Hom Station. Other schedules are fully taken up by the Hong Kong - Guangzhou and Hong Kong - Beijing through train services. Besides the limited number of departures, the Lo Wu Express is less popular largely because passengers must make their way to the Hung Hom station and that it is less frequent compared with the normal East Rail service which departs on average every about five minutes for Lo Wu.

At present, the Joint Inspection Building at Shenzhen is not connected to the train station at Shenzhen, the proposal of an additional stop in Shenzhen for the Hong Kong - Guangzhou through trains is not practicable at this stage because of the lack of customs and immigration facilities at the Shenzhen Railway Station.

Installation of Telecommunication Facilities on Rooftops of Schools

15. **MR CHEUNG MAN-KWONG** (in Chinese): *Madam President, it has been reported that a number of schools have signed contracts with a telecommunication company to allow it to install radio transmitters for telecommunication services on the rooftops of the schools for commercial purposes, and this may be in breach of the land lease conditions of the schools concerned. In this connection, will the Government inform this Council whether:*

- (a) *it has investigated if such acts of the telecommunication company and the school authorities concerned have breached the law; if they have breached the law, of the details, and how it will assist the school authorities to adopt remedial measures;*
- (b) *the proposals for installing telecommunication facilities on the rooftops of schools are subject to the prior approval of relevant government departments; if so, of the approving departments and procedure; and*
- (c) *the Education Department (ED) will consider representing the schools concerned to negotiate, on a collective bargaining basis, with the telecommunication companies in respect of the installation of telecommunication facilities within the school areas, so as to get the most favourable contract terms for the schools?*

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

- (a) and (b)

At present, under the Telecommunications Ordinance (Cap. 106), a telecommunication company needs to obtain a licence from the Office of Telecommunications Authority (OFTA) before it can install telecommunication devices. However, if the telecommunication device is of low power and of operating frequency within a prescribed limit such that no interference will be caused, a telecommunication company is exempted from applying

for a licence from the OFTA. In addition, if installing a telecommunication device involves any building structure alteration works, the owner of the premises has to seek prior approval from the Buildings Department (BD) under the Buildings Ordinance (Cap. 123). According to the ED, about 100 schools have entered into contracts with a telecommunication company allowing the company to install telecommunication devices on the rooftops of these schools. The OFTA has examined the plan if the telecommunication company concerned and has confirmed that the company is in compliance with its licence requirements and the Telecommunications Ordinance. On the basis of information supplied by the OFTA, the BD has also confirmed that the schools concerned and the telecommunication devices installed comply with the Buildings Ordinance.

In general, school premises are allocated to school sponsoring bodies by the ED, and there are no provisions in the allocation documents prohibiting telecommunication companies from installing telecommunication devices in schools for commercial purposes. However, there are some schools which have entered into leases with the Lands Department. There are also some other schools which have tenancy agreements with the Housing Authority. The terms and conditions of these leases/tenancy agreements differ, and some may contain provisions prohibiting business activities (for example, installing a telecommunication device in the school premises which serves buildings other than the school concerned) to be carried out in school premises. Therefore, if schools want to allow telecommunication companies to install telecommunication devices for commercial purposes on their rooftops, they may need to follow their leases/tenancy agreements by seeking prior approval from relevant departments such as the Lands Department, the ED or the Housing Department (HD), or to amend their leases/tenancy agreements. Some of the 100 schools mentioned above may not be in full compliance with the terms and conditions of their leases/tenancy agreements. In such cases, appropriate steps, such as amending the leases/tenancy agreements, may need to be taken. In this connection, the ED has set up an inter-departmental working group, with representatives from the Lands Department, the BD, the HD and the OFTA, to examine the situation of these schools

individually. Where necessary, the working group will assist schools to meet the terms and conditions of the relevant leases/tenancy agreements.

- (c) Given the rapid development of modern communication technology and the varying needs of schools, we consider that schools should choose for themselves broadband service providers which best suit their own circumstances and needs. It is neither the most appropriate way nor in the best interest of schools for the Government to select a service provider for all schools through central tendering or collective bargaining.

The ED encourages schools to use broadband network to promote information technology in education. In this connection, the Department will issue guidelines to advise schools of areas which they should pay attention to when entering into service contracts with telecommunication companies. In addition, the Regional Support Section (RSS) of the Department will, from time to time, provide schools with the latest information on broadband services available in the market, and list out the offer prices of broadband service providers on the Department's website for schools' reference. Schools may also seek assistance and advice from the RSS on the terms of service contracts offered by telecommunication companies.

If the RSS has doubts on whether the service contracts are in compliance with the relevant ordinances/leases/tenancy agreements, the case will be referred to the working group mentioned above to see if any follow-up actions need to be taken.

Mainland Women Entering Hong Kong to Engage in Prostitution

16. **MR LAU KONG-WAH** (in Chinese): *Madam President, regarding the problem of mainland women entering Hong Kong to engage in prostitution, will the Government inform this Council:*

- (a) *of the number of mainland women intercepted while trying to enter Hong Kong illegally by sea each month during the past year, and the*

number of such women who were reasonably believed by the relevant authorities to have the intention of working as prostitutes in Hong Kong; and

- (b) *whether it has assessed if the problem of mainland women entering Hong Kong to engage in prostitution is deteriorating; if it has, of the details; if not, the reasons for that?*

SECRETARY FOR SECURITY (in Chinese): Madam President,

- (a) In 1999, a total of 2 010 female illegal immigrants entering by sea were intercepted, averaging 167 persons per month. In the first nine months of 2000, 1 244 such illegal immigrants were arrested, representing a monthly average of 138 persons. Following investigations, the police suspected that about 20% to 30% of these illegal immigrants came to Hong Kong with an intention to engage in prostitution activities.
- (b) From 1998 to 2000 (January to September), the number of mainland women involved in prostitution activities who were prosecuted and convicted for breach of condition of stay/illegal remaining is as follows:

<i>Year</i>	<i>Breach of condition of stay</i>	<i>Illegal remaining</i>	<i>Total</i>	<i>Monthly average</i>
1998	1 395	63	1 458	122
1999	1 409	24	1 433	119
2000	1 707	132	1 839	204

(January -
September)

According to the statistics above, the monthly average in 2000 (January - September) (204) has increased by 71% when compared with that of 1999 (119). These figures show that the problem is aggravating.

The Government has always taken a serious view of the problem of mainland women involved in prostitution activities in Hong Kong. The law enforcement departments have been taking proactive measures to combat the rising trend of such illegal activities.

In respect of immigration control, Immigration Department officers at control points always subject doubtful visitors to close examination to prevent them from entering Hong Kong to engage in prostitution or other illegal activities. Furthermore, the Immigration Department provides regular reports on offences committed by mainland visitors in Hong Kong to mainland public security authorities. These reports include information of mainland women arrested for engaging in prostitution activities.

The police have also stepped up enforcement action against black spots of vice activities. Apart from increasing inspection of vice establishments and initiating various enforcement operations, the police have also conducted joint operations with the Immigration Department against premises suspected for accommodating mainland women for vice activities. With regard to intelligence collection, the police have passed information on two-way permit holders who engaged in prostitution to mainland law enforcement agencies.

In addition to strengthening local enforcement action, our law enforcement departments have also maintained close co-operation with their mainland counterparts to combat such illegal activities effectively. During the Director of Immigration's visit to the Guangdong and Fujian Public Security Bureaux from 20 to 25 October 2000, the latest situation regarding the problem of mainland prostitutes was discussed.

Furthermore, this subject is discussed and information exchanged at the semi-annual Guangdong — Hong Kong — Macau Tripartite Meeting. To further strengthen co-operation between Hong Kong and the mainland authorities, the police (including two officers from the Immigration Department) sent a delegation to the Guangdong Public Security Bureau on 31 October 2000 to hold discussions. This has not only resulted in improving the intelligence exchange

concerning the problem of mainland prostitutes in Hong Kong but also enhanced mutual understanding and laid down a foundation for mutual co-operation on the matter. There are also plans of conducting joint operations to curb mainland women entering Hong Kong for prostitution.

Safeguarding Privacy of Internet Surfers

17. **MR SIN CHUNG-KAI** (in Chinese): *Madam President, at present, Internet website operators can keep track of the Internet activities of individual surfers without their knowledge, by means of "cookie files". In this connection, will the Government inform this Council:*

- (a) *of the number of complaints received from Internet surfers over the past year alleging that their privacy had been infringed upon by means of cookie files; and*
- (b) *whether it has plans to enact legislation to control such acts of infringing on personal privacy; if it has, of the details; if not, how it safeguards the privacy of Internet surfers?*

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

- (1) We are aware of the experience in other countries whereby Internet surfers have complained that their privacy may have been infringed by "cookie files"¹. However, both the Administration and the Office of the Privacy Commissioner for Personal Data have not received such complaint from any Internet surfers in the past year.
- (2) Protection against infringement of personal privacy is currently provided under the Personal Data (Privacy) Ordinance (Cap. 486). The Ordinance protects the privacy of individuals in relation to personal data, and regulates the collection of such data. Website

¹ "Cookie" refers to the technological tool used by websites to track consumer visits for marketing purposes. It is a small computer file that is sent from a web server to a user's computer for the purpose of future identification of that computer on future visits to the same website.

operator's use of "cookie files" to track the Internet activities of individual surfers may, in those cases where the operators know or try to find out the identities of individual surfers, amount to the collection of "personal data" and is therefore regulated under the Personal Data (Privacy) Ordinance.

In addition to legislative protection, the Privacy Commissioner for Personal Data has issued booklets on "Personal Data Privacy and the Internet — A Guide for Data Users", which advises website operators to inform web users whether the operators use "cookie files" to track its visitors; and on "Internet Surfing with Privacy in Mind — A Guide for Individual Net Users", which advises surfers to find software that can keep their computers clear of "cookies" or make their "cookies files" ineffective for access.

Furthermore, the Office of the Privacy Commissioner for Personal Data, the Hong Kong Productivity Council and the Consumer Council have jointly published a "Guide to Personal Data Privacy and Consumer Protection on the Internet". The Administration has requested all Internet Service Providers in Hong Kong to disseminate the Guide to their client website operators.

Introducing Legislation to Solve Problem of Missing or Illegible Government Leases and Grants

18. **DR TANG SIU-TONG** (in Chinese): *Madam President, the Government stated in the Policy Objectives of the 1999 policy address its target to introduce the requisite legislation in early 2000 to resolve the problem of missing or illegible government leases and grants. In this connection, will the Government inform this Council:*

- (a) *of the technical and legal issues encountered in drafting the relevant legislation and how such issues are being resolved;*
- (b) *of the parties to be consulted in the course of drafting such legislation and the estimated length of the consultation period; and*
- (c) *when the relevant bill will be introduced into this Council?*

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

- (a) A number of old government leases and grants are missing or illegible. To resolve this problem, the Administration intends to introduce a new piece of legislation to reconstitute by law such leases and grants and to confer on them legal status as the original land documents. The main technical and legal issues which need thorough deliberations are as follows:
- (i) Protection of the rights of property owners and other persons who have an interest in the land concerned in the process of reconstituting the missing or illegible leases — we need to provide appropriate arrangements in the legislation for property owners and other persons who have an interest in the land to participate in the reconstitution process. This involves devising statutory procedures which will allow the concerned parties to make representations on whether the reconstitution should proceed and on the terms of the proposed reconstitution.
 - (ii) Provision of an appeal channel for people who may be affected by such reconstitution of leases — a land lease may cover a large number of people with an interest in the land concerned, such as property owners of multi-storey developments. We therefore need to work out equitable and effective arrangements for the appeal mechanism. This involves detailed technical and legal considerations.
- (b) The Administration shall consult the public fully on the proposed legislation. The parties which have a direct interest in the matter, such as the Law Society of Hong Kong and the Heung Yee Kuk will be consulted. We will also consult the Legislative Council Panel on Planning, Lands and Works before finalizing the legislative proposals. We hope to complete the consultation process in six months.
- (c) Subject to the outcome of the consultations, we intend to introduce the relevant bill into the Legislative Council in 2001.

BILLS**First Reading of Bills**

PRESIDENT (in Cantonese): Bills: First Reading.

ADAPTATION OF LAWS BILL 2000**DUTIABLE COMMODITIES (AMENDMENT) BILL 2000**

CLERK (in Cantonese): Adaptation of Laws Bill 2000
Dutiable Commodities (Amendment) Bill 2000.

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 2000

CHIEF SECRETARY FOR ADMINISTRATION: Madam President, I move that the Adaptation of Laws Bill 2000 be read the Second time.

The Bill seeks to bring terminological amendments to the Private Bills Ordinance, the Legislative Council (Powers and Privileges) Ordinance and the Legislative Council Commission Ordinance.

The Hong Kong Reunification Ordinance has provided, *inter alia*, for the inclusion of Schedule 8 in the Interpretation and General Clauses Ordinance. Schedule 8 sets out the principles for interpreting laws which continue to remain as the laws of the Hong Kong Special Administrative Region (SAR) and brings the laws of the SAR into conformity with the Basic Law and with Hong Kong's status as a SAR of the People's Republic of China. Nevertheless, we consider it unacceptable to retain terminologies which are inconsistent with the Basic Law in

our statute books after the reunification. We, therefore, need to enact the Bill to bring about the necessary terminological amendments.

The Bill, when passed into law, shall take effect retrospectively, as from the date of the establishment of the SAR. This does not contravene Article 12 of the Bill of Rights Ordinance.

Madam President, this Bill is necessary not only for bringing the above three Ordinances into conformity with the Basic Law and with Hong Kong's status as a SAR, but also obviating the need for making cross-references to the Hong Kong Reunification Ordinance and the Interpretation and General Clauses Ordinance. The Adaptation of Laws (No. 27) Bill 1999, with the proposed amendments to the three Ordinances concerned, was introduced into the Legislative Council in 1999. However, the Bill lapsed at the end of the last Legislative Council Session as the Bills Committee did not have sufficient time to scrutinize the Bill. As such, we need to reintroduce the Bill so as to bring about the necessary amendments. I, therefore, commend it to this Council for early passage into law.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Adaptation of Laws Bill 2000 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.

DUTIABLE COMMODITIES (AMENDMENT) BILL 2000

SECRETARY FOR THE TREASURY (in Cantonese): Madam President, I move that the Dutiable Commodities (Amendment) Bill 2000 be read the Second time.

The Bill seeks to enable the Customs and Excise Department (the Customs) to combat the use of illicit fuel more effectively. The Bill proposes to add a presumption provision to the Dutiable Commodities Ordinance to the effect that any light diesel oil found in the fuel tank of a motor vehicle with a sulphur content in excess of the maximum sulphur content prescribed under the Air Pollution Control (Motor Vehicle Fuel) Regulations (presently 0.05% by weight)

is presumed to be dutiable. This means that if the fuel tank of a motor vehicle is found to contain diesel oil of a sulphur content in excess of 0.05% by weight, then the driver of the motor vehicle must prove that the diesel is duty paid. The rationale of the presumption lies in the fact that the existing laws prohibit the sale of light diesel oil with a sulphur content in excess of 0.05% for use by vehicles, and illicit oil usually has a higher sulphur content. It can therefore be deduced that if in fuel tanks of motor vehicles, light diesel oil with a sulphur content in excess of 0.05% is found, it is very likely that the oil is illicit fuel.

We consider there is a realistic need to introduce the Bill so that the Customs can carry out enforcement and prosecution actions more effectively because at present the Customs is facing practical difficulties in proving motor vehicles are using duty-not-paid or illicit fuel. The main reason for this is that there are two categories of illicit fuel which bear little difference from legal fuel in appearance. They are "marked oil", that is oil detreated for colour and marking (commonly known as decolourized marked oil) and diesel smuggled into Hong Kong. Thus the Customs has found it difficult to prove the fuel is duty-not-paid fuel. In addition, under the existing laws, even if the Customs presumes from the excessive sulphur content that the fuel is illicit fuel, it still needs to prove that duty has not been paid for it before prosecution can be initiated against the people involved. In many cases, this is impossible. The proposed presumption can solve this problem.

We put forward the Bill to strengthen the measures in combating illicit fuel. This serves not just to protect government revenue, but also helps to ameliorate the air pollution and fire hazards caused by the illegal use or storage of duty-not-paid fuel. In 1999, there were 12 cases of fire caused by the supply or transportation of illicit fuel. In addition, as far as environmental protection goes, vehicles using illicit fuel emit 25% more in particulates and 99 times more in sulphide compounds than their counterparts using lawful fuel. Hence, we must introduce the proposed provision to protect government revenue, air quality and public safety.

In fact, the proposed provision was part of the Dutiable Commodities (Amendment) Bill 1999. It was introduced to the former Legislative Council as part of the proposals to combat the supply or use of illicit fuel in November 1999. At the time, Members endorsed the proposed presumption but expressed concern about the inadvertent impact it might have on professional drivers who were law-abiding. These drivers work on shifts and use fuel from previous shifts

without any knowledge about the source of fuel in their fuel tanks. Therefore, some Members requested the Government to consult the trade on the proposal and to work out a proper refuelling record-keeping system or guidelines to help drivers demonstrate the extent of their knowledge about the source of fuel in their vehicles and re-submit the proposal to the Legislative Council after the consultation had been completed.

We do not think the proposed presumption will impact on law-abiding professional drivers because the presumption itself does not add any new offence to the use of illicit fuel. Whether a suspect should be convicted is a matter for the courts to decide, after considering all factors. Despite this, we promised the former Legislative Council to consult the trade and work out a proper refuelling record-keeping system or guidelines together with the trade. Thus, in June this year, we deleted the presumption from the 1999 Amendment Bill at the Committee stage with an undertaking to re-introduce the proposed presumption provision to the Legislative Council as soon as possible, after taking into account the outcome of the consultation.

In the past few months, the Customs has conducted an extensive consultation with the transportation trade, which is generally supportive of the need for more vigorous legislative provisions to step up enforcement against illicit fuel. All the bodies consulted have expressed no objection to the re-introduction of the proposed presumption. The Customs and the transportation trade have worked out a set of guidelines which will help drivers to keep proper refuelling records and other relevant records so as to demonstrate the extent of their knowledge about the source of fuel in their vehicles.

Madam President, the proposed presumption will help tackle the series of problems of public concern caused by the use of illicit fuel. The Government has conducted an extensive consultation with the transportation trade, at the request of the former Legislative Council, on the proposed presumption, which has gained acceptance from the trade. Therefore, I hope Members will support the proposed presumption provision.

With these remarks, Madam President, I commend the Bill to Members.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Dutiable Commodities (Amendment) Bill 2000 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 Stamp Duty (Amendment) Bill 2000.

STAMP DUTY (AMENDMENT) BILL 2000**Resumption of debate on Second Reading which was moved on 18 October 2000**

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): I now put the question to you and that is: That the Stamp Duty (Amendment) Bill 2000 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): Stamp Duty (Amendment) Bill 2000.

Council went into Committee.

Committee Stage

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

STAMP DUTY (AMENDMENT) BILL 2000

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Stamp Duty (Amendment) Bill 2000.

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.

STAMP DUTY (AMENDMENT) BILL 2000

SECRETARY FOR THE TREASURY (in Cantonese): Madam President, the

Stamp Duty (Amendment) Bill 2000

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 Stamp Duty (Amendment) Bill 2000 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): Stamp Duty (Amendment) Bill 2000.

MEMBERS' MOTIONS

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

The movers of amendments will each have up to 10 minutes to speak. Other Members will each have up to seven minutes for their speeches. Under the Rules of Procedure, I am obliged to direct any Member speaking in excess of the specified time to discontinue.

First motion: Enhancing the welfare for the elderly.

ENHANCING THE WELFARE FOR THE ELDERLY

MR YEUNG YIU-CHUNG (in Cantonese): Madam President, I move the motion which has been printed on the Agenda.

Madam President, originally I was concerned that there might be awkward silences at this motion debate on "Enhancing the welfare for the elderly", as the media focus is not on this today, but may be on the Presidential Election in the United States. Hence, I was really surprised to learn that a total of three Honourable Members would be moving amendments to my motion. At the same time, I am also grateful to these Members for their amendments because they demonstrate that Members of this Council are still concerned about the livelihood of the public and the welfare of the elderly, and that Members will do what they ought to do. The elderly problem is not old.

Madam President, the Health and Welfare Bureau has recently intimated that in order to take care of those needy elderly persons living in abject poverty who are not eligible for Comprehensive Social Security Assistance (CSSA), the Government is prepared to increase the rate of Old Age Allowance (OAA) (commonly known as "fruit grant"); however, by then elderly persons applying for OAA will be required to declare their assets. This proposed new policy has aroused widespread concern among members of the community, political parties, relevant organizations and the elderly, and thus strong criticisms from them. According to the existing system, elderly persons aged between 65 and 69 are required to declare their assets if they wish to receive OAA, the amount of which is \$625 monthly. But those elderly persons aged 70 and above are not required to declare their assets to receive the monthly allowance of \$705. At present, there are altogether 440 000 OAA recipients. Among these elderly persons, 310 000 are 70 and above, while the remaining 130 000 are aged between 65 and

69. In addition, about 140 000 of these 440 000 OAA recipients do not have any other source of income; they have to live off their meagre savings. Life is particularly hard for some of the elderly persons whose situation should indeed be considered as marginal cases. Just because their assets have barely exceeded the CSSA assets limit of \$37,000 or because they have some meagre "last stakes saved for their funeral", these elderly persons are not eligible for CSSA and have to live on the OAA.

At present, there are about 3 000 cases of such marginalized elderly persons who are not eligible for CSSA and have to live on OAA. Given that the existing system is unable to provide these marginalized elderly persons with any form of assistance, we need to work together to find ways to resolve their problems. This is precisely the principal reason why I moved this motion today. The Democratic Alliance for Betterment of Hong Kong (DAB) supports increasing the rate of OAA, but we oppose the requirement that elderly persons aged 70 and above must declare their assets. Increasing the OAA rate is just a necessary undertaking made by society in the light of the improved economic environment to take care of the well-being of the elderly. Moreover, the original purpose of the allowance is to reward the elderly and it is meant to be a gesture of respect. As such, any elderly persons meeting the requirements should be eligible for the allowance, regardless of their financial position. In the motion moved by me on behalf of the DAB today, the first thing we urge the Government to do is to suitably increase the rate of the allowance. As regards the rate of increase, be it \$200 or \$300 and so on, we believe discussions can be held and our attitude is open. At the same time, the DAB also urges the Government to relax the existing 180-day absence rule on the allowance received by the elderly settling in their hometown, with a view to benefiting more elderly persons. As an interim arrangement, we suggest the Government relaxing the 180-day absence rule to 360 days. In the long run, we consider that the Government should abolish altogether the absence rule, so as to encourage more elderly persons to settle in their hometown.

The DAB fully agree with and support the Government's proposal to help those marginal needy elderly persons not eligible for CSSA to improve their lot. Nevertheless, we hold that if we are to help these marginalized needy elderly persons, the proper way should be to improve the CSSA scheme for the elderly, rather than focusing on the OAA. The OAA should be separated from

measures seeking to help the poor and the needy, for they are of different natures and must not be mixed up. While the former is a gesture of respect and kind regards, the latter is some form of relief and assistance. In order to provide assistance to these marginalized elderly persons, I suggest the Government processing separately the CSSA cases for the elderly and the general CSSA cases, as well as relaxing the assets limit of \$37,000 for elderly CSSA applicants, so as to benefit those marginalized needy elderly persons.

Although CSSA applications made by the elderly are currently considered under the category of disabled adults, this arrangement is unable to help those marginalized needy elderly persons to improve their livelihood. That is why it is necessary to process the CSSA cases of the elderly separately. As to relaxing the assets limit of \$37,000, whether the limit level should be set at \$40,000, \$50,000 or even higher, we also hold an open attitude towards the matter and consider that it should be best to fix the ceiling by way of public consultation.

Madam President, the Portable CSSA Scheme for elderly settling in Guangdong has come into operation for three years, but the effect of the Scheme is not so satisfactory so far. At the meeting held on 12 April this year, the Honourable CHAN Kam-lam from the DAB moved a motion on elderly persons settling in their hometown. During the motion debate, many Members advanced some insightful views and made a number of suggestions. In my opinion, if we are to improve the Portable CSSA Scheme, in addition to extending the Scheme to places on the Mainland outside Guangdong, the eligibility criteria for the Scheme should also be relaxed as well. The criterion that applicants must have received CSSA for at least three consecutive years to be eligible for Portable CSSA should be changed to having received CSSA for one year or above to benefit more elderly persons. At the same time, the Government should also adopt various measures to provide active assistance for the elderly intending to settle in their hometown. For example, the Government may negotiate with banks in the Mainland to make arrangements for direct remittance, thus saving the elderly much trouble and obviating the need to pay many unnecessary charges. The Government may also liaise with the relevant hospitals in the Mainland to arrange for the elderly to receive quality medical services at reasonable costs in certain specified hospitals.

Madam President, it is certainly important that the OAA system and the CSSA Scheme for the elderly be improved if we are to enhance the welfare for the elderly; however, the most important point remains that services for the elderly must be improved. In order to resolve the increasingly serious elderly problems, it is imperative that the various welfare services for the elderly be well co-ordinated, fully planned and reformed comprehensively. With regard to the existing services for the elderly, there are in fact many problems. While the services are too piecemeal and inadequately co-ordinated, the service providers are operating not on a cost-effective scale, added to these is the problem of duplication of resources and services. Obviously, these services are simply unable to cater for the needs of elderly services development. I have been given to understand that the Government has commissioned the Elderly Research Centre of the University of Hong Kong to conduct a consultancy study on restructuring the existing elderly services, with a view to providing the elderly with well co-ordinated comprehensive services of better quality and in a more cost-effective manner. The DAB welcomes this review. However, we hold that the objective of the review should be to strengthen and improve the services of multi-service centres, social centres, day care centres and health centres for the elderly, so as to provide medical care, community care, as well as cultural and recreational services for the elderly in Hong Kong. The main purpose of integrating the services provided for the elderly should be to improve the quality of services rather than cutting back expenses. In this connection, the Government may consider merging the multi-service centres and day care centres for the elderly into "community centres for the elderly" responsible for providing elderly persons living in the local community with various kinds of services, including day care, home care, meals, support services for carers of the elderly, educational activities, development, as well as other outreaching services and activities.

Madam President, with the population of Hong Kong ageing continuously and the polarization between the rich and the poor becoming increasingly grave, the problem of impoverishment of the elderly will continue to deteriorate. At present, people aged 65 and above account for 10% of our total population, and this proportion is estimated to rise to 13% by 2016 and further to 20% by 2036. Relevant data also indicate that 60% of the lower-income group are elderly persons, and that among the 1.2 million-odd people defined as living in poverty, some 270 000 are elderly persons. From this we can see that helping the elderly in need and enhancing the welfare for the elderly are indeed issues we cannot afford to overlook. As the ancient saying goes: "Treating one's parents

with filial piety is the most important of all good deeds". Actually, to show filial respect for the elderly is essentially a kind of goodwill. The Chief Executive has undertaken to develop Hong Kong into a society that stresses goodwill and concern for other people, allocating more resources to enhance the welfare for the elderly is no doubt one of the important ways contributing to such a society.

As the local economy has shown obvious signs of turning the corner, we may well expect to register a remarkable growth of 8.5%. Nevertheless, many of the elderly persons in Hong Kong are still living below the poverty line. Given the handsome fiscal reserves Hong Kong has and the continuous improvement in its financial position, the Government should indeed allocate more resources to enhancing the welfare for the elderly, so as to enable them to enjoy real benefits from the economic recovery. That way, we should be able to develop Hong Kong into a society which can give our senior citizens with a sense of security, a sense of belonging, a sense of joy and a sense of worthiness. I hope that Honourable Members will support this motion and join efforts to provide the elderly living in poverty with timely assistance.

With regard to the amendment proposed by the Honourable Mrs Sophie LEUNG, it has deleted the most important part of the original motion, thus leaving the motion without any stance or direction. Hence, we consider it unacceptable.

The DAB supports the old age pension scheme put forward in the amendment proposed by the Honourable LEUNG Yiu-chung, since we have also included this proposal in our platform. In addition, Mr LEUNG has also suggested relaxing the existing application mechanism for OAA, abolishing the existing requirement that elderly persons aged between 65 and 69 must declare their assets to receive OAA. We consider these proposals acceptable and worthy of support.

Mr Frederick FUNG has suggested defining elderly persons as Hong Kong residents aged 60 and above and extending the services and concessions currently provided by the Government for the elderly to those aged 60 and above. The DAB supports this suggestion on the ground that it is in line with the needs of elderly persons retiring at the age of 60.

I so submit. Thank you, Madam President.

Mr YEUNG Yiu-chung moved the following motion: (Translation)

"That, in view of the aggravation of the problems of ageing population and impoverishment of the elderly in Hong Kong, this Council urges the Government to adopt effective measures to enhance the welfare for the elderly; these measures should include:

- (a) processing separately the cases of Comprehensive Social Security Assistance (CSSA) for the elderly and the general CSSA cases, as well as relaxing the assets limit for elderly CSSA applicants, so as to benefit more elderly persons;
- (b) maintaining the existing application mechanism for the old age allowance, increasing the rate of the allowance to an appropriate level and relaxing the absence rule on the allowance received by the elderly settling in their hometown;
- (c) extending the Portable CSSA Scheme to places on the Mainland outside Guangdong and relaxing the eligibility criteria for the Scheme; and
- (d) strengthening and improving the services of multi-service centres, social centres, day care centres and health centres for the elderly, so as to provide medical care, community care, as well as cultural and recreational services etc. for the elderly in Hong Kong."

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

PRESIDENT (in Cantonese): Mr LEUNG Yiu-chung, Mrs Sophie LEUNG and Mr Frederick FUNG will move amendments to this motion respectively. Their amendments have been printed on the Agenda. The motion and the three amendments will now be debated together in a joint debate.

I will call upon Mr LEUNG Yiu-chung to speak first, to be followed by Mrs Sophie LEUNG and Mr Frederick FUNG; but no amendments are to be moved at this stage.

MR LEUNG YIU-CHUNG (in Cantonese): Madam President, in his first policy address, the Chief Executive, Mr TUNG Chee-hwa, proposed a policy objective of "Security, Belonging, and Worthiness" for the elderly. I believe that Honourable Members belonging to the DAB and the Hong Kong Federation of Trade Unions (FTU) will also agree that the Chief Executive has not been successful in achieving these three objectives over the past three years, otherwise they would not have moved the original motion today. It cannot be denied that instead of honouring his promise, the Chief Executive has gradually cut down elderly welfare over the past three years, making them very indignant! I have no objection to most of the proposals in the original motion, but I am surprised that Members of the DAB should have completely omitted the important issue of elderly welfare. The purpose of my amendment is, therefore, to complement the inadequacy of the original motion. Just now, I was very glad to learn that Mr YEUNG Yiu-chung supported my amendment, and this is indeed very good. I think maybe this is only an inadvertent omission in his haste.

Madam President, the amendment which I shall move today consists of three main parts: (a) expeditiously introduce the old age pension scheme; (b) restoring the right of elderly persons who are living with their family members to apply for CSSA on an individual basis; and (c) relaxing the existing application mechanism for OAA (commonly known as "fruit grant").

Madam President, the old age pension scheme (OPS) is a form of retirement protection which the labour sector has been fighting for, and it was also attached great importance by the former Government. The OPS was proposed and actively promoted by the former Government in 1993. I remember that the then Secretary for Education and Manpower pointed out at a Legislative Council sitting that "neither a Central Provident Fund Scheme (CPF) nor a private mandatory Retirement Protection Scheme (RPS) is capable of providing the majority of elderly people with reasonable retirement protection, and if members of the public really feel that it is necessary to offer elderly residents with the protection of a minimum income, then the implementation of the OPS is the only effective option for achieving this goal within a reasonably short time." However, it was a pity that the former Government eventually contradicted itself and opted for the Mandatory Provident Fund (MPF) Scheme instead of the OPS. This really made us very angry.

Madam President, I am not trying to settle old scores today. Rather, at this very time when the MPF Scheme is about to be implemented, I wish to

remind this Council and members of the public that in fact the MPF Scheme cannot offer comprehensive protection to retirees. As regards the MPF Scheme which will soon be implemented, it has always been criticized for being "a distant source of water that cannot be relied upon to put out the fire nearby", and it is also marked by the following problems: (a) Retirees will only be able to enjoy returns after making contributions for 20 to 30 years, while existing retirees are not offered any protection; (b) people not in the workforce, such as housewives, are not offered any protection; (c) the money low-income earners get upon their retirement may not be sufficient to cover their living expenses, as their contributions are very small; and (d) administrative costs and risks are high.

Madam President, as pointed out by the former Government, all the above problems can be solved by introducing the OPS. In fact, whether it was the OPS proposed by the old Government in the past or the proposed scheme of the public at large, the emphasis was that retirees should immediately receive a monthly payment equal to 30% of the median wage to cover their living expenses upon their retirement. On the basis of the existing population size, it is reckoned that 1.01 million of those aged 60 or above will be benefited. However, the MPF Scheme cannot achieve this goal. What is even more ridiculous is that people who do not earn any income but are desperately in need of protection, such as housewives, the chronically ill or handicapped, are not offered any protection under the MPF Scheme. Moreover, the OPS can offer people with different levels of income the same level of protection, but the MPF Scheme simply cannot. The Hong Kong Social Security Society pointed out that based on the calculations of the existing MPF Scheme, an employee who earns the median monthly income of \$10,000, and who contributes to the MPF Scheme for 35 years, will have an income of \$2,600 monthly after retirement. That will be \$400 even less than 30% of the median wage. And, those with a monthly income of \$6,000 will only receive \$1,560 monthly upon retirement after contributing to the MPF Scheme for 35 years, and this will be far from adequate to cover their daily expenses.

Madam President, perhaps there are people in the community who will ask whether it is necessary to introduce the OPS, under which all retirees including rich tycoons are treated equally and do not have to undergo any means test. And, perhaps they will also say that it is against the principle of "work harder and earn more" if all retirees can receive the same amount of money under the OPS. However, Madam President, I would like to stress that retirement protection is a right of the elderly, and it is also a means through which the

community repays and shows its respect for the elderly. This is actually similar to the existing OAA, where elderly people aged 70 years or above are not subject to any means test and the amount of allowance they receive are not based on their past income. This arrangement shows precisely that we acknowledge the past contributions of the elderly, and the OPS, which is a means for us to show our respect for the elderly, should not be affected just because it involves greater sums of money than the OAA. Fourthly, the high administrative costs and risks of the MPF Scheme may also affect the protection which an employee can get after his retirement. Since the Government is unwilling to make contributions and underwrite all the losses, we are worried that employees will only get very little upon their retirement. However, the OPS can offer the protection required or remedy all these inadequacies.

Madam President, some people may think that it is too late and meaningless to revisit the OPS at a time when the MPF Scheme is soon to be implemented on 1 December. However, I think that the OPS and MPF Scheme are not mutually exclusive; quite the contrary, I think that the OPS can serve to make up for the inadequacies of the MPF Scheme. I hope members of the public and Members of this Council will not forget all about the OPS studied and endorsed in the past just because the MPF Scheme will soon be implemented. As Miss CHAN Yuen-han stated in a motion debate in 1995: "we have successfully strived for the MPS in our first step, and we are going to fight for the immediate implementation of the OPS." I hope Miss CHAN and other Members will continue to stick to their principle and continue to fight for the OPS.

Madam President, my second amendment is on restoring the right enjoyed by elderly persons living with their family members to apply for CSSA on an individual basis before the CSSA Scheme was reviewed last year. After the CSSA review, there have been actual cases where elderly persons can no longer apply for CSSA because some of their family members do not wish to apply for CSSA. Some people think that the practice adopted after the review can encourage young people to take care of the elderly, but I think that the opposite has been the case. Some elderly people can no longer apply for CSSA but they cannot afford their living expenses. So in order to apply for CSSA, these elderly people who used to live with their family are forced to become "singleton elderly". So, instead of looking after the welfare of the elderly, this arrangement may increase the expenditure of the Government in a number of areas such as rental subsidies.

Madam President, finally, in my fourth point, I propose to relax the existing application mechanism for OAA. As regards the original motion's proposal on "maintaining" the existing mechanism, I think Mr YEUNG may have proposed this in response to the recommendation in the policy address on reviewing the OAA. I think he has suggested to maintain the existing system because he is worried that the Government will introduce a comprehensive means test mechanism for OAA. However, we doubt if it is reasonable to introduce a means test for OAA. As we have repeatedly stressed, retirement protection is a right and it is a form of requital to the elderly rather than charity, so there should not be any means test. The Government is trying to introduce a full-scale means test with the beautiful excuse of increasing the OAA. In fact, even if the OAA is increased to \$1,000, it will be still insufficient to meet the needs of elderly persons. Therefore, it is really necessary to introduce the OPS. I hope that Members will support my amendment for the well-being of the 1.01 million retirees aged 60 or above.

I so submit.

THE PRESIDENT'S DEPUTY, MRS SELINA CHOW, took the Chair.

MRS SOPHIE LEUNG (in Cantonese): Madam Deputy, as the population of Hong Kong is ageing, it is necessary for us to look into and review the issue of welfare for the elderly in depth. In addition, we should also urge the Government to formulate long-term strategies and appropriate policies in this respect. Today, I want to concentrate my discussion on two issues: Who should we help and how should we help?

Concerning the first question, I believe Honourable colleagues in this Chamber are all very clear about it. The Chief Executive has also addressed the issue in this year's policy address and he points out that elderly people in urgent need are mainly those who live on OAA. However, the OAA they live on is so meagre that it is just equal to a daily subsistence of less than \$25. I believe Members will agree that they need assistance badly. On the other hand, over 130 000 people were receiving Comprehensive Social Security Assistance (CSSA) for the elderly last year, which accounted for one fifth of the population of that age group. It is believed that a significant number of these people need more assistance than they are presently receiving.

With regard to the issue of how the welfare for the elderly should be improved, I believe Honourable colleagues in this Chamber have different opinions. Today, on behalf of the Liberal Party, I have proposed an amendment to the original motion of Mr YEUNG Yiu-chung. I wish to discuss the crux of matter in the light of the concepts and visions held by the Liberal Party. However, before I elucidate the grounds for my proposed amendment, I wish to state briefly the fundamental ideas of the Liberal Party on the issue of welfare for the elderly.

The Liberal Party considers that the community should help the feeble elderly who have no one to depend on. However, confronted with issues such as the ageing of the population and sharp increase in social welfare expenditure, the Government should make good use of the resources and help those elderly people who genuinely need help, rather than procrastinating and asking the younger generation to shoulder the huge burden it creates. I believe nobody will wish to see an incessant increase in social welfare expenditure, or to see Hong Kong end up being a welfare state.

Despite the fact that we identify with the spirit of the original motion proposed by Mr YEUNG Yiu-chung, we have reservations about his proposals concerning the CSSA and OAA. We have therefore proposed two amendments specific to these two items.

The original motion and other amendments have made proposals seeking either to relax the assets restriction in CSSA across the board or to increase OAA in a similar manner. Doubtless more elderly people will benefit after the welfare net is widened. But the question remains: How many of them do genuinely need help?

The Liberal Party considers that the Government should not adopt a broad-brush approach by expanding the CSSA net arbitrarily. On the contrary, the Government should pool its resources together and take care of those elderly people who are in genuine financial difficulties.

With regard to the original motion's proposal of separating CSSA cases for the elderly from the general cases, we think it is open to question. In Chinese society, elderly people always expect their children to support their parents, so that they can enjoy the happiness of family life. Therefore, the community should try its best to encourage children to support their parents wholeheartedly and with all their efforts, financial circumstances permitting.

Nowadays, over 75% of the people in Hong Kong are living with their parents. Even for those not living with their parents, many of them will still provide financial support and pay visits to their parents on a regular basis. The fact that applications for CSSA are made on a household basis demonstrates that consideration has been given to the specific conditions of Hong Kong society to facilitate the continuation of this virtue. Processing the cases of CSSA for the elderly independent of the general cases will not only undermine the people's attachment to their families, but will also overlook the wishes of the elderly, which will eventually turn their greatest aspirations into the greatest apprehensions, or it may even turn out to be an indirect incentive to their children not to support their parents.

We consider that the Government should review the existing CSSA system in a practical manner if we want to more effectively help those elderly people who are in genuine need. We are especially skeptical of the rationale behind the assets limit of \$24,000 and \$37,000 respectively for the frail and healthy elderly singletons. Firstly, is that requirement really reasonable? Is it still open to question? Secondly, can the CSSA rate for elderly people living with their families be increased? We consider that it should be reviewed realistically. It is believed that only after the living standards and needs of the elderly are reviewed, can an adjustment in the CSSA system help alleviate the difficulties face by the elderly in these areas. Furthermore, it is also helpful to avoiding the creation of unnecessary long-term welfare burden for the younger generation.

As to the OAA, the Chief Executive has undertaken in his policy address to review the existing system, hoping to improve the livelihood of the elderly who are subsisting mainly on OAA. The Liberal Party urges the Government to complete the review as soon as possible and put forward practical proposals, such as estimations on the amount of expenditure to be increased and the number of elderly people who will benefit from such assistance, then submit them to this Council for discussion. In the meantime, the Government should improve the efficiency of resource utilization.

For example, assuming that 100 000 out of the 440 000 people receiving OAA are badly in need of assistance. If the Government is able to increase funding for this purpose by \$90 million monthly, each elderly recipient may get an additional \$200 on an across-the-board basis, but we can only say that it is of small help only. However, if the increased funding is distributed direct to those 100 000 people in need, by that time, these elderly people living in great difficulties may get an additional \$880 monthly, with the total assistance being more than double the amount of the existing OAA.

The Government should set down certain criteria to identify people in greatest need of assistance. The questions of whether or not it is necessary to aim at all OAA recipients, and to introduce a comprehensive assets test, income ceiling or any other measures are open to discussion. We will definitely discuss the issue with due respect for the elderly. However, we believe one criterion is very essential, that is, all social resources should be effectively used. Certainly, the procedures to be used to identify people in genuine need should not be overly complicated, otherwise it will deter people with such needs from applying for assistance, which will eventually defeat the original purpose of helping the elderly.

The third point in the original motion proposes to expand the Portable CSSA Scheme for elderly persons retiring to Guangdong Province to other places, which is a good suggestion. As the Portable CSSA Scheme has operated for three years and it works well in Guangdong Province, it ought to be extended to other provinces as well. The Liberal Party understands that if the Portable CSSA Scheme is extended to places outside Guangdong Province, there will be many technical difficulties in terms of supervision and matching support. However, we hope that the Government will adhere to the principle of fairness and discuss with the relevant authorities and intermediary organizations on the Mainland for the ways of implementation.

The Liberal Party also agrees with the proposal of enhancing and improving existing community services for the elderly. It is because besides providing financial support, the Government should not overlook community services for the elderly, especially elderly care and counselling services. For elderly people with special needs, such as senile dementia patients, the Government should consider the provision of other forms of support in addition to CSSA. For example, it may set up more day-care centres and enhance outreaching services. Furthermore, with advances in modern medicine, many

elderly people are leading a life of vitality, thus the Government should encourage more elderly people to take part in community and voluntary activities, so as to achieve the goal of a "sense of worthiness" by providing more outlets for the elderly.

Mr Howard YOUNG will follow up and give further details on the views of the Liberal Party on other amendments to the motion.

Madam Deputy, on basis of the reasons given above, and on behalf of the Liberal Party, I oppose the original motion of Mr YEUNG Yiu-chung and the amendments of Mr Frederick FUNG and Mr LEUNG Yiu-chung, and I also put forward my amendment. I so submit.

MR FREDERICK FUNG (in Cantonese): Madam Deputy, according to the statistics of the Census and Statistics Department, the elderly population in Hong Kong is increasing all the time. The share of the elderly population aged 60 or above in the total population of Hong Kong rose from 14.85% in 1999 to 15% in the middle of 2000. It is forecast that the elderly population in Hong Kong will continue to rise over the next 10 years. As Hong Kong failed to provide a sound retirement protection system for the elderly retirees in the past, many elderly people live in straitened circumstances after retirement and have to rely on the Government's financial assistance.

According to the statistics of the Census and Statistics Department, more than half of the CSSA recipients in Hong Kong are elderly people. The statistics in August 2000 showed that elderly cases accounted for 58.5% of the total number of CSSA cases, while OAA cases accounted for 82% of the total number of Social Security Allowance Scheme cases. This demonstrates that many elderly people have to rely on the Government's assistance after retirement. In order to enable the elderly people in Hong Kong to live a dignified and secure life after retirement, the Hong Kong Association for Democracy and People's Livelihood (ADPL) and I have proposed an amendment to the motion on enhancing the welfare for the elderly introduced by Mr YEUNG Yiu-chung, and urge the Government to take our proposals and measures into serious consideration.

As we all know, the Government has not clearly defined the age at which the elderly can apply for social services or concessions. That is why the social services or concessions provided to the elderly impose different age requirements. For instance, all Hong Kong residents aged 65 or above are eligible to apply for the senior citizen card, while all elderly persons aged 60 or above are qualified for the Portable CSSA Scheme for Elderly Persons Retiring to Guangdong Province. Thus, the term "elderly person" has different definitions, it is defined as either a person over 60 or a person aged over 65. The absence of a clear government definition on the age of an elderly person has created confusion in the application for community services and concessions by the elderly on the one hand, and precluded elderly persons who have reached the age of 60 from enjoying the necessary social services and concessions on the other. That is why the ADPL and I urge the Government to define elderly persons as "Hong Kong residents aged 60 and above and extend the services and concessions currently provided by the Government for the elderly to those aged 60 and above".

Madam Deputy, I also request the Government to "offer full subventions for social centres and multi-service centres for the elderly". At present, the Government grants only 80% subvention for social centres and multi-service centres for the elderly in Hong Kong, and the relevant organizations have to raise the outstanding 20% themselves. As far as I know, despite the fact that the Government grants only 80% subvention, many voluntary agencies or organizations still apply for the setting up of two different types of elderly centres. This seems to suggest that the Government does not need to offer an additional 20% subvention. However, youth services are fully subvented at present. Why should those elderly people who have served and contributed to Hong Kong for 20 to 30 years, or even 30 to 40 years, not enjoy fully subvented services while some young people can? Conversely, if youth services are only granted 80% subvention, does it mean that no other organizations will be willing to apply for the organization of these services? Clearly, the Government offers much more subvention for youth services than for elderly services. We consider this an act of discrimination against the elderly to a certain extent. At least, the elderly people will think that the Government is discriminating against them. Certainly, for someone with a stable income, the petty membership fee or the fee charged for an activity may not be considerable. However, for elderly persons who do not have a lot of savings, they have to choose whether to participate in the activity or not. Naturally, elderly people in straitened circumstances often choose not to participate in activities offered by the elderly centres or social centres for the elderly in order to save extra expenses.

Moreover, according to the present assets limits for the application for CSSA, the assets limit for a single elderly person is \$37,000 while the assets limit for a household of two elderly persons is \$56,000. While the savings of some elderly people do exceed the present assets limit, we must not forget that the Government failed to provide retired elderly people with a sound retirement protection system in the past. While the Mandatory Provident Fund Scheme will be implemented in Hong Kong from 1 December this year, this retirement protection will not help the elderly people who have already retired or are about to retire. Thus, it is understandable that elderly people will wish to have more savings. In order to make the life of retired elderly people more secure, the ADPL and I are of the view that the Government should relax the assets limit for elderly CSSA applicants, so that more elderly people can have more savings.

The Administration should also consider extending the present Portable CSSA Scheme to places outside Guangdong Province. The Administration should also relax the existing requirement that only elderly people who have received CSSA for three consecutive years are eligible to join this Scheme. In our view, elderly people who return to and settle in their hometown may get better financial support and care from their helpful relatives and friends in the village than that they will in Hong Kong. At least, they will think that it is fine and they can spend their days and enjoy their retirement life there. In my view, the Government should actively consider their requests.

In his policy address 2000, the Chief Executive proposed to review the existing OAA system and apply the assets test to the elderly applying for OAA. Thanks to strong opposition, the Government suddenly changed its tune and proposed that only those elderly people who need additional financial assistance but have not applied for CSSA will have to undergo the Government's assets test. However, the original intent of the Government in introducing the OAA in the beginning was to repay elderly people for their contribution to the community in decades past. The original spirit and principle of the OAA is that no assets test is required and it is purely a token of respect for the elderly. Therefore, if the Government really wants to offer some allowance to low-income elderly people aged over 70 who have not applied for CSSA, so that they will have sufficient money and to help them out of their financial difficulties, it should not impose the assets test on the OAA system. While this may apparently be helpful to the elderly, it would in effect put them under psychological stress. We hope that the Government will separate them into two systems.

I very much hope that the Government will relax the absence rule for the receipt of OAA by the elderly who have settled in their hometown. Although some elderly people do not receive any CSSA but only OAA, their mental state and situation are similar to those elderly CSSA recipients who have settled in their hometown. If this rule can be relaxed, I believe it will help these elderly people. If the rule that elderly people cannot be absent from Hong Kong for more than 180 days in a year can be relaxed, they will be able to travel more often between China and Hong Kong.

On the whole, the Government of the Special Administrative Region needs to and has an obligation to take care of the elderly people who have contributed to our community all their life, so that they can live a secure life in their twilight years.

Madam Deputy, I so submit.

MR WONG SING-CHI (in Cantonese): Madam Deputy, my speech today will focus on the impoverishment of the elderly and the protection for their livelihood; I will not speak on other social services or care for the elderly. Certainly, the Democratic Party will support any proposals to provide services that aim at improving the living standards of the elderly. I hope that this objective will be made clearer after this discussion today.

Actually, I always see some raggedly dressed elderly persons picking up refuse or cardboard sheets on the streets every evening on my way home. No matter how old they really are, their looks tell us that they should be in their seventies or eighties. Even though they are humped and their fingers bent, these elderly persons are all pushing their derelict carts all by themselves. I think the old adage "being bent down by the heavy burden of life" can best describe the look of these elderly persons.

According to a study of the impoverishment of the elderly conducted in 1996, there were already 14 000 elderly persons aged 60 and above living in abject poverty among the single-person households alone. The standards of living of these elderly persons are even worse than that of CSSA recipients. They are so poor that their expenses on food are way below the average. What is more, about 5 000 of them must continue to work after reaching the age of 60 in order to earn their living. Given their low education levels, the only jobs

they can get are those low-paid jobs requiring low levels of skill like caretakers, dish cleaners or cardboard collectors.

Why would these elderly persons living in abject poverty rather scrimp on food and clothing or even be homeless and destitute than living on the CSSA? This is because their past experience as CSSA recipients has made them feel very embarrassed and lose all their dignity. As a social worker, I have been to many Social Security Field Unit offices to help elderly persons to apply for CSSA. I have seen the way in which many front-line officers treated these elderly applicants. The tone of their voice and their attitude all served to frighten these elderly persons. Added to these were the complicated application procedures and the message of "CSSA nurturing lazy bones" that spread across the community. I can appreciate why so many elderly persons resist the idea of applying for CSSA. Unless they are at the end of their rope, they will insist on not applying for CSSA. In fact, if the Government should process separately the cases of CSSA for the elderly and the general CSSA cases, the elderly would be able to avoid being stigmatized. Thus I think this proposal merits support.

Another reason why the elderly are unwilling to apply for CSSA is that the assets limit has been set at too low a level. In this connection, the assets limit for a single elderly person is \$37,000. It is the practice of many elderly persons to save some "last stakes for their funeral", but frankly, more often than not \$30,000-odd just might not be enough to cover all the "funeral expenses". Moreover, in the event that they have any serious illness and are admitted to hospitals, or if they should have any urgent needs, this sum of money will also be useful. So, they are really very unwilling to use up their savings in order to apply for CSSA.

Further still, in order to ensure that people will shoulder their responsibility for supporting their aged parents, the Government has added a new requirement since last year that elderly CSSA applicants living with their families and their families must undergo the assets test together. Although it is out of goodwill that the Government seeks to encourage greater family care, many families just cannot afford to support the elderly parents. Many people are willing to cater for the daily needs of their parents, but their financial capacity does not allow them to do so. In this connection, if the grown-up children are unwilling to undergo the assets test, the elderly parents will lose their eligibility for receiving CSSA. In the end, the elderly members will become the cause of dispute in their families. As such, this requirement should indeed be abolished.

Due to the requirements imposed by the CSSA scheme and many other restrictions, many elderly persons cannot but give up applying for CSSA. As a result, many of them have to continue to work to earn their own living, and the monthly OAA (commonly known as "fruit grant") payment of some \$600 to \$700 will also help make ends meet. Nevertheless, this meagre benefit might not be available in the future. Since the Chief Executive has pointed out in the policy address that the OAA review would be completed within this year, many elderly persons are worried that recipients of OAA will have to be subject to assets test like CSSA recipients in the future. Having regard to the difficulties facing the elderly, the people of Hong Kong generally agree that the Government should provide assistance for them more generously and openhandedly. As indicated in the findings of a survey conducted by the Democratic Party last month, 74% of the people are of the view that elderly persons receiving OAA should not be subject to any assets tests. At the same time, members of the public generally consider that the rate of OAA is on the low side. In this connection, while only close to 10% of the people interviewed consider that the OAA rate should be maintained at \$600 monthly, 40% of the interviewees believe that the rate should be raised to \$1,000 and about 15% even opine that the rate should be raised to \$1,200 to \$1,500. The Democratic Party hereby urges the Government not to introduce any income or assets test to the OAA system, so as not to add to the burden on the elderly. In addition, we also hope that the Government will increase the rate of OAA for elderly persons aged above 70 to \$1,000 or higher.

In view of the ageing population and the impoverishment of the elderly, expenditure on CSSA and OAA will certainly be on the increase. Hence, we do appreciate the financial pressure that the Government is facing. In 1997, people aged 60 and above accounted for 14.4% of the total population, which means that one out of every seven people was an elderly person. It is estimated that by 2016, about one in every five people of Hong Kong is an elderly person. All along, Hong Kong does not have any comprehensive retirement protection system. Yet the Mandatory Provident Fund (MPF) Scheme to be launched into operation this year is practically unable to provide these people with the most basic retirement protection. We have done some number crunching in this connection. Taking an employee earning \$7,000 monthly as an example, if he should live 15 years more after retirement, the accrued benefits he could get would be less than \$2,000 monthly. From this we can see that in the future, there may not be enough retirement protection for those 730 000 workers who are currently earning less than \$7,000 monthly.

Concerning all these issues, we therefore consider that targeting at the elderly and imposing various kinds of hurdles under the OAA system and the CSSA Scheme to make their lives even more difficult is by no means any measure to resolve problems. I hope the Government will set up a universal retirement protection scheme to ensure that every elderly person can receive at least \$3,000 monthly to support their living upon retirement, for this is the only viable way.

With these remarks, I support Mr LEUNG Yiu-chung's amendment and the original motion.

DR LO WING-LOK (in Cantonese): Madam Deputy, the population of Hong Kong is ageing continually. According to the Executive Summary of the 1996 by-census, in 1996, about 629 500 people were of the age of 65 and above, accounting for 11% of the total population. With the number of people in this age group being on the increase, it is estimated that the number of people aged 65 and above will rise to over 794 000 by 2011. An ageing population is the source of many problems, one of which is the impoverishment of the elderly we have discussed quite often lately.

With regard to the proposals put forward by Mr YEUNG Yiu-chung, such as relaxing the assets limit for elderly applicants for CSSA, increasing the OAA rate, relaxing the absence rule on the allowance received by elderly settling in their hometown and so on, no doubt these are measures that can enhance the welfare for the elderly and benefit more elderly persons.

In order to resolve the problem of impoverishment of the elderly, some people have even suggested encouraging the elderly to settle in their hometown to make use of the difference in living standards between Hong Kong and the Mainland to ensure better protection for their basic necessities of life. However, this might be done at the expense of the wholesome life of the elderly in their twilight years and to the neglect of their non-material mental and physical needs. How many elderly persons will be willing to leave the familiar place where they have lived for several dozen years or even their families to spend their remaining years in the Mainland?

Spiritual impoverishment is as frightening as material impoverishment. As indicated in the findings of an elderly suicide study conducted by the University of Hong Kong in 1996, of the suicides recorded in Hong Kong during the period between 1981 and 1995, 35% were committed by elderly persons aged 60 and above. Our elderly suicide rate, which is three times the average rate, ranks second in Asia after Singapore. In addition, the study also found that the problem of single elderly persons committing suicide was the gravest among all, as the proportion of single elderly persons committing suicide was five times higher than that of other groupings. Moreover, over 60% of the elderly persons who committed suicide were not from the lowest income group. From this we could see that finance is not the only problem facing the elderly.

Actually, if we are to enhance the welfare for the elderly, we must adopt a two-pronged strategy. On the one hand, we need to resolve the problems that the elderly have in their material lives; and at the same time, we must also take care of their physical health as well as their spiritual and social needs. The provision of CSSA and OAA can cater mainly for the basic material needs of the elderly. If we are to enhance the care for both the physical health and the spiritual needs of the elderly, we must step up the development of community-based services like home care, so that elderly persons can continue to live a normal or close to normal life in a familiar environment.

For these reasons, I believe that improving the quality and quantity of the existing services for the elderly, and then integrating and introducing them into the community is a very important step in enhancing the welfare for the elderly. The provision of CSSA without the matching services required by them just might not be of help to the elderly.

I support the motion moved by Mr YEUNG Yiu-chung, which suggests "strengthening and improving the services of multi-service centres, social centres, day care centres and health centres for the elderly, so as to provide medical care, community care, as well as cultural and recreational services etc. for the elderly in Hong Kong".

With regard to the amendment proposed by Mr LEUNG Yiu-chung, which urges the Government to "introduce the old age pension scheme to meet the basic needs of the elderly", since this might give rise to resources mismatching, I consider that an overall review must be conducted to look into the various welfare services currently provided for the elderly before making any further

decisions. As regards the amendment proposed by Mr Frederick FUNG, which suggests defining elderly persons as Hong Kong residents aged 60 and above, I believe we should give the matter further thoughts as it involves amending the definition of elderly persons.

For these reasons, I so submit in support of the original motion.

MR LAU CHIN-SHEK (in Cantonese): Madam Deputy, I hope you feel comfortable in your seat.

I will lend my support to any measures that can improve the lot of the elderly. I believe it is the expectation of many elderly people that the various proposed measures mentioned in today's debate to enhance their welfare could be put into effect as soon as possible. However, from my personal contact with the elderly, I am afraid the elderly these days do not have any expectations left in relation to the sincerity of the Government to enhance their welfare, despite its avowed willingness. Some of the elderly people even say that they would give thanks to the gods and consider their wishes gratified if the Government should cease to threaten to slash their welfare!

An old lady I talked to recently told me her views regarding the Government's policy on welfare for the elderly. Her views are as follows: "When TUNG Chee-hwa first assumed office, in addition to paying home visits to the elderly, he also made an undertaking in his policy address that he would make enhancing the welfare for the elderly one of the major policy objectives of the Government of the Special Administrative Region (SAR). As a result, the elderly were all very happy, thinking that their lives would be improved from then on. However, over the past three years since the SAR was established, the welfare for the elderly has turned worse rather than better. As government officials are talking about reviewing and tightening their welfare every now and then, the elderly are haunted with fear from time to time." The granny further said, "The review of the CSSA scheme conducted more than a year ago is one good example. After the review, the rate has been reduced. The Government had initially claimed that the rate for elderly CSSA recipients would not be affected, but it turned out that we were all fooled. Many of my elderly friends have seen their CSSA payments reduced." Over the past few months, there has been news that the Government would increase charges for out-patient consultation services substantially towards the end of the year. Frankly, the

majority of the users of out-patient consultation services are the elderly, and they were all taken aback when they heard that the charges for out-patient consultation services would be increased substantially, as they were afraid that they could not afford even to consult any doctors in the future. On the other hand, there has also been news that recipients of OAA (fruit grant) would be subject to assets tests in the future. On hearing that, the granny said, "What has gone into their mind, even the payment of some meagre pocket money for daily use by the elderly would call for assets tests?" Her comment on that was "merciless". I have no idea what the Government under the leadership of Mr TUNG is doing now. All I know is that they have been leaking out news every now and then that the welfare for the elderly would be reduced. Given that any reduction in their welfare would in turn add to their burden, the elderly are really in a blue funk.

Madam Deputy, I believe that the views voiced by that granny are reflective of the feelings of many elderly people at the moment. I hope those government officials who are in charge of welfare for the elderly can understand that what the elderly need is respect rather than alms. What the elderly need is a stable welfare system, not the "psychological pressure" that their welfare would be reduced at any time. Even if the Government does not wish to play the role as the elf from Aladdin's lamp, it should at least stop acting like "evil spirits" to haunt the elderly!

Thank you, Madam Deputy.

MR MICHAEL MAK (in Cantonese): Madam Deputy, the Chief Executive has given a clear undertaking in this year's policy address that the existing OAA (commonly known as "fruit grant") system would be put under reviewed. First of all, I hope that the results of the review would give the elderly some encouragement.

At present, Hong Kong is faced with the problem of an ageing population and people reaching the age of 65 will be regarded as elderly persons. According to the statistics and estimations of the Census and Statistics Department, while Hong Kong has in this year an elderly population of about 760 000 (representing 11.2% of the total population), the figure is forecast to rise to 880 000 in 10 years.

In the wake of the financial turmoil, the problem of polarization between the rich and the poor has become increasingly grave as the economy has yet to turn the corner. The situation of those impoverished elderly persons who have reached retirement age but have no one to depend on is particularly grave. These elderly persons have also put in many efforts in contribution to the present success of Hong Kong; as such, I believe Honourable Members will all agree to provide them with more help and support.

Firstly, the CSSA Scheme. According to government estimations, at present, about 157 000 CSSA recipients are elderly persons, representing 20% of the population of that age group.

Elderly CSSA applicants are subject to very stringent assets test by the Government. To qualify for CSSA, the assets of an able-bodied elderly person must not exceed \$24,000 in total value. As for the disabled elderly applicants, the assets ceiling is \$37,000. Here, I should like to ask the Government a question. If we should be unwilling to offer an elderly person who has no other income some \$2,000 to \$3,000 monthly to support his living unless he has not a single dollar of "savings for his funeral" and is even living in abject poverty, would it consider this to be a breach of the idea of paying due respect to the elderly advocated by the Chief Executive all along?

At present, elderly persons who are living with their families are not allowed to apply for CSSA separately. Prior to last year's CSSA review, elderly persons who were living with their families were allowed to apply for CSSA on their own after their families had made a declaration that they would not support their parents anymore. However, after the policy has been tightened, these elderly persons who are not taken care of by anybody and cannot afford to move out have more often than not become the "liability" of families with financial difficulties. Hence, I hope that the Government will consider seriously processing separately the cases of CSSA for the elderly and the general CSSA cases, so as to prevent those elderly persons from being persecuted by their unfilial descendants. I hereby urge the Government to give elderly persons the right to apply for CSSA independently in order to enable them to live a secure life in their twilight years.

For these reasons, I hold that the Government should provide proper welfare for the needy elderly persons, rather than depriving them of their entitlement to benefit just because of some individual cases of abuse of CSSA.

With regard to the OAA, currently elderly persons aged 70 and above are eligible to receive some \$700-odd monthly from the Government without undergoing any assets test. The monthly payment of OAA is in fact a gesture of respect made by the Government to thank the elderly for their past contribution to society and a token of thanks from the community. Recently, there have been hints from the Government that the rate of OAA would be increased, yet at the same time recipients aged 70 and above would also be subject to assets tests. As the saying goes: "Rarely can a person live to the age of 70"; why must the Government try to impose so many restrictions and difficulties on these elderly persons?

Regarding the issue of relaxing the eligibility criteria for the Portable CSSA Scheme, why is it that elderly persons settling in the Guangdong Province are eligible for the Scheme but those settling in Fujian are considered not eligible? Is such an arrangement in line with the principle of equality? I hold that the Government should extend the Portable CSSA Scheme to places on the Mainland outside Guangdong and relax the eligibility criteria.

As regards the Mandatory Provident Fund (MPF) which will come into full operation towards the end of the year, to the elderly persons who are approaching the age of retirement or have already retired, the MPF schemes are just distant water unable to put out the fire burning right at their front door. As such, the Government should reconsider setting up an old age pension scheme to provide protection for the elderly.

Given the improvements made in such areas as social and medical services, medical science and medicine, as well as in people's way of life, the people of Hong Kong are able to live longer on average. Even though many institutions in both the public and the private sectors have set the age of retirement at 60, actually many people aged 60 and above are still working and serving society. For this reason, I consider that there may not be any long-term need for the Government to extend the services and concessions currently provided for the elderly to Hong Kong residents aged 60.

Madam Deputy, I so submit.

MISS CHAN YUEN-HAN (in Cantonese): Madam Deputy, we support Mr YEUNG Yiu-chung's original motion, as well as the amendments proposed by Mr LEUNG Yiu-chung and Mr Frederick FUNG. But we object to Mrs Sophie LEUNG's amendment. In this connection, I would like to elaborate our viewpoints.

The original motion mentions the seriousness of the problem of ageing population, which I believe Members are all aware of. In a recent survey conducted by the Government, it is forecast that the elderly population in the territory will exceed 1 million by 2006. Besides, many other surveys tell us that the improvishment phenomenon in Hong Kong, particularly the improvishment of the elderly, is worsening. This has given us a clear picture of the problems and difficulties faced by the elderly. Hence, we strongly support the original motion and the amendments proposed by Mr LEUNG and Mr FUNG.

To begin with, I would like to discuss Mr YEUNG Yiu-chung's original motion. The motion suggests that the cases of CSSA for the elderly and the general CSSA cases should be processed separately. In fact, the Federation of Trade Unions (FTU) has been advocating the idea of separately processing the cases of CSSA for the elderly. In particular, after the Government tightened the criteria for CSSA last year, there was a popular saying in the community that "CSSA had nurtured lazy bones", which seriously bedeviled many elderly people. First of all, we disagree to the claim that CSSA nurtures lazy bones. However, the elderly feel painful because the public is holding such a view. Besides, we can see that these elderly people are not necessarily CSSA recipients. Hence, the next thing we have to deal with is the problem of marginal elderly people, who are not necessarily better off than those CSSA recipients. On the contrary, some of them are even worse off. However, there are many reasons for their not applying for CSSA. The Government should formulate a separate policy for these elderly people so that they can lead a secure life in their twilight years. Therefore, there is a need to implement these two policies separately. Thus, we are in total support of Mr YEUNG Yiu-chung's proposal.

With regard to the Old Age Pension Scheme (OPS) proposed by Mr LEUNG Yiu-chung, I am sure will Mr YEUNG Yiu-chung support it as we do because the FTU and the Democratic Alliance for Betterment of Hong Kong have been promoting this scheme. Right after the Government had given the green light to the Mandatory Provident Fund Scheme, we immediately suggested

that the OPS should go ahead as well. The OPS has been discussed on many occasions in previous Legislative Sessions and many Members have put forward a considerable number of demands. If Members really want the elderly to lead a happy life in their twilight years, the OPS will offer the best solution which, in our opinion, should be implemented as a separate scheme. Thus, we fully agree with Mr YEUNG Yiu-chung that these two schemes should be implemented separately. I believe government officials responsible for welfare affairs should be fully aware of this long-standing view of ours. I hope this debate can enable the Government to realize that there is a need, in response to the overall social development, to deal with these two schemes separately in the light of the reforms to CSSA policies in recent years.

Furthermore, I would like to say a few words on the second part of Mr YEUNG Yiu-chung's motion. The second part of his motion touches upon the Old Age Allowance (OAA) (commonly known as the "fruit grant"), which has also been mentioned in this year's policy address. In other words, the SAR Government also agrees that the poverty-stricken elderly who are not CSSA recipients should be given assistance. However, certain government officials later said that recipients of the "fruit grant" should be subject to assets test. This has caused many elderly people in the community a great deal of distress. As I just mentioned, with the exception of some elderly people who are receiving CSSA (we certainly hope they can lead a dignified and secure life in their twilight years), many elderly people are actually living in abject poverty. Refusing to apply for CSSA, they often see the "fruit grant" as a subsidy to support their livelihood. Why does the Government choose to make such a proposal at this moment? The FTU has all along held the view that the purpose of making the "fruit grant" is to remind the community that the elderly have contributed significantly to Hong Kong's prosperity in the early days. The "fruit grant" is meant to be a token of our concern and respect. It is entirely different from CSSA payments. The requirement that elderly people reaching the age of 65 have to submit application before they can receive the "fruit grant" does not mean that they have to undergo an assets test. These are two totally different matters. The Government's proposal has caused the community a great deal of distress. So, we accept Mr YEUNG Yiu-chung's suggestion of retaining the existing application mechanism for OAA. We also consider it necessary to implement the proposals raised by the other two colleagues of introducing changes.

As far as this point is concerned, I hope the Government can retain the existing policy and consider how to provide more assistance to the elderly. As for the issue concerning the age of 60, the FTU did mention this point before. This is because the retirement age of 65 will naturally come into focus in our discussion whenever we talk about retirement protection. When we studied the MPF, we once queried why the age of 65 had to be seen as a demarcation line. Frankly speaking, whenever this issue is discussed, we would come to the point that many government policies have adopted the age of 65 as the demarcation line. One amendment suggests defining the age of elderly persons as 60 instead of 65. I consider this a very good suggestion, which in fact should be considered by the Government. I hope the Government can understand that apart from helping the elderly CSSA recipients (such as by formulating plans to enable those living with their families to apply for CSSA on an individual basis), it should help those who are living in abject poverty and relying on the OAA. Should we look at this issue from a wider perspective, including examining ways to provide more allowance to those elderly who are not CSSA recipients? Can we further develop this notion so that an Old Age Pension Scheme can eventually be implemented? I hope this series of questions can prompt the Government to consider setting up a separate scheme to solve these problems.

Furthermore, I would like to say a few words on the issue concerning the elderly who wish to settle in their hometown. In previous Legislative Sessions, we, Members from the FTU, did raise the point that the number of elderly participants in this scheme had remained low due to the inherent problems of the scheme. For instance, what should we do for the elderly of provincial origin other than Guangdong? Recently, my colleague, Miss CHOY So-yuk, also raised the point that elderly of Fujian origin had such a need too. I think this is also a very good idea. One reason why the elderly have been reluctant to participate in this scheme is related to the public housing policy because they will have to surrender their housing units to the Government when they leave Hong Kong. How can other problems, such as the provision of medical services for the elderly after they have settled in the Mainland, be solved? For a government which intends to help the elderly to settle in their hometown, these are the problems it must try to solve. In fact, the Government should also consider the views of Mr LEUNG Yiu-chung and Mr YEUNG Yiu-chung.

On the other hand, I think some other restrictions on the elderly, including those on the elderly who wish to settle in their hometown, should be relaxed. There are requirements for elderly recipients of the "fruit grant". They will be

disqualified if they have been absent from Hong Kong for more than 180 days in a year. (*The buzzer sounded a continuous beep*)

Madam Deputy, while the FTU supports Mr YEUNG Yiu-chung's original motion and the amendments proposed by Mr LEUNG Yiu-chung and Mr Frederick FUNG, it opposes Mrs Sophie LEUNG's amendment.

DR RAYMOND HO (in Cantonese): Madam Deputy, recently, the community has shown deep concern for the problem of wealth gap in Hong Kong. Some scholars even consider it as serious as in some Third World countries. Similarly, the problem of the elderly in Hong Kong does warrant our attention. The living standards of some elderly people in Hong Kong are also Third World. In fact, from time to time, we can see some elderly people pushing carts loaded with waste paper in the streets. They collect waste paper for a living. This shows that the welfare for the elderly in Hong Kong is inadequate and that this problem warrants the attention of the community.

Over the past few decades, due to the improvement of public hygiene and health services, the population in Hong Kong has had a longer life expectancy in general. Because of this, and given the fact that the baby boom generation after the war in Hong Kong has gradually reached retirement age, we are facing the problem of an ageing population. However, due to the lack of retirement protection in Hong Kong in the past, many low-income retirees without savings have to lead a hard life in their old age. The elderly have made great contribution to Hong Kong in the past. We should give them the protection they deserve in their old age, especially those whose living standards are poor. As a prosperous city, Hong Kong certainly has the ability to provide better welfare for the elderly. Due to the above considerations, I am of the view that the Government should consider processing separately the cases of Comprehensive Social Security Assistance (CSSA) for the elderly and the general CSSA cases and giving priority to the former, as well as relaxing the assets limit for CSSA application, so as to benefit more elderly persons, and allow them to live a more secure and dignified life.

As for some elderly persons intending to settle in their hometown, we should relax the relevant eligibility criteria. The relevant authorities should also expeditiously extend the Portable CSSA Scheme to places on the Mainland outside Guangdong so that more elderly persons who wish to settle in their

hometown can do so and be properly taken care of by their relatives and friends. This will also ease the housing demand of the elderly in Hong Kong.

With regard to the OAA, it is in my view a basic welfare that should be given to the elderly. That is why no assets test should be imposed. Instead, the relevant authorities should relax the absence rule on receipt of the OAA by the elderly settling in their hometown, so that they will have greater flexibility in making arrangements for returning to their hometown.

In the long run, the Government must raise the quality of services for the elderly in Hong Kong. Apart from providing the necessary welfare, facilities and health services, we should also pay more attention to the physical and mental health of the elderly. In fact, we can learn much from the provision of elderly services in the Mainland. Once, I visited an elderly welfare centre in Beijing without prior arrangement. The elderly people in the centre were participating in different activities. Some were dancing, some were engaged in gardening, while others were playing chess. The director of the centre said that the physical and mental development of the elderly is extremely important. When I think of the scene of some elderly people in Hong Kong sitting in the care and attention homes doing nothing, I agree with that director entirely. Actually, we can do more in this respect.

The Government should consider co-operating with the relevant voluntary organizations and mainland organizations to develop small communities for elderly people in Hong Kong at suitable locations in the Mainland. Apart from providing a living environment superior to that in Hong Kong, the communities should provide other necessary services for the elderly residents, including health care and recreational activities, so as to give elderly people in Hong Kong another alternative.

Madam Deputy, the elderly people have contributed considerably to Hong Kong's prosperity. We have an obligation to provide them with suitable welfare and services. I so submit. Thank you.

DR TANG SIU-TONG (in Cantonese): Madam Deputy, recently the Government proposed a review of the OAA system, which immediately caused great reactions from the community. This shows that everyone is very much concerned about the livelihood of our elderly people. Although the Hong Kong

economy has shown obvious signs of a recovery, marginal citizens, especially elderly people who are poor, have enjoyed no improvement in their living conditions. Indeed, their situation has worsened. According to the statistics collated by the Social Welfare Department, at present 60% of the lowest-income group are elderly people, and 20% of them live on Comprehensive Social Security Assistance (CSSA). Four years ago, elderly people on CSSA totalled only 98 000-odd, but now the number has grown to 133 000-odd. The number of OAA cases has increased from 437 000-odd four years ago to 446 000-odd now. We can see that there are many elderly people who need to live on public assistance. So, from a macro viewpoint, the effective use of social welfare resources to tackle the heavy financial burden brought about by an ageing population is a formidable challenge for the SAR Government. From a micro viewpoint, we need to ensure the relevant welfare measures can penetrate to the lower social strata, helping the needy and poor elderly people. In view of this, I hope to highlight some areas we must pay close attention to about the elderly people on CSSA and the OAA system.

First, some think the requirements for application for CSSA are too strict, so that some needy elderly people cannot obtain the assistance. The Government also admits that some elderly people do not apply for CSSA due to some special reasons. The elderly in this group rely their living one third on OAA and two thirds on support from their children. The question is: Why do those on OAA not choose to apply for CSSA when they are in real need? Are there any unreasonable or unnecessary hurdles in the present CSSA system that discourage the elderly in genuine need from seeking assistance? At present, elderly people wishing to apply for CSSA have to undergo assets test and means test. Broadly speaking, this is reasonable. But the reality is that some of the elderly people may fail to qualify for CSSA because they have some savings on hand or some meagre income, which however does not mean they have no problems in their financial situation and livelihood. Moreover, single elderly persons must not have assets worth more than \$37,000 to qualify for CSSA, even if they have a disability. To the elderly people with very little or no income, the several ten thousand dollars may be their only source of support in their livelihood, or even of their mental support and sense of security. The Government should not be too harsh on these elderly persons. In laying down the assets ceiling for CSSA applicants, it must exercise some flexibility to cater to the actual conditions of the elderly people.

At the moment, another controversial part of the CSSA policy is the restriction that those elderly people living with family members cannot apply for CSSA as an individual. I trust the requirement is mainly meant to discourage abuse of the CSSA system. The assumption of the Government is that since those elderly people are living with their family members, they have certain support from their family and so the Government does not need to shoulder its responsibility in this regard. Nonetheless, in reality, when the elderly people live with their family members, it may not necessarily mean they get along well with these family members or are well taken care of. Indeed, we have seen cases of elderly people being abused by their families from time to time. However, the elderly people involved in such cases are forced to live on with their families because of their limited means or other reasons. As the elderly people do not have any "say" in the distribution of household income, they may be receiving only a fraction of their CSSA given by the Government. Thus, they may not fully benefit from CSSA. Therefore, out of my respect for the independence and autonomy of the elderly, I think the Government should exercise some flexibility by approving applications for CSSA by those elderly people living with their family members.

Madam Deputy, lastly, I would like to speak on the review of the OAA system. Several days ago, the Director of Social Welfare, Mrs Carrie LAM, met with 200 elderly people. On that occasion, she stressed that the review on CSSA and OAA was meant to make the system better cater to "the needy elderly who may not be qualified for CSSA", rather than cutting expenses. If assets or means tests similar to those in the CSSA Scheme were introduced to the OAA system, "the needy elderly who may not be qualified for CSSA" may fail to obtain OAA, in addition to failing to obtain CSSA. This would add difficulty to their plight, and run counter to the spirit of improving the living conditions of the elderly. Thus, I have reservations about the proposal to introduce assets and means tests to the OAA system. I think in reviewing the OAA system, the focus should be on finding ways to benefit the elderly not on CSSA, rather than cutting expenses or regulating resources. In addition, I also notice that some elderly people and social groups have expressed dissatisfaction against the Government for not having been consulted when the Government made the proposals. I therefore hope the Government can enhance its communication with the elderly people and the relevant groups when it launches the review next year, and it should adopt an open attitude in so doing.

Madam Deputy, I so submit.

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

MR LAW CHI-KWONG (in Cantonese): Madam Deputy, the subject today has been discussed repeatedly in this Council. Many Members have spoken on the issue of welfare for the elderly and put forward various views. I do not intend to dwell on the theoretical side of the question in depth.

When I was preparing for the motion debate, many street scenes were conjured up in my mind. As Mr WONG Sing-chi pointed out, we can often see scavengers salvaging soft drink cans from garbage bins. We may also see some elderly people, probably street sleepers, pick up cigarette butts from special containers fixed to garbage bins to pull some last puffs. We may have seen some elderly people doing chores such as this in the Mid-Levels, which I saw the other day: an old man moving rubbish in a small cart barefooted downhill, using his back to prevent the cart from losing control.

In a market at dusk, a frequent scene reminds me of an English song "Streets of London". The lyrics read: "Have you seen the old man in the closed down market?" Although the song depicts the conditions of some old people in some London streets, the case applies to Hong Kong streets as well. One can see, in the evening, many poor old people go to the market after business hours to see if there are leftover vegetables or vegetables given away by some kind greengrocers. Members can certainly recall that on some traditional festive occasions, some elderly people may wait in long queues in the streets for free rice. Almost every year, mishaps are bound to occur. Some elderly people even pass out under the hot sun due to the long wait. On one occasion, because there were too many elderly people in the queue and order was not properly kept, many of them were injured in a havoc. I can remember seeing a pale elderly man in a chilling winter two years ago when I was helping out in a district by-election. I asked him if he was warm enough. He confidently told me he had put on 10 items of clothing. I could see those were not clothes for the cold weather. I was wondering if the way he was dressed would cause him blood circulation problems.

The scenes described by me just now must have rung a bell in some of us. I hope the Government could act out of good conscience in planning welfare for

the elderly. The prosperity and magnificent buildings around us are the fruits of the hard work done by the elderly people. The problem of disparity between the rich and the poor is very serious. The low-income group has to feed from hand to mouth, and they have negligible savings or none at all on retirement. About one third of them are lucky enough to be given a sum by way of provident fund when they retire, if they work in big companies. What is ironical is that in some cases, one would fail to qualify for Comprehensive Social Security Assistance (CSSA) as a result of the sum. An example would be a bus driver who, after 30 years of service, may find himself not eligible for CSSA. That aggravates their plight. They also need to save a sum for their own funeral expenses. So, what can they do? I once met a retired baker, nearly 70 years old, with several ten thousand dollars in savings. He spent all that on his son's wedding expenses in the Mainland. I asked him why he was so generous. He said the money could not help much in his old age. On the other hand, when he had spent all the money, he could then apply for CSSA. That was a good trade-off. He had a point. All these make us see the kind of financial difficulties confronting the elderly people nowadays, and these are one of the problems they need to face.

Mrs Sophie LEUNG said a moment ago there were 130 000 elderly CSSA recipients. The figure is not correct. Some of these 130 000 cases involve two elderly persons in one case. The number does not include those cases where the elderly people are not the principal applicants. In many cases, the elderly people are not CSSA applicants but they are one of the members of the CSSA household, and so these cases are not included in the 130 000 cases. I recall the figure provided by the Government three years ago was some 150 000 to 160 000, but that is history now. I trust the figure now should be somewhere near 170 000 to 180 000 for those elderly on CSSA.

Therefore, insofar as this question is concerned, the Democratic Party maintains that the best solution lies in an old age pension scheme. That means every elderly person may get around \$3,000 monthly in pension immediately. The next best thing is to adjust the OAA up from the present \$705 monthly. Thus we cannot support Mrs Sophie LEUNG's amendment, but we support the other amendments, for we cannot support Mrs LEUNG's statement that "so as to benefit more elderly persons", which implies the requirement for means tests and asset tests, both of which we do not endorse. Thank you, Madam Deputy.

MR HOWARD YOUNG (in Cantonese): Madam Deputy, Mrs Sophia LEUNG pointed out that the principle held by the Liberal Party with respect to the elderly welfare policy is to target help on the needy elderly. It is only under this principle that the Government can utilize social resources most effectively. From this angle, I am going to state the viewpoint of the Liberal Party on the amendments proposed by Mr Frederick FUNG and Mr LEUNG Yiu-chung.

First, full subvention. Mr Frederick FUNG proposed that the Government should offer full subvention for social centres and multi-service centres for the elderly. At present, the Government is subsidizing 80% of the funding required by such centres. Members using the services provided by these centres are required to pay an annual membership fee of \$21 only, that is, less than \$2 a month on average. I believe all needy elderly people can afford this. For the time being, the Liberal Party does not see any justification in changing the existing system.

Insofar as elderly services are concerned, we are of the opinion that the Government should strengthen the functions of voluntary organizations instead of taking care of everything itself. The Chief Executive did point out in the policy address that voluntary organizations "can often find solutions to social problems that appear intractable to both the market and the Government". While it has been the practice of the Government to buy places from private homes for the elderly for a number of years, it should really consider continuing with its efforts in strengthening the role played by voluntary organizations in elderly welfare.

Now I would like to move on to the debate of defining elderly persons as those aged 60 and above. For the purpose of boosting social welfare, the Liberal Party is of the view that the Government should utilize its resources on people who are genuinely in need rather than extending the social welfare safety net by lowering the age threshold of elderly people in a broad-brush manner.

Furthermore, if the eligibility for elderly people to receive welfare is to be lowered to 60 years of age across the board, it will definitely have significant impact on existing systems, such as those related to multi-service centres for the elderly, Senior Citizen Card, Old Age Allowance (OAA), and so on. Even if Honourable colleagues agree to this proposal, the Government should be requested to evaluate the expenditure involved and the preparations the community should make before the proposal is tabled to this Council for discussion. At this stage, the Liberal Party has reservations about the proposal.

In addition, we cannot agree to Mr LEUNG Yiu-chung's proposal of expeditiously introducing the Old Age Pension Scheme (OPS). This is because, starting from this year, employers and employees in the territory will have to contribute to the Mandatory Provident Fund (MPF). This issue was debated in this Council some years ago and the Government has changed its position repeatedly over this issue too. As far as I remember it, both parties will need to contribute 1.5% under the OPS proposed at that time. For this reason, both employers and employees will need to make additional contributions if the MPF and the OPS are to be implemented concurrently. On the one hand, this will impose an additional burden on employers and on the other, the actual income of employees will drop. I am afraid this will probably not be supported by the general public. Furthermore, I am worried the implementation of the OPS will aggravate the burden on both parties.

The notion behind the implementation of the OPS is to enable contributors to be self-sustaining and save against the rainy day so that they can meet their daily needs after retirement. Given the fact that the Government has implemented the MPF Scheme while elderly people with financial hardship can apply for CSSA or the OAA, will the OPS become redundant? Or will it be necessary for all existing elderly welfare to be replaced by the OPS? What impact will the OPS have on public expenditure? These problems really warrant Members' consideration.

Madam Deputy, I would like to stress that as responsible Legislative Council Members, we should urge the Government to utilize social resources cautiously. According to a rough estimate by the Social Welfare Department, the Government spends more than \$12 billion annually on elderly welfare, including CSSA, OAA, elderly services, and so on. Total expenditure on social welfare has also risen sharply from \$13.2 billion in 1995 to \$29.7 billion today, a rise of more than 100%. I believe the rise will be even higher if the retirement age is lowered to 60.

According to the figures provided by the Government, the elderly population in Hong Kong will rise to 500 000 (based on the existing system of defining elderly persons as those aged 65 and above) in 20 years and expenditure on elderly welfare is expected to rise sharply too. For these reasons, the Liberal Party is of the view that welfare expenditure should aim at helping elderly persons who are in the most urgent need in a more effective and focused manner.

Madam Deputy, both Hong Kong people and Chinese people observe the tradition of providing for and respecting the elderly as well as relying on themselves rather than the government. This is probably what communities in the western world lack. In order to preserve this tradition, we must not put in place a system, like the social security system in the United States, whereby people are encouraged to approach the Government for money whenever they like. Otherwise, people will be led to think that it is only natural to do so. Eventually, this might result in high taxes and subject the Government to financial hardship.

With these remarks, Madam Deputy, I support Mrs Sophia LEUNG's amendment.

MR ANDREW WONG (in Cantonese): Madam Deputy, please allow me some time to talk about some history of the issue. In the 1995, 1998 and 2000 elections, I made the setting up of an Old Age Pension Scheme (OPS) a key note of my election platform. However, the OPS was not first introduced by me in my 1995 election platform, nor had it existed as part of my election platform before then. Before the idea was mooted in 1993, I had vehemently opposed the setting up of a Central Provident Fund (CPF). But then after the OPS was announced, I thought the OPS was an acceptable scheme because under the scheme the present generation would be taking care of the previous generation by paying about one third of the median income. This amount can at least be regarded as a reward for those who have contributed to the success of Hong Kong. The reward can be treated as some kind of compensation. So, I supported the OPS, but unfortunately major political parties did not. The Liberal Party would certainly not support the OPS. As regards the other two major political parties (namely, the Democratic Party and the coalition of the Democratic Alliance for Betterment of Hong Kong (DAB) and the Hong Kong Federation of Trade Unions (FTU)). The Democratic Party insisted on the CPF and demanded that the Government be responsible for the administrative and investment matters of the CPF. In other words, the Government should also make contributions to the Fund as well; and that is tantamount to asking that there be tripartite contributions to the CPF. For their part, the FTU and the DAB insisted on the tripartite plan proposed by them. Under the circumstance, the then Governor, Mr Chris PATTEN, withdrew the proposal and introduced the Mandatory Provident Fund (MPF) Scheme instead. So, this is the historical development.

I can change my stance. I did not support CPF because I was worried that the Government would not invest properly with the huge amount of assets, or even make some unnecessary investments. Such were my worries. However, the MPF Scheme is a kind of private investment and has been launched already. Nevertheless, the fact that the MPF is now in place does not mean we cannot have the OPS. Just now some Honourable Members have analysed this point. The issue has also been debated in this Chamber before. At that time, Dr the Honourable LAM Kui-chun and I used analogies such as rice noodles and noodles. In Dr LAM's proposal, one could have half of a standard bowl of noodle with the full amount of toppings 30 years later; but in mine, one could have the minimal amount of toppings but still it is a full bowl there and then. This was the kind of comparison made of the proposed retirement schemes. That is why I need to recap some history for Honourable colleagues. Back in 1995, when the MPF Scheme proposed by the Government was passed in the Legislative Council, three Members told reporters that they would work harder to bring the proposal one step forward. They were Mr LEE Cheuk-yan, Mr Frederick FUNG and I. Obviously, it was not easy for us to succeed. In fact, we do not know yet whether the motion today can be carried.

I think if we only have Mr YEUNG Yiu-chung's motion before us today without the idea of OPS added to it, I would be at a loss to what stance to take. I might just speak and let things take their natural course. I may even vote against it (but then I am afraid I would be misunderstood). Fortunately, Mr LEUNG Yiu-chung has inherited Mr LEE Cheuk-yan's ideas and brought up once again the idea of OPS. In this connection, although the Chinese term he uses is slightly different from mine, the idea is just the same.

I must point out at this juncture there were some disputes over the OPS, but I will return later to what the bones of contention were. For now, I want to delineate the similarities and differences, as well as pros and cons of the OPS, the Comprehensive Social Security Assistance (CSSA) system and the Old Age Allowance (OAA) system. Put simply, CSSA is linked with ability. The Government aids those without the ability to work, whether they are old or young, by providing them with CSSA. The OAA is for the elderly. Some say we may introduce an abilities test for those wishing to obtain OAA, if they are aged between 65 and 69, but the test may be dispensed with if they are aged 70 or above. However, I believe the Government wanted to lower the target of the test from people aged 70 or below to those aged 65 because the Government was being miserly. Now it is saying an additional test will be applied because the

amount of OAA will be increased. If we treat OAA as a kind of OPS, we are talking about reward, not ability. The fact is that although many people may not be salaried, they are self-employed and thus have also contributed significantly to the community.

My proposed plan is like this: First, the payment rate is set at one third of the median wage, which is around \$2,800 to \$3,000 at present. Second, it is an old age pension and the applicants' income is not taken into consideration. Third, the plan disregards the applicants' status as employees or self-employed. In the plan, the purpose is mainly to require the present generation to take care of the older generation. Thus, housewives or homemakers can also benefit from it starting from the age of 65 onwards. Fourth, applicants may use the money elsewhere because it is their money earned after years of hard work. So, people do not have to argue about whether they are going to homes for the elderly in Guangdong or Suzhou or Shanghai. The location of these homes should not be their concern. The elderly can choose to live wherever they prefer. Of course, we need to prove that the elderly beneficiary is still alive. Thus, it can be seen that setting the amount payable under OPS at one third of the median wage may solve any problems that may arise. If some people (for example, the severely disabled) choose to live in Hong Kong and the amount of OPS is not sufficient to cover their living expenses, they may still apply for CSSA. The OPS and the existing MPF together will complement each other and the elderly can have a secure life after retirement. The MPF benefit may be almost valueless 30 years later, but the OPS can still give some assistance at least. Together with the MPF or what was formerly called "occupational retirement scheme", living expenses can be adequately met. I cannot understand why people fail to see the significance. The above is the ultimate safety net for the elderly. Without plans like this, there is no safety net. Well, some may afford to live on their own and may not want the money, or even donate the same to the community after getting it. Even if some well-off people are so greedy as to get the money, which they do not really need, there is nothing we can do. We just cannot examine every detail as the process of examination is prohibitively expensive and time-consuming.

I understand that such plans did cause some controversies in the past, but I hope everyone can set a good example. In the community, the elderly and the young people may have a conflict of interest. By the young people, I mean the young generation today. They may question the need to take care of the older generation when asked to do so. However, if everyone was reluctant to take

care of the older generation collectively, who would take care of his or her parents? Nobody would be willing to do so.

In addition, some say, in contrasting the poor with the rich, people who earn more should pay more taxes. But please note our tax system is not a progressive one. At a certain stage, people pay taxes at flat rate, such as 1.5% or 2% of their total income. Even if one earns a large sum of money, one needs to pay tax at only 2% of their total earnings so that the rate would level at a certain point. Indeed, the taxes are basically regressive in nature. This is a fair system. Therefore I hope Members will support Mr LEUNG Yiu-chung's amendment.

MISS CHOY SO-YUK (in Cantonese): Madam Deputy, the policy address delivered by the Chief Executive is seriously concerned with the problems and welfare of the elderly in that it has introduced a lot of specific measures to help the elderly. While Hong Kong continues to be troubled by the poverty problem, the elderly find it increasingly difficult to meet their daily needs. The Government is indeed obliged to improve elderly welfare to give the elderly people "a sense of reliance and of security". In delivering my speech, I will focus on discussing CSSA for the elderly and the OAA because these two subjects are of greatest relevance to elderly welfare.

Madam Deputy, the CSSA system for the elderly is plagued by two problems that call for urgent amelioration.

To start with, the system has failed to give due consideration to the special circumstances faced by the elderly. As a result, some poor elderly people who deserve CSSA are barred from receiving the assistance. Like other CSSA cases, elderly CSSA cases have to be means tested. While I agree it is necessary for the Government to determine the eligibility of an applicant for social assistance through a means test, it is unfair and too rigid for this mechanism to be applied to elderly CSSA recipients without being subject to any amendment. According to the relevant requirements, an elderly person who has assets over \$37,000 will not be eligible for CSSA. Nevertheless, an elderly person having more than \$30,000 in assets does not necessarily mean that he has no problems with his livelihood. More importantly, saving is vital to elderly people for they see it as a reserve for meeting unexpected emergency needs, such as medical expenses. For elderly people who have no one to depend on, their savings in the bank will

become their only support in their daily life or even their spiritual comfort for it is the only source of their "sense of security". It will be too harsh if they are required to use their savings to below the ceiling set by the means test before they are considered eligible for CSSA.

Without CSSA, these ineligible elderly people will be forced to take up some marginal manual work, such as cleansing and scavenging, to earn a meagre income to support themselves. I believe the community will not want these elderly people to lead such a miserable life in their twilight years. Therefore, the Government should relax the assets restriction and deal with CSSA for the elderly separately so as to benefit more elderly people.

Another improvement we need to make to CSSA for the elderly is to satisfy the needs of the elderly to settle in their hometown. Last April, I moved an amendment to urge the Government to extend the "Portable Comprehensive Social Security Assistance Scheme" to places on the Mainland outside Guangdong and relax the requirement that applicants under the Scheme must have been in receipt of CSSA for at least three consecutive years to at least one year. Right from the beginning of the Scheme, many people opposed limiting the coverage to Guangdong for many people of other provincial origin also wish to return to their hometowns. For instance, there are around 1 million Fujian natives in Hong Kong. There is no reason why elderly CSSA recipients among them cannot go back to Fujian to settle. As the Government will, in any case, provide CSSA to eligible elderly people whereas the mainland hinterland can relieve the burden on Hong Kong, it is indeed unreasonable for the Government to impose obstacles under the Scheme, thereby aggravating the worries of those elderly persons who wish to return to their hometowns. They should be given the rights to decide whether to settle in Hong Kong or on the Mainland.

Madam Deputy, in addition to the CSSA issue, I would like to discuss the "fruit grant", which has become an issue of wide concern lately. The crux of the whole matter rather lies in: What was the original intent of providing the "fruit grant"? The Democratic Alliance for Betterment of Hong Kong (DAB) sees it as a payback to the elderly for their past contributions to Hong Kong. Embodying our respect and love for the elderly, it is a token of appreciation for them by society. If applicants are required to declare their assets, the original meaning of expressing our respect for the elderly by way of the "fruit grant" will be lost. For the elderly, they may also feel that they are not respected by society. According to the explanation given by government officials, the reason

for the Government's proposal of reviewing the mechanism of the "fruit grant" is to provide better care for poor elderly persons who are not eligible for CSSA. If the Government really wants to improve the livelihood of the poor elderly, it should actually review and improve the CSSA Scheme for the elderly, rather than wrongly trying to use the "fruit grant" to solve the poverty problem among the elderly. Lastly, the Government should, like what it did with the relaxation of the CSSA Scheme, lift the absence rule on the OAA. Elderly people should be allowed to choose to settle in Hong Kong or on the Mainland as long as they meet the requirements for receiving the "fruit grant". As for the Government's claim that there is no way to ascertain whether a recipient is settling on the Mainland or is still alive, I think this is purely a technical problem. I firmly believe that if the Government can adhere to the major principle of repaying and helping the elderly, it will certainly be able to find a satisfactory solution.

With these remarks, Madam Deputy, I support the original motion.

MR CHAN KAM-LAM (in Cantonese): Madam Deputy, first of all, I would like to say a few words on the relaxation of the absence rule on the recipients of OAA, also commonly known as the "fruit grant". Having been implemented for a number of years, the "fruit grant" is considered by the Government as one of its policies for respecting the elderly. Under this policy, elderly persons aged over 70 will be entitled to \$705, while those between the age of 65 and 69 will be entitled to \$625 after making a simple declaration on incomes and assets. In Hong Kong presently, the "fruit grant" ranging between \$600 and \$700 is barely enough for the recipients to have dim sum in a restaurant or to buy some fruit. We cannot possibly require the elderly to stay in Hong Kong to receive the allowance. This is particularly so as 140 000 of the 430 000 OAA recipients do not have other sources of income. In Hong Kong, this several hundred dollars can only be seen as a form of payback to the elderly, not as their daily expenses. Actually, some elderly people have been using this \$705 and some savings of their own to help meet their daily expenses after returning to the Mainland.

Because of the Government's rule on preventing elderly people from leaving Hong Kong for more than 180 days, a lot of elderly people, though having settled on the Mainland, are forced to count the number of days carefully in order to retain their eligibility for the "fruit grant" of a few hundred dollars. This has caused them unnecessary disturbance for they fear that the "fruit grant"

will be abolished if they leave Hong Kong for more than 180 days. The Democratic Alliance for Betterment of Hong Kong (DAB) hopes that the Government can refrain from focusing on how much additional expenses it will incur should the 180-day absence rule be relaxed. This is because the Government is already prepared to spend this sum of money despite the presence of the restriction. Why should it do something that will give the elderly additional trouble? For these reasons, we would like to urge the Government to abolish the 180-day absence rule to enable the elderly to enjoy their life in their hometowns.

The original motion suggests extending the Portable Comprehensive Social Security Assistance (PCSSA) Scheme to places on the Mainland outside Guangdong. Actually, I did put forward the same point in the motion debate proposed by me early this year (the previous Legislative Session). I understand that most elderly people in Hong Kong will, if they are given such freedom, choose to return to their hometowns or some major cities in Guangdong to spend their remaining years. Some of the elderly people whom we have contacted came from Fujian, Shanghai or other provinces and cities. They have the intention to return to their hometowns for settlement too. For these reasons, we think the Social Welfare Department (SWD) should actively consider, subject to the availability of an appropriate intermediary, extending the PCSSA Scheme to places outside Guangdong and enhance communication and co-ordination with authorities on the Mainland to follow up the situation of the elderly after they have returned to their hometowns.

On the other hand, according to a survey conducted by the DAB and the Hong Kong Red Cross, the intermediary for the past three years, medical expenses remain the greatest concern of the elderly who have settled in their hometowns. The DAB is of the view that the SWD should try to identify solutions with the relevant departments in the Mainland to enable the elderly to receive proper care and work out a reasonable scale of fees for them. At the same time, the relevant medical expenses shall continue to be paid by the SWD. Alternatively, the Government can consider setting up a fund and commissioning an intermediary to act as a regulatory body to pay for the medical expenses incurred by the elderly on the Mainland.

In present-day society, there is still intense controversy surrounding the OAA issue raised by Mr Andrew WONG earlier. This is why Mr YEUNG Yiu-chung has deliberately excluded the OAA issue from his motion, in order

not to make it appear that Members are fighting for improvement to elderly welfare through different voices that may see us ending up achieving not the least improvement. Mr Andrew WONG was worried that finally the "all four proposals would be turned down". Therefore, should the three amendments be negated unfortunately, we hope Members can still support Mr YEUNG Yiu-chung's original motion.

Vigorous publicity is now underway to pave the way for the implementation of the Mandatory Provident Fund (MPF) Scheme on 1 December. For young wage earners falling between the age of 20 and 30, the MPF should be able to give them "retirement protection". However, what can the MPF Scheme do for the future of the elderly people or retirees-to-be?

The DAB, the Hong Kong Federation of Trade Unions (FTU), and most non-governmental organizations that keep a keen interest in retirement protection have, since as early as 1995 before the passage of the principal legislation on the MPF, put forward through various channels slightly different "dual social security" systems, with the first tier being a Pay-as-you-go social insurance scheme, that is, the "Old Age Pension", and the second tier being a private contributory mandatory fund scheme, that is, the "mandatory provident fund". In our opinion, the two systems should be able to complement each other when they are implemented simultaneously.

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

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

MR TAM YIU-CHUNG (in Cantonese): Madam Deputy, an Honourable colleague stated earlier that "rarely can a person live to the age of 70". Actually, the remark is a bit outdated and does not fit in the situation in Hong Kong. This is because in Hong Kong, the average life expectancy for men is 79 years and 82 years for women. Moreover, the figures are constantly rising. It is indisputable that Hong Kong people live longer and longer and there is a growing number of elderly people too. It is therefore extremely important for us to explore ways to address the elderly problem now and in future.

In Europe, the United States and Japan, elderly people are comparatively well off for retirement protection systems have been in place a long time ago and they are thus able to enjoy their life in their twilight years. We can see that many people joining tour groups in Europe, the United States and Japan are elderly. They can afford to go sightseeing in other parts of the world when they grow old. However, 60% to 70% of people in Hong Kong are not protected by any retirement protection systems. The Mandatory Provident Fund Scheme will only start receiving contribution from next month. Its result is not expected to be visible until two or three decades later. Therefore, the next two to three decades are a critical period for the tackling of the elderly problem.

Members who spoke earlier have put forward a lot of suggestions and advice on ways to improve existing elderly care services and provide better care for the elderly. I share what they said and consider their suggestions essential too. Nevertheless, the biggest problem we have is limited resources. The Financial Secretary remarked recently that he was not "Wong Tai Sin". With limited resources, Members can well reckon that it will not be possible for all their views and recommendations to be put into practice. Amid all these views and suggestions, we can only consider how we can put them into practice step by step, pinpoint the urgent needs of the elderly, improve elderly services and provide the elderly with better care. In the latest policy address, the Chief Executive proposed that the "fruit grant" (Old Age Allowance) would be subject to a one-year review. Since he has not mentioned in the policy address the details of the review specifically, it has given rise to intense speculation. Some people even took advantage of such speculation to scare the elderly. Of course, I strongly disagree to the practice of scaring the elderly by way of speculation or by all kinds of news. This is because elderly people are simple-minded and fragile. They will panic if what they are told is not concrete enough. I hope the Government will solicit views, particularly those from the elderly, extensively insofar as the review is concerned. Concerning how the Old Age Allowance (OAA) and Comprehensive Social Security Allowance (CSSA) can help the poor elderly, we need to tackle the problems of inadequate OAA payment and excessively strict eligibility criteria for CSSA. We must consider what we can do, the standard we should adopt and ways of doing it with respect to the payment of "fruit grant" and CSSA in order to help poor elderly people.

Moreover, I want to point out that, under the present system, elderly persons over the age of 70 will automatically be entitled to OAA. Some people consider that some beneficiaries of this automatic system do not actually have

such needs or are basically very rich. They therefore doubt whether these people should be given the allowance. Under the current system, it is not possible for elderly people who are financially capable to re-contribute to society or help others by way of the OAA mechanism. Instead, they can only choose to donate the OAA they have received to other needy people. But is there anything else we can do for them? For elderly people who are financially capable and do not need OAA, we can indeed give them one more option, such as giving them commendation or allowing them to help other needy people with the OAA they are entitled to. This indeed merits further examination. I believe if we can provide elderly people who are financially capable with more choices, they will be pleased to join in this meaningful act by helping others in a better way.

As regards the questions raised by Members earlier, I believe the Elderly Commission will examine where it should put more efforts and urge the Government to put its proposals into practice one by one. The views put forward by Members and the debate today are very constructive. At least, I now realize how Members in this Council look at the issue. I hope the Government can make more active consideration in the course of review. Thank you, Madam Deputy.

MR BERNARD CHAN: Madam Deputy, the number of people over 60 in Hong Kong is expected to double in the next 20 years, from about 1 million to 2 million. Like many other developed economies, we are becoming an "ageing society". It is an unprecedented change in the demographics of our city. And it poses challenges for us. On the one hand, we want everyone to enjoy the comfortable retirement that they deserve. On the other hand, we cannot fall into the trap of having a "high tax, high spending" government. We must, therefore, resist the temptation to provide larger and larger universal or unconditional benefits to the elderly. Such an approach is not sustainable.

In Western Europe, the unfunded liability for universal public pensions is already at a higher level than official public debt. And it is growing every year. In around three decades' time, state benefits paid to the elderly in Germany and France will consume at least 15% of Gross Domestic Product, unless there is urgent reform. In Italy, the average worker will have to pay salaries tax at a rate of 48% in order to pay for other people's pensions.

We cannot make that mistake. Instead, we must encourage fully funded retirement savings schemes, such as the Mandatory Provident Fund Schemes. That way, we can be confident that the majority of the elderly in the years ahead will be perfectly capable of providing for themselves.

Then, we must target public assistance at those members of the elderly population who most need it. That means we must find fair, efficient and acceptable ways of ensuring that resources are targeted on those who are in genuine need.

If we simply raise the existing old age allowance, we will encounter trouble. At best, we will be benefiting the well-off at the expense of the needy. At worst, we will create a major long-term fiscal problem, as in Europe.

Madam Deputy, I would urge the Administration to consider extending the payment of benefits to senior citizens who wish to live in Guangdong and elsewhere in the Mainland. Expansion of this principle cannot only give some of our senior citizens a happier life, but can ease pressure on public spending. Providing such movement is voluntary, and let us encourage it.

Where day centres are concerned, as a member of the Elderly Commission and the Hong Kong Council of Social Service, I know that the Administration and the private sector agencies are taking this issue very seriously. In particular, I know that very valuable work is currently underway to review social services for the elderly mentioned in this motion. Thank you.

MR DAVID CHU (in Cantonese): Madam Deputy, without the industrious efforts made by the elderly over the past several decades, Hong Kong would not have been so stable and prosperous today. Much to our regret, many elderly people are not able to share the fruits of our social and economic achievements. Still they need to struggle very hard to make ends meet while grieving over their feeling of loneliness. In order to give the elderly "a sense of security, a sense of belonging, good health and a feeling of personal worth", the Government must fulfill its promise with determination. Even though Hong Kong economy has not fully revived and the public coffers are receiving much less revenue than before, the Government should render support to the elderly in a generous manner. All measures that can enable the elderly to enjoy their life in their twilight years are worthy of support, provided resources are utilized appropriately and distributed in a fair and reasonable manner.

The Hong Kong Progressive Alliance (HKPA) holds the view that allowing elderly people who are living with their family members to apply for CSSA independently can prevent the elderly from totally relying on their family members. While relaxing the assets limit on elderly CSSA applicants can enable them to live with more dignity, raising the Old Age Allowance (OAA) amount can improve their living and relaxing the absence rule on OAA received by the elderly settling in their hometown can help the Government cut down administrative procedures. Finally, extending the Portable CSSA Scheme to places outside Guangdong can meet the strong demand of local elderly who wish to settle in their hometown and relieve the burden on the elderly services provided by the Government. A humanitarian government should indeed support these proposals.

The HKPA is of the view that, apart from improving the livelihood of the elderly through a social security system, the Government may consider making better use of its taxation policies to encourage or help people to take care of their elderly family members more effectively. For instance, the Government may give due deductions to expenses incurred for the maintenance of parents or grandparents and the provision of accommodation and care for them. Although the Mandatory Provident Fund Scheme is going to take effect in December, it will still not be able to take care of a large number of elderly not covered by retirement protection. The offering of more tax concessions can help relieve the burden of the middle- and lower-classes in taking care of the elderly and alleviate the demand of the community for public elderly institutions and services. This will also enable the Government to spare more resources to take care of elderly people with greater need.

Moreover, the Government should consider relaxing its restriction on tax concessions for dependent parents and grandparents. At present, the children of an elderly person can apply for tax concession only if the elderly is currently residing in Hong Kong. This is unfair to taxpayers who have dependent elderly who choose to settle on the Mainland. The HKPA suggests that the relevant restrictions be relaxed so that people responsible for supporting their elderly family members who have settled on the Mainland should be given allowance for the purpose of alleviating their burden. Furthermore, the Government should assure the elderly people that they can settle on the Mainland if they like.

Madam Deputy, I so submit.

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

(No Member responded)

DEPUTY PRESIDENT (In Cantonese): Mr YEUNG Yiu-chung, you may now speak on the three amendments. You have five minutes for your speech.

MR YEUNG YIU-CHUNG (in Cantonese): Madam Deputy, the motion moved by me today is actually relatively benign and it seeks to improve the welfare for the elderly. Why is it relatively benign? Just now, Mr LEUNG Yiu-chung criticized me for having failed to include the OAA in the motion and doubted whether it was because I was too busy. That was not the case. Actually, I did it intentionally, for I knew the OAA issue would stir up great controversy. I was afraid that other measures proposed in my original motion would be negated should the OAA be included. This is why I support Mr LEUNG's amendment.

Some Members have expressed concern about Mr Frederick FUNG's proposal of lowering the age of elderly persons to 60. Yet I find the overall direction of the proposal worthy of support. Perhaps the Government can conduct a full study in this area. For instance, the Government may consider gradually lowering the age limit of elderly persons from 65 to 60 year by year in the light of its financial position to better cope with its existing restriction on retirement age. Therefore, the proposal does merit our support.

We find it difficult to support Mrs Sophia LEUNG's amendment. Mrs LEUNG has put forward some conceptual problems, emphasizing the need for better utilization of resources instead of taking a "broad-brush" approach. Actually, the measures proposed by me are not "broad-brush", evidenced by my proposal of processing separately the cases of Comprehensive Social Security Assistance (CSSA) for the elderly and the general CSSA cases. While Mrs LEUNG voiced opposition to the "broad-brush" approach, she objected to my raising the brush. This gives me an impression that she is conceptually self-contradictory. Furthermore, she doubted whether CSSA for the elderly would discourage children from supporting their parents. Actually, this is absolutely not my intention. We need to help those who have difficulty in or incapable of supporting their parents. The current CSSA Scheme cannot help these people

to solve their problems. Neither can the Old Age Allowance (also commonly known as the "fruit grant") offer them any help. Therefore, we can only choose to implement the so-called CSSA for the elderly and relax the assets requirement to help them. According to estimates, the number of these people is approximately 3 000. How can we help these marginal elderly? This is precisely the main spirit and essence of this motion. We believe this proposal, targeted at elderly people, can make better and more effective use of resources. The Democratic Alliance for Betterment of Hong Kong cannot support Mrs LEUNG's amendment.

Thank you, Madam Deputy.

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Madam Deputy, "concern, care and respect for the elderly" has been a long-standing policy and objective of the SAR Government. Over the past few years, we have been making continuous efforts to expand, reorganize and improve our services provided to the elderly, so as to achieve "a sense of security, belonging and worthiness" for elderly people. I am grateful to the Honourable YEUNG Yiu-chung for moving this motion today, and to the other Honourable Members for speaking on this topic. Their valuable advice will be of immense help to us in the development and review of our elderly policy in the future.

The Honourable Frederick FUNG advocates that Hong Kong residents of or over the age of 60 should be defined as elderly people, and that this age should be applied as a criterion to determine their eligibility for various elderly services and benefits. At present, the age requirement for various elderly services ranges from 60 to 65, depending on the nature of the services and the needs of the elderly people concerned. Besides age, there are some other requirements which are sometimes considered more important than the factor of age. For example, admission to care and attention homes is approved mainly with reference to the health and family background of the elderly person concerned. An elderly person aged below 65 but with genuine need for institutional care will also be provided with the services he needs.

In our effort to examine the issue of elderly people, we have conducted very extensive studies and come to learn that the definition of "elderly people" actually varies greatly from place to place in the world. In many countries, the age of 65 is adopted to define elderly old. However, many experts do not actually agree to adopting physiological age as a criterion to define old age.

It is generally assumed that as a person grows older, his physical conditions will change, and that his health and physical conditions will deteriorate as time goes by. In the past, many people reaching the age of 60 or 65 would start to require care and attention from others. That is why physiological age has been conventionally adopted as an indicator of elderly people's special needs, for this is not only straightforward, but is also easier to understand and make comparison.

Over the past two decades, as a result of demographic and social changes and the advancement of medicine, technology and health care, many elderly people leading a healthy way of life have managed to remain a good physique and the ability to look after themselves even after the age of 60. Besides, if they can be given appropriate treatment and care at the community level, many elderly people with chronic illnesses are also able to look after themselves. And, many people over the age of 60 or even 65 are still working. So, many countries which have adopted 65 as the retirement age are beginning to consider the idea of raising their retirement age. Actually, in many countries, age is no longer used as a criterion to determine the eligibility of elderly people for care and attention services. Instead, the needs of an elderly person are objectively assessed through the application of some widely accepted evaluation methods, and the findings are used as a basis of providing appropriate service to the elder concerned.

Madam Deputy, I agree that Hong Kong must conduct more studies on the concept of old age, but I also think that it goes against the trend of the whole world to use 60 years as a criterion of defining old age. A more appropriate approach should be to actually consider and assess the specific needs of elderly people before deciding the kinds of services to be provided to them.

Madam Deputy, I now wish to say a few words on the Comprehensive Social Security Assistance (CSSA) Scheme. Despite the drastic social changes over the past four decades, the families in Hong Kong are still observing the very fine Chinese tradition of providing financial support to their elderly members. The surveys conducted by us in recent years indicate that the main source of income for over 70% of the elderly people in Hong Kong is the assistance from their own family members, and only about 15% of our elderly people have to apply for CSSA because they have no family member, or because their family

members are unable to give them any financial support. In order to provide these elderly people with more and better assistance, we increased the standard rate for elderly CSSA recipients by \$398 in 1997. At present, the standard rate for an able-bodied but single elderly person is \$2,555, which is more than the \$1,805 received by an able-bodied adult recipient.

We agree that the circumstances of elderly people are different from those of other categories of CSSA recipients. That is why the arrangements for elderly people under the CSSA Scheme are different from those for other categories of recipients. For example, as I said a moment ago, the standard rate for elderly CSSA recipient is set at a higher level. Besides, elderly CSSA recipients may at the same time apply for the long-term supplement and a whole series of special allowances to cater for their special needs. These allowances are not normally granted to able-bodied adults.

In addition, the eligibility requirements for elderly CSSA applicants are also more lenient. The prescribed assets limit for an elderly person is \$37,000, while that for an able-bodied adult is \$24,000.

Madam Deputy, irrespective of whether elderly CSSA applicants should be singled out from the CSSA Scheme as a separate category, I hope Honourable Members can understand that elderly CSSA applicants are now already treated more leniently than others, and they are also able to get a higher rate.

Some Members commented in their speeches that we should permit elderly persons living with their families to apply independently for CSSA. In this connection, I wish to say that the CSSA Scheme is no different from other public assistance schemes, in the sense that all of them are based on the following two common principles:

- (1) The applicant must prove that he is in genuine need of financial assistance; and
- (2) the financial needs of the applicant must be considered in the light of the financial needs of the family of which he is a member.

We understand that these two principles are widely accepted in other countries for the purpose of assessing the needs of applying individuals or families.

The objective of the CSSA Scheme is to provide a safety net to individuals or families in need of assistance. For this reason, we must adhere to the two principles mentioned above when vetting CSSA applications. If the family members of an applicant can already provide assistance to him, we see no reason why he should rely on public money as a source of income. However, under some special circumstances, as when an elderly applicant is battered by financial hardship because he is at loggerhead with his family members and cannot get any financial support from them, the Director of Social Welfare may exercise his discretion and permit an elderly person to apply for and receive CSSA as an independent applicant.

Moreover, according to many surveys and common beliefs, most elderly people actually wish to live their twilight years in Hong Kong. However, there is also a small number of elderly people who wish to return to the Mainland, because their family members are there. We therefore introduced the Portable Comprehensive Social Security Assistance (PCSSA) Scheme in 1997, with the aim of giving an alternative to elderly CSSA recipients wishing to return to Guangdong. So far, the Social Welfare Department has approved 2 500 applications. As we first expected, most of the elderly applicants were living alone in Hong Kong by the time of application, and they were not under the care of any family members. Following their return to Guangdong, over 90% of the successful applicants now live with their relatives or family members and receive care and attention from them.

As most of the elderly people in Hong Kong came from Guangdong Province, and as they have been maintaining contact with their family members and relatives there, the scope of the PCSSA Scheme is confined only to Guangdong for the time being. Honourable Members have from time to time requested us to extend the scope of the PCSSA Scheme to other provinces in the Mainland, such as Fujian. I am sure Honourable Members can also see that the Mainland is vast, and just one single province covers a very large area. So, in some relatively remote villages where external transportation cannot be easily arranged, it may be difficult to implement the PCSSA Scheme. We have explained to the Legislative Council that we will have to consider two factors if we wish to expand the scope of the PCSSA Scheme: first, we must identify some suitable agents to assist in the implementation of the PCSSA Scheme in the

provinces concerned, so as to achieve cost-effectiveness. To do this, we must have an adequately substantial number of elderly people who wish to live in the provinces in question. Anyway, we will continue to study this matter, so as to ascertain the feasibility of extending the PCSSA Scheme to outside Guangdong.

Madam Deputy, let me now talk about the Old Age Allowance (OAA) Scheme. As I explained to the Legislative Council last week, the OAA was first granted in 1973 to elderly people aged 75 or above, and the aim was to cater for their special needs arising from old age, and to encourage their family members to continue to look after them. At that time, the OAA was not granted to elderly people under institutional care and attention.

In the financial year of 1973-74, there were only 35 000 recipients of OAA, and the total expenditure involved was \$25.2 million. Later, we lowered the age of eligibility to 65, but applicants aged between 65 and 69 have since been required to undergo a means test. In the financial year of 1999-2000, the number of OAA recipients was as large as 446 000, and the total expenditure reached \$3.46 billion a year, 137 times higher than the expenditure in 1973-74.

Over the past 30 years, the economy and society of Hong Kong have experienced profound structural changes, with the result that our elderly people are healthier, more independent and better educated than their counterparts in the past. We can actually foresee that the life of our elderly people will improve still further in the future, as more people aged over 60 will still be working and many of them will also be able to derive some stable income from their assets and investments. At the same time, some surveys have also revealed that in the case of a small number of elderly people, the OAA is their main source of income because their savings are very meagre and they do not receive adequate financial support from their family members. Obviously, these elderly people are in need of more financial assistance. This is also one of the reasons for our intention to review the OAA scheme.

On the future development of the OAA scheme, in particular the proposal on the introduction of a means test, the community has expressed very strong views. No matter what the original intent of the OAA is, we do realize that society has by now come to regard it as a token of our respect for the elderly. In the coming 12 months, we will listen carefully to the views of the community and work closely and sincerely with Honourable Members. We can assure Honourable Members very clearly that the review is not meant to reduce the

amounts received by existing OAA recipients. Elderly people can all rest assured. However, I also hope that we can join hands to work out a proposal acceptable to all, one which can provide more assistance to those elderly people in greater need than others.

Some Honourable Members have proposed to relax the absence rule applicable to OAA recipients' temporary absence from Hong Kong. Since the OAA scheme is a non-contributory scheme wholly financed by the General Revenue of the Government, the Government must ensure that the OAA is paid only to the elderly people of Hong Kong. We are of the view that like the non-contributory schemes in other countries, the OAA should only be paid to elderly people who live mainly in Hong Kong. However, since we also notice the travel pattern of the elderly people in Hong Kong, we have relaxed permissible absence to 180 days a year since 1993. When it comes to whether or not there can be any further relaxation, I would say that more careful consideration is required, as the issue is rather complicated.

The Honourable LEUNG Yiu-chung has urged the Government to introduce an old age pension scheme (OPS) as soon as possible. In this connection, I am sure Honourable Members would still remember that between 1992 and 1994, the Government actually conducted an extensive public consultation exercise on what kind of retirement protection schemes Hong Kong should adopt. At that time, there were very thorough and in-depth discussions on the pros and cons of an OPS and a mandatory provident fund scheme. Subsequently, we came to the consensus that the best form of retirement protection in Hong Kong should be some privately-operated mandatory provident fund schemes (MPF schemes) financed by contributions from both employers and employees. The legislature at that time also endorsed this view. Over the past few years, the Government and the legislature have completed huge amounts of legislative and other work to promote the implementation of MPF Scheme. Contributions to these schemes are due to commence next month. Therefore, our primary task now should be to ensure the smooth implementation of the MPF Schemes for the benefit of the whole community.

The experience of the debates in the 1990s gives me the firm belief that if we are to reopen the debates on the pros and cons of an OPS now, what we will see will only be another round of lengthy debates. It is doubtful when this can really provide any actual benefits to the elderly people now in need. Madam Deputy, for the benefit of those OAA recipients who are in need of yet more

financial assistance, I think we should concentrate our efforts on completing the review of the OAA scheme in the coming 12 months, so that we can work out a proposal acceptable to all and provide more assistance to our elderly people.

With respect to the provision of community care to elderly people, some surveys have found out that many elderly people are in need of more care than now because of poor health or impaired cognitive functions. However, it is also found out that these elderly people would still like to live at home, and that most of their family members also think the same. Therefore, our policy should aim at enhancing the provision of community care and assistance for both frail elderly people and those family members having to look after them, so as to facilitate frail elderly people living at their homes as far as possible.

At present, we are providing a whole range of community care and assistance services to elderly people living at their homes. These include Day Care Centres for the Elderly, where limited nursing care service, rehabilitation service, meals and social and recreational activities are available to frail elderly people. Besides, there are also multi-service centres for the elderly each equipped with canteen, laundry and bathing facilities and also a base for recruiting and training volunteers and for the provision of social networking service and outreaching services to vulnerable elderly people in the community. And, the social and recreational units inside Multi-service Centres for the Elderly and also Social Centres for the Elderly also provide venues for holding and developing social, recreational and educational services for elderly people in the community.

Over the past two years, we have set up one elderly health centre in each of the 18 administrative districts in Hong Kong, and each of these centres can take 2 400 registrations from elderly people every year. Since July 1998, as many as 88 000 elderly members have registered with all the 18 elderly health centres. These elderly health centres adopt the family medicine approach, providing elderly people with multi-disciplinary services in terms of disease prevention and treatment. Elderly people registered with these centres can receive a physical check-up and health assessment once every year, and when necessary, they will be referred to specialist clinics for follow-up treatment.

The Government is making continuous injection of extra resources for the purpose of enhancing the various community care and assistance services for the elderly. The annual expenditure on home care and community assistance services has increased from \$494 million in 1996-97 to \$840 million this financial year. For example, in these few years, 11 care centres for the elderly, 10 multi-service centres for the elderly and 40 social centres for the elderly have commenced operation to cater for the demand of elderly people for more and better services. In addition, we will soon implement a new project under which non-governmental organizations (NGOs) will be invited to provide a comprehensive range of assistance services covering home and community care. We have earmarked \$140 million for the implementation of this project in the coming year.

With the passage of time and the changes in our society, our elderly services must be adjusted accordingly to keep abreast of the times. In order to ensure that our various day-time community services can continue to cater for the needs of the elderly in Hong Kong, we have commissioned the Elderly Research Centre of the University of Hong Kong to conduct a consultancy study to review the roles, functions and delivery of the existing community care and assistance services. The study will make recommendations on whether there is any need to adjust the existing home and community care services, and if yes, on what changes are required. The aim is to ensure that the most appropriate care services can be provided to the elderly.

The consultancy study will be completed before the end of this year. We will consider the recommendations made, work out specific schemes on following up and selecting the most appropriate recommendations and set up a scale of priority. On how best we can further enhance, improve and rationalize existing services for the benefit of the elderly, we will continue to work closely with the social welfare sector and listen to the views of the community.

The funding arrangement proposed by Mr Frederick FUNG for social centres for the elderly and multi-service centres for the elderly is also a topic related to the provision of care services to the elderly. For the purpose of funding, social centres for the elderly were classified as a supplementary service worth implementing. That is why they have been granted only partial subvention. According to an estimate made in early 1999, the total public expenditure on these two types of centres at that time was about \$260 million. So, if they are to be given total subvention, the annual recurrent expenditure in this respect will have to be increased by as much as \$55 million.

As I said just now, the Government has been injecting huge resources into elderly services over the past few years. However, though the demand for social services in general is huge, the demand for services for the frail elderly is in particular even greater. That is why priority must inevitably be accorded to the development of care services for the frail elderly.

As I said just now, we are now conducting a consultancy study on how best we can cater for the ever-changing needs of the elderly, and the study is near completion. This study also covers the roles, functions and modes of operation of social centres for the elderly and multi-service centres for the elderly, and also their funding arrangement. Faced with the drastic increase in the number of frail elderly people, our top priority is to develop as soon as possible a package of integrated services covering both home care and community assistance that can render assistance to elderly people living at home, in particular the frail elderly. Besides, more and more NGOs are joining the new funding arrangement, and because of this, they will be able to deploy their resources much more flexibly to achieve better results.

Madam Deputy, before I conclude my speech, let me thank Honourable Members once again for their concern about our policy on looking after the elderly. The provision of financial support and long-term care to the elderly people in need will remain our primary task in the future.

However, we must note that, as pointed out by Dr the Honourable LO Wing-lok, a policy on care for the elderly should not be equated with simple financial or material assistance, for the latter is only just a part of that particular policy. The debate today should not give young people an impression that all elderly people are in need of welfare or other direct services, for this may give them a wrong idea that elderly people are a burden to society. In fact, most elderly people in Hong Kong are very healthy and they can lead an independent and positive life. Most of them actually shoulder the responsibility of looking after their own family members — their spouses or grandchildren, and so on. And, many of them also work as volunteers to help the vulnerable members of the community. Therefore, elderly people are equally valuable to our community.

Thank you, Madam Deputy.

THE PRESIDENT resumed the Chair.

PRESIDENT (in Cantonese): I now call upon Mr LEUNG Yiu-chung to move his amendment to the motion.

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

Mr LEUNG Yiu-chung moved the following amendment: (Translation)

"To delete "adopt effective measures to enhance the welfare for the elderly; these measures should include" and substitute with "expeditiously introduce the old age pension scheme to meet the basic needs of the elderly; before that, the Government should improve the existing Comprehensive Social Security Assistance (CSSA) and old age allowance schemes through"; to delete "Comprehensive Social Security Assistance (CSSA)" and substitute with "CSSA"; to add "(b) restoring the right of elderly persons who are living with their family members to apply for CSSA on an individual basis, which had been in existence prior to the CSSA review last year, to show respect for their independence and autonomous rights;" after "so as to benefit more elderly persons;"; to delete "(b) maintaining" and substitute with "(c) relaxing"; to add "and" after "the elderly settling in their hometown;" to delete "(c)" and substitute with "(d)"; and to delete "and (d) strengthening and improving" and substitute with "at the same time, the Government should strengthen and improve"."

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

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

(Members raised their hands)

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

(Members raised their hands)

Mr LEUNG Yiu-chung rose to claim a division.

PRESIDENT (in Cantonese): Mr LEUNG Yiu-chung has claimed a division. The division bell will ring for three minutes.

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

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

Functional Constituencies:

Dr Raymond HO, Mr Eric LI, Miss Margaret NG, Mr CHEUNG Man-kwong, Mr CHAN Kwok-keung, Mr SIN Chung-kai, Mr LAW Chi-kwong, Miss LI Fung-ying, Mr Michael MAK, Mr LEUNG Fu-wah and Mr IP Kwok-him voted for the amendment.

Mr Kenneth TING, Mr James TIEN, Dr LUI Ming-wah, Mrs Selina CHOW, Mr HUI Cheung-ching, Mr Bernard CHAN, Mrs Sophie LEUNG, Dr Philip WONG, Mr Howard YOUNG, Mr LAU Wong-fat, Mrs Miriam LAU, Mr Abraham SHEK, Mr Henry WU, Mr Tommy CHEUNG, Dr LO Wing-lok and Mr LAU Ping-cheung voted against the amendment.

Geographical Constituencies and Election Committee:

Mr Martin LEE, Mr Fred LI, Mr James TO, Miss CHAN Yuen-han, Mr CHAN Kam-lam, Mr LEUNG Yiu-chung, Mr Andrew WONG, Mr Jasper TSANG, Dr YEUNG Sum, Mr LAU Kong-wah, Miss Emily LAU, Miss CHOY So-yuk, Mr

Andrew CHENG, Mr SZETO Wah, Mr TAM Yiu-chung, Mr Albert CHAN, Mr WONG Sing-chi, Mr Frederick FUNG and Mr YEUNG Yiu-chung voted for the amendment.

Dr TANG Siu-tong, Mr David CHU, Mr NG Leung-sing, Prof NG Ching-fai and Mr Ambrose LAU voted against the amendment.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 27 were present, 11 were in favour of the amendment and 16 against it; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 25 were present, 19 were in favour of the amendment and five against it. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negatived.

MRS SELINA CHOW (in Cantonese): In accordance with Rule 49(4) of the Rules of Procedure, I move that if a Member claims a division in respect of the motion on "enhancing the welfare of the elderly" in this meeting or any amendments thereto, the Council shall proceed to such division immediately after the division bell has been rung for one minute.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That if a Member claims a division in respect of the motion on "enhancing the welfare of the elderly" in this meeting or any amendments thereto, the Council shall proceed to such division immediately after the division bell has been rung for one minute. Does any Member wish to speak?

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

I order that if a Member claims a division in respect of the motion on "enhancing the welfare of the elderly" in this meeting or any amendments thereto, the Council shall proceed to such division immediately after the division bell has been rung for one minute.

PRESIDENT (in Cantonese): Mrs Sophie LEUNG, you may now move your amendment.

MRS SOPHIE LEUNG (in Cantonese): Madam President, I move that Mr YEUNG-Yiu-chung's motion be amended, as set out on the Agenda.

Mrs Sophie LEUNG moved the following amendment: (Translation)

"To delete "processing separately the cases of" and substitute with "reviewing the policy on"; to delete "the general CSSA cases, as well as relaxing the assets limit for elderly CSSA applicants, so as to benefit more elderly persons"; to delete "(b) maintaining the existing application mechanism for the" and substitute with "completing the review on"; to add "expeditiously" after "old age allowance"; to delete "increasing the rate of the allowance to an appropriate level and relaxing the absence rule on the allowance received by the elderly settling in their hometown" and substitute with "so as to benefit more elderly persons in genuine need"; to delete "(c)" and substitute with "(b)"; and to delete "(d)" and substitute with "(c)"."

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

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

(Members raised their hands)

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

(Members raised their hands)

Mrs Sophie LEUNG rose to claim a division.

PRESIDENT (in Cantonese): Mrs Sophie LEUNG has claimed a division. The division bell will ring for one minute.

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

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

Functional Constituencies:

Mr Kenneth TING, Mr James TIEN, Dr Raymond HO, Dr LUI Ming-wah, Mrs Selina CHOW, Mr HUI Cheung-ching, Mr Bernard CHAN, Mrs Sophie LEUNG, Dr Philip WONG, Mr Howard YOUNG, Mr LAU Wong-fat, Mrs Miriam LAU, Mr Abraham SHEK, Mr Henry WU, Mr Tommy CHEUNG and Mr LAU Ping-cheung voted for the amendment.

Miss Margaret NG, Mr CHEUNG Man-kwong, Mr CHAN Kwok-keung, Mr SIN Chung-kai, Mr LAW Chi-kwong, Miss LI Fung-ying, Mr Michael MAK, Mr LEUNG Fu-wah, Dr LO Wing-lok and Mr IP Kwok-him voted against the amendment.

Mr Eric LI abstained.

Geographical Constituencies and Election Committee:

Dr TANG Siu-tong, Mr David CHU, Mr NG Leung-sing and Mr Ambrose LAU voted for the amendment.

Mr Martin LEE, Mr Fred LI, Mr James TO, Miss CHAN Yuen-han, Mr CHAN Kam-lam, Mr LEUNG Yiu-chung, Mr Andrew WONG, Mr Jasper TSANG, Dr YEUNG Sum, Mr LAU Kong-wah, Miss Emily LAU, Miss CHOY So-yuk, Mr Andrew CHENG, Mr SZETO Wah, Mr TAM Yiu-chung, Mr Albert CHAN, Mr WONG Sing-chi, Mr Frederick FUNG and Mr YEUNG Yiu-chung voted against the amendment.

Prof NG Ching-fai abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 27 were present, 16 were in favour of the amendment, 10 against it and one abstained; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 25 were present, four were in favour of the amendment, 19 against it and one abstained. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negatived.

PRESIDENT (in Cantonese): Mr Frederick FUNG, you may now move your amendment.

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

Mr Frederick FUNG moved the following amendment: (Translation)

"To delete "and" after "relaxing the eligibility criteria for the Scheme;"; and to add "; (e) offering full subventions for social centres and multi-service centres for the elderly; and (f) defining elderly persons as Hong Kong residents aged 60 and above and extending the services and concessions currently provided by the Government for the elderly to those aged 60 and above" after "for the elderly in Hong Kong"."

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

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

(Members raised their hands)

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

(Members raised their hands)

Mr Frederick FUNG rose to claim a division.

PRESIDENT (in Cantonese): Mr Frederick FUNG has claimed a division. The division bell will ring for one minute.

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

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

Functional Constituencies:

Mr CHEUNG Man-kwong, Mr CHAN Kwok-keung, Mr SIN Chung-kai, Mr LAW Chi-kwong, Miss LI Fung-ying, Mr Michael MAK, Mr LEUNG Fu-wah and Mr IP Kwok-him voted for the amendment.

Mr Kenneth TING, Mr James TIEN, Dr Raymond HO, Mr Eric LI, Dr LUI Ming-wah, Miss Margaret NG, Mrs Selina CHOW, Mr HUI Cheung-ching, Mr Bernard CHAN, Mrs Sophie LEUNG, Dr Philip WONG, Mr Howard YOUNG, Mr LAU Wong-fat, Mrs Miriam LAU, Mr Abraham SHEK, Mr Henry WU, Mr Tommy CHEUNG, Dr LO Wing-lok and Mr LAU Ping-cheung voted against the amendment.

Geographical Constituencies and Election Committee:

Mr Martin LEE, Mr Fred LI, Mr James TO, Miss CHAN Yuen-han, Mr CHAN Kam-lam, Mr LEUNG Yiu-chung, Mr Jasper TSANG, Dr YEUNG Sum, Mr LAU Kong-wah, Miss Emily LAU, Miss CHOY So-yuk, Mr Andrew CHENG, Mr SZETO Wah, Mr TAM Yiu-chung, Mr Albert CHAN, Mr WONG Sing-chi, Mr Frederick FUNG and Mr YEUNG Yiu-chung voted for the amendment.

Mr Andrew WONG, Dr TANG Siu-tong, Mr David CHU, Mr NG Leung-sing, Prof NG Ching-fai and Mr Ambrose LAU voted against the amendment.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 27 were present, eight were in favour of the amendment and 19 against it; while among the Members returned by geographical constituencies

through direct elections and by the Election Committee, 25 were present, 18 were in favour of the amendment and six against it. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negated.

PRESIDENT (in Cantonese): Mr YEUNG Yiu-chung, you may now reply and you still have three minutes 23 seconds.

MR YEUNG YIU-CHUNG (in Cantonese): Madam President, I am very grateful to those 18 Members who have spoken in turn. None of them opposed improving the welfare for the elderly but the three amendments were unfortunately negated. I hope that Members will support my original motion because it is relatively benign. It will be a great pity if my motion is also negated because there will be a void and it will give the community a very bad message tomorrow, that "Legislative Council Members negated improving welfare for the elderly". Such a message is very bad and I hope Members will try their best to support my original motion.

I would like to respond to a few points made by the Secretary. Firstly, the Secretary said that the Old Age Allowance would definitely not be reduced after the review and promised to help the elderly in need. We can only "listen to what he said and observe what he does". Secondly, the Secretary said that 60-year-old persons are still very healthy and capable of working and it is not right to define them as old people as they are still very young. I hope that government departments (Secretary Joseph WONG is here) will take the lead to revise the retirement age of civil servants to 65 so that they can work until they are 65. Thirdly, the Secretary said that the applications by elderly persons under the Comprehensive Social Security Assistance Scheme are now separately handled, but I think that it is best to make it official, so we should really establish a comprehensive social security assistance scheme for elderly persons. As it is not official in name, if we establish such a comprehensive social security assistance scheme, we will not have our hands tied when we introduce changes to welfare for the elderly in future. Therefore, I think that we should actively consider establishing a separate scheme for the elderly which may be better news for some old people.

Lastly, I call upon Members once again to support my original motion and I hope that it will give the community a positive message that we should support improving welfare for the elderly. Thank you, Madam President.

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

(Members raised their hands)

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

(Members raised their hands)

Mr YEUNG Yiu-chung rose to claim a division.

PRESIDENT (in Cantonese): Mr YEUNG Yiu-chung has claimed a division. The division bell will ring for one minute.

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

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

Functional Constituencies:

Dr Raymond HO, Mr Eric LI, Miss Margaret NG, Mr CHEUNG Man-kwong, Mr HUI Cheung-ching, Mr CHAN Kwok-keung, Mr SIN Chung-kai, Mr LAW Chi-kwong, Miss LI Fung-ying, Mr Michael MAK, Mr LEUNG Fu-wah, Dr LO Wing-lok, Mr IP Kwok-him and Mr LAU Ping-cheung voted for the motion.

Mr Kenneth TING, Mr James TIEN, Mrs Selina CHOW, Mr Bernard CHAN, Mrs Sophie LEUNG, Dr Philip WONG, Mr Howard YOUNG, Mr LAU Wong-fat, Mrs Miriam LAU, Mr Abraham SHEK and Mr Tommy CHEUNG voted against the motion.

Dr LUI Ming-wah and Mr Henry WU abstained.

Geographical Constituencies and Election Committee:

Mr Martin LEE, Mr Fred LI, Mr James TO, Miss CHAN Yuen-han, Mr CHAN Kam-lam, Mr LEUNG Yiu-chung, Mr Andrew WONG, Mr Jasper TSANG, Dr YEUNG Sum, Mr LAU Kong-wah, Miss Emily LAU, Miss CHOY So-yuk, Mr Andrew CHENG, Mr SZETO Wah, Mr TAM Yiu-chung, Dr TANG Siu-tong, Mr Albert CHAN, Mr WONG Sing-chi, Mr Frederick FUNG, Mr David CHU, Mr NG Leung-sing, Prof NG Ching-fai, Mr YEUNG Yiu-chung and Mr Ambrose LAU voted for the motion.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 27 were present, 14 were in favour of the motion, 11 against it and two abstained; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 25 were present and 24 were in favour of the motion. Since the question was agreed by a majority of each of the two groups of Members present, she therefore declared that the motion was carried.

PRESIDENT (in Cantonese): Second motion: Terminating the appointment of the Senior Special Assistant to the Chief Executive.

TERMINATING THE APPOINTMENT OF THE SENIOR SPECIAL ASSISTANT TO THE CHIEF EXECUTIVE

MISS MARGARET NG (in Cantonese): Madam President, I move that the motion in my name, as printed on the Agenda, be passed.

On 7 July this year, Dr Robert CHUNG, the Director of Social Science Research Centre of the University of Hong Kong (HKU), published an article in a newspaper, claiming that the Chief Executive had expressed dislike of his opinion polls and that the HKU should not continue to conduct these polls. The article triggered a mighty uproar because his allegation was tantamount to meaning that the Chief Executive had interfered with academic freedom.

Madam President, academic freedom is protected under the Basic Law and the Chief Executive has the responsibility of implementing the Basic Law. If he does not actively defend academic freedom but interfere with and destroy academic freedom instead, people will worry that Hong Kong no longer enjoys academic freedom, therefore, the Council has the right and responsibility to pursue the matter.

On 26 July, the Court of the HKU exercised its statutory power and passed a resolution to appoint an Independent Investigation Panel, chaired by Mr Justice Noel POWER, the former Deputy President of the Court of Appeal, to investigate the case and submit a report.

The Panel adopted a most transparent approach and all the hearings were open and broadcast live on television and all press reports and depositions were uploaded to the Internet, thus all Hong Kong people can have a good grasp of the entire course. For the sake of fairness, the Panel gave the witnesses ample opportunities to cross-examine other witnesses and this met the requirement of natural justice. Though the Panel invited the Chief Executive to testify, it could not make his presence mandatory. Much to our regrets, the Chief Executive, being the Chancellor laid stress on his capacity as the Chief Executive and chose not to appear before the Panel to assist in the investigation. Moreover, the Panel adopted the most stringent requirements of proof, that is, those for the trial of criminal cases.

Given this approach, although the Panel was not a court and it did not have the authority of one, I think that the hearings by the Panel met the due process requirement in every way.

The disclosed information available before the hearings indicates that contact was made between Vice-Chancellor Prof CHENG Yiu-chung and Mr Andrew LO, the Senior Special Assistant to the Chief Executive, once during the relevant period, that is, on 6 January 1999, and Prof CHENG met the Chief Executive thrice afterwards. Thus, the meeting between Mr Andrew LO and the Vice-Chancellor became a focal point of the investigation.

Mr Andrew LO issued written statements on 21 and 24 July respectively. The statement on 21 July stated explicitly to the effect that "I met the Vice-Chancellor in January 1999 to gain a fuller understanding regarding opinion polls in general." Represented by his lawyer, he submitted to the Panel a written deposition of witness.

Mr Andrew LO testified on 17 and 18 August. There were material differences between his oral evidence and the two statements mentioned above. Actually, throughout the course of testifying, he tried hard to dilute his role in bothering about the opinion polls. He said that he touched upon the purpose of "understanding regarding opinion polls" by coincidence. He also endeavoured to dilute his role in interference and putting pressure, and he no longer admitted that he had "queried" the "conflict of roles" of Dr Robert CHUNG, yet, he said that he had raised a question in a very polite manner and he had not mentioned the name of Dr Robert CHUNG. Moreover, he painstakingly emphasized that he was modest and courteous and even humble, and he even likened himself to a primary school pupil who strove to impress his teacher. He irrefutably stated twice that he frequently nodded to the Vice-Chancellor and he repeated every word the Vice-Chancellor said, telling the Panel that he was just like a parrot.

The public saw clearly the way he testified including his look of disdain at the very beginning. There was also a public outcry at his obviously incredible evidence. This person had completely lost public credibility in the eyes of the public.

The hearings of the Panel were concluded on 21 August and a report was submitted to the Council of the HKU on 26 August. The report made public on 1 September contained an analysis of the evidence given by Mr Andrew LO. Paragraph 36 concludes that "Mr LO was a poor and untruthful witness" and points out that his evidence was untrue and he intended to provide a version of the story with all the improper facts deleted in order to distance himself from the case.

Evidently, the conclusion of the Panel tallied with the views of most people. Actually, if we also consider the evidence of the Vice-Chancellor and other witnesses, however hard Mr Andrew LO tried to dilute the matter, we can at least obtain the following facts: Mr Andrew LO visited the Vice-Chancellor in his capacity as the Chief Executive's aide, and one of the objectives as he had stated in advance was related to the opinion polls conducted by Dr Robert CHUNG. As he was "a visitor sent by the Chief Executive", the Vice-Chancellor had solemnly prepared in advance information on the opinion polls. Regardless of whether he "queried" or "questioned", he had undeniably raised two questions and one viewpoint. In his capacity as "a visitor sent by the Chief Executive", he stated or implied that the opinion polls were in question and the university was responsible. We could see from the response of the Vice-Chancellor that this was extremely intimidating. It was impossible that the meeting was purely arranged out of courtesy in order to establish a good relationship, and it had a touch of interference.

Madam President, the action of Mr Andrew LO resulted in a complete loss of his public credibility. A survey conducted by the *Apply Daily* showed that more than 65% of the respondents thought that Mr Andrew LO should be dismissed while only less than 13% thought that he should not be dismissed. And a survey conducted by the *Oriental Daily* showed that almost 60% of the respondents opined that the Chief Executive should dismiss Mr Andrew LO while 20% opined that he should reprimand Mr Andrew LO, and only 13% thought that Mr Andrew LO should remain in office. The editorials of the *Ming Pao*, the *Hong Kong Economic Journal*, the *Apple Daily*, the *HK iMail* and the *South China Morning Post* commented that the Chief Executive should dismiss Mr Andrew LO or Mr Andrew LO should resign. Showing disregard for the report of the Panel and public comments, the Chief Executive immediately indicated that Mr Andrew LO was "reliable and honest" and his appointment would continue. It was a statement totally detached from public opinions. From a realistic point of view, Prof LAU Siu-kai from the Hong Kong Institute of Asia-Pacific Studies of the Chinese University of Hong Kong remarked that the defence of Mr LO by the Chief Executive would affect his political prestige.

Apart from public opinion, many candidates for the Legislative Council Election including me were asked by people about our stance towards the dismissal or otherwise of Mr Andrew LO. Evidently, people thought that this issue was a matter of principle that should not be taken lightly. As the Legislative Council represents public opinion, we are obliged to reflect the public aspirations in this Council.

At that time, quite a lot of people remarked that the Panel of the HKU had limited authority and it failed to summon the Chief Executive to testify, and they therefore hoped that the new Legislative Council could initiate an investigation. Originally, it was best to invite the Chief Executive and Mr Andrew LO to give further explanations in this Council, but regrettably the Chief Executive told the Council at the Question and Answer Session on 12 October in no unequivocal terms that he would not give any further information or explanation. Due to strong lobbying by government officials, the House Committee also negated the motion on the establishment of a select committee for the incident. That being the case, the Council has to draw a conclusion on this issue in the absence any new evidence.

Madam President, I have no doubts that the Chief Executive should terminate the appointment of Mr Andrew LO as Senior Special Assistant to the Chief Executive for so doing is reasonable and consistent with public opinion. On account of public interest, the four points below are particularly important reasons:

(A.) Protection of academic freedom: the protection of academic freedom is an element of the protection of the freedom of expression and religion. Besides, attaching importance to academic freedom is also a characteristic of a liberal and open society. The Government of the Special Administrative Region must be as good as its word and respect academic freedom. The action taken by Mr Andrew LO was an attempt to interfere with academic freedom playing on the authoritative status of the Chief Executive. The conclusion of the Panel indicates that the Vice-Chancellor was under great pressure and he therefore put pressure on Dr Robert CHUNG. As the Vice-Chancellor has been derelict of his duty, he cannot remain in office. If the Chief Executive continues to employ Mr Andrew LO as his Senior Special Assistant, he is not as good as his word and his claim that he values academic freedom will only be empty words. In reality, he approves of his assistant's interference in academic freedom.

(B.) A reasonable conclusion that respects a due process: It is the spirit of the rule of law to respect a due process. The Independent Investigation Panel of the University of Hong Kong arrived at a conclusion after a fair, open and selfless process. If the Chief Executive denies it out of his personal opinion, he fails to respect the spirit of the rule of law and is acting on the basis of the rule of man. It is no different from telling the world that so long as a person is loyal to the Chief Executive, even though he brazenly gives untrue evidence in respect of a serious incident, he will still be protected.

(C.) Maintaining the accountability system of the Government: The Chief Executive suggests in the policy address this year the establishment of a stronger accountability system for senior government officials. An accountability system basically entails that if a senior official makes a material mistake within his portfolio, he should bear the responsibility personally and even take the blame and resign. A radio listener asked the Chief Executive if an accountability system exists as the investigation by the Panel had concluded that Mr Andrew LO was dishonest but the Chief Executive repudiated it and said that he was honest and reliable. The listener's comment really hit the nail on the head.

(D.) Checking the spread of the "adulation and subservience culture": the University of Hong Kong opinion poll affair exposed the gradual development of the flattery culture. It was definitely sad that the dignified Vice-Chancellor of a university would be in fear and trepidation at the conveying of a message by the assistant to the Chief Executive. But more important by, when flattery was the norm, there would definitely be a social retrogression and academic development would be impeded. The adulation and subservience culture is characterized by cronyism and failed distinction between public and private interests. In permitting Mr Andrew LO to remain in office and even praising him highly, the Chief Executive actually aids and abets the spread of cronyism and the adulation and subservience culture.

Madam President, the Robert CHUNG incident is just like a timely exhortation to virtue and purity, and it serves to remind us that while everything appears normal superficially, the values and ways of Hong Kong may have rapidly transformed. The problem exposed by the incident has aroused concern in the international community and the comments of academics cannot be neglected.

I call upon Members to support the motion so as to demonstrate to the Chief Executive that he should respect principles and justice and terminate the appointment of Mr Andrew LO as his Senior Special Assistant. I would also like to draw the attention of the public and the international community to the point that this Council will definitely not be indifferent if these principles are violated.

With these remarks, I beg to move.

Miss Margaret NG moved the following motion:

"That the Chief Executive should terminate the appointment of Mr Andrew LO as Senior Special Assistant to the Chief Executive having regard to the fact that Mr LO has completely lost public credibility through the evidence he gave to the Independent Investigation Panel appointed by the University of Hong Kong and the manner in which he gave the evidence."

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

MR IP KWOK-HIM (in Cantonese): Madam President, after Dr Robert CHUNG published an article in the *South China Morning Post* stating that the Chief Executive was related to the incident of interference in academic freedom, it immediately aroused the concern of various parties. Everybody has been talking about the incident and hunting the witch over the past few months.

Members should think twice before they decide to support the motion to demand the Chief Executive, Mr TUNG Chee-hwa, to "fire" Mr Andrew LO. Firstly, Mr LO was appointed on the basis of the paper on the creation of the post endorsed by the Establishment Subcommittee of the Provisional Legislative Council on 2 September 1997. Although Mr Andrew LO is a government employee on agreement terms rather than an ordinary civil servant, he is still subject to the terms of appointment for civil servants. On the basis of the minutes of meeting on that day, the Deputy Secretary for the Civil Service explicitly said in reply to a Member's question that " these staff would be appointed on local agreement terms and regulated by all civil service rules and regulations applicable to these posts". Therefore, if Mr LO is to be punished in any manner, the disciplinary mechanism for civil servants should apply. In the view of the Democratic Alliance for Betterment of Hong Kong, as there is an effective mechanism for handling the appointment or dismissal of civil servants, we should really not bypass the entire civil service structure and the existing framework and deal with a civil servant or put inappropriate pressure on the executive authorities by way of a Members' motion. A stable and efficient Civil Service is very important to maintaining the stability of Hong Kong, and the so-called stability and efficiency mean that we should let civil servants

understand that the existing rules and regulations will remain unchanged and civil servants who make mistakes will be dealt with according to the rules and regulations. Otherwise, it will only make civil servants panic and worry that once they make mistakes in future, they will be handed over to the Legislative Council for a "public trial" by Members, and the legislature will propose a debate over them. This will strike a serious blow to the civil service system and the adverse effects can hardly be estimated.

Madam President, I have gone over the paper on the creation of the post and I find that it explicitly states that the duty of Mr LO is to ensure that the Chief Executive is informed of the views of the general public on the measures implemented by the Government and to assist the Chief Executive in maintaining contact with community organizations and to provide the necessary advice and information in order to enable the Chief Executive to make evaluations and judgements on the relevant matters. In the past three years, in performing his duties as Senior Special Assistant to the Chief Executive, Mr LO extensively contacted and kept in touch with people from all walks of life, but I have never heard any adverse comment about him. The Chief Executive is in the best position to comment as he understands Mr LO the person and his capacity very well. Indeed, the Chief Executive should decide on his own, after making reference to various views, whether Mr LO is suitable to continue to work as Senior Special Assistant to the Chief Executive, and the Legislative Council should not make the decision.

During the independent investigation by the HKU, Mr LO attended the hearings of the Panel because he had volunteered to testify and offer assistance, and he was not a defendant. According to the report, Mr LO was "a poor and untruthful witness", just like the Vice-Chancellor of the University of Hong Kong, who "failed to truly and fully" account for the meeting on that day. However, is there any evidence? The report has not specifically set out the mistakes made by Mr LO, it has just made this comment without pointing out his specific mistakes. Miss Margaret NG quoted the Independent Investigation Panel of the University of Hong Kong as stating that Mr Andrew LO, Senior Special Assistant to the Chief Executive, was an unreliable witness. As Mr LO was unreliable in his testimony, it was deduced that Mr LO himself was unreliable. His credibility was thus in question and it adversely affected the public credibility of the Hong Kong Government. Yet, does Miss NG recall that, on 16 November last year, there was a conflict between the police and the villagers of the Shek Wu San Tsuen in Sheung Shui in relation to the resumption

of land by the Government for the purpose of training the Ng Tung Ho? When the Magistrate, Mr LAM Kui-po, delivered his judgement, he stated outright that the evidence of Mr Andrew CHENG, Legislative Council Member, was unreliable. This information is derived from the Fanling Criminal 122-2000 case. Madam President, can we deduce on this basis that the credibility of our colleague, Mr Andrew CHENG, is in question and his dismissal should be proposed in the Council? Is it somewhat frivolous and trifling to judge the behaviour or even character of a person merely on the basis of a remark or comment made by a judge? Evidently, terminating the appointment of Mr LO on the ground of the comment of the Independent Investigation Panel of the University of Hong Kong is not justified and untenable. Now that the motion itself is untenable, I suggest that it may be better for us all to go home and have a good sleep.

Controversies over the opinion poll incident lasted for almost two months and the public was quite fed up with this "Rashomon affair". After the incident, Dr Robert CHUNG had indicated of his own accord that the incident should end there and then, and Prof CHENG Yiu-chung also indicated that he did not want the HKU to be injured further and he voluntarily resigned from the post of Vice-Chancellor. Recently, after the Chief Executive has delivered his policy address, the expression "turning hostility into harmony" has more or less become a pet phrase in all the streets and lanes, and it is even more lively than the expression "turning force into glue" in the *Princess of Pearl* drama series. I hope that everybody will think calmly, put aside extreme emotions and treat everlasting social problems objectively and rationally.

DR YEUNG SUM (in Cantonese): Madam President, no extreme emotions will be shown in my speech.

Thanks to the Robert CHUNG incident, Madam President, Mr Andrew LO is now a well-known figure throughout Hong Kong, but when I looked up the newspapers for the past few years in order to know more about the past activities of Mr LO, I find that, apart from the above incident, he had not got much of the limelight of the press. Most of the relevant reports were reports in leftist newspapers on Mr LO's attendance at certain ceremonies or dinner parties of societies on behalf of the Chief Executive. One and a half years ago, when the Council debated over the motion of no confidence in the Secretary for Justice, I read a newspaper report on the lobbying efforts made by Mr LO. If the

newspaper report was correct, Mr LO lobbied the Liberal Party on behalf of the Chief Executive at that time. Later, Mr Jasper TSANG mentioned that the Democratic Alliance for Betterment of Hong Kong often met with Mr LO and people were therefore aware that Mr LO would step forth on behalf of the Chief Executive to protect the Government's interests in respect of some controversial motions.

Originally, aides politics was not at all controversial as every chief executive will appoint an aide to offer advice and make suggestions as well as to meet or lobby various groups on his behalf. But if Mr LO has taken advantage of his status to exert influence unsuitably and unreasonably, then this warrants our concern.

Mr LO testified before the Independent Investigation Panel appointed by the HKU that he spent one third of his time meeting social leaders, therefore, if he took advantage of these opportunities to convey certain messages to those at the meetings, people could not help thinking that he was acting on the instructions of the Chief Executive. The Robert CHUNG incident precisely revealed this puzzling situation. When he testified before the Panel, Mr LO indicated that he had not reported to Mr TUNG Chee-hwa on his meeting with the Vice-Chancellor which was mainly about opinion polls. By coincidence, Pro-Vice-Chancellor Prof CHENG Kai-ming and Prof Felice MAK-LIEH, Head of the Department of Psychiatry, also confirmed that the Chief Executive had expressed concern about opinion polls at his meeting with the Vice-Chancellor. Thus, whether Mr LO as his aide had called for a halt on opinion polls on behalf of Mr TUNG Chee-hwa was the crux of the whole affair and the public thinks that there are still untold stories behind this. However, it is a great pity that Mr TUNG Chee-hwa was not willing to testify before the Panel and he only issued a statement clarifying that he "has not passed any messages directly or indirectly to the University of Hong Kong regarding Dr Chung's polling work." But how can we believe the statement of Mr TUNG Chee-hwa which is not subject to a process of hearing and cross-examination?

Mr LO kept denying during the hearings that he had interfered with academic freedom, but we had a vivid recollection of his incoherent testimony. The contents of the evidence given by him in testifying, the press release on 21 July and the written evidence he submitted to the Panel on 5 August were inconsistent. Paragraphs 33 and 34 of the Panel report questioned the credibility of the evidence of Mr LO and cited the most obvious example, that is, the press release by Mr LO on 21 July. He said in the press release that his meeting with the Vice-Chancellor was meant to gain a fuller understanding

regarding opinion polls in general. But he said in testifying that the meeting was not for any special purpose and he "suddenly" had the idea of understanding more about opinion polls from the University. This point alone can prove the questionable credibility of Mr LO's evidence. Thus, the report later stated that the explanation of Mr LO was evidently contradictory and it was therefore unconvincing.

After being named by the Panel as "poor and untruthful", the public credibility of Mr LO has gone bankrupt in everybody's eyes. Miss Margaret NG has just cited the surveys conducted by various newspapers and the views of the public have been explicitly expressed. Only the Chief Executive will be affected by his personal attachment and treasure his subordinate for years as well as willingly continue to appoint him. Yet, Mr LO is not a staff member of a private firm, he is under the employ of the Chief Executive as Senior Special Assistant, therefore, what he does is closely linked with important public affairs. I can hardly understand why an employee within the government structure can still appear as if nothing has happened and remain in office after he has been strongly criticized by an investigation panel. Even though Mr LO has been asked to stay, his presence will only impede instead of promote the launch of government initiatives. Precisely because of this reason, the Democratic Party thinks that it is rational and reasonable to terminate the appointment of Mr LO for the people will then feel at ease, in full knowledge that the Government will not employ a person whose credibility is in question at a senior post. Recently, the Chief Executive has mentoned an accountability system for senior officials time and again, he should earnestly practise what he advocates and dismisses his assistant who has lost public credibility.

Lastly, the recent remark of Mr Jasper TSANG, Chairman of the Democratic Alliance for Betterment of Hong Kong, is really an eye-opener and it appears that Mr TSANG has mastered sophistry even better. He said that Mr LAU Kong-wah only said at the election forum in September that "if I were the Chief Executive, I would also replace him", but he did not say that "I am LAU Kong-wah and I will replace him". He thought that the stance of Mr LAU had not changed. But does it mean that Mr LAU had not made a "volte face" after Mr TSANG had put forth some sophistry? At that time, public opinion was that Mr LO should resign and Mr LAU complied with public opinion at the election forum and supported the dismissal of Mr LO. Nevertheless, Mr LAU had completely forgotten about his voters after his election. Unfortunately, Mr LAU finally chose the path of royalists in the Council, juggling with his voters.

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

DR RAYMOND HO (in Cantonese): Madam President, as a member of the community, I am most unwilling to see Hong Kong become the protagonist of adverse reports by the international media again. These reports will only give foreign investors or organizations an incorrect understanding of Hong Kong, thus affecting their willingness to make investments or set up regional offices here. Regardless of whether we like it or not, our discussion today will inevitably make Hong Kong stand in the media spotlight again.

I believe Miss Margaret NG has proposed today's motion on basis of the conclusion in the report of the Independent Investigation Panel of the University of Hong Kong (HKU). The Panel pointed out that Mr Andrew LO, Senior Special Assistant to the Chief Executive, was an untruthful and unreliable witness in the Robert CHUNG incident. Miss NG may agree to this conclusion but it does not mean that the majority of Hong Kong people share her view. As far as I know, many people do not agree to another conclusion of the Independent Investigation Panel of the HKU that another important witness, Dr Robert CHUNG, was a reliable and truthful witness.

First, Dr CHUNG alleged that the Chief Executive passed on a message to him through "a third party", asking him to stop his opinion polls. His allegation was mainly based on the fact that Prof WONG Siu-lun had talked to him twice. But why did he not make the allegation immediately after these two meetings but waited until a certain time after the meetings, coincidentally when he became a columnist of the *South China Morning Post*, to make the allegation? When he testified at the hearings and was cross-examined by the legal representative of Mr LO, Dr CHUNG stated that the *South China Morning Post* had distorted his original article. But he had not clarified this crucial point with the *South China Morning Post* at once and people wondered if Dr CHUNG had other intentions.

On the basis of the two points I just made, many people were actually doubtful about the evidence given by Dr CHUNG. I believe those Honourable colleagues who support Miss NG would certainly think that it was only a minority subjective judgement. Similarly, without the support of substantive evidence, the conclusion drawn by the Independent Investigation Panel of the HKU on Mr LO might only be the subjective view of some people. If this Council relies on a minority subjective judgement to request the termination of appointment of a certain government official, I believe this will seriously affect people's confidence in this Council.

In fact, the crux of the whole incident is whether Mr LO had put any pressure on the HKU authority. But the subsequent development of the incident indicated that there are on signs of this. After his two meetings with Prof WONG, Dr CHUNG conducted his opinion polls as usual and the "drying up" mentioned by Dr CHUNG in testifying had not materialized. The incident could have been caused by "distorted information", or the fact that when Prof WONG conveyed to Dr CHUNG his concern and comment on Dr CHUNG's opinion polls he was mistaken as interfering in academic freedom. All these warrant our deliberation.

I have extensively consulted the views of the engineering sector on this motion via my home page. The mainstream view of the people in the sector contacted by me is that the importance of academic freedom to the development of Hong Kong must be respected. However, it is not comprehensive and not fair enough to support this motion merely on the ground of the conclusion drawn by the Independent Investigation Panel of the HKU on basis of the evidence given by Mr LO and his attitude when he testified.

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

MR LEUNG YIU-CHUNG (in Cantonese): Madam President, our debate over the dismissal or retention of Mr Andrew LO today may turn out to be criticisms against the inconsistent position of Members before and after the election. In any case, there are actually only two themes: "accountability" and "conscience". While the former concerns the system of accountability to the public, the latter concerns the moral issue of being accountable to ourselves.

Some commented that our debate today over the motion on terminating the appointment of Mr Andrew LO, Senior Special Assistant to the Chief Executive, is the "family matter" of Mr TUNG and concerns the power of appointment of the Chief Executive, therefore, the Council should not intervene. Some others cited the Basic Law and pointed out that the relevant provisions on the legislature do not confer powers on the Legislative Council to discuss the appointment of staff by the executive authorities. Some have even said that the Basic Law stipulates that although the legislature can "raise questions on the work of the government" and "debate any issue concerning public interests", the dismissal or retention of Mr Andrew LO is not a public interest, thus, a debate should not be held. Madam President, I do not agree with them and I would like to ask if

academic freedom is related to public interest. Is the credibility of officials not related to public interest? How can people oppose the motion under this pretext? As stated in the report of the Independent Investigation Panel of the HKU, Mr LO was an untruthful witness and Mr LO had really commented before the former Vice-Chancellor Prof CHENG Yiu-chung on the opinion polls conducted by Dr Robert CHUNG. Is this compatible with Mr LO's capacity? In fact, his action constituted interference in academic freedom and it obviously showed us the objective results. Therefore, it is reasonable and lawful for a motion to be proposed in the Council demanding that Mr LO bear responsibility for the incident and resign. The Chief Executive should be accountable to the public and dismiss Mr LO, but it is a pity that he had not done so and he conversely continued to harbour Mr LO. As a result, an official who had completely lost his public credibility could continue to remain in office, to continue to earn taxpayers' money but only at the Chief Executive's service. The crucial cause of this phenomenon is accountability. As the Chief Executive was elected by a small circle of people, he needs not be accountable to the public and he can therefore openly shelter Mr LO. Conversely, the Democratic Alliance for Betterment of Hong Kong cannot defend Members who have made a "volte face" so brazenly and they have to look for a lot of specious arguments to explain away the inconsistent position of their members. Even though these members will not be dismissed, people can get a clear understanding of the nature of some political parties in the process so that they will not be cheated again in the next election. To alter the strange phenomenon of "the Chief Executive defending Mr LO" and enhance the accountability system for government officials, the only way is to elect the Chief Executive by direct elections so that the Chief Executive and all officials will really be accountable to the public.

Madam President, this debate also highlights the question of "conscience" apart from "accountability". Some think that the "opinion poll incident of the University of Hong Kong" is just like the movie *Rashomon*, to which many Members have alluded. All the actors in the movie tried their best to defend their own interests, but they failed to find the truth in the end. Some said that as the report of the Panel did not contain substantive evidence to prove that Mr LO had interfered in the opinion polls of the HKU, so Mr LO should not be dismissed. I would like to emphasize that conscience is even more important than evidence. Did we not see and hear personally at the election forums that some Members say they supported dismissing Mr Andrew LO? Yet, they went back on their words and made a "volte face" later. Despite the substantive evidence, they still defend themselves today and say that they have not made a

"volte face". The key is whether they have "conscience", whether they have given the truth in testifying, whether they have interfered in academic freedom, whether they have made a "volte face" and whether they have cheated their voters. Members should be clear about all these.

Madam President, a person who has conscience is accountable to himself and conscience may be a curse that renders us unable to put ourselves under the patronage of a bigwig or enjoy high position and great wealth. But if a person does not have conscience and is not accountable to himself, what of it if he beats the whole world?

Madam President, angrily and contemptuously, I so submit. Thank you.

MR ERIC LI (in Cantonese): Madam President, basically, I share some of the views of Miss Margaret NG. For instance, regarding the motion on setting up a select committee that Mr Martin LEE plans to propose, I am seriously considering throwing weight behind it.

I agree that in this Council, we should uphold justice, act impartially, and have the spirit of seeking the truth. I think this spirit is fully manifested in Mr LEE's appeal for the setting up of a select committee. However, I think any call for this Council to further intervene in the personnel matters of the executive authorities warrants careful consideration. First of all, we must take the constitution or civil service institution into our consideration. I am worried the message that may be put across to society would bring about certain impact.

In my view, the Independent Investigation Panel appointed by the HKU has tried its best to be fair and independent in the whole issue. I also agree that judging from an objective point of view, it will be difficult for Mr Andrew LO, in his present position, to fully perform his role as he did in the past. Personally, I agree with the public opinion and I join the public to call on the Chief Executive to accept such proposals as transferring Mr Andrew LO to another position so that Mr LO could continue to assist Mr TUNG in another post, or to accept Mr LO's resignation. If these arrangements are found not possible, Mr LO should at least take account of his special status and the sensitivity of his job, and exercise more self-restraint when carrying out liaison work outside the Government. However, I will not call for the dismissal of Mr Andrew LO.

I will not call for his dismissal for three reasons. First, I have expressed similar views on the two occasions when the Legislative Council debated on a motion of no confidence. In the motion of no confidence in the Secretary for Justice on 10 March 1999, I explicitly stated that before fundamental changes could be made to the present system of permanent appointment of civil servants as a lifelong career, I considered that we should not move a motion to dismiss a public officer or make such a demand. Moreover, in the motion of no confidence in the Chairman of the Housing Authority on 28 June 2000, I reiterated that if Hong Kong were to set up a system of political accountability, there must be a specific mechanism and a rather long period of adjustment; and that apart from being psychologically prepared for the system on the part of politicians and government officials, members of the public must also develop a rational approach in demanding accountability. My position is crystal clear.

Second, in the New Airport episode, the Select Committee set up by the Legislative Council did not call on the Government to dismiss any official after its investigation. The Legislative Council Public Accounts Committee convened twice a year to inquire into malpractices by government officials has neither intervened in the arrangements in respect of the executive framework of the Government nor requested the dismissal of any person. Our respect for the accountability system of civil servants is warranted for a number of reasons. First, while some Honourable Members opined that Mr Andrew LO was criticized as an untruthful witness by the Panel, let us not make a judgement as to whether it is right or wrong. Even if it is true, it does not constitute a justification for dismissal under the present system of accountability for civil servants; and that is also a flimsy reason for personnel arrangement in other enterprises. We should respect the existing responsibilities and institutions of the Civil Service.

Further, under the separation of powers among the executive, legislature and Judiciary, I think my argument is well justified. As Members of the Legislative Council, we may have grave doubts about the integrity of certain public officers or staff of the executive framework, but I would not give instructions with regard to personnel arrangement. For instance, in an earlier case concerning a Member of the Legislative Council whose integrity was questioned, the public demanded that he should cease to be a Member of the Legislative Council. But I have never heard anyone in the executive authorities call on the Legislative Council to dismiss that particular Member. Instead, the Legislative Council was given a free hand to discuss the issue. Even if the

Court ruled that the Member is guilty, it would not instruct the Legislative Council to dismiss that Member either. If the Legislative Council does not observe this rule, we may bring about another kind of crisis. If this incident did not take place in the executive authorities, but involved judicial officers, say, a judge had done something utterly incomprehensible to members of the public, and if the public demanded that he should resign from the bench, then should Members of the Legislative Council move a motion to call for the dismissal of that particular judge? In that case, would the Honourable Miss Margaret NG uphold judicial independence or stand by public opinion as reflected in opinion surveys? How would she make a choice in that scenario?

My view is that in the entire case, since the public opinion has pointed to a certain direction, the Chief Executive should give weight to public opinion and take it into consideration. I personally think that the criticism of Mr LO in the report of the Panel cannot be taken as substantive proof in this motion. It can only be taken as a comment on which public views are diverse, and there are no strong arguments. Yet, it is most important that we, as Members of the Legislative Council, should have due regard for our status and role. Under the separation of powers among the executive, legislative and Judiciary which at the same time exercise checks and balances on each other, I think our role requires us to express reservations about this motion. Therefore, I will vote against Miss Margaret NG's motion.

MISS MARGARET NG (in Cantonese): Madam President, I wish to clarify that my surname in Chinese is "吳", not "伍".

MR MICHAEL MAK: Madam President, the motion today concerns how we regard the credibility of the Independent Investigation Panel appointed by the Council of the University of Hong Kong, the primary work of which was to investigate and ascertain the facts surrounding the allegations of interference with academic freedom and to give their expert opinions to satisfy the needs to know of the public on the controversy.

As we know, the Panel was headed by a former Vice-President of the High Court, Sir Noel POWER, and the other two members were a former Chairman of the Hong Kong Bar Association, Mr Ronny F. H. WONG, and the Chief Executive of the Consumer Council, Mrs Pamela CHAN WONG. The

composition should have been decided after much meticulous and discreet selection, with due considerations to the independence, respectfulness and positive image of the Panel members. In order to enhance transparency of the investigation, the Panel held public hearings, which were broadcast live and reported widely by the press. The proceedings were similar to those of a court hearing and the witnesses could, if they wished, be represented by lawyers. In fact, Mr Andrew LO was represented by a lawyer and his testimony was sworn. Considerable resources were spent trying to unveil the unspoken truth as far as possible.

Unluckily, the Panel found that Mr LO was a poor and untruthful witness because he failed to explain his contradictory statements in his evidence. Besides, Mr LO was also unhelpful in giving accurate testimony in the hearings as he did not attempt to recall and recount what had actually happened at his meeting with the Vice-Chancellor of the University. Possibly, the public were not on the side of Mr LO also and they, therefore, gave him the nickname of "路公公", the meaning of which possibly dated back to the Qing Dynasty when a eunuch gave falsified instructions to the fellow ministers by himself, but in the name of the emperor. I have consulted quite a lot of people, who have strongly expressed their discredit and distrust on Mr LO, for his having fostered negative impact to the reputation and international image of Hong Kong.

I do not think that the parties concerned and interested in the matter should have doubts on the trustworthiness and neutrality of the findings of the investigation. The findings should be honoured and regarded as valid unless and until someone concerned can successfully challenge them through a process of judicial review.

Before, I had little understanding on the existence of a Senior Special Assistant, who is ranked to the Directorate 2 grade of the Civil Service, nor the duties and responsibilities of such a post. Now, we come to know that the post needs to perform distinct and politically sensitive duties, which certainly require someone with a high level of integrity and credibility so that the officer can help promote the work and image of our Chief Executive through various contacts with very important persons. Imagine how a minister from overseas perceives Mr LO, who has been judged as untrustworthy!

In the latest policy address of the Chief Executive, it is suggested that the top government officials should take political accountability with their work. Maybe, for a start and as a pilot, our respectful Chief Executive should take the case of Mr LO as a pioneer to uphold the spirit.

Madam President, to conclude, I do not believe that Mr LO is suitable to continue to execute his duties as a Senior Special Assistant with the Chief Executive of the Hong Kong Special Administrative Region.

Thank you.

MR MARTIN LEE (in Cantonese): Madam President, needless to say, we all know that Miss Margaret NG's motion stands little chance of being passed in this Council today. The Independent Investigation Panel of the HKU submitted a report to the Council of the HKU pursuant to its hearings on the Robert CHUNG incident. While Mr Andrew LO was named as a "poor and untruthful witness" (see paragraph 36 of the report), the Chief Executive did not hesitate to sing the praises of Mr LO and speak contrary to the very credible Panel openly and in a high profile. Given that the Chief Executive was more than happy to dash to the scene to take his domestic servant under his wing and became "保路華"² to show care and support for Mr Andrew LO, the pro-government parties in the Legislative Council are certainly enlightened on which way the wind is blowing, knowing the position and role they should take and spontaneously joining hands to defend Mr LO wholeheartedly, come what may. While some Members in the pro-government camp had openly cast doubt on Mr Andrew LO during their electioneering campaign, they have to assume the role of a silent parrot in this Council and awkwardly change their position given the Chief Executive's determination to defend Mr LO. That is why I said that this motion would certainly be voted down, and Mr LO can then continue to pay visits to members of all sectors in the community and continue to point his finger at all social affairs.

² "保路華" is a namesake of Bulova, a brand name of watches, in Chinese. The word "華" refers to the last word of the Chief Executive's name in Chinese. This expression literally means the Chief Executive taking Mr Andrew LO under his wing.

A person who proceeds to do something even in the full knowledge that he will be getting nowhere may be ridiculed as failing to keep tab on the pulse of the times, but there are things that a person of integrity must and must not do. Mr LO obviously played an extremely important role in the controversy over interference in opinion polls conducted by the HKU. Can we really ignore it or turn a blind eye to it even though we are well aware of it? Can we really turn a deaf ear to the conclusions of the Panel with regard to Mr LO?

Much to our regret, some of the members of the Council of the HKU are appointed by the Chief Executive and therefore, the report was not accepted by the Council. Given the limitations in its powers, the Panel could only look into what happened within the HKU in its investigation, and could not conduct in-depth investigation into matters outside the HKU, including the roles of Mr Andrew LO, the Chief Executive's Office and even the Chief Executive himself in the incident. Therefore, for the sake of public interest and to demonstrate the determination of the Hong Kong Special Administrative Region (SAR) in defending academic freedom, the Legislative Council is duty-bound to take follow-up actions on the basis of the Panel report and in fact, only the Legislative Council has the authority to continue following up this incident, that is, to find out what actually transpired before Mr Andrew LO's discussion with the former Vice-Chancellor of the HKU, including whether Mr TUNG had asked Mr LO to see to it that the opinion polls would come to a halt.

If we read the Panel report carefully, we should be able to note that at least a number of points concerning Mr Andrew LO therein do give cause for concern:

First, the statement issued by Mr LO on 21 July is in conflict with his evidence given under cross examination. In his statement, Mr LO stated, "The purpose of my meeting with the Vice-Chancellor of the University of Hong Kong in January 1999 was to gain a fuller understanding regarding opinion polls in general.". But in giving evidence before the Panel, he said that he was only making a courtesy call on the then Vice-Chancellor of the HKU and there was no special purpose for their meeting; and then when speaking to the Vice-Chancellor over the telephone, "the thought suddenly came to him" that he might as well ask about their polling work. Apparently, this is in serious conflict with what was stated in his statement.

Second, in his written statement to the Panel on 5 August, Mr LO stated that the polls conducted by the Chinese University of Hong Kong were "conducted in a scientific and objective manner". But in the evidence given by him later, he expressed his wish to withdraw those words and replace them with "very good". Mr LO was capricious in giving evidence, and even the Panel considered it necessary to specifically make reference to this attitude of his in the report (see paragraph 34).

Third, after two weeks' hearings, the Panel concluded in paragraph 99 of the report the evidence given by Mr LO and the former Vice-Chancellor, stating that neither witness had disclosed the full and truthful extent of what was said in their meeting. What Mr LO explained to the Panel was a sanitized version in order to distance himself from disputes over interference in academic freedom.

Finally, Mr LO stated that he had not reported to Mr TUNG about his meeting with the Vice-Chancellor of the HKU. On this point, the Panel did not attempt to ascertain its truthfulness in the report for the Chief Executive did not wish to give evidence before the Panel. But in the conclusions of the report, Mr LO's integrity as a witness was strongly criticized and challenged by the Panel. Is this part of his evidence a true and full account of the facts?

In the Robert CHUNG incident, among persons considered by the Panel to have played a key role in transmitting the message of interference, Prof CHENG Yiu-chung, the then Vice-Chancellor, has resigned, whereas Prof WONG Siu-lun has ceased to hold office as the Pro-Vice-Chancellor. But what about Mr Andrew LO, who is a senior government official? Those involved in the transmission of the message have taken stick, but the person who started it all, namely, Mr Andrew LO, can remain unaffected and continue to act as a parrot. It really beats me.

As the Senior Special Assistant to the Chief Executive, Mr LO's duty, to put it more euphemistically, is to carry out community liaison and public relations work. However, the Robert CHUNG incident has revealed the dark and disgraceful facets of his work, and that is, to meddle with persons and matters that go against the interest of the Chief Executive and bring pressure to bear on them in a low profile. His activities are inappropriate, whether he carried them out on his own initiative or under instruction. The SAR Government should absolutely not finance this sort of activities with public money.

In fact, it will not do the Chief Executive any good in keeping Mr Andrew LO. After the uproar caused by interference in the opinion polls, why can Mr Andrew LO continue to move around freely in the political arena, visiting social groups and organizations here and there? Now that the Chief Executive is unwilling to dismiss him. Does it mean that Mr LO is actually discharging his "duty" under the instruction of the Chief Executive or with his tacit consent?

While Mr LO is paid out of public money, he is not a domestic servant of the Chief Executive. While his every move represents the Government, his words and deeds utterly lack transparency. So, if we still allow Mr LO to work in the Government today, what we stand to lose is not only the credibility of the Government for the international community would have the impression that we allow someone whose integrity is questionable to stay in the Civil Service, and this would have tremendous impact on the reputation of Hong Kong.

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

MR JAMES TIEN (in Cantonese): Madam President, I recall that two weeks ago, the House Committee of this Council rejected the proposal raised by Mr Martin LEE of conducting further investigation into the Robert CHUNG incident. The main reason for its objection is that, even after in-depth and detailed investigation, the Independent Investigation Panel appointed by the HKU has not indicated that the Government has interfered with the internal affairs of the HKU. The Chief Executive, Mr TUNG Chee-hwa, has also clarified to the public repeatedly that he has never instructed anyone to pressure Dr Robert CHUNG to stop conducting opinion polls on the popularity of the SAR Government or the Chief Executive.

I believe many colleagues will agree with me that the incident should come to an end. Today if we insist on indulging on the issue of whether academic freedom has been interfered, we will give people an impression that we do not respect the work of the Panel appointed by the HKU and the University's autonomy.

As for the crux of the issue — whether Mr Andrew LO has interfered with the academic freedom of the HKU — the Panel has never indicated in its report that there was impropriety with the meeting between Mr Andrew LO and the then Vice-Chancellor of the HKU, Prof CHENG Yiu-chung, or with their conversation. The report has only focused on the point that Mr Andrew LO once expressed concern with the opinion polls conducted by Dr Robert CHUNG. Nevertheless, there is still no evidence indicating that Mr LO gave any instruction to or exerted any political pressure on the the Vice-Chancellor of the HKU. We will have acted too arbitrarily if we make the judgement that Mr LO should be dismissed solely on the basis of the remark made in the report that Mr LO is a poor and untruthful witness. Neither will it be fair for us to do so.

Madam President, as Mr LO is the Senior Special Assistant to the Chief Executive, his concern with the polls conducted by Dr CHUNG on the administration of the SAR Government or the popularity of the Chief Executive is understandable. Moreover, the HKU enjoys full academic autonomy and is free to draw up its various academic research programmes and establish its internal personnel and organizational structures. The University has never complained of any interference of its academic freedom. This shows that this incident, which is a relative simple matter originally, should not be described as such a complicated issue.

Even if Mr Andrew LO questioned the conflicting roles played by Dr Robert CHUNG as a pollster on the one hand and a political commentator on the other, it is just an ordinary question. I do not see any implication of interference.

As regards the responsibilities of Mr LO, his main duty is to get in touch with people from all walks of life in Hong Kong. He merely provides the Chief Executive with an additional channel for soliciting opinions and reports to Mr TUNG when there is such a need. As the old saying goes, one should listen to opinions from both sides. Do we really want Mr TUNG to listen to one-sided opinion instead of making consideration from other angles as well?

I believe Members can still recall that when the last Governor, Mr Chris PATTEN, arrived in Hong Kong from Britain to assume governorship, he brought along two aides nicknamed "big tortoise" and "small tortoise". At that time, Mr LLEWELLYN, or "small tortoise", had frequent contact with some of our Honourable colleagues who are now present in this Chamber and who

support terminating the appointment of Mr Andrew LO. I believe they have gained much benefit at that time too. Why has nobody complained of interference by "small tortoise" or asked to "dismiss" him?

With the development of the incident to this stage, I find certain public comments very critical and amount to personal attack. For instance, we have the impression that such names as "the elderly LO" and "domestic minister" are in fact targeting at the appointment of Mr LO. Some people even made such remarks as "ridding the emperor of the evil minister" and "If I were the Chief Executive, I will fire Andrew LO". Such comments are unhealthy for they are actually becoming personal instead of focusing on the issue.

Madam President, the Liberal Party is of the view that as there is no evidence indicating that Mr Andrew LO has interfered with academic freedom or the HKU, we should not demand his dismissal arbitrarily. Moreover, the matter should really come to an end. Academic freedom is protected by the Basic Law. I believe the Chief Executive will definitely endeavour to preserve such freedom, as he has repeatedly assured us before.

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

MISS EMILY LAU (in Cantonese): Madam President, I rise to speak in support of Miss Margaret NG's motion.

As everybody knows, the controversy over the Robert CHUNG incident has aroused great concern in Hong Kong and the international community. I disagree with Mr James TIEN who said earlier that the Independent Investigation Panel of the University of Hong Kong (the Panel) had dealt with this matter already. In fact, there are still many questions unanswered. The Panel had no power to summon witnesses and thus could not summon the Chief Executive. Nor did it have the power to require the persons concerned to swear that they would not lie. Still, the Panel consequently criticized Mr Andrew LO as a "poor and untruthful witness", and I am sure this has made a deep impression on all of us. Since this matter has not been cleared up, I disagree with Mr TIEN's comment that the Panel's report already found that the Chief Executive or his Office had not interfered with the HKU. I believe this is because the Panel did not have adequate information. The only thing that the Panel said was that it did not believe in the truthfulness of the evidence given by the former Vice-

Chancellor and Mr Andrew LO about their meeting on 6 January 1999. The Panel had a very clear impression that neither of them had disclosed the full substance of the meeting. But the Panel certainly had no proof that Mr Andrew LO had put a lot of pressure on Mr CHENG Yiu-chung. Therefore, in my view, this incident has not been fully settled.

After this incident was revealed, many people demanded that the Legislative Council should follow it up. The public also expected us to follow it up. People are now criticizing the Democratic Alliance for Betterment of Hong Kong (DAB) because some members of the DAB said at the time that they would call for follow-up actions. We, the Frontier, also said that follow-up actions were warranted. Everybody said that we should follow it up, except maybe the Liberal party. Indeed, I am of the view that we should follow up this matter. But regrettably, Mr Martin LEE's proposal to set up a select committee was turned down. He will move a resolution under his name at the Legislative Council meeting on 22 November. But I believe Mr LEE also knows that this resolution is bound to be negated. Since we cannot follow up and deal with this matter thoroughly in a desirable way, and the Chief Executive had also said during a Question and Answer Session that he would not discuss this incident any further, we have, as Miss NG has said, no other alternative. That is why Miss NG has proposed this motion today. Miss NG has my support for I think it is no longer suitable for Mr Andrew LO to work for the Chief Executive. If he continues to work for the Chief Executive, the credibility of the Chief Executive and even that of the Government of the Special Administrative Region will be undermined. As Mr MAK said just now, if such a person works for the Government, how will the senior officials from overseas perceive Mr LO when they meet with him in future? They might say, "So you are that poor and untruthful witness!" Madam President, what if that happens?

We have also heard some senior officials say that Mr LO should not continue to work for the Chief Executive, but the Chief Executive did not accept their views. I disagree with Mr IP Kwok-him's earlier comment that the Legislative Council should not intervene in this matter. In fact, we have debated issues relating to misconduct of government officials, such as the Secretary for Justice and the Director of Housing. Some Members supported these motions and some opposed them. I believe the Legislative Council certainly has the right to express its views on the performance and integrity of officials, and whether there is any misconduct on their part. We have done this before. We are doing it now and hopefully we will do it in future. I hope we will not give up of our own accord a right to which we are entitled.

Madam President, earlier on a number of colleagues have already explained why Mr Andrew LO had lost public credibility so I will not dwell on it any further. I believe the report of the Panel is highly credible, and several examples are cited therein to prove that Mr Andrew LO was self-contradictory and inconsistent in his evidence. Whether in his written or oral evidence, Mr Andrew LO was self-contradictory with regard to the purpose of his meeting with the Vice-Chancellor, his views about the University's polling work, and whether he had subsequently criticized Dr Robert CHUNG. That was why the Panel considered him a poor and untruthful witness and did not believe that he would reveal everything. Since the Panel has made such criticisms against Mr Andrew LO, why can he continue to in the Government? Both the Vice-Chancellor and the Pro-Vice-Chancellor who are at the centre of this controversy have resigned. A citizen asked me: What about the third party? I asked him who the third party was. He said that it was Mr Andrew LO. All I could tell him was that Mr Andrew LO was still working for the Government. Madam President, how can we explain this to the public?

In fact, the way the Chief Executive has handled this matter should also be criticized. When the HKU invited the Chief Executive to attend its hearings, he refused. But the HKU was in a position to request his attendance for the Chief Executive is the Chancellor of the University. However, I think the Panel was too polite in that it only regarded him as the Chief Executive, but not the Chancellor, so it did not force him to attend the hearings. Although the Chief Executive did not attend the hearings, he kept issuing press releases in response to new developments. Madam President, I am not a lawyer but we have reasons to believe that if this incident is dealt with in court and if someone who has a major role in it does not attend the hearings but issues press releases to criticize the judge or the court's judgement, there is certainly something very wrong about this. This is exactly how Mr TUNG has handled this matter. He has not given an official explanation to the public. While the Legislative Council wanted to invite him to come and give an explanation, some Members nonetheless denied the Legislative Council this chance. With regard to a decision on calling for the resignation of Mr Andrew LO, if the Home Affairs Bureau is willing to conduct another opinion poll on this, I believe that even at this point in time when we have gone through so many hardships in Hong Kong and when some members of the public even cannot catch up with all the fuss, many people will maintain that Mr LO is not suitable to continue to work for the Government. Many colleagues in the Council and businessmen outside the Council have said unanimously that they would not dare to meet this person in

future for it might lead to lots of controversies. Moreover, who will believe this person who is so untruthful? In that case, can he still perform his present duties?

One last point. Do we really believe that the Chief Executive knew nothing at all about what Mr LO had done? Mr LO was performing his duty. That is why he had a government lawyer to defend him. Do we believe that the Chief Executive knew nothing about what he had said to the Vice-Chancellor? If the Chief Executive knew about it, did he approve of it? I believe Mr TUNG Chee-hwa should give a detailed explanation regarding all these speculations. I will absolutely not let go of it. Even if Mr LEE's resolution may be voted down, I maintain that the Chief Executive must come out and explain to us. Furthermore, there are also two political issues as mentioned by two professors, and the details involved have remained unknown to us so far. Therefore, it is fair to say that this incident is not yet over.

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

DR PHILIP WONG (in Cantonese): Madam President, I wish to make three points with regard to this motion today.

Firstly, this motion is outside the ambit of the Legislative Council, meddling with the employment of the Senior Special Assistant to the Chief Executive, discussing an issue that will affect the livelihood of an individual civil servant in the executive authorities, bringing him to a public trial for unfounded charges and allowing Members to arbitrarily attack his integrity. However, neither can he participate in the discussion nor have the chance to defend himself. He is not given even the basic protection of the rights to which he is entitled. That is why I consider this motion irresponsible and unfair.

Members should appreciate that this Council is not a Court and Honourable Members are not judges. If this assistant of the Chief Executive has made mistakes, he should be subject to investigation under the Public Service (Disciplinary) Regulation. If the allegation against him is found to be substantiated after investigation, he should be given punishment, including dismissal. But he should not be subject to a public trial by this Council. In the executive authorities, there are often cases involving "evidence and the manner in which the evidence is given", and very often, many similar cases are also

heard by the Court. For all these cases specifically relating to whether the appointment of a civil servant should be terminated, does this Council have to debate them one by one and make judgement as to whether they should stay or go?

In my view, this Council should do more practical work in respect of the economy and people's livelihood, and we should monitor, promote and support the effective administration of the Government in order to serve the public better. Apart from exercising checks and balances on the Government, we should also work for positive interaction. That is, we criticize the Government on the premise of co-operation and establish partnership through criticisms. Only in this way can we command respect from the public. If we are hell-bent on playing the role of critics, not only will we waste valuable resources, but also arouse public resentment and lead to tension in our relationship with the executive, thus affecting the stability and prosperity of society. A debate on whether the Chief Executive should terminate the appointment of his Senior Special Assistant violates the principle of the executive and the legislature not interfering with each other, and is grossly inappropriate.

Secondly, the principal premise of this motion is grossly lopsided and farfetched. First, the report of the so-called "Independent Investigation Panel" as mentioned in the motion is a report that has not yet been accepted by the Council of the University of Hong Kong (HKU). Besides, the "three-member investigation panel" appointed by the HKU is not a judicial body and has no jurisdiction whatsoever. It was set up solely to ascertain the facts and it could not pass any judgement. Moreover, Mr LO is not a defendant and he attended the hearings to provide assistance purely on a voluntary basis. As shown in the Panel report, the evidence given by Mr LO is not untrustworthy because the contradiction in his answers to questions only reflected his acceptance of the questioner's interpretation, and there was no question of fundamental contradiction. Anyhow, the conclusions of the Panel were drawn on the premise that Mr LO's evidence was admissible. So, how can he be described as untruthful? Some Members may wish to make personal attacks on Mr LO, but how would it be convincing to propose a motion in this Council on the basis of this report?

In the absence of antecedent charges and without meticulous and reliable investigation, I consider it unnecessary and inappropriate for the report to include wordings that discredit or censure Mr LO, and even if there are such wordings in the report, it does not mean that Mr LO "has completely lost public credibility". Even if the evidence given by a witness is considered incomplete and untruthful, we cannot conclude on this basis that the witness is devoid of integrity. It is very difficult for a person to maintain a vivid memory of a causal conversation a year or two ago such that he can recount to the Panel every single word he said. If Mr LO's evidence is alleged to be untruthful, may I ask which statement of his evidence is deemed untruthful? What is the proof? Without any evidence substantiating perjury or perversion of the course of justice on the part of the witness, is it somewhat hegemonic to bring the witness to a public trial and lay him off?

Thirdly, there are numerous stories in history about attempts to "remove evil ministers at the side of the emperor". These attempts were made by rebels who actually wanted to overthrow the leader and stir up troubles. They, therefore, staged a political farce or even a rebellion on the pretext of removing the evil elements at the side of the leader. In Hong Kong, those who claimed to be members of the opposition camp did not dare to "break wind even once" when facing colonialists sent by London and people at their side during the rule of the Hong Kong British administration. But three years after the reunification, they are making every effort, both inside and outside this Chamber, to attack the Chief Executive, who was returned by election under the Basic Law, and even the Chief Executive's assistant. After their unsuccessful call for launching another round of investigation into the opinion poll incident in this Council, they have now proposed this motion to give somebody the sack, making the utmost effort to concoct crimes for the victim in a most unscrupulous and sarcastic manner and by sheer humiliation and vilification. What is their ulterior motive? We all know it too well. Unfortunately, although they are approaching like menacing torrents and have acted brazenly, they will not be able to accomplish anything and their plot is destined to be a fiasco. In the long term, all these shows are only as transient as a fleeting cloud.

I so submit.

MR FRED LI (in Cantonese): Madam President, in fact, I seldom claim the floor in this sort of motion debate for I am mainly responsible for issues relating to people's livelihood in the Democratic Party. But recently, I have read some newspaper reports about how some Honourable colleagues would vote on today's motion as well as their remarks in this connection, and I feel that I must get it off my chest.

On 4 November, the *Ming Pao Daily News* interviewed Miss CHAN Yuen-han on how she would vote on this motion. Miss CHAN said that everything had been in chaos during the election and her Party did not discuss anything about Mr Andrew LO, so the view she expressed on that occasion was her personal opinion. That occasion refers to an election forum. During the interview, she said that she had not made up her mind yet but if necessary, she would apply for not voting along the party line. I have strong feelings about this because both Miss CHAN Yuen-han and I contested in the Kowloon East constituency in the geographical constituency election of the Legislative Council. I seldom raise questions on this kind of issue, but in the House Committee meeting last Friday when the question of substandard piling works at public housing estates was discussed, the Democratic Alliance for Betterment of Hong Kong (DAB) opposed the setting up of a select committee immediately. In response to repeated questions from Mr Andrew CHENG, Miss CHAN Yuen-han argued that the dilemma was a sequel to election and urged Members not to endlessly entangle with it. Madam President, Honourable Members, I must say that if someone made a promise before the election but failed to honour it after the election, and if someone else brought this to light, that is not a sequel to election and I think the issue should be brought up for serious discussion. This is not hostility or whatever because one must keep his promise. Otherwise, should someone else bring this up, there is nothing to do with hostility, sequel, or "smearing" one's reputation, as she put it; and we are only reflecting the facts and arguing with reasons.

The question of whether Mr Andrew LO should be dismissed had been a central topic of discussion during the election. This was also the case in the Kowloon East constituency. I have listened again to the recording of a radio programme on 5 September, shortly before the election day. I heard clearly that the comperes, Mr LEUNG Ka-wing and Mr NG Chi-sum, of Radio 1 of the Radio Hong Kong asked Miss CHAN Yuen-han how the Andrew LO incident should be handled. Mr CHAN Kam-lam was present at the time too. I recounted this matter for I hope that political parties will not waver in their

position insofar as this issue is concerned. Before the election, they dared to make vows for anything in a bid to canvass votes from voters, but they have gone back on their promises after the election. I hope they can stand up and tell the people that this is the way they are, and if voters still throw weight behind them, I would have nothing to say.

In the recording, I can clearly hear that Mr NG Chi-sum asked Miss CHAN Yuen-han if she considered it necessary for the Chief Executive to dismiss Mr Andrew LO. Miss CHAN Yuen-han replied in the affirmative. Then, Mr LEUNG Ka-wing went further to ask if that was her personal position or the position of the entire list or the DAB. Miss CHAN Yuen-han replied that it was the view held by herself and her colleagues. I heard her reply very clearly and she said that this was her view and that of her colleagues. If I got it wrong by even one word, she can sue me for defamation. But this is what I got from listening to the cassette tape word by word. Although I was standing by her side at the time, I still fear that I might have heard it wrong. At that time, I very much admired her for she had the courage to make that remark. But what happened after the election? Having heard the arguments of Mr IP Kwok-him, I cannot but ask what political party is the DAB? Members of the DAB, and even members of its Central Standing Committee, openly made that remark before the election but have taken no action to honour their promise. Could it be that their "ironclad votes" are really as impregnable as iron? It really beats me, and I have nothing to say. It was clearly reported in a certain newspaper on 6 September that Miss CHAN Yuen-han had openly urged for the resignation of Mr Andrew LO. If that was not the case, she can sue that newspaper for defamation. Since they have always criticized us by citing reports in newspaper, let me do the same to them this time.

So, how are we going to vote today? Disregarding whether we agree with Miss Margaret NG's arguments, the fact remains that the Independent Investigation Panel of the University of Hong Kong (HKU) published its report on 5 September. We cannot say that we can change our position and vote against the motion today on the ground that we have not yet read the report or that the report is not accepted by the Council of the HKU. The facts of the incident were revealed two months ago, and nothing has happened in the interim. So, why is there a change of mind? If there were voters who decided to vote for the DAB after hearing that remark of Miss CHAN Yuen-han at the time, how can they justify this change in their position to these voters?

It is not important as to whether or not the DAB will respond to my speech. I just want to express my view. Those who contested in the election must be answerable to their consciences. They must not let their voters down and they must honour their words. If they can do it, they should go and do it; if they cannot do it, they should not have made promises wantonly in the first place.

We fully support Miss Margaret NG's motion because the report of the Independent Investigation Panel of the HKU has made everything very clearly, and I will not repeat them here. I believe that the three members of the Panel had carried out their work independently, without showing bias towards any person. On those days when the hearings were held and broadcast, I watched on television part of the evidence given by Mr Andrew LO. The impression that I got was the same as the conclusion drawn by the Panel. That is, I felt that he was beating about the bush and was telling lies. Therefore, we support the motion of Miss Margaret NG.

MR AMBROSE LAU (in Cantonese): Madam President, the motion calls for the Chief Executive to terminate the appointment of Mr Andrew LO because Mr LO has completely lost public credibility through the evidence he gave before the Independent Investigation Panel and the manner in which he gave the evidence. The motion does not say that Mr LO has made any mistake that has led to a loss of public credibility in him. Nor is there any mention whatsoever of his interfering with academic freedom, breaching the code of discipline of public officers, giving false evidence or perverting the course of justice, and so on. Why does the motion not state what has Mr LO done wrong? The reason is simple, even the Panel has not been able to prove that Mr LO has done anything wrong. Despite there is no mentioning of any mistake made by Mr LO, it is said that he has completely lost public credibility and that he should be fired. I believe any person who is rational and impartial would not agree to this.

The report of the Panel states that Mr LO is a poor and untruthful witness, but we must note the following points: The Panel is not a judicial organ, and it has no powers to make a ruling on the personal integrity of any person (including Mr LO). The Panel makes such a criticism of Mr LO, but it has failed to offer any evidence in support of such a conclusion. The reason is simple. In the public inquiry which spanned two weeks, no one pointed out that it was Mr LO who had called for a stop of the polls and interfered with academic freedom, nor was there any evidence showing that he had done so. On the other hand, Dr

Robert CHUNG even said that no one had ever asked him to stop the polls. According to the report, although the Panel thinks that the remarks made by Mr LO and Vice-Chancellor Prof CHENG were not entirely truthful, that does not suffice to conclude that they have done anything improper. That is to say, although the Panel makes a criticism of Mr LO, there is no accusation that Mr LO has done anything wrong. In such circumstances, how can we use some totally unreasonable excuse to engage in some debate in the Legislative Council which resembles a public trial on Mr LO's personal integrity, or making some reckless criticism or even smearing? That is a very unfair thing to do and it is a breach of the principle of justice. It is because no matter in the meetings of the Panel or in the debate today, Mr LO is not given a chance to defend against criticisms of his personal integrity. Honourable colleagues of this Council, especially those from the legal profession, should appreciate the importance of the principle of natural justice. One of the most important aspects of the principle of natural justice is to give the accused a chance of reasonable defence, but Mr LO simply does not have such a chance today. If Mr LO has made any mistake, he should be disciplined according to the Public Service (Disciplinary) Regulation, and he should be penalized if he is found to have violated the Regulation. We should not seek to use a debate in this Council to replace a fair and just disciplinary system for civil servants.

I do not want to see the debate today develop into a dispute on propping up Mr LO or ousting him. I know that Honourable Members are all ardent supporters of academic freedom, but we should bear in mind that ours is a pluralistic society and everyone has his role to play in it. The University of Hong Kong upholds academic freedom as prescribed in the Lima Declaration and if they think that academic freedom has been interfered with, then the staff will certainly raise objections and there is no need for this Council to tell them what they should do. The University has not accepted the report by the Panel and they will not change their mind because of the debate in this Council or any pressure that has been exerted on them.

The executive authorities should be responsible for enforcing the regulations on the discipline of public officers. There is no need for us to do it on their behalf, and they do not depend on us to take any disciplinary action against civil servants. Very often, many public officers will give evidence in Courts and that especially applies to police officers, and their evidence is frequently not admitted by the Courts. Would this mean that the credibility of these public officers is totally lost and they should be dismissed?

Article 73(6) of the Basic Law confers power on this Council "to debate any issue concerning public interests". The scope of this provision is very wide and it highlights the trust and respect of the people for this Council so we must be very prudent in our exercise of this power to prevent any abuse of it due to our being over-enthusiastic in handling certain issues.

If this motion is passed today, that the appointment of an officer should be terminated because he has completely lost public credibility through the evidence he gave before the Panel and the manner in which he gave it, then it will certainly erode public confidence and make all public officials feel insecure. If officials feel so insecure, how can we expect them to do their job well and to live a prosperous life with the people? If we want to terminate the appointment of any official, the motion must specify what mistakes the official has made and we should never be ambiguous in our accusations. For if not, then we are letting down the people who have placed such an important task on us and we will make them lose their confidence in us.

With these remarks, I oppose the motion.

MR BERNARD CHAN: Madam President, I am a firm supporter of our Government. I believe that it does a generally good job in the face of a wide range of challenges. However, it is a young government. It has mishandled some issues during the past three years. And the Robert CHUNG affair is a case in point.

Personally, I do not believe for one minute that the Chief Executive ever had any intention of indirectly (let alone directly) interfering in the work of Dr Robert CHUNG at the University of Hong Kong.

However, some sections of the community believe otherwise. And, in their eyes, the Government has lost some of its former integrity. At the same time, there have been serious accusations along similar lines in the international media. This issue has, therefore, also damaged Hong Kong's reputation overseas.

Had the Administration handled this affair in a more sensitive way, this would not have happened.

I do not think that it will make any difference whether or not this motion passes this evening. The important thing is that the Administration learns from this experience.

Let us hope that all officials learn the importance of making clear statements at all times. And let us hope that if misunderstandings do arise, they are handled directly and openly, not reluctantly and defensively. That way, we can avoid similar mistakes in future, and the harm they could do to the reputation of the Government and of Hong Kong as a whole.

Thank you.

PROF NG CHING-FAI (in Cantonese): Madam President, behind Miss Margaret NG's motion today, there lies a saga entitled "The Opinion Polls Affair of the University of Hong Kong", which started in July this year.

I have been following this saga closely, because it took place in one of our universities. However, out of my respect and sympathy for a sister university, I have actually remained silent for quite a long time. Not too long ago, I attended a seminar on academic freedom and in this seminar, many academics who had so far said nothing on this finally broke their silence. It was not until then that I started to say a bit more about this affair. At this seminar, a professor from The Chinese University of Hong Kong described this affair as a tragedy. In response, I said that to me, this was even a melodrama. I added that the staging of such a melodrama in the highest hall of academic pursuit was indeed outrageous, and it had done severe damage to a university in Hong Kong with a history of more than a hundred years. So, in that sense, I said, the affair was a bit of a tragedy. The several professors from the University of Hong Kong (HKU) who were present at the seminar shared my view. And, I must say that I had made all these remarks with a heavy heart.

To quote a professor from the HKU, it actually started as a very low-level, minor incident, but then, because the person involved simply did not bother to inform his immediate supervisor before subscribing an article to the press, the incident stirred up a whole series of press conferences, thus making it a socially divisive and politicized affair from the very start. Perhaps because it was the summer break, the Council of the University of Hong Kong (University Council) did not convene any emergency meeting to discuss how best to handle the incident properly. And, the University Council's appointment of a three-member Independent Investigation Panel (Panel) which comprised no academic and administrative staff representatives is also rare in the history of universities all over the world. Surprisingly, however, while the Panel followed court-like rules of procedure, it also allowed the live coverage of the hearings by the mass media. In this way, the internal investigation of an academic institution was exposed to the entire public like the goldfish in a glass bowl, making it a talking point and a subject of gossips in the community; on the one hand, there were numerous editorials and commentaries on it every day, and on the other, people were shouting "Down with the Vice-Chancellor". Can we imagine the psychological pressure on the Vice-Chancellor and professors who had to give evidence under such an atmosphere in society? Besides, who can guarantee that the three members of the Panel could remain indifferent to public opinions throughout? After 17 days of commotion, the report was finally released, but it contained only views and opinions instead of any specific recommendations. Moreover, though the Panel claimed that it would adopt the same stringent onus of proof in criminal cases, many of its conclusions fell short of this standard. Many colleagues have already discussed this point.

Madam President, as a member of the academic circle, it is therefore my vocation to uphold academic freedom. However, let me first discuss what is meant by academic freedom and why there must be this kind of freedom.

We must have academic freedom, not so much because we need to accord any privileges to university professors and lecturers, but because this freedom is closely related to the interests of society as a whole.

History tells us that the course of creating human knowledge is marked by the emergence of new theories and new viewpoints challenging established ones. We must allow the interaction of divergent viewpoints. Very often, a correct viewpoint can only be established after many interactions involving many people. Therefore, we must safeguard the freedom of university education workers to

choose their own subjects of research, and to release and disseminate their research findings (except, of course, research topics that are against the ethics upheld by the whole community).

In fact, interference with academic freedom may not necessarily always come from universities themselves. In the Dark Ages, or the Medieval Ages, Copernicus advanced the theory that it was the Earth which revolved around the Sun, and he was burnt to death for violating the doctrines of the Roman Catholic Church. This is a typical example, a major example, of academic persecution. Lysenko, a former Soviet Union biologist very much trusted by Joseph STALIN, argued that the study of genetics was idealist in nature and should be banned; as a result, the Soviet Union lagged far behind the West in terms of microbiology, genetic engineering, and so on. Academic freedom in the modern-day society is build upon the academic autonomy of universities. In the United States, the principle of academic autonomy was given judicial credence by Felix FRANKFURTER, a Harvard Law Professor and a Supreme Court Judge, under the support of President Roosevelt: "Political power must abstain from intrusion into this activity of freedom, pursued in the interest of wise government and people's well-being, except for reasons that are exigent and obviously compelling (A university must have the right) to determine for itself on academic grounds who may teach, what may be taught, how it shall be taught, and who may be admitted to study."

I must of course add the intricate relationship between modern-day universities and society; since universities are meant to serve society, people from different sectors can naturally offer opinions about their various aspects of work. In that sense, universities should not be regarded as a fierce tiger whose tail must not be pulled. And, to be honest, I must say that many people, including Honourable Members of the Legislative Council, have in fact been lashing out at local universities, criticizing them for low academic standards but high salaries and expenses. We do not regard such criticisms as a form of pressure, but we do wish to clarify through various channels that these comments are biased.

University teachers and scholars need not have any fear of the rich and powerful. In September 1980, which marked the 350th anniversary of the Harvard University, President Ronald REAGAN hinted his wish to be offered an honorary degree by the University. We do not know whether President Derek BOK of Harvard felt any pressure at that time, but we do know that he simply

refused to comply, to be servile at all, saying point-blank that he did not wish to see the satisfaction of "another President's vainglory" to cause "a battle between two Presidents". In the end, it was President BOK who won. This was no melodrama, but instead a fine example of academic autonomy. President BOK has made enormous achievements and contribution in respect of academic autonomy, academic freedom and the application of academic neutrality as a public relations principle in modern-day universities. Honourable Members who are really interested in academic freedom may read his works.

Madam President, Mr Andrew LO is the Senior Special Assistant to Mr TUNG Chee-hwa, and his duty is to approach different people to find out how they think about the policies of the Government and Mr TUNG. As pointed out by some Honourable Members a moment ago, if Mr LO has made any mistakes in his work, he should be handled by the Government in accordance with its normal procedures. It will be very unfair to him for us in the Legislative Council to try to determine his fate. Even if we disregard this point, we will still notice that it is not justified for Miss Margaret NG to say in her motion that Mr LO had "completely lost his credibility".

Madam President, even if we are to disregard this point again, that is, if Mr LO has indeed completely lost his credibility, then he should by now be rendered completely unable to doing anything. The one who should be most concerned should in fact be Mr TUNG himself. So, why are some colleagues so concerned, like a eunuch who is anxious at the Emperor's business? Is it possible that these Honourable Members are actually promoting a sort of "eunuch culture" without themselves being aware of what they are doing?

Madam President, I should be more serious in my words. I hope that the opinion polls affair of the HKU can be left to the scholars and professors of the University, so that they can draw lessons from it and turn this unfortunate incident into a godsend. It is really high time that we drew down the curtain for such a tragedy, such a melodrama, which has brought so much harm to the progress and reputation of the University.

I so submit.

MR HUI CHEUNG-CHING (in Cantonese): Madam President, with respect to the opinion polls affair, the Hong Kong Progressive Alliance (HKPA) is of the view that Mr Andrew LO was simply trying to find out what people thought about the policies of the Government by exercising the autonomy prescribed by his duties. He was not at all interfering with academic freedom. Nor could he do so. It is not advisable for the Legislative Council to make any hasty conclusions and urge the Chief Executive to terminate Mr LO's employment as his Senior Special Assistant.

As a matter of fact, the report of the Independent Investigation Panel (the Panel) appointed by the Council of the University of Hong Kong (University Council), whether in whole or in part (including the references to Mr LO as a "poor" and "untruthful" witness), has so far failed to get neither the endorsement nor the rejection of the University Council. This shows that the report is marked by many doubts, and that the University has not reached — or even thinks that it is difficult to reach — any consensus on the premises, inferences and conclusions contained in the report. That being the case, is it a bit hasty and irresponsible of the Legislative Council to urge the Chief Executive to terminate the employment of Mr LO?

Besides, although Mr LO is employed by the Office of the Chief Executive under a private agreement, he is also bound by the Civil Service Regulations and other relevant codes. In this connection, it should be noted that the performance appraisals of individual civil servants and their suitability for further employment are in fact matters that should be handled by the relevant appraisal mechanisms within the Civil Service itself. Therefore, there is actually no need for the Legislative Council to move any motion on the retention or dismissal of any individual government officials, including Mr LO — though he is an officer of the directorate grade.

A more significant problem is that though the Panel claimed that it would apply very stringent standards in making its judgement, and that it would draw conclusions only when there is proof beyond reasonable doubt, many of the inferences in its report are marked by obvious doubts. For example, in his *South China Morning Post* article that stirred up this opinion polls affair, Dr CHUNG writes, "Last year, more than once, I was given a clear message from Mr TUNG via a special channel that my polling activities were not welcomed." Dr CHUNG also says in this article that he was told that Mr TUNG wanted him to stop his polls. However, the report of the Panel published after its

investigation does not contain any finding that can establish the truth of the claim that the Chief Executive has tried to interfere with or stop the polls. This is actually a refutation of Dr CHUNG's allegation against the Chief Executive. Then, why does the report still describe Dr CHUNG as a "reliable and honest" witness? The report of the Panel fails to take account of the many doubts in Dr CHUNG's allegations, nor does it give the benefit of doubt to Mr LO. Will it be fair to Mr LO if the Legislative Council really urges the Chief Executive to terminate his employment.

Another major deficiency of the Panel report is that it fails to give thorough consideration to a number of fundamental concepts underlying the whole opinion polls affair, such as the definitions of "interference" and "pressure". The definitions of concepts like "interference" and "pressure" are often highly contentious, as they are related to many branches of studies like political psychology, cultural anthropology, sociology, hermeneutics, and so on. Mr LO actually met with many pollsters of the academic circle over the same period of time in question, and presumably, the contents of the discussions should be roughly the same. Then, why did someone regard these discussions as a kind of political interference, while the rest thought that they were just normal exchanges of opinions between the Government and academics? The report simply fails to offer any reasonable explanation on the reasons why the people involved would have such different feelings and treatment of "interference" and "pressure".

Besides, the definition of "academic freedom" is still a major topic of contention. However, the Panel has simply quoted one single definition from one single article written by one single author. Why does the Panel quote the definition given by this particular author? What are the strengths and weaknesses of this definition? Is this definition authoritative enough? The report of the Panel simply fails to deal formally with all these questions.

Even if we accept the definition of "academic freedom" contained in the report and apply it to this opinion polls affair, we will still see that DR CHUNG was actually able to enjoy academic freedom throughout: he was free to determine his subjects, choose his respondents, determine his polling methods and deploy the resources within his authority. And, he was even free to ignore and reject the advice and criticism of Mr LO, his mentor and the highest University authorities. Dr CHUNG might have encountered some administrative and personnel hindrances in his exercise of academic freedom, but

this is bound to occur to anyone working in society. As long as his academic research was not restricted in anyway by any unreasonable or outside hindrances, it can already be said that he did enjoy academic freedom. Has it even occurred to Dr CHUNG that he may well be suppressing others' freedom to offer well-intentioned advice if, whenever he disapproves of someone's opinions, he immediately hastens to make serious allegations in the media even before seeking clarification from the person concerned? With these remarks, Madam President, I oppose the motion.

MR NG LEUNG-SING (in Cantonese): Madam President, in the past, this Council already had some experience of debating a number of highly contentious motions on votes of no confidence in government officials. These motions revolved around discussions on policy issues affecting public interest, and in the course of discussions, Members of the Legislative Council commented on the performance of the relevant government officials. However, the motion before us now is different in nature, for it goes so far as to demand the head of the executive authorities to dismiss his assistant. It is small wonder that the Legislative Council is being suspected of failing to "attend to its proper business".

Normally, the Legislative Council may, by way of proceedings at its Establishment Subcommittee and Finance Committee, scrutinize proposals from the Administration relating to the creation, deployment and deletion of permanent and supernumerary directorate posts and the restructuring of civil service grades and ranks. Therefore, in terms of procedure, we may discuss the need or otherwise for a particular post, but we should focus on the creation or deletion of the post itself only, not on any individual post-holder. With respect to the internal staff appraisals of the Government and also its actions on staff dismissal, employment and deployment, it is not a Council practice to intervene. It should in fact continue to refrain from doing so in the future, for these matters should be the responsibilities of the executive authorities. And, if the Legislative Council is allowed to expand its scope of supervision continuously, who in turn is going to make sure that it can live up to satisfactory standards and achieve effective performance?

Under the principle of separation of powers, we as Legislative Council Members must take extra care to stick to our own scope of responsibilities and refrain from exerting any undue pressure and influence on any specific dismissal,

appointment and deployment decisions made within the executive and judicial systems. Even if we are given a specific power, we must still try to exercise it very cautiously. One example is the power of the Legislative Council under the Basic Law to endorse the appointment and removal of the Judges of the Court of Final Appeal and the Chief Judge of the High Court. I mean, if we ever think that we can supersede the executive authorities and influence their decisions on personnel appointment and removal whenever we want to, then, is it correct to say that we have even stronger reasons to influence the appointment of the Judges of the Court of Final Appeal and the Chief Judge of the High Court? Well, if we really think that way, I am sure that we will only deal a severe blow to the principle of separation of powers.

The question of principle aside, I must still say that even the evidence given in the hearings of the Independent Investigation Panel (the Panel) appointed by the University of Hong Kong (HKU) do not actually indicate any improper acts on the part of Mr Andrew LO in the whole affair. As the Senior Special Assistant to the Chief Executive, he is basically responsible, among other things, for liaising with community figures to foster communication and keep tab on the social pulse. He was simply discharging his duties when he met with the Vice-Chancellor of the HKU, and we must note that when the Finance Committee endorsed the creation of this post, it also endorsed the associated duties. So, we should question him only when he fails to discharge his duties. As for the contents of his discussions with the Vice-Chancellor of the HKU, he was basically trying to gain an understanding of the polling work conducted by the University. And, in the course of these discussions, he only expressed one personal worry that the dual role as a pollster and a political commentator might lead to conflicts. This personal opinion was offered in a very objective manner, and the person concerned could actually respond to it by saying to himself, "Make corrections if it is right; if not, just take it as an encouragement."

Madam President, the conclusions of the Panel, the series of events it discussed and even the evidence given at different stages of the hearings can neither prove any specific attempt by Mr Andrew LO to interfere with the academic freedom of any particular individual nor indicate any intent of his during the meeting to cause anyone to interfere with the academic freedom of any particular person. Quite the contrary, the report gives people the impression that Mr LO should be regarded as a dedicated, model public officer, for it can be seen that he has been working hard to liaise with the community, to visit the HKU and to communicate with The Chinese University of Hong Kong.

As for some Members' request that the Chief Executive should terminate the employment of Mr Andrew LO because of the Panel's criticisms about his attitude when giving evidence, I can only say, "Give a dog a bad name and hang it." The incident took place over a year before the hearings, and one thus had to give evidence completely from memory. I am sure that inaccuracies in one way or another would only be natural under normal circumstances. Had he been able to recall everything clearly and in great detail, people would instead suspect that the whole thing was "premeditated and planned". The Panel can of course decide on its own whose evidence is truthful and whose is not. However, if we ever think that a person whose evidence given in a certain hearing has been deemed untruthful should no longer be considered suitable for holding a public office, it is certainly not convincing at all. I think that it is far too arbitrary and even improper to quote an investigation panel's comments on the attitude of a witness and then turn it into a factor determining whether that witness is suitable for public office.

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

MR ABRAHAM SHEK: Madam President, it is not appropriate for this Council to pass the motion concerning the termination of the appointment of the Senior Special Assistant to the Chief Executive for the following reasons.

Firstly, let us look at the findings of the Independent Investigation Panel (the Panel) appointed by the University of Hong Kong. The Panel appointed by the University of Hong Kong has carried out a thorough investigation regarding Dr CHUNG's allegation and did not find any interference by the Government. The Chief Executive might not have come here to talk in front of 60 Legislative Members, but he has spoken on many occasions to the wider public, 6 million people in Hong Kong, in front of cameras and in front of foreign press that he did not ask, nor had he ever asked, any one to put any pressure on Dr CHUNG to stop him from conducting his opinion polls. What more can we ask of our Chief Executive? We should, therefore, leave this matter behind us. Otherwise, this may give the impression that this Council does not trust the work of the Panel. Furthermore, to respect the autonomy of the University, this Council should leave this matter in the hands of its governing body, that is, the University Council which, even at this stage, has not accepted the findings of the Panel.

It is also important to note that the Panel did not make any findings of wrongdoing by Mr LO. Neither his visit to the Vice-Chancellor nor the matters discussed during that meeting was found to be improper.

The only relevant finding the Panel made regarding Mr LO was that he voiced concerns about the polling work of Dr CHUNG. He also has his freedom of speech. There was no finding that Mr LO had given any instructions or put any political pressure on the Vice-Chancellor regarding Dr CHUNG's work. There was no evidence whatsoever of such kind. But expressing concern is perfectly legitimate, and should not be equated with interference.

On the subject of academic freedom, in the past, the present and I am sure that in the future, our universities are free to determine their own study programmes and goals, as well as the means to fulfil them. They also have the right to determine their own organization, including management and staff. The University of Hong Kong has not complained that its academic freedom has been interfered with by the Government.

Now let us take a look at the duties of Mr LO. Has he failed in his duties or, contrarily, has he discharged his duties fully?

Mr LO, as the Senior Special Assistant to the Chief Executive, has a duty to maintain a network with people from different sectors of the community. His meeting with the ex-Vice-Chancellor of the University of Hong Kong was perfectly proper. It was prompted by a desire to touch base with one of the leaders from the academic circle. The questions raised by Mr LO about the polling work of Dr CHUNG were in no way an interference with academic freedom.

The question whether there was any possibility of a conflict between the roles of a pollster and a political commentator was a perfectly fair question for anyone to ask.

The voicing of concerns by Mr LO without any instructions or request to take any step to stop the polling work cannot amount to any interference, let alone intervention in academic freedom.

Academic freedom has not been challenged or compromised, and we are here to protect that. Mr TUNG has publicly informed that he has not advised anybody of such interference. Mr TUNG has committed that he fully supports academic freedom.

I think it is very important that we should take a positive view on the whole Robert CHUNG case. This can prove to the world that we still have freedom of speech, freedom to ask our officials to be terminated, freedom to criticize and that Hong Kong has all kinds of freedom guaranteed under the Basic Law.

With these remarks, Madam President, I stand against the motion.

MISS CYD HO (in Cantonese): Madam President, the report of the Independent Investigation Panel of the University of Hong Kong (HKU) describes Mr Andrew LO as a "poor and untruthful" witness. The remark is made after 11 days of protracted hearing. It is a general conclusion reached after numerous questions and clarifications by the lawyers representing the witnesses and the legal advisers of the Panel and after the credibility and consistency the evidence given by the witnesses have been compared and assessed. The entire hearing is highly transparent, which is televised and conducted under public surveillance, hence imbuing a high degree of public credibility to the conclusions made by the Panel. During the entire hearing process, all the parties concerned were given ample opportunities of defence. All arguments were given sufficient time of representation. The hearing was really conducted in a just and public manner. In the face of such frank conclusions, the Chief Executive should accept the views of the Panel and the surveillance of the public and terminate the appointment of Mr Andrew LO. But Mr TUNG has not done so. There are views that since Mr LO is a Senior Special Assistant to Mr TUNG, everything is fine as long as Mr TUNG is satisfied with Mr LO's performance. Some people even say that the incident of Mr LO is only a family affair and it is not appropriate for the Legislative Council to intervene. This kind of making public affairs private is definitely harmful to Hong Kong.

Madam President, there are indeed some justification for the existence of a special aide. He is independent of the other government officials who are politically neutral. He is the tentacles of the Chief Executive and with his political acumen, he should be able to offer advice to the Chief Executive. But this kind of loyalty should not be taken to mean that the Chief Executive and his

special aide can be excluded from public surveillance and need not be accountable to the public at all. Some Honourable Members have earlier mentioned the personal assistants of the last governor of Hong Kong. Then let us look at the British experience. Britain has a sample contract for special consultants and article 14 of the contract stipulates that apart from the terms on political neutrality imposed on other civil servants which are not applicable to the special consultants, these special consultants must comply with civil service regulations, including provisions on integrity and honesty. Any violations of these provisions will entail disciplinary actions commensurate with the severity of the violations. In an attempt to enhance the accountability of the special assistants, there is a code of practice in Britain on the appointment procedures of these special consultants. On the item of integrity, the code sets out that the department concerned must ensure that the appointee is a person of integrity and that the person should agree with the principles and values of public officer and maintain the confidence of the public in the department. To date, Mr LO does not satisfy such requirements. If the Chief Executive comes to the defence of Mr LO while failing to offer objective counter-arguments, he too is unable to meet such a set of appointment standards. In the end, the low popularity ratings of the Chief Executive will drop even further.

Madam President, some Honourable Members have earlier criticized the Independent Investigation Panel of the HKU for being inadequate in many respects. The Panel is certainly handicapped by its insufficient powers. It cannot summon witnesses. Mr LO only appeared in the hearings of the Panel after much delay. The Panel was unable to summon the Chief Executive and to ask him to explain the working relationship between Mr LO and himself openly. Is the Chief Executive aware of the work of Mr LO or is he in the dark? As the only direct supervisor of Mr LO, has the Chief Executive been monitoring the work of Mr LO in a truthful and honest manner to see how Mr LO discharges his duties? All these are issues of great concern to the public. Unfortunately, the Panel does not have enough power to find out the answers. The Legislative Council, on the other hand, does have the statutory powers. We can form a select committee and to find out the truth for the public and to give each and every party involved a fair chance to explain his case. However, it is strange that those Honourable Members who feel the conclusions drawn in the report of the Panel lack public credibility are the same people who oppose the Legislative Council exercising its powers to discharge its duties. During the election period at around July and August, the candidates from the Democratic Alliance for Betterment of Hong Kong said that the question of whether the new Legislative

Council should set up a select committee to conduct investigations would have to depend on the quality of the report to be produced by the Independent Investigation Panel of the HKU and public acceptance for it. Now that the report has been published, but some Honourable Members still do not want to take any follow-up action on the views advanced in the report. These Members do not care at all if somebody who has been described as poor and untruthful is still holding a public office of such importance. These Members also oppose any further investigations to fill out the blanks of the work of the Panel. I think I am not the only one who ask the following question, but the public would like to ask it as well: Has the Legislative Council closed its eyes?

Madam President, it is already tragic that the Basic Law has imposed restrictions on the Legislative Council and representatives of public opinion. And sometimes the situation is even worse, for not only do some of the Members give up their rights, but they will also put up obstacles to other Members aspiring to discharge their duties and to find out the truth. No wonder the public is disappointed with the Legislative Council.

Madam President, I support the motion moved by Miss Margaret NG.

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

MR ANDREW WONG (in Cantonese): With your indulgence, Madam President, I should like to make a brief response to an issue first. Many Honourable Members have said that they do not support the idea of setting up a select committee. However, during the discussion they said that Mr LO and the Chief Executive did not have a chance of defence. In my opinion, these views are self-contradictory; for if we all agree, then there is no need to introduce this motion, we need only debate whether or not a select committee should be set up to investigate into the matter.

The investigation conducted by the Independent Investigation Panel of the HKU is only confined to the affairs of the University and the Panel must rely on the evidence of Mr LO to determine what happened between Mr LO and the Vice-Chancellor of the University. But that has not been properly accounted for and so what had happened between Mr LO, Mr TUNG and the Vice-Chancellor could not be established. However, in the course of taking evidence,

the Panel was given an impression that the evidence given by Mr LO was incomplete and not truthful (I would not say that it is dishonest), and so he is regarded as unreliable. As the public has witnessed the entire hearing, confidence in Mr LO has lost.

The crux of the matter is that we are not trying to prove whether or not Mr LO is honest or has any integrity. Not at all. Mr LO is holding a public office. Has his reputation reached such a degree that the public and Members can no longer put their trust in him? If we think that he can still be trusted, then there is no problem. That is precisely what we need to explain to the voters and it is also the premise of my speech.

If we think that Mr LO can no longer be trusted, that we should vote in favour of the motion. For though the wording of the motion does not specify it expressly, it is in nature similar to a motion of no confidence. The meaning is the same. What we are trying to say is that we are not forcing Mr TUNG to do anything, though there may be an impression that we are forcing him. On my part, I am just persuading Mr TUNG and trying to make him understand that if he keeps someone like this, it may do him more harm than good. Therefore, it will be a better way out to dismiss Mr LO. Or it will be better if Mr LO would resign of his own accord. Then the entire incident will be solved.

I say this because I think this is the core matter that the motion should be dealing with. As for other arguments put forward in the debate along the same line, I do not want to spend too much time to refute them. I just want to make one point which is related to Miss Cyd HO's argument, that is, the two Senior Special Assistants in the Chief Executive's Office are similar to the special consultants in the British Government. However, there have never been such posts in the Civil Service in Hong Kong before, and they are outside the civil service establishment. Holders of these offices are not employed on civil service terms, though they are still subject to the civil service code of conduct. Of course, under the existing practice, if Mr LO is employed on contract terms, his term of appointment is specified in the employment agreement. If he does not resign of his own accord but is dismissed instead, the Government may have to make compensations. I think that is still worthwhile under the present circumstances. I am grateful to Mr IP Kowk-him who raised the point of "nature" just now. That is a point which I also asked at the time of the Provisional Legislative Council. Many of the Honourable Members sitting here were not in the Provisional Legislative Council at that time, but I was there. At

that time, I asked why these two non-civil service posts had to be created. I understand that Mr TUNG Chee-hwa can choose some people to be his aides and I can accept that. It is because Mr Chris PATTEN has also employed two persons nicknamed "big and small tortoises" to be his aides. With the gradual development of the political system, these two persons may well become the special personal assistants of the Chief Executive. The ministers who in future may be appointed on political appointment may also have their own special personal assistants. These are gradual developments towards the British system. However, this was not the situation at that time. Two posts were created in the permanent establishment and after the two officers left, the Government again made such an arrangement. At that time, I questioned whether it was a proper arrangement to make. But since the Government insisted that such an arrangement should be made, I could not help but regard these two posts as political appointments. If these two posts are political appointments, and if once the office-bearers fail to get the support of the public, then they should be told to go when they have lost public confidence. That does not matter if the Government has made the mistake of employing them on contract terms for two or three years, or if their term of employment would fall in line with the term of office of Mr TUNG. I would rather make compensations. I hope Mr IP Kwok-him would remember that I was the one who asked most of the questions on this. That is not an attempt to interfere with or coerce the Chief Executive or tamper with the disciplinary system of the Civil Service. However, if we think that Mr LO is a civil servant, we can regard this motion as an expression of no confidence in him and so the Government should initiate disciplinary proceedings with a view to serving punishment on him.

Even at this point, I do not think we can arrive at any conclusive findings because a select committee is unlikely to be set up. However, I still want to say what I think. My conclusion is: while an investigation is not going to be conducted by this Council, the best way out is to let Mr TUNG decide whether to ask Mr LO to resign on his own accord or if he does not want to do so, make some compensations and direct that he should resign. Thank you, Madam President.

MR CHAN KAM-LAM (in Cantonese): Madam President, someone says that Dr Robert CHUNG deliberately triggered off the polling incident before the Legislative Council elections because he wanted to undermine the prestige of Mr TUNG and influence the voters' choice. This I am not convinced. But the

Democratic Party now is using the same incident of Dr Robert CHUNG to hit out at their opponents, especially the Democratic Alliance for Betterment of Hong Kong (DAB), and that is a fact. Mr Martin LEE is enraged at the defeat of the Democratic Party by the DAB in the elections in the Kowloon East constituency and he thinks that he can attack the DAB by resorting to the argument that "electing the DAB is tantamount to electing Andrew LO". That is all but too simple and naive.

Madam President, the debate we have now is nothing but making a judgement on the basis of the comments made in the report on Mr Andrew LO, in that he has completely lost public credibility and therefore the Chief Executive should cease employing him.

The debate today can be called a debate to put it nicely, but actually, it is a submission made without a trial, it is an unprecedented trial and judgement which is unlawful and conducted in the name of the Legislative Council in its Chamber. All the Members who rose to speak in support of the motion, no matter how righteously they looked and how movingly they might have spoken, would simply fail to cover up this inexplicable feeling of hatred they harbour for Mr Andrew LO.

This debate is unfair, unjust and unrighteous. Those who should be sanctioned are the sly politicians who oppose everything China is doing, everything the SAR Government is doing, and everything that Mr TUNG is doing. They make use of their professional status to build up a deceptive credibility and employ their skills in sophistry to wilfully distort the truth, cause confusion and sow the seeds of dissension. Before the reunification, these people clamoured for opposition against the "communists" and the reunification itself. They besmeared the reunification as a plunge into darkness, dictatorship and despair. After the reunification, they are still trying to make use of all opportunities available to attack the SAR Government. When the territory was battered by the financial turmoil, they argued that the temporary hardship caused by economic adjustment was nothing but the administrative blunder of the SAR Government. Not only are they trying to impede all kinds of necessary reforms and long-term planning, they are also endeavouring to undermine the morale of public officers. They launch the most scathing attacks in and out of this Council at the officials. Those who come under fire and cannot bear it have no choice but to go, for once out of office, they will no longer have to bear it all. The business sector promises a much better future for these officials. The reason

why they wish to undermine the morale of public officers is that they want to create a prevailing sentiment in society that there is no dignity and respect for the public officers. This is meant to sabotage the operations of the Government.

Madam President, Miss Margaret NG relies only on the comments made by the Independent Investigation Panel of the University of Hong Kong (HKU) and nothing else to pass the judgement that Mr Andrew LO has completely lost his public credibility. Such an act from a legal practitioner who is well versed in law, claims to support the rule of law and attaches importance to evidence, strikes one as being shocking and regrettable. Such an act is nothing but a political persecution. Mr Andrew LO once mocks himself as a parrot whose job is to repeat messages. The arguments put forward today on terminating the appointment of Mr Andrew LO only repeat certain conclusions drawn by the Panel. It seems, therefore, that there are quite a number of parrots here in this Chamber. The so-called opinion polls which Dr Robert CHUNG has been conducting at the HKU are in my opinion not so much of an academic pursuit at all. In fact, all sorts of groups, individuals and newspapers are frequently engaged in conducting all sorts of opinion polls. The polling work of Dr Robert CHUNG is more often than not commissioned by organizations outside the University and questions are set to meet the requirements of the clients and conclusions are also drawn to meet the requirements of the clients as well. Such opinion polls do not carry any credibility at all. As a result of the wild guesses and far-fetched speculations he has made, Dr CHUNG stated that his polling work had been interfered by the Chief Executive. Not only are his allegations unfounded, but they are also pure fabrications. As the incident has been widely distorted, the victims have grown from the Vice-Chancellor Prof CHENG Yiu-chung and the Pro-Vice-Chancellor Prof WONG Siu-lun who have both since resigned, to include the Chief Executive and Mr Andrew LO. The reputation of the HKU and academic freedom in Hong Kong have all been tarnished. This is most unfortunate. The incident is devoid of credibility and entirely fabricated. Worse still, a witness whose evidence has been described as incredible and unreliable is taken out for ferocious lashing. One cannot help but question the credibility of such actions. In fact, in the eyes of the supporters of this motion, what weight does Andrew LO carry? Will there be everlasting peace in this society if Mr Andrew LO is removed? No, certainly not. The debate today has some sinister ulterior motives behind it. The removal of LO is the first step to the toppling of TUNG, to the destruction of the principle of "Hong Kong people ruling Hong Kong".

Madam President, over the past three years after the reunification, and after all the devastation of the financial turmoil, the public has grown really tired of sly politicians who keep dwelling on some political issues in a senseless manner. Now that we can see the economy beginning to recover, it is really high time that we should be united and worked hard for the future of Hong Kong. It is our wish that the harmony in our society will not be disrupted.

Madam President, we oppose this motion.

MR CHEUNG MAN-KWONG (in Cantonese): Madam President, I would like to express my views on two issues.

First, about the allegation that Mr Andrew LO is a poor and untruthful witness. There is a difference between being poor and untruthful. Poor means dumb, not smart, but that is not the most important thing. The most important thing is being honest. And Andrew LO is not honest. He is a dishonest witness. The topic of the motion today is how to deal with a dishonest witness.

The Independent Investigation Panel of the University of Hong Kong (HKU) said that Mr LO was an untruthful witness. This is a very grave conclusion to make. For a senior civil servant, it would mean that he has lost his integrity and credibility. For this the Legislative Council has the right to find out who is at fault. Such misconduct should be severely punished by the Government, including the Chief Executive. In the past, many civil servants were dismissed and even prosecuted by the Government for exercising their powers in a dishonest way. For example, Mr SHUM Kwok-sheer of the Rating and Valuation Department was prosecuted for favouring and being partial to a company of his family; Mr MA Man-yee was prosecuted for cheating in mileage allowance in the period from 1994 to 1997; Mr CHUN Shui-lun was prosecuted in 1998 for dishonestly divulging the medical history of the Secretary for Justice, Miss Elsie LEUNG; Mr CHIU Chi-keung was prosecuted for dishonestly obtaining housing allowance during the period from 1991 to 1997; and recently a few basic rank officers of the former Municipal Services Department were prosecuted for making false records. From these examples it can be seen that dishonest behaviour of civil servants is regarded as a grave accusation to make.

It remains of course, that those civil servants who were accused of being dishonest were prosecuted for seeking private gains in a dishonest manner. Though Andrew LO is dishonest, it is right that he is not prosecuted because he has not done anything to advance his private gains. But as a senior civil servant and a member of the Administration, why is he not removed from office when he is regarded as being untruthful when giving evidence? Why is he not punished? Why can the Legislative Council not discuss the incident? That Andrew LO is not dismissed in the end is because of a reason we all know, that is, the Chief Executive wants to protect him. Even though the Independent Investigation Panel of the HKU has made the accusation and the conclusions, the Chief Executive still says that Andrew LO has done nothing wrong and he is still fit to be his aide. The Chief Executive does not have any other plans in mind. That the Chief Executive has ignored the accusations made by the Panel and turns a deaf ear on the heaps of criticisms from the public and has not done anything to his aide who is regarded as dishonest points to the fact that the Chief Executive is not able to tell the right from wrong and he is acting in his private interest and covering up the shortcomings of his retainer.

After the Chief Executive had delivered his policy address, he had a frank discussion with some young people. A young female student who asked this question. "Since Andrew LO is a retainer of the Chief Executive, will he not be held responsible if he has done something wrong?" The girl's question is like the question asked by the boy in the story *The Emperor's New Clothes* and it really hit the nail on the head. Is it because LO is the retainer of the Chief Executive that he does not need to bear the blame for the mistake that he has made? Why is it that such a simple thing which even a girl knows is incomprehensible to Honourable Members and the Chief Executive? It is because the Chief Executive knows very well that he has to protect Andrew LO by all means. It is because the Chief Executive is the emperor of the story and he has to protect his new clothes that are not on his body a long time ago. He has to protect someone called Andrew LO who has lost his public credibility.

Andrew LO has committed a grave error: he has interfered with academic freedom in a university. But he can still hold his office and enjoy his life. He is actually a shameless fellow and the Chief Executive is muddleheaded in that he wants to protect Andrew LO. He is simply favouring LO. Both of them are wrong and should be reprimanded.

As to whether the Legislative Council has the power to raise the issue of whether the Chief Executive should terminate the appointment of Andrew LO, we certainly have the power to do so. But we will only be moving a motion and it is a motion which is not legally binding. Even if the motion is passed, the Chief Executive can still refuse to dismiss Andrew LO. Now we know that Andrew LO will not be dismissed. But if people say we cannot introduce this motion, then will this Council lose not only its legislative powers but also its powers to discuss and deliberate on political issues? Why do they have to take away the only powers left of the Legislative Council, that is, the powers to discuss and deliberate on political issues? It is like hitting someone when he is down.

As to the accusations made by Mr CHAN Kam-lam against this motion, and he even mentions political persecution, I do not think there is a need to refute an argument of such a low level and conclusions of this kind

PRESIDENT (in Cantonese): Mr CHEUNG, you should be aware that your time is up.

MR CHEUNG MAN-KWONG (in Cantonese): Thank you, Madam President.

MR JASPER TSANG (in Cantonese): Madam President, the Honourable colleague who has proposed the motion today is Miss Margaret NG, who is a barrister by profession. I am not a lawyer, but in the course of my work, sometimes I need to help some people who come to me to find a lawyer to solve their litigation problems. Often the advice our legal adviser would give to those people who need to give evidence in Court is to caution them that they should not say anything without thinking carefully or that they should even not say anything, or they should give evidence only in the company of a lawyer. Often these innocent members of the public will say that they do not understand why they should not tell the truth giving evidence, since they have not done anything wrong. They think that things will be fine as long as they tell the truth. However, our legal adviser will tell them that the questions that the other party raise will be very confusing. He even says that if telling the truth is fine, then what is the use of lawyers? There are barristers and senior counsels in this Chamber. I am not sure if the remarks made this lawyer are correct. But it

seems to me that insofar as this incident, it really proves that what he says is right.

What in fact has Mr Andrew LO done wrong? I think the gravest error which he made is that at the outset he did not get a lawyer before he made a statement hastily. And so people now say that his statement and what he said later are inconsistent. Now I know that this kind of error is serious enough to cost him his job and get himself dismissed.

Let us look at the motion carefully. Despite the fact that many Honourable colleagues have talked about academic freedom, academic autonomy and such major issues, the motion moved by Miss Margaret NG clearly states that Mr Andrew LO should be dismissed owing to two reasons. These are: the evidence given Mr Andrew LO gave before the Independent Investigation Panel and the attitude with which he gave the evidence. Miss Margaret NG is very dissatisfied with the way in which Mr LO gave his evidence. Just now Miss Margaret NG was quite contemptuous when she referred to the way Mr Andrew LO gave his evidence and the remarks made by him, such as those on a parrot, a primary school pupil, and so on. I do not like these words either, but can words like these constitute a ground for his dismissal?

As to the point that Mr Andrew LO was not consistent. That point has been made by quite a few Members in the debate just now. Members of the Democratic Party are being more honest in the sense that their references to the report are accurate. No matter how Mr LO has been described in the report, that he is a poor and untruthful witness, all these are about the quality of the evidence given by Mr LO in the opinion of the Panel. As a witness, he is not a good one, for when he was giving evidence, often times his answer was he had forgotten and he was rambling. In the words of Mr Andrew WONG, his evidence was incomplete and not truthful.

Honourable Members from the Frontier are less honest. Miss Emily LAU and Miss Cyd HO have deliberately deleted the word "witness" when they were quoting from the report and they said that the conclusion of the report was that Mr Andrew LO was not an honest person. Then Mr CHEUNG Man-kwong questioned the suitability of a dishonest person in continuing to hold public office. Mr CHEUNG cited seven or eight examples to show how dishonest officials were prosecuted. But he failed to quote any example to show that public officers were dismissed or disciplined for having been accused of giving evidence in a dishonest manner in the Courts or such like places.

Similar examples do exist. Just now Mr IP Kwok-him has cited an example that a judge has said that one of the Honourable colleagues in this Chamber has given evidence which is not credible. I think that when evidence is given in a way which is not credible, it will not make much difference from a witness who is not credible or whose evidence is incomplete and not truthful. However, we will not hold a debate simply because of this and demand that that Member should resign.

As for the claim that Mr Andrew LO has completely lost public credibility, how do we prove that this is the case? Some Honourable colleagues said that they had asked a lot of people and these people thought that Mr LO should resign. However, many Honourable colleagues have also asked a lot of people and these people thought that Mr LO was not implicated. Miss Margaret NG quoted the findings of an opinion poll conducted by a newspaper. But should we terminate the appointment of someone when more than 60% of the respondents think that he is incompetent? On this issue of the dismissal or retention of persons holding public office, shall we base our judgement on the findings of these opinion polls? Even if the answer is yes, then what is meant by a complete loss of public credibility? Against a background of overwhelming public opinion against Mr LO at that time, it is not surprising to find more than 60% of the respondents were of the opinion that he was no longer fit for the post of Senior Special Assistant to the Chief Executive. What is surprising is that more than 10% of the respondents opined that Mr LO should not be dismissed. How can we say then that Mr Andrew LO has completely lost his public credibility?

Madam President, if we pass this motion today, that will imply that a public officer should be dismissed if when giving evidence, he is criticized for giving incomplete and not truthful evidence, having a poor attitude, saying things not amenable to others and when opinion polls show that more than 60% of the public think that he is wrong. Madam President, I am not sure if this is what Members in this Chamber consider the proper attitude to take when dealing with the retention or dismissal of public officers. Are we telling the world here that this is how we handle things in this Council?

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

MR SZETO WAH (in Cantonese): Madam President, just now Mr CHAN Kam-lam quoted a remark, that is, "voting for the Democratic Alliance for Betterment of Hong Kong is tantamount to voting for Mr Andrew LO". Although he did not expressly point out my name, that remark was made by me. As they have been praising Mr Andrew LO, what is wrong with this remark? They now speak for him and throw full weight behind him, so they are apparently in the same clique. I do not see any problem with this remark. Instead, it highlighted the substance of the question before us. This remark points to the substance of the question. So, although Mr CHAN Kam-lam did not say categorically that it was a remark of mine, I admit here that the remark was made by me.

Mr Jasper TSANG said earlier on that a witness ought to be accompanied by lawyer when giving evidence. Mr Andrew LO did have a lawyer by his side in giving evidence. Mr TSANG said that the letter issued by Mr LO beforehand had not been shown to his lawyer. How did Mr TSANG come to know that Mr LO had not shown it to his lawyer? The truth is that he had not shown it to Mr TSANG. Had he shown it to Mr TSANG, he would not have written so

PRESIDENT (in Cantonese): Mr TSANG, a point of order or a clarification?

MR JASPER TSANG (in Cantonese): I wish to make a clarification.

PRESIDENT (in Cantonese): I will allow you to do so after Mr SZETO Wah has finished his speech.

MR SZETO WAH (in Cantonese): This is, in fact, a motion that carries no binding effect. Its passage or otherwise would not have any bearing on the Chief Executive's decision to dismiss Andrew LO or not. However, the role of the Legislative Council requires us to give our views and reflect public opinion. Therefore, this is a motion that seeks to reflect public opinion and present our

views. We are having discussions here, and our discussions do not involve the relevant legislation governing the Civil Service. In the motion of no confidence in the Chairman of the Housing Authority and the Director of Housing sponsored by us previously, why was it that nobody opposed that motion for this very reason? Many Members present in this Chamber now supported the motion at the time. Was that motion also a violation of the relevant legislation governing the Civil Service?

During the election campaign, some candidates were asked whether they supported the dismissal of Andrew LO, and they said they did. Why did they not consider this a violation of the relevant legislation governing the Civil Service and a breach of contract at the time? The reason is that they wanted to deceive the voters. At that time, voters considered that Andrew LO should be dismissed, so these candidates dare not go against the wish of the people. Now that they are elected, so they can go back on their words and make a "volte face". It was reported in the press that Mr Jasper TSANG, in defending Mr LAU Kong-wah, said that if he were the Chief Executive, he would dismiss Andrew LO but he did not support his dismissal now for he is now a Member of this Council. That is not correct. He should have said that he supported the dismissal of Andrew LO at that time for he was not yet elected then, and that since he is now elected for a term of four years, he, therefore, does not support it any more. Only in this way can he explain it more clearly.

Andrew LO has admitted that he is like a parrot. Parrots do not have their own words. They say whatever their masters teach them. So, if someone's words are untruthful or if he is an untruthful witness, there is every reason for his master to be reprimanded. This is precisely the reason why somebody must protect him for that somebody had taught him to say something untruthful.

Recently, somebody has spoken of a system of accountability, suggesting that government officials have to be accountable. If the persons appointed by him faced severe criticisms but he still takes them under his wing, or if he is the master who taught the parrot to speak but it has never come to him that he should be held responsible, then what system of accountability is this? As I said in a previous debate, the future system of accountability might only be a mirage on short piles, or one of those Xianyang bronze statues cast from weapons confiscated from all over the Qin Empire.

Today, many people are protecting Andrew LO (and to be more accurate, it is "保路華"³ who is protecting him, and there is a brand name of watches called Bulova⁴). This has revealed what the person had taught the parrot to speak, and this is the thrust of the question.

PRESIDENT (in Cantonese): Mr Jasper TSANG, you may now clarify the part of your speech that has been misunderstood.

MR JASPER TSANG (in Cantonese): Thank you, Madam President. When I spoke just now, I said that Mr Andrew LO had not consulted a lawyer before making the statement at the outset of the incident and I was not referring to the letter presented by him when he testified. Mr SZETO Wah has got it wrong.

MR SZETO WAH (in Cantonese): I would like to correct myself. The letter to which I referred just now was actually not a letter but a statement. I do not know if a lawyer had read the statement but Mr TSANG said that it had not been read by a lawyer. Yet, it is not important whether it had been read by a lawyer as the most important point is that it had not been read by Mr TSANG.

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

MR ANDREW CHENG (in Cantonese): Madam President, since Mr IP Kwok-him mentioned my name when he spoke, and he also referred to the incident at Shek Wu San Tsuen, therefore, I feel compelled to say something. At first, I have had a great struggle on whether or not I should speak on this motion, because in the meeting of the parliamentary group, I was not prepared to speak on the issue. On some occasions when I talked with Miss Margaret NG, she would remind me of some of the words that I had used when I spoke in the Council, especially some of the scathing ones I used to describe other people. Sometimes I would reflect on this. Madam President, I think that in this assembly we do really need less hostility. If people would notice the recent

³ "保路華" is an expression used to satirize the Chief Executive's support for Mr Andrew LO.

⁴ The Chinese name of Bulova happens to be a namesake of "宝路華".

speeches made by me, I had dwelled on this point repeatedly. With regard to the issue of harmony and hostility, I have reached a conclusion, and that is, hostility does not necessarily mean being irrational. So, although I was not here when Members from the DAB were speaking, I turned on the radio in the room on the first floor. I was doing this to try to learn what arguments other Members were putting forward. The impression I got is that over the past couple of years, there has been much criticism in society targeted at the democratic camp in particular. Such criticism says that we are bad mouthing Hong Kong, being irrational, becoming more and more hostile and making personal attacks on people.

PRESIDENT (in Cantonese): Mr CHENG, could you relate what you are saying to the question of the motion?

MR ANDREW CHENG (in Cantonese): Fine. The debate today is on whether this Council should discuss the Robert CHUNG affair and whether Mr Andrew LO is an honest and qualified civil servant. I hope very much that Honourable colleagues who speak in the Council today, especially those who direct their remarks at the comments of the democratic camp, will make a good debate on this topic. I am aware that all of us want Hong Kong to be a better place. I do not think is any one of us here will not want Hong Kong to be a better place. However, we notice that there are some problems here and that is the civil servants are heading towards a servile "retainer culture". And all along the Chief Executive does not want to attend the hearings of the Independent Investigation Panel of the University of Hong Kong. Then when the Panel has submitted its report, and when the conclusions drawn are unfavourable to this retainer, the Chief Executive states that he still thinks highly of Mr Andrew LO. I think such an act is a challenge to the civil service culture. I only hope that Members sitting here today will understand that we have the same responsibility and credibility. I hope very much that those who have said that Mr Andrew LO should resign would take the same position today. If Mr Andrew LO speaks of himself as a parrot, then the DAB is in fact a chameleon, for the DAB has said different things at different times and space and out of different needs. Mr LAU Kong-wah has not yet spoken today. He is precisely the best chameleon around. I hope he will speak on the motion, on what he thinks of the Andrew LO affair and on his stand on this is.

About the Shek Wu San Tsuen case and the accusation of me being a dishonest witness, I admit that it does exist, for that is what the Magistrate at that time thought and it is found in the verdict. I have also looked up Article 79 of the Basic Law. If Mr IP Kwok-him thinks that I am not qualified to be a Member of the Council and would like to propose a motion debate on this issue, or even tries to invoke Article 79 of the Basic Law to reprimand me, I am most willing to take it. Now we hope to express our views through this assembly on a particular civil servant, a kind of culture or a government policy. Please do not use some specious remarks to side-track the issue, such as: if I were the Chief Executive, I would fire him, but I am only a Council Member, and so on. If people say that only the Secretary for the Civil Service is qualified to handle this matter, then I think we are not qualified to debate on the first motion we have today, on enhancing the welfare of the elderly, because that falls into the portfolio of the Health and Welfare Bureau. If we continue to cite examples along this line, then the no-confidence motion on Miss Rosanna WONG Yick-ming which we had in the last term would be outside the ambit of Members of the Council, for that would be a matter of concern of the Housing Authority and the Housing Bureau.

Can all these be regarded as justifiable grounds? I hope Mr LAU Kong-wah can see that we are not provoking hostilities, for he can see that I am very frank and sober. I also hope that I can be like him, wearing a smile on the face each time when he speaks. I do not want to provoke any arguments today, despite the remarks which I made in a rather agitated way on the day I won the elections, that I hoped Mr LAU Kong-wah could honour his pledge. I hoped that he would be true to his word on the election day and in the Council in future, that is, to take concrete actions on his comment that Mr Andrew LO should resign. Now is a very good time for Mr LAU to do this. So, Madam President — actually I should be facing you when I speak — there were times when I really felt the urge to support you to run for the office of the Chief Executive (*laughter*). Madam President, I was talking about giving my support to Mr LAU Kong-wah, and I was not talking about giving my support for you to run for that office. It is because Mr LAU has said that if he were the Chief Executive, he would dismiss Mr Andrew LO. After hearing this remark, I really had the urge to support Mr LAU to run for the office of the Chief Executive. However, after dismissing Mr Andrew LO, I hope Mr LAU would resign of his own accord.

My last point is, I do not hope to make a public trial out of this affair. I have the feeling that we are putting Mr LO on public trial today. If Members of the Council do not want to conduct any public trial, they should support the proposition of setting up a select committee in the Council and let the select committee conduct a fair and open investigation of Mr TUNG Chee-hwa, the Chief Executive, and Mr Andrew LO. Then it would obviate the need for a public trial. However, it seems that Members do not like this idea. Are they trying to evade from anything? Thank you, Madam President.

MR LAU KONG-WAH (in Cantonese): Madam President, originally I did not intend to speak, but since Mr Andrew CHENG wanted me to respond, so I feel compelled to do so. After listening to the debate, I have the impression that the Democratic Party has been targeting at our words and actions. I think we must be reasonable in everything and I have offered two reasons as an explanation. The first is about how we should deal with the relationship between individuals and a collective. If the parliamentary group has not reached a conclusion on an issue, the individual has the right to say what he thinks. That is the same case with the Democratic Party indeed. Second, the legislature should not interfere with the mechanism of dismissing civil servants. My colleagues have expounded on that point in great detail.

I wish to respond to certain criticisms raised by some of the Honourable Members from the Democratic Party. Mr CHEUNG Man-kwong mentions the issue of quality. I think when it comes to hurling attacks at a person, that has to be done also with quality and as an art. But the way in which the Democratic Party has been attacking others does not strike me as one of quality. Why? A criticism has no quality when a person criticizes another for doing things that he should not do, but then he is found out to have done exactly the same thing as the subject of his criticism has. If I have put forward my views on an issue, but later the party makes a decision, then I will follow the party stand. What is wrong with that? As a matter of fact, Members of the Democratic Party often do the same thing as well. Mr Andrew CHENG once stated that he was in support of setting a minimum wage, but he voted against the motion on minimum wage on behalf of the Democratic Party in the Legislative Council. Mr Andrew CHENG, why did you do that? Some reporters did ask him why he had done so and his reply was to this effect: "As the spokesman on labour policies of the party, I cannot help but follow the party line when it comes to voting because I failed to convince the party and in any case, I would respect the decision made by the party." Mr Andrew CHENG, do not be afraid. (*Laughter*) Why should

Mr Andrew CHENG criticize other people for doing such a thing which is perfectly normal when he has done the same thing himself? Does it show that you have quality?

Mr Fred LI criticized Miss CHAN Yuen-han for saying one thing and doing another. When I look up the motion debate on departure tax, I find that the positions of Mr Fred LI and Mr SIN Chung-kai were different. When reporters asked them why their positions on the issue were different, Mr Fred LI explained that his party had not yet held any discussions on the issue and before the party had come up with a position, he was only expressing his personal views at the forum. Why did Mr Fred LI question the personal views expressed by Miss CHAN Yuen-han at the forum while he could do the same thing himself? Madam President, I suspect this kind of debate is totally

PRESIDENT (in Cantonese): Mr LAU, please wait for a moment. Mr Fred LI, do you have a point of order or do you wish to make a clarification?

MR FRED LI (in Cantonese): I wish to make a clarification.

PRESIDENT (in Cantonese): Mr LI, please sit down first. Mr LAU Kong-wah, please go on.

MR LAU KONG-WAH (in Cantonese): Therefore, I think this kind of debate is totally of a poor quality. I seldom make any verbal abuse or personal attack on people. But just now Mr Andrew CHENG mentioned "chameleon" and he has accused us in the newspapers that we are "cheating the voters, changing our positions and going smart", and so on, plus the examples which I have just quoted. What would Mr CHENG think of these? I think his actions are totally unnecessary. I think Honourable Members from the Democratic Party only know how to hurl vicious criticisms at others but they are very lax about their own conduct. They may think that since they are the opposition party so they must oppose everything and hurl fierce attacks at others. They need to reflect on what they are doing. Mr CHEUNG Man-kwong mentioned that Mr Andrew LO is so dishonest and he asks how such a dishonest person should be dealt with. This is a very serious conclusion to make, for someone is accused of having lost his integrity and public credibility. May I ask Mr CHEUNG Man-kwong a

question. The Magistrate said that Mr Andrew CHENG was not to be trusted, how has he dealt with it? Have you done anything? No. Are you protecting a wrong doer and being biased? All these are what you have said just now. Please think whether you have done the same thing before starting to accuse other people.

Madam President, the third person I would like to mention is Mr SZETO Wah. He says that "voting for the DAB is voting for Andrew LO". That became a famous quote during the elections. In Mr SZETO's constituency, those voters who supported the DAB were more than those who backed Mr SZETO. Then can we draw the conclusion that those who support Mr Andrew LO are more than those who support Mr SZETO? We have some thinking to do on this.

Madam President, the last point I want to make is, during the days of the Provisional Legislative Council, you mentioned that there should be a rational and new culture for the Council. I think that is very important. Recently, I met someone who came from the United States to study the political scene here and he had the impression that there was more diversity and greater tolerance in the past. Mr LI Rui huan, Chairman of the Chinese People's Political Consultative Conference, has also said that there should be more solidarity and harmony in Hong Kong

PRESIDENT (in Cantonese): Mr LAU Kong-wah, please speak to the question.

MR LAU KONG-WAH (in Cantonese): Yes, the topic of the motion today is whether Mr Andrew LO should be fired. I have made my position clear. However, I would like to make one last point. Members from the DAB have put forward reasons for their opposition of Miss Margaret NG's motion. I hope Miss NG can recap Mr Martin LEE's action regarding Mr I. G. CROSS and think whether this is also a kind of intervention. Did Miss NG make her position clear at that time? There can be no double standards in these matters. In any case, with regard to the motion *per se*, I do not think that the legislature can interfere with matters of dismissal, promotion and so on, for if not, there will only be utter chaos.

Thank you, Madam President.

PRESIDENT (in Cantonese): Mr Fred LI, are you seeking an elucidation?

MR FRED LI (in Cantonese): Yes, Madam President. I would like to elucidate one point. I do not know if Mr LAU had intentionally or painstakingly failed to hear the point made by me. I just cited the remarks made by Miss CHAN Yuen-han on 5 September.

PRESIDENT (in Cantonese): How did Mr LAU misunderstand your remarks?

MR FRED LI (in Cantonese): He mistakenly thought that I had cited the personal views expressed by Miss CHAN Yuen-han at the forum. On that occasion, Miss CHAN Yuen-han had indicated that those were the views of her and her colleagues and they were not her personal views. I only want to emphasize this point.

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

(No Member responded)

SECRETARY FOR THE CIVIL SERVICE (in Cantonese): Madam President, I wish to respond to the views expressed by Honourable Members, and to state clearly that the Administration is opposed to this motion. First of all, perhaps I must assure Honourable Members, in particular Mr Andrew CHENG, that my speech will be a calm one with no hostility. *(Laughter)*

The creation of the post of Senior Special Assistant to the Chief Executive was approved by the Provisional Legislative Council in 1997. Given its duties and working arrangements, this post was created outside the establishment of the Civil Service. The duties of the Senior Special Assistant include maintaining liaison with various sectors of the community and gauging public opinion on government initiatives. These duties require the Senior Special Assistant to maintain liaison with people from all walks of life, including academics, members of the commercial sector as well as political and social leaders. The person who holds this office is a civil servant and must comply with the Civil Service Regulations according to his contract.

Under the Civil Service Regulations, any civil servant in breach of the Regulations may be subject to disciplinary proceedings. But before any disciplinary action can be initiated, we must first establish that there is such a breach by the relevant officer, and that the severity of his demeanour does warrant actions by the Administration.

The Investigation Panel was set up to investigate the allegation made by Dr Robert CHUNG about interference with his polling work. The question of whether disciplinary actions should be taken against Mr LO on the basis of the Panel's findings depends on whether the findings show that Mr LO had committed specific mistakes.

Here, I must point out clearly that the so-called examples of dishonesty on the part of civil servants as cited by Mr CHEUNG Man-kwong just now do not refer to the manner of a civil servant on a particular occasion, including his manner on the witness stand. Instead, they concerned specific allegations and mistakes. In this connection, it is most important that the Panel's findings do not show any specific mistake on the part of Mr LO. The Panel did not come to a conclusion that Mr LO's meeting with the Vice-Chancellor or the matters reportedly discussed in their meeting were in any way improper. Particularly, the findings do not show that Mr LO had interfered with the academic freedom or autonomy of the University. Therefore, judging from the Panel's conclusions, the Government has no reason at all to take disciplinary actions against Mr LO.

Under the existing civil service system, the observations of the Panel on Mr LO's manner in giving evidence alone do not constitute a justification for disciplinary actions. I must add that Mr LO has already raised strong objection through his lawyer to the Panel's conclusions regarding his manner in giving evidence.

Our management of the Civil Service is based on a set of clear rules and procedures. This is also a system in which we take pride. Actions will not be taken against any officer without proper grounds. We believe this principle should fairly apply to all officers.

The termination of the appointment of a public officer is a serious matter. It must proceed in accordance with the established procedures. Insofar as this case is concerned, as I already said just now, there is no reason for us to take actions against Mr LO and therefore, there is no justification for his dismissal.

I wish to add two points before I conclude. The first is about the role of the Chief Executive. As early as in July this year when the allegation first emerged, the Chief Executive issued a very clear and explicit statement denying any attempt on his part to stop the polling activities of the University of Hong Kong. I have also stated that Mr LO's visit to the Vice-Chancellor was made on his own initiative as part of his daily liaison work. The Chief Executive expressly stated that he had not asked Mr LO to visit the Vice-Chancellor. Nor did he ask Mr LO to convey any message on his behalf.

Second, about the culture of adulation and subservience. I wish to point out that within the civil service system, civil servants are encouraged to express their views candidly in the process of formulation of policies and measures. At the same time, the Chief Executive absolutely subscribes to and supports the principle that civil servants should be impartial, selfless and fearless in discharging their duties. I trust Honourable Members will agree that this is a culture that we must treasure and preserve for our Civil Service. I must reiterate that the Panel's observations on Mr LO's manner in giving evidence do not constitute any justification for disciplinary actions under the existing system of the Civil Service. We will not take actions against any officer without proper grounds. The findings of the Panel do not point out any specific mistakes made by Mr LO. So, there is no justification for us to take any action against him. Therefore, I urge Members to vote against this motion. Thank you, Madam President.

PRESIDENT (in Cantonese): Miss Margaret NG, you may now reply and you have three minutes.

MISS MARGARET NG (in Cantonese): Madam President, I wish to thank all the 25 Honourable Members who have spoken on this motion. Let me now respond to the major arguments advanced in this debate.

First, about the point that the Legislative Council should not interfere with the removal of civil servants. In this connection, we should remember that the very political party which argues against the Legislative Council intervening in the appointment and removal of civil servants today also voted for the motion of no confidence in the Director of Housing during the last Legislative Session. Article 73 of the Basic Law provides that the Legislative Council shall have the power "to debate any issue concerning public interests", which means that the motions on that day and today are both perfectly constitutional. An Honourable Member said that we requested the Chief Executive to dismiss Andrew LO, but, in fact, "dismiss" is the exact word used in the motion.

Second, I have to say that this Council has not moved this motion solely because of one particular comment by the Independent Investigation Panel (the Panel). Rather, as stated in the motion itself, the main reason is that the whole incident has shown that Andrew LO has completely lost his credibility. Actually, anyone who has carefully read the records of evidence and the report of the Panel would inevitably come to the conclusion that Andrew LO has interfered with academic freedom. If there were any evidence indicating that Andrew LO did what he did under the instruction of the Chief Executive, then in the debate today, we should lash out at the Chief Executive, but precisely because Andrew LO was not acting under the instruction of the Chief Executive, precisely because he did what he did without authority, I have moved a motion on urging the Chief executive to terminate his employment as Senior Special Assistant.

Third, some Honourable Members said that even if Andrew LO was really not a truthful witness, we should not dismiss him because of this. Such an argument really surprises me a lot, for I do not think that we can, or should, tolerate any official who did not speak the truth before the Panel. Actually, any officials who do not speak the truth even before the general public, before the ordinary men in the street, are also acting against their code of expected conduct. This is therefore unacceptable and very serious.

Fourth, some Honourable Members said that the motion was unfair to Andrew LO, as he was not given any opportunity of defence. Actually, this argument cannot be farther from the truth. The fact is that the Chief Executive has simply refused to offer this Council any further clarification. And, as far as the motion today is concerned, Andrew LO can actually offer a defence through a government official, and there is no time limit for that.

Madam President, I know that the motion today may not be passed, but by moving this motion, this Council can at least show the people that Members are aware of their opinions, and they will always speak on their behalf. People will also be able to see for themselves the reasons why their aspirations are not answered.

With these remarks, I urge Honourable Members to support the motion.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Miss Margaret NG 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)

Miss Margaret NG rose to claim a division.

PRESIDENT (in Cantonese): Miss Margaret NG has claimed a division. The division bell will ring for three minutes.

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

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

Functional Constituencies:

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

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

Mr Bernard CHAN abstained.

Geographical Constituencies and Election Committee:

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

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

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 28 were present, five were in favour of the motion, 22 against it and one abstained; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 26 were present, 13 were in favour of the motion and 12 against it. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the motion was negatived.

NEXT MEETING

PRESIDENT (in Cantonese): I now adjourn the Council until 2.30 pm on Wednesday, 15 November 2000.

Adjourned accordingly at nine minutes to Ten o'clock.

WRITTEN ANSWER

Written answer by the Secretary for Economic Services to Mr Henry WU's supplementary question to Question 1

We have now obtained the required information from the Consumer Council. During the 12 months from November 1999 to October 2000, figures regarding disposal of tested samples are as follows:

<i>Disposal of Tested Samples</i>	<i>Original Purchase Price (\$)</i>
Dumped	344,455
Kept in overseas laboratories, pending further assessment	105,588
Sold through overseas laboratories or to local traders for reconditioning	95,319
Donated to charitable organizations	49,715
Sold to members and staff of the Consumer Council	27,655
Used by office of the Consumer Council	7,637
Total	630,369

The above figures show that tested samples sold to members and staff of the Consumer Council only account for a small portion of the total.

Annex II

WRITTEN ANSWER

Written answer by the Secretary for Home Affairs to Prof NG Ching-fai's supplementary question to Question 3

The largest number of government advisory and statutory bodies served by one single member of the public is 13.

In considering appointments, the relevant bureaux and departments will carefully consider such factors as the prospective appointees' abilities, expertise and experience in order to determine their suitability. One of the factors for consideration is the appointees' current participation in public service and the workload involved. To ensure that the appointees are capable of performing their duties, we have laid down a guideline advising bureaux and departments that wherever possible, non-official members should not be appointed to serve on more than six advisory and statutory bodies at any one time. However, as the functions and nature of these bodies and members' workload and work requirements may vary, the bureaux and departments will implement the above guideline in accordance with the practical needs and requirements of individual bodies. At present, the above guideline is working well and the average number of posts held by non-official members is about 1.7. Of the 5 600 non-official members of advisory and statutory bodies, those serving on more than six bodies account for less than 2%. The case of a member of the public serving on a number of bodies is not common.

We will continue to implement the above guideline and closely monitor the workload and level of participation of members of advisory and statutory bodies, in order to ensure that all the appointees are capable of performing their duties and that their workload is appropriate.

WRITTEN ANSWER

Written answer by the Secretary for Education and Manpower to Mr Henry WU's supplementary question to Question 5

As regards the salaries of local engineering graduates as compared with those of other graduates, based on the response to the annual Graduate Employment Surveys conducted by the University Grants Committee-funded institutions, I set out below the relevant information in the past four years for Members' reference:

*Average annual starting salaries
(including commission and other cash allowance)
as at the end of the graduation year (HK\$ 000)*

<i>Year</i>	<i>1996</i>	<i>1997</i>	<i>1998</i>	<i>1999</i>
Full-time Engineering Graduates	160	165	155	142
All Full-time Graduates	162	171	162	150