

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 31 October 2001

The Council met at half-past Two o'clock

MEMBERS PRESENT:

THE PRESIDENT

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

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

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

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

THE HONOURABLE CYD HO SAU-LAN

THE HONOURABLE ALBERT HO CHUN-YAN

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

THE HONOURABLE LEE CHEUK-YAN

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

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

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

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

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

THE HONOURABLE NG LEUNG-SING, J.P.

THE HONOURABLE MARGARET NG

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

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE CHEUNG MAN-KWONG

THE HONOURABLE HUI CHEUNG-CHING, J.P.

THE HONOURABLE CHAN KWOK-KEUNG

THE HONOURABLE CHAN YUEN-HAN, J.P.

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 WONG YUNG-KAN

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

THE HONOURABLE HOWARD YOUNG, J.P.

DR THE HONOURABLE YEUNG SUM

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

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, G.B.S., J.P.

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

THE HONOURABLE CHOY SO-YUK

THE HONOURABLE ANDREW CHENG KAR-FOO

THE HONOURABLE SZETO WAH

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

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

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

THE HONOURABLE MA FUNG-KWOK

PUBLIC OFFICERS ATTENDING:

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

THE CHIEF SECRETARY FOR ADMINISTRATION

THE HONOURABLE ANTONY LEUNG KAM-CHUNG, G.B.S., J.P.

THE FINANCIAL SECRETARY

MR MICHAEL SUEN MING-YEUNG, G.B.S., J.P.

SECRETARY FOR CONSTITUTIONAL AFFAIRS

MR CHAU TAK-HAY, J.P.

SECRETARY FOR COMMERCE AND INDUSTRY

MR NICHOLAS NG WING-FUI, J.P.

SECRETARY FOR TRANSPORT

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

SECRETARY FOR HOUSING

MISS DENISE YUE CHUNG-YEE, G.B.S., J.P.

SECRETARY FOR THE TREASURY

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

MR STEPHEN IP SHU-KWAN, G.B.S., J.P.
SECRETARY FOR FINANCIAL SERVICES

MRS LILY YAM KWAN PUI-YING, J.P.
SECRETARY FOR THE ENVIRONMENT AND FOOD

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

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

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

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

MR RAY CHAN YUM-MOU, ASSISTANT SECRETARY GENERAL

TABLING OF PAPERS

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

Subsidiary Legislation/Instruments	<i>L.N. No.</i>
Hotel and Guesthouse Accommodation (Fees) (Amendment) Regulation 2001	212/2001
Coinage (Commemorative Coins) Order 2001	213/2001
Employees Retraining Ordinance (Amendment of Schedule 2) (No. 2) Notice 2001	214/2001
Public Health (Animals and Birds) (Amendment) Regulation 2001	218/2001
Public Health (Animals and Birds) (Animal Traders) (Amendment) Regulation 2001	219/2001
Food Business (Amendment) Regulation 2001	220/2001
Rules of the District Court (Amendment) Rules 2001....	221/2001
Merchant Shipping (Safety) (Cargo Ship Construction and Survey) (Ships Built Before 1 September 1984) (Amendment) (No. 2) Regulation 2001 (L.N. 153 of 2001) (Commencement) Notice 2001	222/2001
Merchant Shipping (Safety) (Cargo Ship Construction and Survey) (Ships Built On or After 1 September 1984) (Amendment) (No. 2) Regulation 2001 (L.N. 154 of 2001) (Commencement) Notice 2001	223/2001
Merchant Shipping (Safety) (Cargo Ship Safety Equipment Survey) (Amendment) Regulation 2001 (L.N. 155 of 2001) (Commencement) Notice 2001	224/2001

Merchant Shipping (Safety) (GMDSS Radio Installations) (Amendment) Regulation 2001 (L.N. 156 of 2001) (Commencement) Notice 2001	225/2001
Merchant Shipping (Safety) (Life-Saving Appliances) Regulation (L.N. 157 of 2001) (Commencement) Notice 2001	226/2001
Merchant Shipping (Seafarers) (Certificates of Proficiency in Survival Craft, Rescue Boats and Fast Rescue Boats) (Amendment) Rules 2001 (L.N. 160 of 2001) (Commencement) Notice 2001	227/2001

Other Papers

- No. 8 — Report on the Administration of the Immigration Service Welfare Fund prepared by the Director of Immigration Incorporated in accordance with Regulation 12(b) of the Immigration Service (Welfare Fund) Regulation
- No. 9 — Report of changes to the approved Estimates of Expenditure approved during the first quarter of 2001-02 (Public Finance Ordinance : Section 8)
- No. 10 — Statement of Accounts and Auditor's Report for the Fish Marketing Organization for the year ended 31 March 2001
- No. 11 — Statement of Accounts and Auditor's Report for the Vegetable Marketing Organization for the year ended 31 March 2001
- No. 12 — Marine Fish Scholarship Fund Report for the period from 1 April 2000 to 31 March 2001
- No. 13 — Agricultural Products Scholarship Fund Report for the period from 1 April 2000 to 31 March 2001

- No. 14 — Sir Edward Youde Memorial Fund
Report of the Board of Trustees for the period 1 April 2000
to 31 March 2001
- No. 15 — Secretary for Home Affairs Incorporated
Audited Statement of Accounts for the year ended
31 March 2001
- No. 16 — Office of the Telecommunications Authority
Trading Fund Report 2000-2001
- No. 17 — Ocean Park Corporation
Annual Report 2000-2001
- No. 18 — Hongkong Post
Annual Report 2000/01
- No. 19 — Report by the Controller, Government Flying Service on
the Administration of the Government Flying Service
Welfare Fund for the year ended 31 March 2001
- No. 20 — The Government Minute in response to the Report No. 36
of the Public Accounts Committee dated July 2001

ADDRESSES

PRESIDENT (in Cantonese): Addresses. Mr Henry WU will address the Council on the Ocean Park Corporation Annual Report 2000-2001.

Ocean Park Corporation Annual Report 2000-2001

MR HENRY WU (in Cantonese): Madam President, I hereby submit the 2000-01 annual report of the Ocean Park Corporation.

In the financial year ended June 30 2001, Ocean Park received 2.75 million visitors, down 7.5% from the previous year. The continued downturn of both the Asian and Hong Kong economies was a key reason for the drop of

visitors. However, it was very encouraging that with the sustained and imaginative efforts of the Park's staff, the number of visitors from the Mainland and overseas saw a remarkable jump by 23% over the previous year to over 1 million. This clearly consolidates the Park's status as one of Asia's top international theme parks, and signals the vital role that it plays as Hong Kong builds on its leading position in Asian tourism.

During the period, Ocean Park continued to build on its mission to provide a distinctive mix of entertainment, education and animal conservation. In May this year, the world's first two dolphins received through artificial insemination were born in Ocean Park. This impressive achievement has not only boosted the morale of the Park's animal conservation team, but has also reinforced Ocean Park's reputation at the forefront of global research in marine mammal care and breeding sciences.

Moreover, there was also a tremendous jump in school education trips with a 36% increase to 36 000 students from 450 schools — a record for Ocean Park. Moreover, we introduced a number of exhilarating new attractions and ensured through our ongoing commitment to upgrading work that we enhanced the quantity and quality of our existing attractions. In September last year, we opened the exciting runaway Mine Train roller coaster, and in January this year, we launched the Pacific Pier, which captures the natural habitat of the California coast. Both attractions have proved to be very popular. At the same time, Ocean Park continued to add new marine animals to our world-class aquariums throughout the year. These new initiatives have laid down a solid foundation for the challenges that Ocean Park will undoubtedly face as it moves into a new and challenging stage in its 25-year history.

For the past quarter of a century, Ocean Park has entertained local residents and tourists with immense fun and left thousands of pleasurable memories. It is gratifying the outstanding services that Ocean Park staff have provided is widely recognized. Ocean Park was awarded the Tourist Award in the 2000 Hong Kong Award for Services Competition.

However, the Board and Ocean Park's executive management are firmly focused on keeping the Park abreast of the times and shall not allow ourselves to be complacent. In face of the many challenges, such as bad weather, local and global economic downturns, sharp structural rise in costs, and stiff competition in the tourist markets at present and in the foreseeable future, the Park reported a

loss for the 2000-01 financial year. Recognizing that such losses cannot be sustained, the Ocean Park Board set up a special task force in November last year to identify future directions and find solutions. Ocean Park aims to enhance the financial foundations of Ocean Park, to bring in new capital, to rejuvenate the Park and to raise the Park's brand reputation, by co-operating with other internationally renowned "icon" theme parks. Though, Ocean Park may have new business partners, the Board will uphold its absolute and uncompromising commitments to education, animal care, and conservation. Ocean Park is also ready to position itself as an anchor component of the Aberdeen Tourism Corridor in the tourism development blueprint mapped out recently by the Chief Executive, Mr TUNG Chee-hwa.

As such, Ocean Parks' Task Force has recommended a number of measures to facilitate the Park's future steady development. The Board is appreciative of the steps now being taken at the highest levels of the Administration for their speedy and positive response regarding the task force's recommendations. The Board and the executive management together are committed to providing full support to all areas of government in enacting and implementing the proposed legislative changes. I am looking forward to the support from this Council and the public, so that Ocean Park will continue to be one of Hong Kong's finest and longest-standing community facilities. Thank you, Madam President.

PRESIDENT (in Cantonese): The Chief Secretary for Administration will address the Council on the Government Minute in response to the Report No. 36 of the Public Accounts Committee dated July 2001.

The Government Minute in response to the Report No. 36 of the Public Accounts Committee dated July 2001

CHIEF SECRETARY FOR ADMINISTRATION: Madam President, laid on the table today is the Government Minute responding to Report No. 36 of the Public Accounts Committee (PAC). The Minute sets out the Administration's position.

The PAC selected for detailed study six of the 10 subjects investigated by the Director of Audit in his Value for Money Report No. 36. Of these six

selected subjects, the PAC has completed its study on four of them and is pursuing the remaining two. I must record the Administration's appreciation of the efforts made by Members of the PAC in carrying out the task with great thoroughness and dedication. The Administration will continue to co-operate with the PAC fully in this task.

The Honourable Eric LI, Chairman of the PAC, spoke on 4 July when he tabled the PAC's Report. In addition to commenting on each of the four subjects on which the PAC had carried out its study, he also gave his view on access to documents which the PAC wished to examine in considering the Director of Audit's reports. I would like to respond to some of his remarks.

I should stress and reassure Members that this Government is one of the most open and transparent administrations in the region. We attach the utmost importance to facilitating the deliberations of the PAC in examining the Director of Audit's Value for Money reports. There is no question whatsoever of the Administration unreasonably withholding documents from the PAC. On the rare occasions when we have expressed difficulties, it is either because we consider disclosure of the documents sought would undermine the fine and important tradition of frank and free exchange of views within the Administration; or because the Administration was constrained by contractual obligations; or because the consent of a third party offering views to the Administration in confidence could not be obtained.

My colleagues are already participating in a constructive dialogue with the PAC on how we can step up co-operation with the PAC. Please be assured that the Administration cherishes the high degree of co-operation with the PAC. We will do our very best to reinforce our level of co-operation.

The PAC was concerned also at the delay in the privatization of the Cheung Sha Wan Abattoir. As indicated in my Minute, it is difficult to draw any conclusion on the strategy adopted by the former Urban Council at the time, taking into account its concern with the possible disruption of fresh meat supply. However, we agree fully with the recommendation that the Administration should provide the Executive Council and other decision-making bodies with all the important information to enable them to make informed decisions. This has been and will continue to be the practice of the Administration.

There is a third issue concerning the provision of staff for departmental accounting units. We share PAC members' view that we need to prepare the accounting units of departments for taking up the new challenges, arising from the Government Financial Management and Information System being developed. In this connection, Controlling Officers are responsible for ensuring that these units in their departments function effectively and properly and they should be adequately staffed. The Treasury, with its professional experience and expertise, always stand ready to assist and advise them. I assure Members again that we take these responsibilities seriously. We accept the PAC's recommendations and will act accordingly.

As regards the Government's efforts to promote e-business in Hong Kong, the Administration is fully committed to promoting the development of e-business in Hong Kong through providing a favourable environment and the necessary infrastructure. We also lead by example. Under our E-government strategy, we have established clear targets and set up a dedicated E-government Co-ordination Office to ensure effective planning, implementation and co-ordination. We are moving full steam ahead and have made significant progress.

Members of the PAC were concerned about the significant variance between the estimated and actual number of digital certificates issued by the Hongkong Post. I would like to assure and stress that the establishment of the public key infrastructure (PKI) and the provision of the public certification authority service by the Hongkong Post are part of the initiative to promote the development of e-business in Hong Kong. The Government needs to play a leading role to kick-start the development. And I would like to take this opportunity to urge Members of this Council, including Mr Eric LI, to take out one of these keys and start such a movement in Hong Kong with the Hongkong Post. I myself and many of my senior colleagues have already subscribed to the service. It takes time to build up customer confidence in new PKI applications and the Postmaster General has been making vigorous efforts to promote wider use of digital certificates. As recommended by the PAC, the Hongkong Post Certification Authority has taken steps to control the size of its operation, having regard to market demand. The Postmaster General will continue to monitor closely the usage of digital certificates and liaise with certification authorities abroad to establish cross-certification arrangements for facilitating cross-border e-business.

The Administration will review in late 2002 the strategy for funding the Hongkong Post Certification Authority service. The review will take into account such factors as the readiness of the community in adopting digital certificates, the maturity of applications using digital certificates in the market and the general development of the certification authority market in Hong Kong.

I now wish to turn to the subject of management of public housing construction.

The Housing Department will continue to carry out the public housing development programme efficiently and effectively to provide housing to eligible households. It has made good progress in implementing the quality reform package. For example, it has strengthened on-site supervision by deploying resident engineers to all piling sites and assigning resident professionals to more complex building projects. It has imposed restrictions on subcontracting piling works, introduced more vigorous performance evaluation of consultants and contractors as well as implemented quality-based procurement procedures.

The PAC expressed concerns in several areas in the management of public housing construction. We have responded in some detail in the Government Minute presented to Members today. I wish to highlight two points only.

First, the PAC was concerned about the establishment of a premier league of contractors. The Hong Kong Housing Authority (HA) advises that this is one of the initiatives under the "Qualify Housing Reform" package, and is intended to foster a strategic partnership with the best contractors for innovative methods of improving the quality, efficiency and productivity of public housing construction. The HA considers the new arrangement to be fair, competitive and suitable for some of its more complex and specialized construction projects. The HA has no intention to limit the number of premier league contractors, and indeed contractors meeting the qualifying criteria are eligible to join the league.

Second, the PAC urged me to finalize and announce the recommendations of the Committee on the Review of the Institutional Framework for Public Housing on the initiative to place the HA's buildings under the purview of the Buildings Ordinance. This is indeed a very complex issue, which I am sure that the Select Committee of the Legislative Council has already begun to appreciate. It is a complex issue, with political, legal, administrative, staffing and resource implications. I can assure Members that the Administration is working hard to

take this matter forward. As an interim measure, the Director of Housing has, since November 2000, set up an Independent Checking Unit reporting directly to him. The Unit will carry out third-party inspections on the building quality of public housing projects with support from the Buildings Department.

Madam President, the Administration is grateful for the constructive comments and sound advice from the PAC. We will continue to co-operate fully with the PAC. This partnership between the PAC and the Administration will help the public service of the Hong Kong Special Administrative Region to maintain a high standard of efficiency, transparency and accountability.

PRESIDENT (in Cantonese): Miss Margaret NG will address the Council on the Solicitors (Professional Indemnity) (Amendment) Rules 2001, which is subsidiary legislation laid on the table of the Council on 11 July 2001.

Solicitors (Professional Indemnity) (Amendment) Rules 2001

MISS MARGARET NG: Madam President, in my capacity as Chairman of the Subcommittee formed to study the Solicitors (Professional Indemnity) (Amendment) Rules 2001, I wish to address the Council on the Amendment Rules.

The Amendment Rules, made by the Council of the Law Society of Hong Kong (Law Society) under the Legal Practitioners Ordinance, were tabled in the Legislative Council on 11 July 2001 and came into operation on 1 October 2001. The main purpose of the Amendment Rules is to increase the contributions made by members of the Law Society to the Solicitors Professional Indemnity Fund.

The Law Society has provided detailed explanations for the increase to the Subcommittee. In gist, the Solicitors Professional Indemnity Scheme had a three-year reinsurance programme which was due to expire on 30 September 2001. Under the Scheme, the Hong Kong Solicitors Indemnity Fund Limited (HKSIF) provided coverage of \$10 million per claim to its membership. Of this amount, the HKSIF retained the first \$1 million of every claim and reinsured the remaining \$9 million. The Law Society became aware in mid-2000 that based on the Scheme's historical claims data, it was likely that reinsurance premium would increase by 400% after 30 September 2000. At a Members' Forum held

on 15 September 2000, the Law Society decided to cancel the three-year programme and rewrite a five-year programme which allowed an increase in reinsurance premium phased in over a period of five years on a progressive basis. The five-year programme commenced on 1 October 2000. The new reinsurance programme also requires an increase of the Fund's retention for the self-insured layer from \$1 million to \$1.5 million per claim from 1 October 2001 to 30 September 2005. As a result, it is necessary to amend the formula to raise the amount of contributions as proposed in the Amendment Rules.

A major concern of many small to medium sized law firms is that the 150% increase in contributions are untenable.

The Law Society has advised that 86.05% of firms with no claims loading will pay 5% of their gross fee income in contributions to the Scheme under the new Rules, but it could not comment on the impact of the increased contributions on individual firms. In my capacity as the Member representing the Legal Functional Constituency, I have conducted a survey on the impact of the Amendment Rules on solicitors firms. A questionnaire was sent to over 600 firms and 198 have responded. 177 are sole proprietors or small firms with two to five partners. They said that the increase in contributions will cause serious difficulty or will be fatal to their firms. The result also shows that the majority of them are not engaging predominately in conveyancing.

Another concern of the profession is that under the existing arrangements of the Scheme, firms with good claims experience and little conveyancing practice are heavily subsidizing the premium cost of those firms with poor records, and those heavily engaged in conveyancing work. The Subcommittee has requested the Law Society to consider adjusting the amount of contributions payable by a firm to take into account its claims record and type of practice.

The Law Society has explained that historically, claims arising from conveyancing made up about 80% of the total value of claims in any year. However, the situation has been exacerbated by the collapse of the local property market and the abolition of conveyancing scale fees which could have affected the quality of work in some cases. As a deterrent to firms with frequent claims, the Amendment Rules have introduced further penalty deductibles. The Law Society has advised that there has never been an element of risk banding within the Scheme as this is an issue which cannot be resolved in isolation or in haste. The calculation of the formula for payment of contributions is a delicately

balanced equation in which the variables of gross fee income, number of fee earners, claims loading and deductibles all play an intrinsic part.

There have been repeated calls from the profession for the Law Society to conduct an immediate and independent review of the existing Scheme with a view to adjusting it or replacing it with some other schemes. Two solicitors, from HORVATH and GILES, and Erving BRETTELL, have submitted to the Subcommittee detailed comments on the Law Society's Scheme, and the result of a survey of all solicitors firms. Over 50% of those surveyed agreed that there should be an independent review. The Subcommittee was also assisted by an information paper provided by HOLMAN, FENWICK and WILLAN, on the experience of the Law Society of England and Wales which replaced their mutual fund scheme with a Qualified Insurers Programme two years ago under similar circumstances.

The Subcommittee has requested the Law Society to consider conducting such a review to address the various issues raised by its members. The Subcommittee felt that this Council should take steps to monitor the progress of this matter.

In response, the Law Society has given an undertaking in the form of a letter from the President of the Law Society to the Chairman of the Subcommittee. May I now quote for the record of this Council the wording of the undertaking:

"The Law Society fully intends to conduct an independent review of the current insurance arrangements under the Scheme with a view to considering whether at the expiration of the five-year reinsurance contracts, the Law Society should maintain the existing mutual scheme with or without amendment or to demutualize the Scheme and put into effect such other options as may be proposed as a result of the review.

The Law Society wishes to assure the Honourable Members of the Legislative Council that once the parameters and likely cost are determined, it will seek a mandate from its members to carry out expeditiously an independent review and will inform the Legislative Council of the progress of the review on or before 30 September 2003. Any recommended arrangements will have to be acceptable to members of the Law Society, approved by the Chief Justice and transformed into

amendments to the statutory rules to be approved by the Legislative Council before the expiration of the five-year contracts at the end of September 2005. At this stage, that is the timetable to which we shall be working."

To further allay the concern of the Subcommittee that sufficient time should be allowed for the complex and meticulous post-review work including documentation and drafting of legislation in the event that a decision is made to amend or replace the existing mutual scheme, the Law Society agrees that it would proceed with the review as quickly as possible and impose a time limit for the body or person commissioned to carry out the review. It also accepts that it should then proceed with consultation with its members without delay. With this understanding, the Subcommittee recommends to Members that the Amendment Rules be supported.

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 15 minutes. The Member who asks a question has priority to ask the first supplementary. Supplementaries should be as concise as possible and Members should not make statements when asking supplementaries.

First question.

Bad Debt Ratio of Loans Under Special Finance Scheme for Small and Medium Enterprises

1. **DR LUI MING-WAH** (in Cantonese): *Madam President, it has been reported that the ultimate bad debt ratio of loans approved under the Special Finance Scheme for Small and Medium Enterprises (the Scheme) is estimated to be as high as 15%. In this connection, will the Government provide a breakdown, by industry and participating bank, of the bad debt ratios of the loan cases approved under the Scheme, the total amount of loans involved in these*

cases and, of the enterprises with bad debts, the respective numbers of the operating and the defunct ones?

SECRETARY FOR COMMERCE AND INDUSTRY (in Cantonese): Madam President, the Scheme set up by the Government in 1998 has stopped accepting new loan applications since April 2000. Nevertheless, the credit guarantees approved prior to that date will not be fully discharged until May 2003. As such, we are unable to tell at this stage whether the ultimate bad debt ratio will indeed reach 15% as cited by Dr the Honourable LUI Ming-wah. According to figures provided by the Treasury, the default rate of loans approved under the Scheme was 9.5% as at 26 October 2001.

Most of the bad debt cases concerned loans that have been granted to enterprises from the import/export trades, manufacturing and wholesale/retail sectors. The number of defaulted cases for the three sectors stood at 190, 307 and 186 respectively, with a default rate of 12.9%, 7.1% and 12.5%. In money terms, the amount of government compensation involved was \$120 million, \$106 million and \$32 million respectively.

The bad debt situation for the 68 participating banks and money-lending institutions are as follows:

<i>Default Rate</i>	<i>Number of institutions (%)</i>
Nil	13 (19.1%)
0.1% - 5%	15 (22.1%)
5.1% - 10%	6 (8.8%)
10.1% - 15%	14 (20.6%)
Over 15%	16 (23.5%)
Undeclared	4 (5.9%)

We are not in a position to disclose the default rate of the loans granted by individual banks or money-lending institutions as this involves information on the operation of individual commercial institutions.

Lastly, since we do not require enterprises under the Scheme to notify the Government when they go bankrupt, we cannot tell how many of the enterprises carrying bad debts are still in operation and how many are defunct.

DR LUI MING-WAH (in Cantonese): *Madam President, from the main reply given by the Government, it can be seen that among the 68 participating lending institutions (PLIs), half of them carry a default rate of over 10%. Common sense tells us that a default rate of over 10% is very serious. Will the Government explain to this Council why under the Scheme some banks and lending institutions have such a high default rate? Is it a result of insufficient supervision by the Government or of other causes?*

SECRETARY FOR COMMERCE AND INDUSTRY (in Cantonese): Madam President, to answer this question, I think I must recap the background against which the Scheme was devised in 1998.

There was a central point in the discussion papers perused by the meeting of the Finance Committee on 31 July 1998, which outlined the underlying principles of the Scheme. The Scheme was designed on four major principles: firstly, market-driven basis, meaning that the Government will rely on the PLIs for their consistent prudent and professional standards in assessing the credit standing of the applicants.

The second major principle is risk-sharing. In the beginning, the Government and the PLIs shared the risks on a 50:50 basis. Thus, in the event of a default in payment, not only would the Government incur losses, the PLIs would do too. We believed that as PLIs would run the risk of incurring losses, they would approve loan applications in a prudent manner. By 1999, we realized that the 50:50 ratio of risk-sharing had made banks reluctant to grant loans to small and medium enterprises (SMEs). Hence, on approval by the Finance Committee, the risk-sharing ratio was increased from 50% to 70% on the government side, while banks would bear only the outstanding 30%.

The third major principle is risk-capping. The Government set a maximum guarantee limit of \$2 million for the loan made to an SME and a ceiling of \$200 million in total guarantee for each PLI, that is, each bank or lending institution.

The fourth major principle is administrative simplicity. Why administrative simplicity? I believe Members may recall that in about 1997, the Government launched a credit guarantee scheme administered by the Hong Kong

Export Credit Insurance Corporation basing on export contracts. However, due to the complicated procedures, banks were not willing to take part in it and SMEs failed to benefit as a result. That was why when we devised the Scheme in 1998, a major principle conceived was administrative simplicity.

Furthermore, there is one very important point. In a discussion paper for the Finance Committee meeting on 31 July 1998, the Government specially pointed out under the heading "Financial Implications" that, given the nature of the Scheme, there is an inherent risk that calls may be made on the guarantee which will have to be settled by payments from the approved commitment and there is thus a possibility of the capital commitment under the Loan Fund not being recovered, in part or in whole. At the time, members of the Finance Committee were well aware of the risk and approved of the *modus operandi* of the Scheme under the circumstances.

As everyone knows, business risks for SMEs are the highest in the whole world, and Hong Kong is no exception. Operating in a free and open economy, only the fittest SMEs may survive. Though many SMEs are folding for poor management or adverse economic conditions, many new ones are emerging. So, there are failures and new attempts all the time. We all know that in the past banks were unwilling to advance loans to SMEs unless there were "bricks and mortar", usually in the form of properties, as security. After the financial turmoil, property prices plummeted and, as a result, more SMEs found it difficult to obtain loans. Credit was tight, and against this background the Government launched the Scheme, which was meant to make banks willing to lend money to SMEs.

Since this is a high risk area of business and the 9.5% default rate is not something we can anticipate, I do not think it is fair to say the high default rate is due to poor supervision by the Government for Hong Kong has never implemented similar schemes about which there is experience for reference.

DR RAYMOND HO (in Cantonese): *Madam President, the Scheme has been operating for three years, will the Secretary inform this Council why defaults appeared in the three specific trades and how this compares with places with a similar social structure?*

SECRETARY FOR COMMERCE AND INDUSTRY (in Cantonese): Madam President, so far, we have not made it a point to study or analyse the high default rate in certain trades. One reason for this is that the Scheme is still in operation and the credit guarantees approved before will not mature until May 2003. We have therefore decided to conduct a review then.

If pressed off the cuff for a reason, I think I would simply say the reason is that there is an economic downturn and the external economic conditions are not good. As the performance of the manufacturing industry and the import/export trade relies on external factors, the two sectors have understandably recorded a higher default rate. It is equally understandable to see the retail and wholesale businesses adversely affected because consumer spending in Hong Kong is adversely affected by the economic downturn.

MR JAMES TIEN (in Cantonese): *Madam President, the original intent of the finance scheme was meant to assist SMEs so that those SMEs with financial difficulties may borrow from banks, rather than giving banks an opportunity to off-load bad loans to the Scheme. In the main reply, it can be seen that 13 lending institutions had no defaults while 16 had a default rate as high as 15%. Will the Secretary inform this Council whether any investigation has been carried out on the 16 institutions and whether these institutions had failed to help the emerging SMEs but succeeded in off-loading bad loans to the Scheme, as a result a high default rate was recorded? If the latter is the case, I hope the Government can pay attention to this to prevent similar incidents from happening in the upcoming \$1.9 billion loan scheme.*

SECRETARY FOR COMMERCE AND INDUSTRY (in Cantonese): Madam President, the Government is aware of the situation mentioned by Mr TIEN and has made measures to prevent any abuse of the Scheme. To this end, the Treasury, when it is suspicious of compensation applications, will seek professional advice from the Hong Kong Monetary Authority and the Secretary for Justice, and it may even refuse to settle the guarantees if there is ample evidence to prove that loans were made in the absence of prudent assessment or professional scrutinizing procedures beforehand. However, so far, the Government has no evidence to prove that PLIs have abused the Scheme on purpose. We will surely pay attention to this aspect in launching the new scheme and examine if a mechanism can be devised to prevent abuse.

PRESIDENT (in Cantonese): Second question.

Funding Scheme for Workplace English Training

2. **MS AUDREY EU** (in Cantonese): *Madam President, since March last year, non-civil servant employees may apply for subsidies under the Funding Scheme for Workplace English Training for attending English training courses and benchmark tests. Each applicant may receive subsidies for taking a maximum of three training courses and the relevant tests, and the level of subsidy for each course-cum-test is set at half of the relevant cost, subject to a ceiling of \$1,500. In this connection, will the Government inform this Council:*

- (a) *of the number of applications approved and the total amount of subsidies granted so far, together with a breakdown of the applications submitted by individual applicants and companies respectively;*
- (b) *whether it has assessed the response from employees and employers to the Scheme; if so, of the assessment results; and*
- (c) *whether it will consider raising both the level and the ceiling of subsidies for each course, with a view to encouraging employees to take English diploma courses of longer duration?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, the Government launched a Workplace English Campaign in February 2000 to heighten the awareness of employers and employees of the importance of English proficiency in maintaining Hong Kong's position as an international centre, and to mobilize them to raise the English standard of the Hong Kong workforce. The Campaign consists of three parts: (1) public education and publicity activities; (2) establishment of the Hong Kong workplace English benchmarks for six job types, that is, clerks, executive/associate professionals, front-line services personnel, low-proficiency job types, receptionist/telephone operators and secretaries; and (3) the provision of the Funding Scheme for Workplace English Training (the Funding Scheme).

The Funding Scheme has two main features. One is the provision of subsidies to meet 50% of the training costs and examination fees for non-civil servant employees. A total of \$40 million has been earmarked for this purpose. Each applicant is allowed to take up to three training courses in eight months and attain one spoken benchmark and one written benchmark. A maximum subsidy of \$1,500 per course and examination will be reimbursed to the applicant (that is, a maximum of \$4,500 per applicant) after he has completed the course(s) and attained the benchmark(s) in prescribed test(s).

Over 20 000 applications have been received since the commencement of the Funding Scheme. About 14 000 applications, which involve a total commitment of more than \$20 million, have been approved; some 5 000 applications have been rejected due to withdrawal, double application, incomplete information or failure to provide valid proof of current employment; and some 1 000 applications are being processed. Among the approved applications, about 9 600 are individual applications while more than 4 500 are company/organization applications (see Annex for details). So far, over 5 000 employees have completed their training courses and attained the benchmark(s) in their respective job type.

Another main feature of the Funding Scheme is the allocation of \$10 million for the development of English training programmes which target the employees of a specific trade or profession, and which address a specific training need not served by other courses in the market. Employers' associations, trade and industry organizations and professional bodies are eligible to apply for course development. 50% of the cost of course development, or a maximum of \$500,000, whichever is the less, is provided.

Up to now, a total of 24 applications have been received. Among them, seven applications have been approved. The successful applications are from the taxi industry, legal sector, accounting and catering industry, and the subsidies involved amount to \$1.2 million. The details of another 14 applications, involving subsidies of \$630,000, are being discussed. The remaining three applications, which are not course development or workplace English programmes by nature, have been rejected.

In October 2000, we commissioned the Hong Kong Institute of Asia-Pacific Studies of The Chinese University of Hong Kong to conduct an assessment on the implementation of the Funding Scheme. The Institute has

successfully interviewed more than 1 000 applicants over the phone. According to the findings, nearly 80% of the respondents were of the opinion that the Funding Scheme helped them enrol in English training courses; 80% of the respondents considered the eligibility criteria of the Funding Scheme reasonable; and nearly 70% of the respondents felt their English standard had improved after taking the training courses.

In setting the ceiling of subsidies and deciding on the duration of courses under the Funding Scheme, the Steering Committee on Workplace English Campaign has given due consideration to a number of factors, including the tuition fee of similar courses provided by major English training institutions in Hong Kong, the advice given by training professionals and training institutions on course duration, and alternative types of English courses. After all, the Funding Scheme only serves to take the lead to mobilize the working population. Whether or not the standard of workplace English can be raised hinges on the efforts of our workforce. Employers, on their part, should also work out long-term staff development plans for their employees and encourage their employees to pursue continuous learning so as to achieve a higher standard of English.

Annex

Funding Scheme for Workplace English Training

Number of Applications and Total Amount of Subsidies for Employees to Attend Training Courses and Attempt International Tests

	<i>No. of individual applications</i>	<i>No. of company applications</i>	<i>Total no. of applications</i>	<i>Amount of subsidies involved (in million dollars)</i>
Total no. of applications	15 118	5 494	20 612	31.50
No. of applications approved	9 594	4 553	14 147	21.62
No. of applications rejected	4 739	773	5 512	8.42
No. of applications being processed	785	168	953	1.46

MS AUDREY EU (in Cantonese): *Madam President, the Secretary has not answered part of my question. Part (b) of the main question asks whether the Government has assessed the response from employees and employers to the Scheme, but the reply only mentions that in October 2000 a telephone survey was conducted to interview employees who have applied to the Scheme. There is no mention at all of the response of employers to the Scheme. May I ask if the authorities have not at all assessed the response of employers in this respect? In view of the fact that the employees' response is the findings of the survey obtained a year ago, would the authorities inform this Council whether or not assessments will continue to be done? Moreover, the Secretary has not answered part (c) of the question which is about whether the ceiling of subsidies which is presently set at \$1,500 will be raised. Certainly with such a low ceiling at \$1,500, many people are eligible to apply, but can this \$1,500 ceiling help those in need to reach their goal? Has the Government assessed if there is a need to raise this ceiling?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, it is true that the interviewees of the telephone survey conducted by The Chinese University of Hong Kong are employees, but they include employees who enrolled in English training courses on their own initiative and those who enrolled on the recommendation of their employers. The questions asked in the survey include the respondents' view on the Funding Scheme and whether they felt that their English had improved after attending the courses. At present, the Scheme has been half way through and there is about half of the subsidies left, or about \$20 million. We will certainly consider making another review or assessment.

As to whether the \$1,500 ceiling should be raised at this stage, in the review made in October 2000, we did not think employees had any strong opinions on the inadequacy of the subsidy. In the main reply, I have stated that in setting the ceiling of subsidies we have given due consideration to a number of factors and unless there are fundamental changes to these factors, we will not consider raising the ceiling. We hope that the Funding Scheme can benefit more people and encourage more employees to grasp this opportunity to pursue continuous education.

MR HOWARD YOUNG: *Madam President, I notice that in the Annex attached to the Secretary's reply, there are some figures on the number of applications, and the Secretary has explained in her reply that some applications were rejected for various reasons. However, from the table listed in the Annex, the rejection rate for individual applications seems quite high. In fact, I have worked out that about one third of the processed individual applications had been rejected, compared to about 17% of the company applications being rejected. I would like to ask the Secretary whether she views this as quite normal, or is there any special reason why the rejection rate for individual applications could be particularly high? Could it be attributed to the individuals not quite knowing the procedures, for example, filling in the forms?*

SECRETARY FOR EDUCATION AND MANPOWER: Madam President, there might be some misunderstanding about the purpose of this fund in the first instance. So there were applicants who applied for this fund without relating the course to the needs in the workplace. As it is the Funding Scheme for Workplace English Training (the Funding Scheme), the applicants, in the first place, have to prove that they are in employment and that the English course is related to the kind of work that he or she is doing. I think a large proportion of the rejected cases is partly related to the applicants' misunderstanding of the purpose of the Funding Scheme, and partly, as I mentioned in my main reply, related to the applicants repeating their applications. In other words, there was double counting in certain instances.

MR ABRAHAM SHEK: *Madam President, in the Workplace English Campaign, there is a feature of the Funding Scheme that \$10 million has been allocated for this purpose. However, only \$1.2 million has been used. Is it a success or not? I would like to ask the Secretary whether she will consider abandoning the Funding Scheme and using the money for other purposes?*

SECRETARY FOR EDUCATION AND MANPOWER: Madam President, we have received quite a number of applications. But I must admit that the response from employers is generally not as enthusiastic as individual applicants. We have some applications still being processed, but even taking that into account, the total sum of money being applied for is still far from \$10 million. Since we have not used up the fund allocated for individual training purposes, we

hope that by launching another round of publicity, we could attract more employers to come forward. Anyway, we will certainly review the situation.

MR JAMES TIEN (in Cantonese): *Madam President, in the fourth paragraph of her main reply, the Secretary mentions the development of English training programmes which target employees of a specific trade or profession. I note that there are only 24 applications from employers' associations and trade and industry organizations, and among them, seven have been approved. I am quite disappointed at the figures. I would like the Government to give an explanation on this. Is it because the business sector and the employers' associations do not have English teachers themselves and so they do not know how to design a curriculum, or is it because of some other reasons that the number of applications is on the low side? If it is due to the above-mentioned reasons, would the Secretary discuss the matter with the Immigration Department or other Policy Bureaux so that the business sector can employ English teachers from overseas and provide training to specific trades?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, we have not made any survey as to why these employers are not interested in organizing some trade-specific English courses for their staff. As a matter of fact, we have received very enthusiastic responses from the Law Society which has submitted a total of more than 10 applications. We have looked into these applications and approved most of them in principle. There is a restriction on the development of such courses and that is, for the trades concerned, there must be no similar or suitable English courses available on the market for employees in these trades and so specific courses have to be designed. It may be due to the fact that many trade associations do not think that the kind of English they use is that special and courses need to be tailor-made, and so when courses become available on the market, they will recommend their staff to make use of the subsidies provided under the first kind of funding scheme and enrol in such courses. It remains, of course, that many employers do not feel obliged to tailor make some courses for their employees and they would rather have their employees look for such training courses themselves. I believe the insufficient number of instructors available is not a cause for this low number of applications. It is because many companies which were successful in their applications managed to find instructors from the training organizations or universities to design training programmes for them.

DR LUI MING-WAH (in Cantonese): *Madam President, as this scheme is a very good one, may I know if the Government would continue with this Funding Scheme, or is it only a one-off scheme?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): *Madam President, I think it may be somewhat premature to talk about further funding for this scheme before the funding is exhausted. When this scheme has run to about three quarters of its course, we would make a review of the response and decide the way forward.*

PRESIDENT (in Cantonese): *Third question.*

Defence Against Terrorist Attacks

3. **MR LAU KONG-WAH** (in Cantonese): *Madam President, regarding the defence against attacks involving the use of biochemical weapons and combating terrorists, will the Government inform this Council:*

- (a) *of the procedures, according to the guidelines issued to various government departments, to be followed by departmental staff when they receive suspicious mails or parcels;*
- (b) *whether the Administration is planning to introduce legislation to freeze the assets of terrorists in Hong Kong or crack down on terrorist activities; if so, of the details and the timetable for legislation; and*
- (c) *whether public hospitals currently have enough stocks of medicines to cope with attacks involving the use of various types of biochemical weapons; if so, of the details, including the types of biochemical weapons that such medicines can cope with?*

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

- (a) *Hong Kong is a safe and secure city and is not traditionally a target of terrorist attack. So far, there is no intelligence to suggest that*

we will be subject to attack by terrorists using biological or other weapons. Nevertheless, we are vigilant and have stepped up security. We re-issued a set of guidelines to government departments to advise staff on how to handle suspicious objects and parcels (including letters) on 18 September 2001. Specifically for the handling of items suspected to contain anthrax, the Post Office distributed a set of guidelines to all postal workers on 16 October. A similar set of guidelines was subsequently issued to all government departments and uploaded to the Cyber Central Government Offices and Security Bureau websites on 19 October. The guidelines contain suggested handling procedures. Some important points to note are outlined as follows:

- Do not panic or open any suspicious envelope or package;
- Handle with care the suspicious envelope or package in accordance with the guidelines to prevent leakage or dispersal of content;
- Turn off all the fans and air conditioning in the area, section off the area and then leave the room;
- Wash with soap and hot water if suspicious powder have stuck onto the body and report the incident immediately to supervisor, who will notify the police;
- On police arrival the situation will be assessed and decontamination and follow-up medical treatment will be arranged as necessary.

These guidelines set out in detail the procedures for handling the scene where the suspicious object was found as well as matters which people who were in the area where the suspicious object was found and their supervisor should pay attention to. The guidelines are accessible on the Security Bureau website for general reference.

- (b) The Government of the Hong Kong Administrative Region (SAR) has existing legislative provision to freeze assets of the terrorists in Hong Kong. In June 2000, under the instruction of the Ministry of

Foreign Affairs of the People's Republic of China, we made the United Nations Sanctions (Afghanistan) Regulation which gives effect to the United Nations Security Council Resolution (UNSCR) No. 1267 in pursuance of the United Nations Sanctions Ordinance (Cap. 537). The Regulation provides, amongst others, for the freezing of funds and other financial resources owned or controlled by the Taliban or any enterprises held by the Taliban. In addition, we made the United Nations Sanctions (Afghanistan) (Arms Embargoes) Regulation pursuant to Chapter 537 on the instruction of the Ministry of Foreign Affairs on 12 October 2001. The Regulation gives effect to the UNSCR No. 1333 and provides, amongst others, for the prohibition of making funds or financial resources available to Usama bin Laden or his associates.

The existing Mutual Legal Assistance in Criminal Matters Ordinance provides for the enforcement of restraint orders and confiscation orders for assets made in foreign courts in respect of serious external offences, that is, offences entailing imprisonment of two years or more on conviction. Under the Organized and Serious Crimes Ordinance (OSCO) (Cap. 455), crimes related to terrorist activities, such as murder, kidnapping, and so on, are specified offences. The powers of tracing, restraint and confiscation of assets available under the OSCO are therefore applicable to those crimes. Chapter 455 and the Drug Trafficking (Recovery of Proceeds) Ordinance (Cap. 405) also stipulate that money laundering is a serious crime. We are working towards strengthening the provisions on money laundering, reporting suspicious money laundering activities, freezing and confiscation of assets, and so on, as stipulated in Chapters 455 and 405, thereby enhancing their effectiveness. The relevant recommendations have been incorporated into the Drug Trafficking and Organized Crimes Bill which is currently under the scrutiny of the Bills Committee of the Legislative Council.

As regards actions to combat terrorist activities, although terrorism is not a specified offence under our laws, there are provisions in our existing laws to deal with criminal activities that may be committed by terrorists, for example, kidnapping, murder, unlawful use of explosives causing injury to life and property, and so on. The

police have the power to arrest terrorists if they are suspected to be involved in crimes, and the Director of Immigration has the power to bar them from entry.

Earlier on, I have already mentioned that Hong Kong is able to provide international legal assistance under the Mutual Legal Assistance in Criminal Matters Ordinance.

Many international conventions against terrorism already apply to Hong Kong (for example, taking of hostages, hijacking of aircraft, unlawful acts of violence at airports, and so on). Besides, we have set in motion legislative procedures to implement the International Convention for the Suppression of Terrorist Bombings.

We have also received instruction from the Central People's Government to implement United Nations Security Council Resolution No. 1373. This extensive resolution requires Member States to fight terrorism on various fronts. It includes the prevention and suppression of terrorist financing, criminalizing direct, indirect and wilful provision or collection of funds for such actions, establishing terrorist acts as serious criminal offences in domestic laws with appropriate penalties and enhanced exchange of information and intelligence to fight terrorism. We are examining in consultation with our lawyers the necessary legislative measures to give effect to the various provisions of the Resolution. We expect to be able to draw up a legislative timetable soon.

- (c) As part of the integrated strategy to counter the threat of radiological, biological and chemical attacks including the anthrax scare, the health sector has in place risk assessment mechanisms and contingency plans to handle emergencies in a co-ordinated and effective manner. These risk assessments and contingency plans are subject to review and revision in the light of the latest intelligence in relation to terrorism. An effective disease surveillance system involving hospitals and clinics in the public and private sectors is also in place to monitor infectious diseases, including anthrax. Public hospitals have adequate stock of antibiotics for treating probable biological agents such as anthrax, pneumonic plague, and so on. In fact, antibiotics such as

ciprofloxacin, doxycycline, penicillin, erythromycin and amoxicillin for treating anthrax are quite commonly used for treatment of other infectious diseases. There is also adequate supply of antidotes for treating chemical agents such as cyanide and nerve gas. During emergencies, the Hospital Authority (HA) and the Department of Health (DH) can, through their network with pharmaceutical suppliers and international agencies, ensure the adequate supply of drugs within short notice.

MR LAU KONG-WAH (in Cantonese): *Madam President, the Secretary stressed that there was no intelligence to suggest that Hong Kong would be subject to attack by terrorists. Certainly, I agree that we do not have to be excessively nervous. However, I would like to remind the Government that there was also no intelligence in respect of the "September 11 incident" before its outbreak; neither was there any before the "sarin gas" incident in the subways in Japan. Therefore, we cannot take this matter lightly. May I ask if the Government will also consider informing all the public transport operators apart from distributing guidelines to government departments? Besides, which government departments will take part in the drills?*

SECRETARY FOR SECURITY (in Cantonese): *Madam President, if the Government considers that the public should know more about certain procedures such as the handling of suspicious envelopes and packages, we will release the relevant guidelines to the public. In fact, we have already uploaded this set of procedures to the Cyber Central Government Offices and Security Bureau websites for the public's reference. However, the procedures for handling biochemical attacks are mainly dealt with by government departments which include several units of the Police Force, namely, front-line police officers and bomb disposal officers, the Fire Services Department, the Government Laboratory, the DH, the HA, and so on. When that happens, those departments will carry out the relevant procedures relating to rescue, decontamination, quarantine, and so on. Therefore, the Government does not find it necessary to issue the guidelines to public organizations. If any people or organizations are afraid that they are subject to such attacks, they should report to the police at the first instance regardless of whether they are in the public or private sectors.*

PRESIDENT (in Cantonese): Mr LAU Kong-wah, has your supplementary question not been answered?

MR LAU KONG-WAH (in Cantonese): *Madam President, the Secretary did not answer which departments and the kinds of drills they have conducted.*

SECRETARY FOR SECURITY (in Cantonese): Madam President, with respect to different circumstances such as large-scale disasters, plane crashes, terrorist activities at airports, sea rescue, and so on, the Government will have different contingency measures with regular drills. Insofar as contingency measures to deal with biochemical attacks are concerned, they were formulated many years ago and revised in 1998. With the outbreak of the "September 11 incident", we are now reviewing and revising these measures. As soon as the revision is completed, large-scale drills will be conducted. Although we still need quite some time to prepare for the drills beforehand, respective departments concerned such as the Police Force, the Fire Services Department, the DH, the HA, and so on, have actually conducted drills on their own.

MR MICHAEL MAK (in Cantonese): *Madam President, my supplementary question is mainly related to education and publicity. I think that terrorism can poke into every nook and corner and will not be confined to government departments. Several days ago, our colleagues, the Honourable Emily LAU and the Honourable LEE Cheuk-yan respectively received letters that carried some powder. Mr LEE Cheuk-yan simply threw it away, which proved that his crisis awareness was very low. May I ask the Government how it will improve the education of the public in this respect, so as to increase their crisis awareness or abilities to handle emergencies?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, I thank the Honourable Michael MAK for raising this supplementary question. I think that publicity and education should be done in two aspects. Firstly, we certainly have to remind the public to be more alert, for example, to be alert to the handling of suspicious envelopes or parcels. People should not simply throw the mail away if it carries powder. Rather, they should report to the police at

the earliest possible time, switch off the air-conditioning and ventilation system, and wash their hands immediately. Secondly, the Government should educate the public not to panic unduly. Since the outbreak of the "September 11 incident" up to the end of October, we have received 36 reports of suspicious biochemical attacks in total. Two of them were proved to be pranks whereas the rest were due to people's misunderstanding. Therefore, the public must be reminded that if they panic unduly, they will fall into the trap of the terrorists which aims at disrupting our daily life. We must put in place sound contingency measures, and the public should also understand that terrorist attacks are different from criminal damage in general. The former is for political purposes, trying to threaten the public, scare them or force the Government to change its policies. Therefore, although the panic of anthrax attacks exists in many places around the world, actual examples of infection were only found in the United States. In respect of cases beyond the borders of the United States such as the report of a letter sent from Malaysia to Microsoft in the Nevada State of the United States was found carrying anthrax, but later it was proved that no anthrax was contained therein. Nor was there any in the cases in Kenya and Brazil. It is thus evident that these terrorist activities with political motives currently centre around the United States only. So, Hong Kong people do not have to panic unduly.

MR YEUNG YIU-CHUNG (in Cantonese): *Madam President, the Secretary mentioned earlier that two cases were proved to be pranks. May I ask what methods the police have to follow up these pranks and how they will do so?*

SECRETARY FOR SECURITY (in Cantonese): *Madam President, we will hand over the prank mail to the Crime Wing of the police which will conduct the investigation based on all the evidence at hand, such as the place from where the letter is sent, suspicious handwriting, contents, and so on.*

MR NG LEUNG-SING (in Cantonese): *Madam President, I note that the Government has studied with lawyers in introducing laws so as to implement the international covenants. May I ask if the Government will conduct consultation in the course of making laws? If consultation is needed, which trade or people will be consulted?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, we are mainly consulting the relevant government departments internally, and we will certainly seek advice from lawyers. However, we do not consider it necessary to consult certain trades. As soon as the bill is properly prepared, it will be tabled at the Legislative Council for scrutiny.

DR LO WING-LOK (in Cantonese): *Madam President, terrorist attacks are always unexpected. That is, even if they take place in the most developed countries or regions, the abilities of the governments to deal with such attacks are very limited. Although the Secretary said in his reply earlier that contingency measures in various aspects are already in place, may I ask the Secretary if the people in Hong Kong should take some precautions as individuals? What role can civil organizations play in preventing sudden terrorist attacks?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, I would like to reiterate that Hong Kong is a low-risk region according to our current assessment on whether Hong Kong will be subject to terrorist attacks. We will update this assessment continuously according to international developments. Undoubtedly, the risks faced by different people and different organizations in Hong Kong are not at all similar. For example, the people or organizations representing the United States, relating to the United States, or of countries joining hands with the United States in launching the war with Afghanistan may face higher risks. We think that the public do not have to feel excessively scared, nor do they have to take antibiotics or receive vaccinations in advance since anthrax has been found in the United States. I believe Dr the Honourable LO Wing-lok, who is a doctor, is aware of the views of the medical sector, that is, taking antibiotics in advance may harm our bodies. We will keep a close eye on the development in the United States, particularly the work on tracking the source of anthrax carried by mail and channels of spread. Now, the United States Postal Services intend to buy some expensive radiation devices to kill the bacteria contained in mail. We will pay attention to the circumstances and release information relevant to the aspect that we think the public needs to be beware of.

PRESIDENT (in Cantonese): This Council has spent more than 17 minutes on this question. I will allow a Member to raise the last supplementary question now.

MR JAMES TO (in Cantonese): *Madam President, I generally agree with the Secretary's analysis, that is, Hong Kong is a low-risk area and the Government will update its assessment continuously. To my knowledge, the People's Liberation Army (PLA) and the relevant departments of the Government of the Special Administration Region (SAR) have recently held a meeting, discussing the conduct of joint exercises, carrying out preventive actions, making plans for contingency measures together, and so on. May I ask the Secretary of the progress of work in this regard? Do we really need 48 hours, as reported, to secure the approval of the Central Government before the People's Liberation Army can be mobilized to provide assistance in the most extreme circumstances?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, Article 14 of the Basic Law provides that "The Government of the Hong Kong Special Administrative Region may, when necessary, ask the Central People's Government for assistance from the garrison in the maintenance of public order and in disaster relief". Long before the outbreak of the "September 11 incident", the SAR Government and the Central Government have put in place a mechanism. The SAR Government can request the Central Government to mobilize the PLA to provide assistance, when necessary. This mechanism, contrary to the understanding of the Honourable James TO, can be activated not after 48 hours in order to mobilize the garrisons in Hong Kong to provide assistance. Hence, this mechanism is already in place. We have just made further contact with the PLA after the "September 11 incident" so as to gain an understanding of how the two parties can co-ordinate when such a need arises. However, I must emphasize that the chance to seek the PLA's assistance is minimal according to our estimation. It is because Hong Kong has a sizeable rescue team and auxiliary service. I believe that should the need arise for large-scale disaster rescue actions, the disciplined forces in Hong Kong would be able to cope. In case they really cannot cope with it, we will then request the mobilization of the PLA for assistance.

PRESIDENT (in Cantonese): Mr James TO, has your supplementary question not been answered?

MR JAMES TO (in Cantonese): *Madam President, what is the shortest time required to request the mobilization of the PLA for assistance? As the Secretary stated that the time required was not 48 hours as reported, then how long will it take the soonest?*

SECRETARY FOR SECURITY (in Cantonese): *Madam President, I think it is common sense that if we really make the request to mobilize the PLA to provide assistance, we must act as quickly as possible.*

PRESIDENT (in Cantonese): *Fourth question.*

Commissioning of Contractor to Handle Livestock Waste

4. **MISS CHOY SO-YUK** (in Cantonese): *Madam President, it is learnt that a contractor has been commissioned to collect livestock waste from farmers, who then delivers a certain quantity of the collected waste to Sha Ling Livestock Waste Consolidation Plant for composting and transports the remaining quantity of waste to landfills for disposal. In this connection, will the Government inform this Council of:*

- (a) *the criteria it adopted for commissioning the contractor and the expiry date of the relevant commissioning contract;*
- (b) *the average daily tonnage of livestock waste currently collected by the contractor, the respective amounts of such collected waste delivered to Sha Ling Livestock Waste Consolidation Plant for composting and to landfills, as well as the landfills involved; and*
- (c) *the respective annual payments made to the contractor and to the landfill operators for disposal of the livestock waste; whether it has assessed if the existing arrangements have in fact resulted in double payment of fees and whether this is reasonable, and how long this situation has existed?*

SECRETARY FOR THE ENVIRONMENT AND FOOD (in Cantonese):
Madam President,

- (a) The Environmental Protection Department (EPD) followed the open tender procedures established by the Government's Central Tender Board in awarding the livestock waste collection contract to the current contractor. Both the tender assessment criteria and selection outcome were approved by the Board.

In assessing the tenders, the EPD's major considerations were the tenderers' experience, equipment and technical capability in collecting livestock waste and in operating composting plants, as well as their financial status and tender price. The contract commenced on 1 July 2000 and will expire on 30 June 2004.

- (b) The contractor currently collects about 150 tonnes of livestock wastes each day. Since the Sha Ling Composting Plant can only treat a maximum of 20 tonnes of wastes each day, the EPD has requested the contractor to deliver 20 tonnes of wastes to the Sha Ling Composting Plant for treatment. The remaining 130 tonnes are delivered direct from the farms to the West New Territories Landfill and the North East New Territories Landfill for disposal.
- (c) The EPD pays an annual fee of about \$13 million to the contractor. This amount is mainly for the collection of livestock wastes from farms. Separately, in the past four years, the EPD pays an average of about \$8 million each year to the landfill contractors for handling livestock wastes.

The EPD only pays the livestock wastes collection contractor the fees for the collection service and for composting some of the wastes. Hence, there is no double payment of fees.

MISS CHOY SO-YUK (in Cantonese): *Madam President, as far as I know, the contractor at the Sha Ling Composting Plant and the contractor for waste collection are one and the same company. Since the amount of livestock waste collected each day is as much as 150 tonnes, then why did the Government, when entering into the contract with the Sha Ling Composting Plant, only specify that*

only 20 tonnes of waste would be treated every day? That is not only entirely out of touch with the reality, but will also make it necessary to transport the remaining 130 tonnes to the landfills for disposal.

SECRETARY FOR THE ENVIRONMENT AND FOOD (in Cantonese): Madam President, it is mainly due to the limitations of the Sha Ling Composting Plant. At present, the plant is only capable of treating 20 tonnes of livestock waste daily and that has restricted the operation of the contractor. However, as I pointed out in my reply to a similar question raised in the last Session of this Council, the EPD plans to start another composting plant in Ngau Tam Mei which is expected to be commissioned in 2002. The existing composting plant at Sha Ling is capable of treating some 7 200 tonnes of livestock waste each year, and the new plant at Ngau Tam Mei is capable of treating 36 000 tonnes of livestock waste each year.

MR WONG YUNG-KAN (in Cantonese): *Madam President, I would like to follow up one point raised in the main reply. As far as I know, the contractor in question is likely to be the same livestock waste contractor which has been providing livestock waste collection service for quite a long time. Then why this company is only required in the contract to undertake waste composting work only now whereas previously it was not required to do so? The existing composting plant at Sha Ling is only capable of treating 20 tonnes of waste each day, despite the future plant at Ngau Tam Mei is, as stated by the Secretary, greater in scale, but if appropriate action is taken now, livestock waste can be turned into organic fertilizers. Since Hong Kong imports organic fertilizers in enormous quantities, can the Government not consider taking expedient action in this aspect?*

SECRETARY FOR THE ENVIRONMENT AND FOOD (in Cantonese): Madam President, the new composting plant to be built at Ngau Tam Mei will be commissioned next year and that can be said to be very expedient indeed. As a matter of fact, the livestock waste collection service for farms began only in 1996, but the Sha Ling Composting Plant was commissioned at the beginning of the 1990s, that is, about 1992. At that time, there was no free livestock waste

collection service, so a daily treatment capacity of 20 tonnes was considered sufficient then. Since the new service was provided by the Government in 1996, a large amount of livestock waste became available for composting purposes. It is also due to this reason that we will set up a second composting plant next year.

PRESIDENT (in Cantonese): Mr WONG Yung-kan, has your supplementary question not been answered?

MR WONG YUNG-KAN (in Cantonese): *Madam President, when a contract is entered into with a contractor in future, would it be necessary to stipulate that the waste collected will be treated in the same plant and not separately by two different plants?*

PRESIDENT (in Cantonese): Mr WONG Yung-kan, your question is not related to any part of your supplementary question. Please press the button first and wait for your turn to ask this question.

DR TANG SIU-TONG (in Cantonese): *Madam President, according to the main reply given by the Government, in the past four years, an average of about \$8 million was paid annually to the landfill contractors for handling livestock waste. But the annual fee paid to the contractor at the composting plant is as much as \$13 million. Then would it be cheaper to dispose of the livestock waste at the landfills than sending it to the composting plant?*

SECRETARY FOR THE ENVIRONMENT AND FOOD (in Cantonese): Madam President, of the annual fee of \$13 million paid to the contractor for the collection of livestock waste, only about \$500,000 goes to the operation of the composting plant in treating 20 tonnes of livestock waste each day, and the remaining livestock waste is sent to the landfills. It would be most desirable from the environmental protection perspective if waste can be recycled and that is also our policy objective and the main reason for building another composting plant.

MR IP KWOK-HIM (in Cantonese): *Madam President, can the Government inform this Council how the annual fee paid to the contractor which collects livestock waste and the fee paid to the contractor of the landfills are worked out? For instance, how much is the fee for treating 1 tonne of livestock waste?*

SECRETARY FOR THE ENVIRONMENT AND FOOD (in Cantonese): Madam President, as at 30 September this year, the average cost of treating livestock waste at the Sha Ling Composting Plant is about \$65 per tonne. The average cost of transporting livestock waste to the landfills is about \$201 per tonne. That there is a difference between the two is mainly due to the special treatment required for disposing the waste in the landfills, that is, a three-metre deep pit has to be dug for dumping the waste. Then the pit has to be levelled with sawdust and mud to prevent pollution of the environment. However, as I have repeatedly said earlier, we hope to minimize the amount of livestock waste sent to the landfills for disposal. We also need to think about where the composted waste can be used subsequently.

MISS CHOY SO-YUK (in Cantonese): *Madam President, the Secretary has mentioned earlier that a new composting plant would be built, but I would like to say that since the Government has paid the fees, then there should be no worries about how the composted waste would be used. Even if it is left unused and finds no market, the Government should not have any worries about it. As the contract will expire only by 2004, that is, the Government has to pay fees to the contractor at the Sha Ling Composting Plant, then why does the Government not consider increasing the daily handling capacity of the plant from the existing 20 tonnes instead of spending a great amount of money to send the waste to the landfills for disposal? I really do not understand the rationale behind it, would the Secretary like to explain that?*

SECRETARY FOR THE ENVIRONMENT AND FOOD (in Cantonese): Madam President, I thought I had made that point clear already. When the EPD approved of the contract, it was stipulated that the Sha Ling Composting Plant would treat 20 tonnes of livestock waste every day and it was not meant to be any preferential treatment for the contractor. The only reason is that the plant is hamstrung by its handling capacity, not because we do not want the

contractor to do more. When I talked about how the composted waste should be used, that was meant to look forward. When after the composting plant at Ngau Tam Mei is completed, the EPD will reconsider the arrangements in the existing contract to see if any amendment is necessary. I would like to stress that although the contractor is required to treat 20 tonnes of livestock waste at the Sha Ling Composting Plant every day, the term influenced the tender price at that time already. In other words, we have not given the contractor any special preference.

MR WONG YUNG-KAN (in Cantonese): *Madam President, I would like to raise again the supplementary question already raised earlier. From the main reply given by the Government, it is learnt that the contract will expire by 2004, but the Government has said earlier that this new composting plant may be commissioned in the following year or two years from now. Then, will the same contractor be awarded the contract for the new composting plant? If not, will fees be paid to two different companies during this two-year period?*

SECRETARY FOR THE ENVIRONMENT AND FOOD (in Cantonese): Madam President, the EPD is still considering the issues of waste collection and composting services. I can assure Honourable Members here that there will definitely be no double payment of fees.

PRESIDENT (in Cantonese): Last supplementary question.

MISS CHOY SO-YUK (in Cantonese): *Madam President, I am following up the supplementary question raised by the Honourable WONG Yung-kan. As the composting plant at Ngau Tam Mei will complete in the coming year, but the relevant contract will expire only in 2004. Are there any terms in the existing contract providing for premature termination? If the contract is not terminated, that will bind the Government to using the service of that plant and paying the fees as required. Otherwise, the only solution is the double payment of fees. Under the existing terms of the contract, will compensation have to be paid if the contract is terminated?*

SECRETARY FOR THE ENVIRONMENT AND FOOD (in Cantonese): Madam President, as far as I know, there are terms in the existing contract providing for termination. However, as I have said repeatedly earlier, the EPD is presently looking into the details in this regard. If Honourable Members are interested in this, I would request the EPD to forward the relevant information on the proposal it has decided to adopt to the Panel on Environmental Affairs chaired by the Honourable Member.

PRESIDENT (in Cantonese): Fifth question.

Meetings on Cross-border Issues

5. **MISS CYD HO** (in Cantonese): *Madam President, the contents and outcome of the meetings held between the Government of the Hong Kong Special Administrative Region (SAR) and the relevant mainland authorities on matters relating to cross-border co-operation may have far-reaching impact on society. In this connection, will the Government inform this Council:*

- (a) *of the number of meetings on cross-border issues attended by SAR officials at the rank of department head or above since the handover of sovereignty, as well as the attendance lists, agenda items, conclusions arrived at and outstanding issues to be followed up in respect of each of these meetings;*
- (b) *of the formal mechanisms in place for disseminating information on these meetings and enabling the public to have access to such information; if no formal mechanisms are in place, of the reasons for that; and*
- (c) *whether it will consider making it a standing arrangement to report proactively to the Legislative Council, before and after each round of meetings, matters relating to such meetings and the progress of the items discussed; if so, when this arrangement will be implemented; if not, whether it will assess how such a decision may undermine the accountability and transparency of the Government?*

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President,

- (a) Since the reunification, the SAR Government has established a cordial working relationship with the Central People's Government and other relevant mainland authorities under the principle of "one country, two systems". In the past few years, Policy Bureaux and departments of the SAR Government have established direct communication channels with their mainland counterparts. During the three-and-a-half-year period between the reunification and the end of 2000, there were a total of 9 260 exchanges between officials of the SAR Government and the Mainland. These exchanges included meetings on operational matters, seminars, training programmes, familiarization visits and regular working sessions. As the scope of meetings on cross-boundary issues referred to in Miss HO's question is extensive and that such meetings may take many different forms, it is very difficult to provide in detail the number of such meetings as well as the attendance list, agenda items and follow-up actions in respect of each meeting.
- (b) At present, depending on the nature of the discussions, Policy Bureaux and departments usually disseminate information to the public about their meetings with the relevant mainland authorities through press releases, press conferences or other channels before or after such meetings. They may also brief the relevant Legislative Council panels. For example, the Environment and Food Bureau briefed the Legislative Council Panel on Environmental Affairs in May this year on the work progress of the Hong Kong-Guangdong Joint Working Group on Sustainable Development and Environmental Protection. Also, several meetings were held between the Security Bureau and the Legislative Council Panel on Security on issues relating to the reciprocal notification mechanism for Hong Kong residents detained in the Mainland. Press releases on these meetings are available at the website of the Information Services Department for public information. At the same time, the public have access to the Legislative Council papers submitted by the Government through the various channels provided by the Legislative Council.

- (c) I believe Members would agree that in the process of inter-government negotiations and discussions, there is a need for the content to be kept confidential. We could not publicize the relevant recommendations or proceed with the necessary public consultation and other procedures until after such discussions have reached a certain stage. Releasing details of the discussions prematurely may seriously affect the progress of discussion and our strategy. Moreover, disclosing the details of discussion prematurely, or when both sides are only conducting preliminary exchanges of ideas, may give rise to unwarranted speculations. In the case of more complex issues, lengthy discussions and negotiations may be required before conclusions are reached. Nonetheless, the policy objectives and policies of bureaux and departments are open and transparent, and most of these policies have been debated at the Legislative Council or the various panels and committees.

In the light of the above and having regard to the increasingly frequent contacts with the mainland authorities on matters relating to cross-boundary co-operation, we consider that a standing arrangement requiring heads of department or above to brief Members on the progress of each meeting is neither practical nor feasible. We suggest briefing the Legislative Council on a case by case basis. We will, as in the past, hold post-meeting briefings for Members or the full Council as and when there are substantial developments on important issues. The SAR Government has always acted in a responsible manner. I believe the existing arrangements and the mechanism in place has been effective in realizing the accountability and transparency of the Government.

MISS CYD HO (in Cantonese): *Madam President, the Secretary pointed out in the main reply that the discussions concerned must reach a certain stage before the relevant recommendations can be publicized and the necessary public consultation conducted. This will mean that by the time when the outcome of negotiations is released by Hong Kong and China, it will in effect be the bottomline of consultation, and even if the people of Hong Kong hold different views from the outcome, they will not have much room to voice their opinions. For example, during our recent meeting on the Shenzhen-Hong Kong Western*

Corridor and railway networks, we found that the project had already been near completion in the Mainland. What Hong Kong can do is either to take it or leave it, and there is not much room for any changes. May I ask the Secretary whether the people have been deprived of their opportunity to voice their opinions and influence the decision-making process in respect of cross-boundary matters?

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, I think it depends on the nature of the issues discussed by China and Hong Kong. What Miss HO has mentioned is only an extreme example, because what is involved is a works project. Since this is quite a large project, there have been more limitations. Both sides have their respective limitations, which is why not many options are open. But this is not the approach adopted under normal circumstances. As I pointed out in the main reply, very often, we do reach a consensus, but this will just form the basis. We must conduct public consultation in Hong Kong or go through the legislative process to endorse the relevant motions or proposals. Therefore, the Legislative Council will have sufficient opportunities to suggest changes or other considerations in respect of our proposals. If we need to apply to the Legislative Council for appropriation of funds, then, in varying degrees, all these factors and reasons will influence our decisions even more. Hence, Members must not make any undue deduction, saying that there is no flexibility for all issues. Naturally, for some issues, the room and flexibility that we have may be relatively limited, but such cases are very unusual.

PRESIDENT (in Cantonese): Miss HO, has your supplementary question not been answered?

MISS CYD HO (in Cantonese): *No, Madam President. What I mentioned just now is a specific case, but the Secretary did not answer clearly whether the room for people to voice their views on cross-boundary issues is deprived under the existing approach.*

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, I thought I had already given my views on this.

If there is enough room, there will of course be fewer restrictions. That is why what I mentioned just now are actually the usual circumstances. As for the isolated case mentioned by Miss HO, I am sorry to say that I am not the official responsible for the matter, so, with respect to the degree of restriction we are subject to, I am not in the position to say assertively that there is no flexibility, or there is flexibility. This explains why I answered this question in a relatively general manner just now. Generally speaking, I think there is room, that is, in general, there is enough room for people to voice their views and for the Government to take account of their opinions.

PRESIDENT (in Cantonese); Honourable Members, there are still 10 Members waiting for their turn to ask supplementary questions. Please therefore be concise when asking your questions, so that more Members can ask theirs.

MR ALBERT HO (in Cantonese): *Madam President, in part (c) of the main reply, the Secretary pointed out that consultation would be conducted as far as possible during the process of bilateral negotiations, but that very often, recommendations can only be publicized when the time is ripe. I wish to ask a question that requires a concrete answer. First, is there any example to show that both sides have conducted consultation in the course of their negotiations? I ask this question because this has never been the case. More specifically, when an outcome is reached, will the Government consider conducting consultation on it before both sides finalize their decisions? In other words, they must allow Hong Kong to voice its views fully, and then give themselves further allowance for consideration. I mean, they must conduct public consultation on their tentative agreements. Will this approach be adopted to handle cross-boundary issues in the future?*

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, I think in the work process of some particular issues, it may not be possible to conduct several rounds of consultation during process. As I said just now, some issues may require entrenchment by way of legislation, while others may need funds appropriation by the Legislative Council before any work can proceed. We are of the view that this is already part of the consultation process, in the sense that the outcome of negotiations we submit is not yet final, and the consent of the Legislative Council is still required. Besides, in the course of

seeking approval, we often have to conduct briefings before District Councils and listen to the opinions of their members. This is also part of the consultation process. As for specific examples, I am sorry that I cannot remember any for the moment. But I do know that there are such examples. If necessary, I shall submit a written reply.

MISS EMILY LAU (in Cantonese): *Madam President, in the last paragraph of the main reply, the Secretary pointed out that the existing arrangements could already give expression to the accountability of the SAR Government, and that such arrangements are quite transparent. Madam President, do you find this very ridiculous? There have been 9 260 exchanges between government officials of both sides, but I cannot recall any cases in which the Legislative Council was consulted — except the time when Mrs Anson CHAN came before us, at our special invitation, and with the President's approval to answer our questions. The Secretary cannot of course report to us on each of these 9 000 or so exchanges, for the President has said that there are only 15 minutes for this question. But I still hope that the Secretary can at least quote 10 cases, in which the highest officials under the Chief Executive came before the Legislative Council to brief us on the progress of negotiations, to give expression to government accountability and transparency. If there is none such cases, I advise the Secretary not to talk nonsense.*

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, I have actually quoted several examples in part (b) of the main reply. The Secretary concerned is also here now, and this case involves the Environment and Food Bureau's report to the Panel on Environmental Affairs regarding the work progress of the Hong Kong-Guangdong Joint Working Group on Sustainable Development and Environmental Protection. In addition, several meetings were held between the Security Bureau and the Panel on Security regarding issues relating to the reciprocal notification mechanism for Hong Kong residents detained in the Mainland. All these are examples, prepared for me by my colleagues. There are of course other examples, but I do not have the relevant information to hand now. But as far as I can remember, and as also pointed out by Miss LAU just now, the former Chief Secretary for Administration once came before the Legislative Council to answer questions; Miss Elsie LEUNG, Secretary for Justice, also once came here to offer clarifications at the invitation of the Legislative Council. But I do not have any

detailed information now. I remember that Miss LEUNG once attended a House Committee meeting to offer clarifications, and that was a few years ago. With the Honourable Member's permission, I shall submit the relevant supplemental information in writing. I am sure that there must be two or three more such examples. (Annex I)

MISS EMILY LAU (in Cantonese): *Madam President, in my supplementary question, I asked the Secretary to give us all the examples. If there are any examples, he should give us all of them. Suppose there are only two or three examples, he of course only has to give us two or three examples. May I ask the Secretary to name all those cases among the 9 000 or so exchanges, in which the Legislative Council was consulted?*

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): *Madam President, as I said in the main reply, it will be difficult for us to list all such examples, because in that case, we will have to go over all these 9 000 or so exchanges one by one again. I will look at the principal government officials' information, and if I find any such examples, I will report to Members as much as possible.*

MR LEUNG YIU-CHUNG (in Cantonese): *Madam President, in reply to Members' questions just now, the Secretary said that the Government would account the progress of some specific issues to the public on its own initiative, but in reality, government officials will do so only at the invitation of the Legislative Council. If the Legislative Council does not make any invitation, the Government will not do this on its own initiative. Therefore, I really doubt the Government's transparency claim.*

PRESIDENT (in Cantonese): *Mr LEUNG, since time is running out, please state your supplementary question directly.*

MR LEUNG YIU-CHUNG (in Cantonese): *Suppose the Government really wishes to demonstrate transparency, then may I ask the Secretary whether the*

Government will, in the future, report to Members and the public on its own initiative, without being invited by Members to do so? Will the Government put in place a mechanism, whereby, whenever government officials go to the Mainland to hold negotiations and exchanges with their mainland counterparts, we will be informed of the topics beforehand, so that people can know what issues the Government is concerned about? I am not asking the Government to tell us the contents of the relevant meetings.

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, as I said in the main reply, briefings by government officials to Members in the Legislative Council are already one of the channels and ways of consultation. Besides, we will also report to the public on our own initiative through press conferences following exchanges. There are actually plenty of such examples. But since the issue mentioned just now is of a different type, I did not give any example. For instance, the Hong Kong/Guangdong Co-operation Joint Conference has held four meetings so far, and after each of these meetings, we always reported to the public on the contents and outcome of the discussions. On the Hong Kong/Guangdong boundary liaison mechanism, we hold a meeting every year, and we also report to the public on this issue. Therefore, there are certainly examples, only that our targets may not always necessarily be the Legislative Council.

DR YEUNG SUM (in Cantonese): *Madam President, the efforts of communication made by officials of both sides should be recognized. On the issue of round-the-clock boundary clearance and the construction of the Shenzhen-Hong Kong Western Corridor, public opinions in Hong Kong are rather divided. But it seems that the Mainland is very anxious to launch the projects. Will the Government lay down some sort of a principle which forbids the relevant departments to reach final agreements with the Mainland over some specific issues before consulting the relevant panels of the Legislative Council or members of the public? If such a principle is not laid down, then for some specific issues, requests for fund appropriations may well be made to the Legislative Council only when the negotiations concerned are near completion, at which time Members may have to give approval whether they like it or not.*

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, the Chief Secretary for Administration is also here now. He once remarked that on the issue of round-the-clock boundary clearance points, people's views would be the deciding factor, and that we would definitely listen to their views. Hence, a simple answer is that we will definitely take account of people's views.

PRESIDENT (in Cantonese): This Council has spent more than 18 minutes on this question. Since many Members are still waiting for their turn, I shall allow one last supplementary question.

MR LEUNG FU-WAH (in Cantonese): *Madam President, the Secretary pointed out in part (a) of the main reply that since the reunification, there have been some 9 000 exchanges between officials of both sides. May I ask whether the annual meetings of the Local People's Congress and the Local Committee of the Chinese People's Political Consultative Conference of Guangdong Province are also counted? The issue of sustainable development may be discussed in these meetings, and the Hong Kong Government has set up the Hong Kong-Guangdong Joint Working Group on Sustainable Development and Environmental Protection. Will government officials be sent to sit in on these meetings?*

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, if the meetings concerned are held between the governments, we will definitely send our officials to attend them. If not, and if these are just seminars and talks open to the general public, we may not necessarily send our officials along, because I have already specified that we are talking about exchanges between governments.

PRESIDENT (in Cantonese): Mr LEUNG FU-wah, has your supplementary question not been answered?

MR LEUNG FU-WAH (in Cantonese): *Madam President, the Secretary has not answered my question. These are not seminars but formal meetings involving*

legislative work and political discussions. In fact, foreign consuls also sit in on these meetings.

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, if a meeting is a formal one between two governments, with foreigners in attendance, it will of course be counted.

PRESIDENT (in Cantonese): Last oral question.

Establishment of Sustainability Impact Assessment System and Council for Sustainable Development

6. **DR RAYMOND HO** (in Cantonese): *Madam President, it is learnt that the Sustainable Development Unit set up in April this year will put forward concrete proposals on the establishment of a sustainability impact assessment (SIA) system and a Council for Sustainable Development (CSD) within the Government by the end of this year. Government departments will in future be required to carry out SIAs in formulating major policies and programmes. In this connection, will the Government inform this Council:*

- (a) how decisions on whether SIA should be conducted on a certain policy or programme are made, with examples to illustrate;*
- (b) whether SIAs are required to be conducted on cross-boundary major infrastructural projects; and*
- (c) given that the Chief Executive proposed the establishment of a CSD in his 1999 policy address, but to date the Administration has not yet come up with any proposals on matters such as the composition and terms of reference of the CSD, its relationship with relevant statutory and advisory bodies, as well as the stage at which the CSD intervenes in the assessment mechanism, of the main reasons for the slow progress of work in this regard?*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, my response to the Honourable Member's questions is as follows:

- (a) An initiative or major programme that may bring about significant or prolonged implications to the economic, social or environmental conditions of Hong Kong will be required to conduct a sustainability assessment. Examples may include regional planning studies, comprehensive transport studies, and so on. The responsible bureau or department will have to integrate the three essential considerations in formulating its initiative and explain the long-term sustainability of its proposal when it seeks policy approval from the Chief Secretary for Administration's Committee or the Executive Council as the case may be. An early assessment will help scope out cross-sectoral issues and sensitive areas that require special attention or further detailed examination by the relevant bureaux or departments.
- (b) Our thinking is that a sustainability assessment should be conducted on any major cross-boundary infrastructural proposal, or indeed policy initiative or programme. The assessment should be carried out at the planning stage.
- (c) The Planning Department's consultancy study on Sustainable Development for the 21st Century, including the result of a series of public consultations conducted under the study, was completed and presented to the relevant panels of this Council early this year. We have, since then, embarked on an accelerated programme and established a new Sustainable Development Unit. In the past few months, the Unit has studied the public views and looked into the experience of similar committees overseas. It has also talked to a wide spectrum of stakeholders concerning the composition of as well as issues for priority attention for the Council. The Unit will finalize its recommendations soon. The Chief Executive will consider these recommendations and make appointments to the Council by the end of the year as originally anticipated.

DR RAYMOND HO (in Cantonese): *Madam President, in part (a) of the Chief Secretary's main reply, it is said that "An initiative or major programme that*

may bring about significant or prolonged implications to the economic, social or environmental conditions of Hong Kong will be required to conduct a sustainability assessment." The Chief Secretary for Administration has used a lot of comprehensive and vague adjectives in this part of his reply. Over the past three years, we have drawn lessons from the painful experience relating to the Environmental Impact Assessment Ordinance. The relevant requirements have affected the progress or implementation of many projects without doing any actual good to the environment. Could the Chief Secretary for Administration assure us that there would not be yet another mechanism set up in future to further delay the progress of the various infrastructural projects in Hong Kong? On the last occasion when the Chief Secretary for Administration was here, which was also the only time he attended the meeting of the Council, I had the honour to ask him a question. However, "Yes, definitely" was the only response he gave to my question. I hope this time the Chief Secretary for Administration can improve considerably and give a detailed reply to my supplementary.

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, I thought Members would appreciate short answers. I will try my best to answer this supplementary question in as much detail as possible.

Sustainable development is a rather broad concept and a new study in science. For this reason, in conducting research in this respect, Hong Kong and other places alike must adopt a macro view to look at the relevant issues. If the consideration of the relevant issues is made from an excessively narrow perspective, it may not be able to satisfy people's expectations of sustainable development. We hold that Hong Kong, as a pioneer in this area, should not set too many restrictions on researches conducted at the present stage because it is in this way that the various competing needs can be met. We will exercise extreme care in conducting researches in this respect. After taking into consideration the views of the general public in Hong Kong and overseas experience, we will draft recommendations and set up consultative committees. Upon soliciting individual opinions, we will then put forward proposals for study and research.

As regards the question of whether the new mechanism will affect the progress of individual projects, I hope this will never happen. According to our initial thinking, during the early preparation stage, the parties concerned should

assess their projects in the light of the existing sustainable development objectives to find out whether the projects will have any specific sustainability impacts. If so, the impacts should be dealt with at the earliest stage. In the event that the problems involved are more serious, the progress of the projects will certainly be affected. Generally speaking, if we could identify and deal with the sustainability impacts as soon as possible, the progress of the projects concerned would not be affected. What is more, there would be no need for SIAs to be conducted again when the projects are nearing completion. As regards the Environmental Impact Assessment (EIA) carried out for projects in the past, maybe it was because work was commenced too slowly that the progress of those projects as a whole being delayed. I hope this problem will not occur again when we deal with similar cases in future.

DR TANG SIU-TONG (in Cantonese): *Madam President, according to part (b) of the Government's main reply, "a sustainability assessment should be conducted on any major cross-boundary infrastructural proposal". The supplementary question I wish to raise is as follows: firstly, what is meant by "major proposal", are major proposals judged by the amount of funds involved; and secondly, who would be responsible for the co-ordination and arbitration work involved if problems should be identified after SIAs are conducted, and would that be the responsibility of the Chief Secretary for Administration?*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, as I said just now, we hope to look at the issue from a macro view, as sustainable development is a very important new concept. We do not wish to affect people's concern over the issue with a narrow definition. Nevertheless, regarding the "major" proposals I referred to, they are naturally judged by the funding involved, the influence they have on people's living, as well as the size of the geographical area affected by them. For example, projects that occupy a large piece of land, extend to a very long distance, affect the activities of many people, or involve a huge amount of funds are all considered as major proposals.

PRESIDENT (in Cantonese): Dr TANG, has your supplementary question not been answered?

DR TANG SIU-TONG (in Cantonese): *Madam President, should problems arise, who would be responsible for the arbitration work? Would that be the responsibility of the Chief Secretary for Administration?*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): *Madam President, that would depend on the method employed in the end. If the projects concerned should involve re-allocation of or additional voting of funds, we would of course have to seek the approval of the Legislative Council first.*

MISS CYD HO (in Cantonese): *Madam President, while part (c) of the main question asked about the relationship between the CSD and relevant statutory and advisory bodies, the stage at which the CSD intervenes in the assessment mechanism, and so on, the reply given by the Chief Secretary for Administration has not responded to the questions in this respect. Madam President, I should like to ask about the CSD's relationship with the Advisory Council on the Environment and the Environmental Protection Department. In the event that the Director of Environmental Protection rejects a certain project on the ground of the relevant EIA report while the CSD considers the same project acceptable, will there be any mechanism for resolving the substantial divergence of opinion? Will it be the responsibility of the CSD to settle the matter by mediation?*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): *Madam President, the CSD and the SIA system can never replace the existing mechanism including the EIA system because they are dealing with totally different matters. The CSD and the SIA system assess the impacts of a certain project on the Hong Kong economy and people's living from a macro point of view, and since the relevant studies will be conducted from a macro perspective, they cannot replace other assessments and studies, such as the EIA conducted for a certain project or initiative. If the EIA report considers a certain project not up to standard, it is not up to standard. We cannot overrule the EIA results on the ground that the project is acceptable from the macro point of view of the relevant SIA result. Hence, no one can settle the divergence of opinion in this connection. For issues that must be handled by EIAs, they must be resolved on this front. The purpose of SIAs is to examine the development of projects and initiatives in Hong Kong from a multi-faceted, macro point of view.*

DR LUI MING-WAH (in Cantonese): *Madam President, just now the Chief Secretary for Administration mentioned that sustainable development could be considered at different levels, including the global sustainable development, the sustainable development of a certain country or a certain economy. In fact, sustainable development at different levels seeks chiefly to facilitate economic development and to enhance the living standard of the people. Over the past 20 years, Hong Kong has lost 75% of its manufacturing industries, thereby affecting gravely the local economy and the livelihood of the people of Hong Kong. There have been voices in society urging the Government to revive the manufacturing industries, high-technology industries and high value-added manufacturing industries in Hong Kong. Could the Chief Secretary for Administration inform this Council whether the Government would consider reviving the manufacturing sector in Hong Kong from a sustainable development point of view?*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, this is a rather specific supplementary question. If an initiative concerning the development of manufacturing industries may bring about significant or prolonged implications to the local economy, we will certainly conduct a sustainability assessment to find out what positive and negative effects the initiative may bring about before making any decisions. Nevertheless, I hope Members will understand that sustainable development is not everything; otherwise, our objectives can never be achieved. At present, our hope is to lay down a good foundation at this stage, a foundation that is rather flexible and wide in latitude. We will look into major proposals that may bring about implications on the economic, environmental or social conditions of Hong Kong from a macro point of view. However, we will not take on too many issues, bearing in mind that so doing is no different from continuously adding superstructure to a building when it is still under construction. If we should conduct additional studies to look into the implications on the rights and livelihood of the people, as well as other individual subjects like the development of the manufacturing sector and so on, the entire strategy will eventually collapse because our foundation just cannot support so many studies. According to the experience overseas, the sustainability assessment conducted on a certain initiative might eventually cause the initiative to abort if widely divergent views were held by many people. We do not wish to see this kind of thing happening in Hong Kong. But then, the areas relating to economic development to which the Honourable Member alluded just now are actually included in the scope of

sustainability assessment studies. If the initiative or major programme formulated by the Government for this in future should fall within the definition of sustainable development, we would certainly conduct in-depth studies. If the programme concerned is conducive to the sustainable development of Hong Kong, putting the programme into operation will certainly be in the interest of Hong Kong.

MR LAU PING-CHEUNG (in Cantonese): *Madam President, according to part (a) of the main reply, an initiative or major programme that may bring about significant or prolonged implications to the economic, social or environmental conditions of Hong Kong will be required to conduct a sustainability assessment. I believe this requirement will be welcomed by all. Having said that, may I ask the Chief Secretary for Administration whether the development of the Hong Kong economy will be delayed as a result? Could he also inform this Council whether the studies in these three aspects could be conducted jointly?*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): *Madam President, the SIA studies in these three aspects will be conducted jointly. The development of projects may give rise to more employment opportunities or even create new jobs. I believe Members are concerned that projects might be delayed by SIA studies and thereby impact on the people's employment opportunities. Actually, this issue is also of great concern to me and my colleagues. As I have mentioned in the main reply, I expect the various sustainability assessment studies to be conducted at the preparation stage of the major programme or initiative concerned. That way, when the relevant programme commences, its progress will not be affected by the various assessment studies. If the problems of the programme concerned can be identified early, we will be able to deal with them expeditiously. Our objective is not to delay the progress of projects. On the contrary, our purpose is to enable these major programmes and initiatives to achieve perfect effects and to command more extensively acceptance by the general public.*

DR RAYMOND HO (in Cantonese): *Madam President, the Chief Secretary for Administration has mentioned major cross-boundary infrastructural proposals in part (b) of the main reply. In this connection, could the Chief Secretary for Administration inform this Council whether he has discussed with the mainland*

authorities, such as on the Hong Kong-Mainland Cross-Boundary Major Infrastructure Coordinating Committee, the possibility of jointly conducting sustainability assessments on future cross-boundary infrastructural projects?

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, our discussions on major cross-boundary infrastructural proposals have yet to reach this specific stage. This is because the proposals we mentioned are still at their conceptual stage, and so we have not reached any conclusion regarding alignment, specific investment, timetable, and so on. We are ready to consider Members' suggestions once these issues are resolved. I understand that the mainland authorities are also very much interested in sustainable development, and they are equally concerned with the issues affecting the people of Hong Kong and the Mainland. I believe this is our common objective and we would certainly take the relevant suggestion into consideration.

PRESIDENT (in Cantonese): This Council has spent over 15 minutes on this question. This will be the last supplementary question.

MISS CHOY SO-YUK (in Cantonese): *Madam President, the Chief Secretary for Administration has made it clear in his main reply that sustainability assessments should be conducted on any major policies, systems or initiatives. Just now he also made it clear that sustainability assessments should be conducted on certain major programmes. May I ask the Chief Secretary for Administration whether the proposed CSD will actively select an existing policy or two for assessment, rather than conducting assessments only when the need arises? In other words, will the proposed CSD initiate assessments on proposals in major areas?*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, the proposed CSD has yet to be set up. Nevertheless, I believe that in addition to considering conducting assessments on future programmes and initiatives, the CSD may upon establishment also initiate assessments on existing policies and programmes having significant sustainable development implications.

As regards the question of priorities, this will be decided by the CSD on its own. However, I can assure Members that top priority will certainly be given to the most import proposals. If the CSD considers there is a need to conduct an assessment on a certain policy or programme, or assessments on certain comparatively more important initiatives, it will allocate resources to the relevant assessments.

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

WRITTEN ANSWERS TO QUESTIONS

Public Housing Development Projects in Kwun Tong

7. **MR FRED LI** (in Chinese): *Madam President, according to the planning by the authorities, three large-scale housing development projects in Kwun Tong (namely the developments at Cha Kwo Ling, Anderson Road and Choi Wan Road/Jordan Valley) will provide over 10 000 public housing units. As the authorities announced last month that the sale of Home Ownership Scheme (HOS) flats will be suspended until the end of June next year, the number of HOS flats for sale will be reduced thereafter, and any land granted to the Housing Authority (HA) for HOS development but still undeveloped will be resumed, will the Government inform this Council:*

- (a) *of the impact of the above decisions on these three developments; and*
- (b) *of the area, location and the number of units to be built on each piece of land in the three developments on which construction of the following will take place:*
 - (i) *HOS flats, as planned;*
 - (ii) *public rental housing, as planned or to be re-zoned; and*
 - (iii) *private housing, as planned or to be re-zoned?*

SECRETARY FOR HOUSING (in Chinese): Madam President, according to initial planning, about 11 000 public rental flats, 12 000 Home Ownership Scheme flats and 10 000 private flats are estimated to be built in Cha Kwo Ling Kaolin Mine, Choi Wan Road/Jordan Valley and Anderson Road Quarry from 2007 onwards. Details are at Annex.

Following the announcement made by the Chief Secretary for Administration on 3 September, the use of all unallocated subsidized home ownership sites, including the three development areas referred to above, will be reviewed. At this stage it is not possible to predict the outcome of the review or the composition of flats to be constructed.

Annex

Proposed housing developments in East Kowloon
(before 3 September 2001)

<i>Location</i>	<i>Housing Type</i>	<i>No. of Flats</i>
Cha Kwo Ling Kaolin Mine	PRH	3 580
	HOS	4 760
Choi Wan Road/Jordan Valley	PRH	7 340
	Private	4 560
Anderson Road Quarry	HOS	7 210
	Private	5 910

Notes:

PRH = public rental housing

HOS = Home Ownership Scheme

Regulation on Broadcast of Audio-visual Programmes on Buses and PLBs

8. **MR ANDREW CHENG** (in Chinese): Madam President, regarding the installation of the Multi-Media On Board (MMOB) system on franchised buses and public light buses by the RoadShow Group to broadcast audio-visual programmes, will the Government inform this Council of:

- (a) *the number of franchised buses and public light buses on which such system has been installed by the Group so far;*
- (b) *the total number of complaints the Transport Department (TD) and the Transport Complaints Unit (TCU) have received from passengers since November 2000 about excessively high volume of audio-visual programmes broadcast by the system, and the respective percentages of such figures in the total numbers of the complaints concerning bus and public light bus services in the same period; and*
- (c) *the follow-up actions the TD has taken in respect of the complaints about excessively high volume of audio-visual programmes?*

SECRETARY FOR TRANSPORT (in Chinese): Madam President, the introduction of audio-visual broadcasting on buses is an initiative of the bus and public light bus operators to provide infotainment programmes to passengers. As at 30 September 2001, MMOB equipment were installed on 2 400 franchised buses and 200 public light buses by RoadShow Holdings Limited (RoadShow).

During the past 11 months between November 2000 and September 2001, the TD and the TCU received a total of 430 complaints about broadcasting volume on franchised buses and public light buses. They account for 12.4% and 0.05% respectively of the total number of complaints concerning franchised buses and public light buses during the same period. It is noted that the number of complaints about broadcasting volume has reduced in recent months to 25 in September 2001.

The TD has been closely monitoring feedback from passengers about the MMOB equipment, and has worked with the operators to develop arrangements to regulate the broadcasting volume. As a result, the franchised bus companies have introduced the following arrangements:

- (i) lowering the volume of broadcasting to a level in the vicinity of the ambient noise of a bus;
- (ii) using compressor to ensure that the variations in pitch are within a narrow range; and

- (iii) designating a quiet zone on the left side of the lower deck of the bus where the speakers are turned off.

The TD will also co-ordinate regular surveys to continue to monitor passenger feedback and will pursue with the operators further improvements where appropriate.

Concessionary MTR Fares for Full-time Students Aged above 25

9. **MR SZETO WAH** (in Chinese): *Madam President, regarding the MTR Corporation Limited (MTRCL)'s present practice of not offering concessionary fares to full-time students aged above 25, will the Government inform this Council whether:*

- (a) *it knows if the MTRCL has plans to offer fare concessions to such students; if it has no plan to do so, of the reasons for that;*
- (b) *it has assessed the implications on MTRCL's annual revenue in offering fare concessions to such students; and*
- (c) *it will consider offering a higher level of travel subsidy to such students?*

SECRETARY FOR TRANSPORT (in Chinese): Madam President, before 1988, public transport operators received reimbursement from the Government for their costs of providing fare concessions to students. In 1988, the reimbursement arrangement was replaced by the Student Travel Allowance Scheme under which eligible students received direct grants from the Government upon application. As a result, all public transport operators ceased providing concessionary fares for students with the exception of the Mass Transit Railway and the Light Rail Transit. The operators of these two transport modes continue to provide fare concessions for full-time students aged between 12 and 25 essentially as a commercial decision. They are meeting the cost of the concessions by their own resources.

When the MTR Corporation (the Corporation) first introduced its student fare concessions in 1981, it made reference to the age criteria under the then

Student Travel Card Scheme, that is, between 12 and 25. The Corporation has since been using these criteria. There are about 10 500 persons aged above 25 who are studying full-time. According to the Corporation, offering fare concessions to full-time students aged above 25 is expected to have substantial financial implications for the Corporation. It has no plans to extend fare concessions to such students.

It is the Government's policy to ensure that no students will be deprived of education for lack of financial means. The existing means-tested School Travel Subsidy Scheme provides school-related travel allowances to full-time students aged 12 or above up to first degree level and who live beyond 10 minutes' walking distance from their schools. Eligible students aged over 25 can apply for assistance in the same way as other needy students.

Monitoring the Operation and Effectiveness of Quality Education Fund

10. **MISS EMILY LAU** (in Chinese): *Madam President, the criteria and procedure adopted for vetting and approving applications for grants from the Quality Education Fund (QEF) and the effectiveness of the QEF have been criticized. In this connection, will the executive authorities inform this Council:*

- (a) *of the average time taken to complete the processing of an application for grants from the QEF; whether the QEF's vetting and approval procedure is relatively lax in comparison with those of the other funds that receive public funding;*
- (b) *whether the Education Department has applied for grants from the QEF; if so, of the number of the department's projects that have been granted funding and the total amount of the grants awarded; whether they have assessed if the Education Department (ED)'s application for grants would pose unfair competition with schools and other organizations;*
- (c) *whether the Administration conducts regular reviews on the effectiveness of the schemes funded by the QEF; if so, of the details; if not, the reasons for that; and*
- (d) *of the measures in place to enhance the monitoring of the operation and effectiveness of the QEF?*

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

- (a) From 1999 onwards, the QEF invites applications once a year. As a large number of applications are received in each call, it takes about six months from the date of the application deadline to complete the entire assessment process. The QEF adheres to a set of established vetting criteria and procedures in assessing all applications for funding. An Assessment Sub-committee set up under the QEF Steering Committee (QEFSC) is entrusted with the task of assessing applications. It has a wide representation, ranging from education practitioners to representatives of other community organizations. Initial screening is undertaken by the QEF Secretariat. The Assessment Sub-committee assesses the applications based on criteria such as the projects' potential in enhancing the quality of education and their cost-effectiveness. Thereafter it makes recommendations to the QEFSC as to whether funding should be allocated. Expert assessors are involved in the vetting of applications involving sizeable grants or which are complex. In other words, a three-tier assessment mechanism is in force to vet every application before a decision regarding funding is made.
- (b) The ED submitted 23 applications in the past four calls for applications. Twelve of these applications have been supported and the allocated funding totaled \$300 million. In eight out of the 12 approved applications, the ED only acts as a co-ordinator with the direct beneficiaries being the students, teachers and parents of the participating schools, for example, the provision of information technology co-ordinators for secondary schools and enhancing schools' professional collaboration through the networking of resource schools. The other four projects are education researches exploring ways and means to enhance the quality of local schooling, for example, "Study of Effectiveness of Public-sector Secondary Schools", and "Development of performance indicators for measuring: (a) primary and secondary students' performance in affective and social domains and (b) value-added improvement of primary and secondary students' academic performance". Moreover, applications from the ED have to undergo the same

assessment procedures and be assessed with the same set of established criteria. Hence, equity is ensured for all applications. Moreover, no predetermined upper limit is imposed on the amount of total grant in each call. It follows that the allocation of funding to ED applications will not affect the success rate of other applications.

- (c) The Promotion and Monitoring Sub-committee set up under the QEFSC is responsible for monitoring the progress and effectiveness of approved projects. The Promotion and Monitoring Sub-committee comprises representatives of the education sector and the community. Front-line education practitioners, Secretariat staff and expert reviewers engaged on a need basis are also involved in the actual monitoring work. Project leaders are obliged to submit progress reports and financial reports regularly. Other monitoring activities include site visits, interviews, attending project functions, scrutinizing progress and final reports, examining project deliverables and requesting project leaders to give presentations on project progress to the school sector. The frequency of monitoring takes into account the amount of grants involved and the significance of the projects. Where project progress is unsatisfactory, the QEF Secretariat will suspend the payment of grants and undertake follow-up action. The QEF will contact the project leaders concerned to obtain a full picture and render assistance.
- (d) The composition of the QEFSC helps ensure the effectiveness and proper operation of the QEF. The Chairman of the QEFSC comes from the commercial sector. The Deputy Secretary for Education and Manpower and the Deputy Director of Education are *ex-officio* members. In addition, membership of the Steering Committee also comprises seven front-line practitioners from the pre-primary, primary, secondary and tertiary education institutes as well as two from the commercial sector.

After the assessment exercise of every call for applications, the QEFSC undertakes a thorough review so as to improve various aspects of the QEF operation. Over the past few months, the QEFSC has discussed the assessment, monitoring and promotion work of the Fund. It has agreed on a number of improvement

measures and the launch of reviews on different aspects of the Fund. The QEFSC also examines the progress and effectiveness of individual projects.

In addition, the Independent Commission Against Corruption and Audit Commission also regularly monitor the operation of the QEF.

Requirement for Contractors of IT Projects to Deposit Performance Bonds

11. **MR SIN CHUNG-KAI** (in Chinese): *Madam President, when awarding certain service contracts of information technology (IT) projects, the Administration demands the contractors concerned to deposit performance bonds which will be returned only after a certain period of time following the completion of the contracts. In this connection, will the Government inform this Council of the following:*

- (a) *in respect of the service contracts for IT projects administered by the Information Technology Services Department in the past three years, the percentage of them in which performance bonds payable by contractors were demanded, the total amount of performance bonds involved and the percentage of this amount in the total value of the relevant contracts, as well as the first quartile, the median and the third quartile of the percentages of the performance bonds in the value of the relevant contracts;*
- (b) *the criteria it has adopted for determining whether a contractor is required to deposit performance bonds; and*
- (c) *whether it will abolish the requirement of performance bonds so that small and medium enterprises will not be excluded from bidding for the contracts due to lack of liquid capital; if it will, of the details; if not, the reasons for that?*

SECRETARY FOR THE TREASURY (in Chinese): Madam President,

- (a) According to available statistics, 14.2% of the IT service contracts awarded by government departments under "Head 710 —

Computerization of the Capital Works Reserve Fund" in the past three years required contractors to deposit performance bonds. The total value of performance bonds involved was about \$39 million, representing about 4.4% of the total value of the relevant contracts. The first quartile, the median and the third quartile of the percentages of the performance bonds in the value of the relevant contracts are 0.5%, 5% and 10% respectively.

- (b) There is no strict requirement in our procurement regulations for all contractors or suppliers to submit performance bonds to the Government. However, in some exceptional circumstances, for example, where the contract is of higher value or more complicated, or where the successful tenderer fails in financial vetting, departments concerned may, at their discretion, request the successful tenderer to submit a performance bond or provide a bank guarantee in lieu of performance bond as security. The amount of the bond or bank guarantee is normally set at 5% of the value of the contract. However, depending on the specific nature of contracts concerned, departments may vary this.

The main purpose of requiring contractors or suppliers to submit performance bonds or bank guarantees is to protect public money and the interests of the public. If a contractor or supplier cannot perform or complete the contract, the operation of the Government or public services will be adversely affected. Besides, the Government has to invite tenders again, incurring additional administrative expenses. The price of the new contract may also be higher than the old one.

- (c) We appreciate the constraints of small and medium enterprises (SMEs) and have encouraged government departments to avoid imposing excessive requirements while protecting as far as possible public money and the interests of the public, in order that SMEs will not be discouraged from bidding for government contracts. The existing procedures are flexible enough to allow departments to decide, in the light of their own needs, whether performance bonds are required and what the amounts of the bonds should be. Even if

a performance bond is required, it would normally be due at the time of signing of the contract, and not at the time of submitting tenders. We therefore believe that SMEs generally will not be precluded from bidding just because they are unable to submit performance bonds. Moreover, the Government also accepts bank guarantees in lieu of performance bonds so as to ease the liquidity pressure on successful tenderers.

Severing Sources of Income of International Terrorists and Organizations Concerned

12. **MR YEUNG YIU-CHUNG** (in Chinese): *Madam President, with regard to curbing the sources of finance of international terrorists and their organizations, will the Government inform this Council:*

- (a) *of the number of court orders made in each of the past five years to freeze or confiscate the local assets of people or organizations involved in serious crimes, and the amount of money concerned; and whether, among these cases, there were cases involving terrorists or their organizations; if so, of the number of such cases;*
- (b) *whether there is legislation to allow the confiscation of the local assets of terrorists or their organizations; if so, of the details; if not, the reasons for that; and*
- (c) *of the measures it has taken and those it will take further for staunching the sources of finance of terrorists and their organizations?*

SECRETARY FOR SECURITY (in Chinese): Madam President,

- (a) In the past five years, the number of cases relating to freezing and confiscation of proceeds of serious crime by the Government of the Hong Kong Special Administrative Region (SAR) and the amount involved are as follows:

<i>Year</i>	<i>Assets Frozen</i>		<i>Assets Confiscated</i>	
	<i>No. of cases</i>	<i>Amount (HK\$)</i>	<i>No. of cases</i>	<i>Amount (HK\$)</i>
1997	22	104,722,871	6	2,788,623
1998	13	58,181,485	6	23,602,639
1999	12	44,390,074	13	89,389,662
2000	12	168,525,743	12	64,134,461
2001	10	41,934,000	5	27,331,538
(January to September)	69	417 754 173	42	207 246 923

Until now, there has not been any evidence showing that the above cases were related to terrorism.

- (b) The existing Mutual Legal Assistance in Criminal Matters Ordinance (Cap. 525) provides for the enforcement of restraint orders and confiscation orders for assets made in foreign courts in respect of serious external offences, that is, offences entailing imprisonment of two years or more on conviction. Under the Organized and Serious Crimes Ordinance (OSCO) (Cap. 455), terrorist type activities, such as murder, kidnapping, and so on, are specified offences. The powers of tracing, restraint and confiscation of assets available under the OSCO are therefore applicable to those offences. The OSCO and the Drug Trafficking (Recovery of Proceeds) Ordinance (Cap. 405) also stipulate that money laundering is a serious offence.

Apart from the above provisions on restraint and confiscation of assets, the current legislation of the SAR Government also provides for the freezing of terrorists' assets in Hong Kong. In June 2000, under the instruction of the Ministry of Foreign Affairs of the People's Republic of China (PRC), we made the United Nations Sanctions (Afghanistan) Regulation which gives effect to the United Nations Security Council Resolution (UNSCR) No. 1267 in pursuance of the United Nations Sanctions Ordinance (Cap. 537). The Regulation provides, amongst others, for the freezing of funds and other financial resources owned or controlled by the Taliban or

any enterprises held by the Taliban. In addition, we made the United Nations Sanctions (Afghanistan) (Arms Embargoes) Regulation pursuant to Chapter 537 on the instruction of the Ministry of Foreign Affairs on 12 October 2001. The Regulation gives effect to the UNSCR No. 1333 and provides, amongst others, for the prohibition of making funds or financial resources available to Usama bin Laden or his associates.

- (c) The SAR Government is now actively making preparations for the implementation of the latest UNSCR No. 1373 and will propose amendments to the relevant legislation. This wide-ranging resolution stipulates that all nations should prevent and suppress financing terrorism, and should criminalize wilful provision or collection of funds, directly or indirectly, for such acts. We plan to report on the steps the SAR Government is taking to implement Resolution No. 1373 to the United Nations via the People's Republic of China before late December 2001. In addition, we are working towards strengthening the provisions on money laundering, reporting suspicious money laundering activities, freezing and confiscation of assets, and so on, as stipulated in Chapters 405 and 455, thereby enhancing their effectiveness. The relevant recommendations have been incorporated into the Drug Trafficking and Organized Crimes (Amendment) Bill 2000 which is currently under the scrutiny of the Legislative Council.

At the same time, we are actively considering further measures against terrorist financing. The items under consideration include the adequacy of the existing legislation in combating terrorist financing, ways to improve the existing reporting system of suspicious transactions, the need to enhance Mutual Legal Assistance by way of enforcement of restraint orders and confiscation orders, as well as ways to further enhance the exchange of financial intelligence with overseas institutions.

Apart from legislation, we have liaised with the financial regulators, including the Hong Kong Monetary Authority, the Securities and Futures Commission and the Office of the Commissioner of Insurance. These regulators have already written to their respective authorized institutions/regulatees reminding them of the

need to abide by the abovementioned United Nations Sanctions (Afghanistan) Regulation and the United Nations Sanctions (Afghanistan) (Arms Embargoes) Regulation, to pay attention to the United States Executive Order regarding freezing the financial assets of the terrorists, watching out for suspicious transactions, and reporting such transactions to the Joint Financial Intelligence Unit (JFIU) jointly operated by the police and the Customs and Excise Department. We will continue to keep in view developments and co-ordinate with the regulators in the provision of guidelines to the authorized institutions/regulatees.

Since the terrorist attacks on 11 September, the JFIU has again looked into every suspicious transaction which may be related to terrorists or terrorist activities. It has also stepped up its detection of large amount transactions relating to accounts in the Middle East and enhanced exchange of intelligence with the United States authorities.

As the president of the Financial Action Task Force on Money Laundering (FATF) for 2001-02, we have scheduled a special FATF Plenary Meeting on 29 to 30 October 2001 in Washington D.C. to consider specific measures against financing international terrorist groups. These include proposed special measures to combat terrorists financing, the issuance of guidelines to financial institutions on the flow of terrorists' funds, characteristics of suspicious transactions and methods of investigation. The FATF will publish a statement on the work plan in this respect after the meeting.

Early Identification of Children and Youths with Mental Health Problems

13. **MR LAW CHI-KWONG** (in Chinese): *Madam President, regarding the early identification of children and youths with mental health problems, and the number of such persons, will the Government inform this Council:*

- (a) *of the total number of children and youths aged under 15 who have received treatment for mental health problems at various out-patient clinics and assessment centres under the Hospital Authority (HA)*

and Department of Health (DH) in each of the past three fiscal years, together with a breakdown of these numbers by the type of mental health problems and patient acuity;

- (b) whether the number of such persons is on the rise in recent year; if so, of the reasons for that;*
- (c) whether it knows the percentages of persons with mental health problems in the total population of children and youths in countries whose levels of development are comparable to that of Hong Kong, and of the percentages of such persons who have not received any treatment;*
- (d) making projections on the basis of the percentages mentioned in (c), of the estimated number of children and youths who have mental health problems but have not received any treatment in Hong Kong at present; and*
- (e) of the measures in place to enhance communication and co-operation among health care institutions, social welfare services providers, schools and parents, with a view to early identification of children and youths with mental health problems so that treatment can be provided and assistance offered to their parents at the earliest opportunity?*

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

- (a) The term "mental health problems" refers to a range of conditions which may vary widely in terms of severity and need for medical treatment. Broadly speaking, cases handled by the DH or the HA are related to "disorders", a term used to describe those on the severe end of the spectrum.

The Maternal and Child Health Centres (MCHCs), Student Health Service Centres (SHSCs) and Child Assessment Centres (CACs) of the DH provide health assessment services to facilitate early identification of children and youths with growth, developmental or behavioural problems such as autistic disorder, attention-deficit

hyperactivity disorder, disorders of psychological development, or behavioural and emotional disorders. Children and adolescents found to exhibit mental health disorders would be referred to the HA for further assessment and treatment. The number of children and adolescents identified or assessed with growth, developmental or behavioural problems by the DH in the past three years are as follows:

<i>Service Centre</i>	<i>Children and Youths Served</i>	<i>1998-99</i>	<i>1999-2000</i>	<i>2000-01</i>
MCHCs#	Children up to five	Not available	413	356
SHSCs*	Children and youths studying in primary and secondary schools	132	176	192
CACs	Children under 12	295	434	424

For MCHCs, children with emotional and behavioural problems may be referred to either DH's CACs or HA's specialist clinics for further assessment.

* For SHSCs, statistics on referrals are based on school year (that is, from September in one year to August in the following year) instead of financial year.

No further breakdown by type of mental health disorders and severity of diseases is available from the statistics routinely captured by the DH.

The number of children and adolescents aged under 15 who have received treatment for mental health problems at the HA's out-patient clinics, with breakdown by type of mental health problem in the past three years are as follows:

<i>Diagnosis Category</i>	<i>1998-99</i>	<i>1999-2000</i>	<i>2000-01</i>
Developmental Disorders	450	579	815
Behavioural Disorders	326	470	700
Emotional and Neurotic Disorders	107	105	155
Others	472	524	651
Total:	1 355	1 678	2 321

The HA captures disease data by reference to the International Classification of Mental and Behavioural Disorders (ICD-10) which does not provide further breakdown by degree of severity for mental illness for children and youths. As such, statistics on breakdown by severity of diseases is not available.

- (b) The number of children and adolescents treated for mental health problems has been on the increase. This is due to better public awareness of mental health problems, especially the need for early intervention, increased willingness to seek treatment, improved accessibility of mental health service, and awareness of availability of such services. In this connection, the HA and the DH have in recent years stepped up public education activities to increase public awareness of mental health problems in children and adolescents. Also, the HA has been convening regular meetings and seminars with teachers, social workers and non-government organizations (NGOs) to encourage them to refer children with mental health problems for treatment.
- (c) In interpreting studies on mental health, we should bear in mind the following:
 - (i) Studies on prevalence of mental disorders usually cover all mental disorders ranging from autism to problems such as significant stuttering or enuresis. As such, medical intervention may not be required for each and every case.
 - (ii) Apart from ICD-10, different countries may adopt different disease classification systems. As such, a child with a certain degree of over-activity may be classified as having a disorder under one system, but not in the other.
 - (iii) Children and adolescents are going through rapidly changing developmental stages. As such, the boundaries between normality and abnormality for children and adolescents are even less clear than those in adulthood.
 - (iv) As regards treatment of young persons with mental problems, it should be borne in mind that many of the less severe mental

problem cases are often not seen by psychiatrists, but instead are handled by other professionals such as social workers, counsellors, clinical psychologists, teachers, primary care physicians and family doctors.

Studies on the mental health of children and adolescents in the United States, the United Kingdom, Canada and Australia showed that the prevalence of mental disorders ranged from 10% to 21%, with a 10% prevalence rate for the United Kingdom, at least 12% for Australia, 18% for Ontario and 21% for the United States. According to a recent report published by the United States Department of Health and Human Services, 27% of young people aged nine to 17 in the United States who have mental disorder receive treatment in the health sector and an additional 20% of children and adolescents with mental disorders use mental health services only in their schools. The 1999 survey of the mental health of children and adolescents in England and Wales found that about one quarter of the children with mental disorders had used the specialist health care services, one half had seen someone from the educational services and one fifth had contact with social services.

- (d) Studies conducted by The Chinese University of Hong Kong in 1988 estimated the community prevalence of childhood psychiatric disorders in Hong Kong to be 16.3%, and another study conducted in 1997 found a prevalence rate of 18% among Form One students. As evidenced in (c) above, treatment figures for the United States and the United Kingdom vary considerably. For the reasons set out in (c) above, it is inappropriate to make projections on the number of children and youths in Hong Kong who have mental health problems but have not received any treatment on the basis of overseas experience.
- (e) There has been close collaboration among the HA, the DH, the Social Welfare Department (SWD) and the Education Department (ED) in providing various services for the education, detection, referral and treatment of children and adolescents with mental health problem. Examples of the concerted efforts among different service providers, teachers and parents for the early identification of children and youths with mental problems include:

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- (i) Four early intervention teams have been set up by the HA in July 2001 for the early detection and treatment of young people with psychotic problems through collaboration with the primary care providers, education and welfare agencies. Seminars, specially designed training sessions and workshops, briefings and discussion forums have been organized for primary health doctors, teachers, parents, social workers and NGOs to educate them on the early symptoms of mental illness so that they can identify and refer potential cases of psychotic illness for early treatment.
 - (ii) The 15 centres of School Health Services under the DH have been providing comprehensive check-up service, including psychological and behavioural assessment, for primary and secondary students. Students with psychological development problems will be referred for treatment by the HA and/or counselling services by social service organizations.
 - (iii) The DH's School Health Services have in collaboration with the Steering Committee of School Social Work Service under the SWD developed a structured referral system to establish a referral network among the SHSCs, school guidance teachers/officers, school social workers, NGOs providing youth and children services, and family service centres of the SWD. The referral system will be implemented in the second term of the 2001-02 school year. Under the system, students identified with psychosocial health problems will receive appropriate services (such as counselling services and medical services) from the participating service providers promptly.
 - (iv) The DH will start the implementation of a comprehensive parenting education programme in 2002-03 in the MCHCs to enable parents to detect signs of developmental abnormality and to effectively manage child behaviour.

- (v) The ED's Psychological Services Division has been providing services to students with learning, behavioural or emotional problems. Students with autism, attention-deficit hyperactivity disorder, or other mental health problems will be referred to health care institutions for assessment and treatment.

Enforcement of Fisheries Protection Regulations

14. **MRS SOPHIE LEUNG** (in Chinese): *Madam President, the Fisheries Protection Regulations (Cap. 171, sub. Leg.) prohibit the use of explosives, toxic substances and any apparatus of a class or description specified to capture fish, as well as the possession of explosives or toxic substances for the purpose of fishing. In relation to the enforcement of the Regulations, will the Government inform the Council:*

- (a) *of the total number, together with a breakdown by offences, of prosecutions instituted in each of the past three years for the contravention of the above provisions of the Regulations, and the penalty imposed by the Court on each person convicted; and*
- (b) *whether it will increase the number of officers deployed to enforce the Regulations; if so, of the timing of the increase and the number of additional officers that it proposes to be deployed; if not, of the reasons for that?*

SECRETARY FOR THE ENVIRONMENT AND FOOD (in Chinese):
Madam President,

- (a) The following seizures/prosecutions were instigated in connection with breaches of the relevant provisions of the Fisheries Protection Ordinance in the past three years:

<i>Year</i>	<i>Cases</i>	<i>No. of persons prosecuted</i>	<i>Sentences</i>
1999	three explosive seizures (fish bombs)	Nil <i>(Note: Only explosives were seized but no persons were apprehended to prosecute.)</i>	N/A
2000	one explosive seizure (fish bombs)	nine	three persons sentenced to three-to-six-month imprisonment
2001 (up to September)	13 illegal clam dredging	10 (three cases pending)	between \$1,000 to \$2,500 fine per person

- (b) To strengthen the enforcement of the fisheries related legislation, the Agriculture, Fisheries and Conservation Department (AFCD) established a dedicated enforcement division in January 2000 with an increase of eight new posts. At present, in addition to supervisory staff based in the AFCD headquarters, a total of 18 enforcement staff are organized into six teams to conduct regular patrols in shifts in Hong Kong waters during the hours that most fishing activities are normally carried out. Furthermore, non-routine patrols and special investigations in response to intelligence received are also conducted.

Insufficient Train Service of Light Rail Transit During Peak Hours

15. **MR TAM YIU-CHUNG** (in Chinese): *Madam President, many members of the public have complained to me about the grossly insufficient number of runs of Light Rail Transit (LRT) trains during peak hours which results in serious overcrowding in train compartments and on platforms and a higher risk of accidents. In this connection, will the Government inform this Council of:*

- (a) *the respective hourly average number of runs of trains and riderships of each LRT route during peak and off-peak hours;*

- (b) *the measures in place to urge the Kowloon-Canton Railway Corporation (KCRC) to provide sufficient LRT train service during peak hours; and*
- (c) *the measures in place to prevent passengers on overcrowded LRT platforms from falling onto the tracks?*

SECRETARY FOR TRANSPORT (in Chinese): Madam President, the LRT has currently eight routes serving Tuen Mun, Yuen Long and Tin Shui Wai areas. The frequency and ridership for each route are shown below:

<i>Route</i>	<i>Frequency on weekdays (number of trains per hour)</i>		<i>Ridership (September 2001) (average hourly passenger boarding on weekdays)</i>	
	<i>Morning Peak (7 to 8 am)</i>	<i>Other Hours</i>	<i>Morning Peak (7 to 8 am)</i>	<i>Other Hours</i>
	505 (Sam Shing – Siu Hong)	10	4 – 8	6 400
506 (Ferry Pier – Yau Oi)	7	5 – 6	1 600	500
507 (Ferry Pier – Tin King)	11	4 – 10	6 000	2 000
610 (Ferry Pier – Yuen Long)	9	4 – 6	6 300	2 100
614 (Ferry Pier – Yuen Long)	9	5 – 10	6 400	2 100
615 (Ferry Pier – Yuen Long)	8	4 – 6	6 800	2 300
720 (Tin Shui Wai – Yau Oi)	11	5 – 8	9 200	3 100
721 (Tin Shui Wai – Yuen Long)	12	5 – 12	7 500	2 500

Of the 57 LRT stops, 49 are served by more than one route. The actual frequency of LRT train service during peak hours is therefore much greater than the frequency for each individual route. For example, at the busy Town Centre stop in Tuen Mun and Tai Tong Road stop in Yuen Long, there is, on average, an LRT train arriving every 1.5 minutes.

Each LRT train compartment has an average capacity of about 210 passengers. According to the KCRC's passenger loading survey conducted in September this year, the peak period for LRT service is from 7.00 am to 8.00 am. During these busy hours, similar to other modes of public transport, the LRT experiences a short period of greatest demand and the train compartments are relatively crowded. Average loading of trains at busy sections of LRT routes during peak hours is around 60% to 90%. At the busiest section (that is, Tin Yiu stop in Tin Shui Wai towards Tuen Mun), the average loading of each LRT train amounts to 92%. In general, the capacity of the LRT is sufficient to meet passenger demand.

The LRT is continuously improving its service in response to the population growth in North West New Territories and keen competition from other transport modes. Additional LRT trains are arranged on busy routes during peak hours and special runs are provided when necessary. According to the Kowloon-Canton Railway Corporation Ordinance, the Corporation should provide efficient, economic and safe services in consideration of Hong Kong's public transport demand. The Transport Bureau and the Transport Department monitor LRT service closely. We also discuss with the KCRC the overall development of LRT service, including increase of train frequency as necessary to ensure that passenger demand is adequately met.

The KCRC has taken adequate measures to ensure passenger safety on LRT platforms. Each platform is marked with yellow lines to instruct passengers to keep clear of the platform edge. Queuing lines are provided and announcements are made to remind passengers to keep in order while waiting and let other passengers alight first. These measures are very effective in reducing conflicting movements and maintaining smooth flow of passengers. During peak hours, the KCRC deploys additional staff at busy platforms to maintain order and assist passengers in boarding and alighting. In addition, the KCRC often organizes safety campaigns to enhance passengers' safety knowledge. According to information provided by the Corporation, there was no accident involving passenger falling onto LRT tracks from overcrowded

platforms in the past five years. Besides, the KCRC has completed extension works at 29 busy LRT platforms between 1998 and 2000 to enlarge the waiting area and facilitate passenger movement. The Corporation will keep in view the usage of platforms and, if necessary, plan for more extension projects to provide a better environment for passengers using LRT service.

Regulation of Road Excavation Works

16. **MS AUDREY EU** (in Chinese): *Madam President, regarding the regulation of road excavation works, will the Government inform this Council:*

- (a) *of the number of Excavation Permits (EPs) issued last year, and the average as well as the total numbers of days in which excavation works permitted under such EPs were actually carried out;*
- (b) *of the measures in place to reduce the number of road excavation works carried out on the same section of a road; if so, of the details; and*
- (c) *whether an overall assessment has been made of the impact of road excavation works on road traffic; if so, of the results of the assessment; if not, whether it will conduct such an assessment and put forward improvement measures to shorten the periods of road excavation works and to oversee the timely completion of such works?*

SECRETARY FOR WORKS (in Chinese): Madam President,

- (a) In 2000, the Highways Department (HyD) issued 24 538 EPs. The average and total number of days in which excavation works were permitted to be carried out under such EPs were 66 days and 1 619 906 days respectively.
- (b) In order to reduce the number of road excavation works carried out on the same section of a road, the HyD has established the policy that once a series of excavation works is completed in a section of road, this section of road will be subjected to three months of road

opening restriction. This will be extended to six months for the same party who carried out the excavation works. All newly constructed or reconstructed footpaths and resurfaced carriageways are subjected to one year of road opening restriction while newly constructed or reconstructed carriageways are subjected to five years of road opening restriction. Since October 1997, the HyD has implemented the Utility Management System (UMS) to enhance the co-ordination and control of excavation activities of utility undertakings (UUs) (including those government departments who are involved in road excavations). The UMS is a centralized and integrated system based on a computer network linking the HyD's Headquarters, the HyD's Regional Offices, the Transport Department (TD), the police, and the UUs. With the aid of the UMS, the HyD can effectively identify conflicting works proposals (that is, excavation works that are planned to be carried out in close vicinity and at about the same time) and require the concerned UUs to co-ordinate the excavation works among themselves such that these works can be scheduled to minimize the number of road excavation works on the same section of a road. The UUs also have to submit an agreed programme to the HyD for consideration. If the co-ordination cannot be completed within a prescribed period, the HyD will initiate actions to assist the concerned UUs in completing the co-ordination as soon as possible.

- (c) In accordance with the current EP application procedures, if the proposed excavation would affect traffic flow on sensitive routes, the applicant must carry out a Traffic Impact Assessment (TIA) to assess the effect of the proposed work on traffic and submit appropriate traffic management measures. The HyD will consider the EP application after the applicant has obtained the agreement of the Commissioner for Transport and the Commissioner of Police to the proposed traffic management measures.

The TD is now conducting a study to tackle traffic problems caused by roadworks in Tsim Sha Tsui as several major infrastructure projects will be commenced in the area in the coming few years. The study evaluates the cumulative traffic impacts due to the various roadworks in the area and recommends measures for co-ordinating and adjusting their works programmes. Experience gained in the

Tsim Sha Tsui study will be applied to other sensitive areas for tackling similar traffic problems due to road works and devising relevant necessary measures.

In processing each EP application, the HyD will take into account the nature of the works in assessing and approving an appropriate EP duration. The HyD staff will also carry out audit inspection on site to ensure that the concerned UUs are endeavouring to complete the works on time.

Street-sleeping Problem at LCSD Amenity Venues

17. **MISS CYD HO** (in Chinese): *Madam President, the Leisure and Cultural Services Department (LCSD) stipulates in its security services briefing-out contract that the LCSD has the right to deduct the contractor's contract payment for any default of duty. In accordance with this stipulation, a total of \$100,000 was deducted in the past two years from the contract payment to the current security services contractor of the Hong Kong Cultural Centre (HKCC) because street sleepers had been found sleeping inside the HKCC's premises. Under the new security services contract for the HKCC recently re-tendered by the LCSD, the deduction rate for each count of default is set at \$848, which is considerably higher than the original rate of \$200. In this connection, will the Government inform this Council:*

- (a) *of the statistics on the respective numbers of street sleepers who habitually sleep inside LCSD venues, including town halls, games halls, civic centres and parks, and so on, in various districts;*
- (b) *of the number of public complaints received in the past two years about the street-sleeping problem in the HKCC premises, and the number of reported cases in the same period involving street sleepers vandalizing or dirtying the HKCC premises and stealing the equipment there;*
- (c) *whether it is the Government's policy to prohibit members of the public from sleeping anywhere within the boundaries of government establishments, even if the place is not inside a building; if not, whether the LCSD's practice of deducting the contractor's contract payment runs contrary to the prevailing policy;*

- (d) *as the LCSD stated in a press release on 3 October that the security services contractor of HKCC would not have his contract payment deducted if he had made all due efforts in the discharge of his duties, of the criteria adopted for determining whether the contractor has made such efforts; whether it has assessed if such criteria may lead to abuse of power and even use of force by the contractor to drive out street sleepers;*
- (e) *of the LCSD venues where security services have been briefed out to private contractors, and the total amount of deductions from the security service contractors due to the street-sleeping problem in the past two years, together with a breakdown of such deductions by each venue; and how the LCSD deals with the street-sleeping problem at its venues where security services have not been briefed out; and*
- (f) *whether the LCSD has statistical data to support deducting the contractor's contract payment as an effective practice to curb the street-sleeping problem at the venues concerned; if not, whether the LCSD will consider abolishing this practice?*

SECRETARY FOR HOME AFFAIRS (in Chinese): Madam President, before replying to the Honourable Miss Cyd HO's question, I would like to point out that as the HKCC is a premier cultural venue as well as a tourist attraction in the territory, it is essential for the LCSD to maintain a high standard of cleanliness and comfort for its facilities and public area within its boundary. This being the case, we do not allow street sleepers to sleep at the HKCC on a long-term basis. We would continue the existing practice of persuading the street sleepers to leave the premises, and would liaise with the Social Welfare Department (SWD) to arrange shelters for them.

The HKCC management has employed security guards on contract terms to patrol the premises for the purposes of maintaining order and preventing any vandalism, graffiti, burglary and other unauthorized activities such as skateboarding and street-sleeping at the HKCC complex. Moreover, to ensure that the quality of the service provided by the contractor is up to the requirements, the contract for the provision of security guard services in the LCSD venues stipulates that the contractor is liable for liquidated damages (LD) at a rate of

\$200 for any non-compliance of contractual obligations, or for any shortage in the stipulated number of security guard per work shift at a rate of \$200 per head. The LD will be deducted from the contract payment made to the contractor. It is not a penalty but a compensation for the LCSD's expenses of engaging other manpower to carry out the jobs arising from the default of the contractor. Based on the LCSD's past experience and its current practice, the management will deploy its own staff to carry out the duties in the event of the contractor's non-compliance of obligation. Accordingly, in the HKCC's new security services contract being re-tendered recently, the LD rate has been adjusted to \$848 per guard, which is calculated on the basis of the total cost of the departmental front-line staff for an eight-hour work shift. As far as this calculation is concerned, "front-line staff" refers to Cultural Services Assistant II, which is the most junior rank of staff on duty in general circumstances (usually at night shift) when staff input is called for to carry out relevant duties in the event of the contractor's non-compliance of obligation.

Against this background, my reply is as follows:

- (a) As far as cultural venues are concerned, about 10 to 30 habitual street sleepers are usually found in the area around the HKCC. As for leisure venues, the LCSD does not have any detailed record in this respect. But in case street sleepers are identified at the venues premises, they would be persuaded to leave in order not to affect the public in using the facilities.
- (b) Over the past two years, the LCSD has received a total of four written complaints and about 10 verbal complaints from the public about the environmental and hygienic problems created by the soiling of the HKCC Piazza as well as the leaving of junks, urine and leftovers by the street sleepers, which have caused inconvenience to the public.
- (c) Unauthorized activities within government premises are prohibited. It is the responsibility of the Government to maintain order in public facilities and to ensure proper use of the facilities. In view of public complaints and the need to avoid abuse of the LCSD facilities, it is necessary for the LCSD to tackle the street-sleeping problem and on this, the Department has been working closely with the SWD. For instance, on 25 September, the SWD street sleeper outreaching

teams of West Kowloon Region and New Territories Region, together with the concerned voluntary agencies and volunteers, organized an exhibition at the HKCC Piazza on social services for street sleepers. The SWD established contact with 89 street sleepers that evening. Among these street sleepers, four were offered temporary shelters immediately and their long-term accommodation and welfare problems will also be followed up. In addition, the Salvation Army has also deployed their Mid-night Street Sleeper Outreaching Team to visit the street sleepers regularly at night thrice a week on Mondays, Wednesdays and Fridays. Apart from introducing the social services available to them and encouraging them to give up street-sleeping, the social workers also arrange for street-sleepers to move into temporary shelters and follow up with their long-term accommodation needs.

- (d) If the contractor providing security guard services has exerted its utmost to accomplish their tasks, the LCSD would exercise discretion in handling their cases. The LCSD's main consideration is whether the contractor has taken concrete action and appropriate measures to persuade the street sleepers to leave the premises. The contractor fully understands that the LCSD adopts a mild approach of persuasion. From time to time, the LCSD carries out surprise inspections to ensure that the contractor tackles the street-sleeping problem in accordance with the LCSD's advice.
- (e) Amongst the 480 venues under the management of the LCSD, 231 venues have their security guard services contracted out. The HKCC is the only venue which has called for compensation from the contractor due to the street-sleeping problem. In the past two years, the total amount of LD demanded by the HKCC from the security company was about \$100,000, which was less than 1% of the total contract value.

For venues where security services have not been outsourced, staff of the LCSD will also persuade the street sleepers to leave once they are found at the venue premises. Moreover, joint operations with other government departments such as the Home Affairs Department, the SWD and the Hong Kong Police Force will be carried out when necessary.

- (f) With the introduction of deduction of payment and the deployment of overnight security guards by the HKCC, the number of street sleepers was once reduced from a maximum of several dozens to less than 10, and the environmental and hygienic conditions in the vicinity of the HKCC have also been improved. As mentioned above, the deduction of payment made to the contractor arises from the contractor's non-compliance of contractual obligations. To ensure the quality of the service of the contractor, it is essential to continue the inclusion of the provision on LD in the security services contract so that the LCSD can monitor the performance of the contractor effectively.

Installation of Platform Screen Doors at Railway Stations

18. **MR LAU KONG-WAH** (in Chinese): *Madam President, regarding the installation of platform screen doors (PSDs) at railway stations, will the Government inform this Council whether:*

- (a) *it knows the latest progress and the implementation timetable of the MTR Corporation Limited's programme of retrofitting PSDs at its 30 underground stations; and*
- (b) *it will consider stipulating that, where feasible, all newly-built railway stations should be fitted with PSDs on commissioning?*

SECRETARY FOR TRANSPORT (in Chinese): Madam President, the MTR Corporation (the Corporation) is the first railway company in the world to undertake the complex task of retrofitting PSDs on a system which is already in operation. The Corporation commenced the retrofitting work in 2000. Prototype PSDs were installed at the centre platform of the Choi Hung Station in August 2001 and started operational service in October 2001. Installation of PSDs at six other stations, namely Admiralty, Tsim Sha Tsui, Jordan, Yau Ma Tei, Mong Kok and Prince Edward Stations is expected to be completed in 2003. Retrofitting at all the 30 underground stations is targeted for completion by 2006.

While PSDs may enhance the safety of passengers, they are not essential safety device for railway operation. The two railway corporations in Hong Kong have well established passenger safety measures in place to protect passengers travelling on their railway systems. CCTV cameras are installed by both corporations at every station platform to facilitate effective monitoring and management of platforms. Emergency Train Stop Buttons are available along platforms on the pillars or wall panels. Station management programmes including crowd control measures are in place to ensure passenger safety. Station broadcasting is used to remind passengers to stand behind the yellow line at the platform. Platform safety campaigns are also regularly organized. With these measures, both corporations have achieved very good safety records over the years without the installation of PSDs. There is no plan to make installation of PSDs a mandatory requirement.

Excess Capacity of Chemical Waste Treatment Centre

19. **MISS CHOY SO-YUK** (in Chinese): *Madam President, at present, the annual amount of waste delivered to the Chemical Waste Treatment Centre (CWTC) for treatment is less than its design capacity. In the budget briefing held on 21 March this year, the Director of Environmental Protection informed Members that negotiation with the contractor was underway with a view to reaching a new agreement on the Government's funding for the operation of the CWTC by the end of this year. In this connection, will the Government inform this Council:*

- (a) *of the latest progress of the negotiation and when the new agreement is expected to be reached;*
- (b) *whether the future funding payable to the contractor for the operation of the CWTC is estimated to be less than the present amount; if so, of the extent of reduction; if not, the reasons for that; and*
- (c) *of the measures it has adopted to utilize the excess capacity of the CWTC?*

SECRETARY FOR THE ENVIRONMENT AND FOOD (in Chinese):
Madam President,

- (a) The Environmental Protection Department (EPD) is negotiating with the operator of the CWTC on the issue of operating cost. We expect to conclude the negotiation by early next year.
- (b) As the negotiation is still underway, the EPD cannot project if there would be any changes to the operating cost.
- (c) The EPD is exploring the feasibility of utilizing the excess capacity of the CWTC. The spare capacity at the CWTC has arisen mainly from a reduction in industrial chemical wastes. As its facilities were built specifically to treat chemical wastes from industrial sources and marine pollution wastes from ocean-going vessels, there are substantial limitations in changing the usage of those facilities.

Protection of Interests of Students in Private Sector Schools

20. **DR RAYMOND HO** (in Chinese): *Madam President, a private matriculation school which had operated for only two months suddenly closed down at the beginning of this month, resulting in quite a number of students suffering financial losses. Regarding the protection of the interests of students in private sector schools, will the Government inform this Council of:*

- (a) *the number of private sector schools which suddenly closed down in the past three years, and the total number of relevant complaints received;*
- (b) *the legal channels through which the affected students may recover the tuition fees already paid; and*
- (c) *the mechanism in place for monitoring the financial situation of private sector schools?*

SECRETARY FOR EDUCATION AND MANPOWER (in Chinese): Madam President, according to the records of the Education Department (ED), the

private matriculation school which suddenly closed down at the beginning of this month due to financial difficulties had been in operation for more than two months. The school registered with the ED in 1984 mainly for running of commercial courses. In June this year, the school changed its name to a "matriculation college" to better reflect its operation of matriculation courses.

- (a) In the past three school years, there was only one case of private school suddenly ceasing operation due to financial difficulties. A total of 159 complaints from students were received by the ED and the Consumer Council arising from the closure of this school.
- (b) If a school ceases operation, the ED will work closely with the Consumer Council to request the school concerned to refund collected school fees. The Consumer Council will assist students affected through the Small Claims Tribunal if there is a need to recover the fees through the legal channel. Regarding the school which suddenly ceased operation at the beginning of this month, it has, at the ED's request, refunded school fees for the October instalment and the public examination entrance fees collected.
- (c) Private school operators are required to register under the Education Ordinance. In addition, they have to apply for business registration and are subject to the provisions under the Companies Ordinance and the Inland Revenue Ordinance. As far as regulation of registered private schools is concerned, the main focus of the ED is to ensure that schools will comply with the requirements (safety of school premises, teachers' qualifications and collection of fees) stipulated in the Education Ordinance. If necessary, officers of the Department may, under the Education Ordinance, require schools to produce school accounts and relevant vouchers for inspection.

BILLS

First Reading of Bills

PRESIDENT (in Cantonese): Bills: First Reading.

**KOWLOON-CANTON RAILWAY CORPORATION (AMENDMENT)
BILL 2001****INLAND REVENUE (AMENDMENT) BILL 2001**

CLERK (in Cantonese): Kowloon-Canton Railway Corporation (Amendment) Bill 2001
Inland Revenue (Amendment) Bill 2001.

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): Bill: Second Reading.

**KOWLOON-CANTON RAILWAY CORPORATION (AMENDMENT)
BILL 2001**

SECRETARY FOR TRANSPORT (in Cantonese): Madam President, I move that the Kowloon-Canton Railway Corporation (Amendment) Bill 2001 be read the Second time.

The Kowloon-Canton Railway Corporation (Amendment) Bill 2001 seeks to strengthen the corporate governance structure of the Kowloon-Canton Railway Corporation (KCRC), so as to enable the KCRC to meet future challenges effectively.

The Bill mainly provides for the following:

- (1) repealing the provision in the Ordinance which makes the Chairman also the chief executive of the KCRC;
- (2) creating the office of the Chief Executive Officer (CEO) who shall be a member of the Board;

- (3) transferring the executive functions originally performed by the Chairman to the CEO; and
- (4) empowering the KCRC to appoint, suspend or dismiss the CEO subject to the approval of the Chief Executive of the Hong Kong Special Administrative Region.

The KCRC currently operates the East Rail and the Light Rail, with a daily patronage of 1.1 million passenger trips, accounting for about 10% of the public transport ridership. Over the last 20 years, the KCRC has transformed from a rural railway into a mass carrier. It has modernized its rolling stock and signalling system to enhance capacity and safety. It has also upgraded its station facilities to meet passenger demand, and gradually developed into a modern and well-managed commercial undertaking in the interim.

However, the KCRC is set to face new challenges arising from the expansion of its railway networks in the near future. First, it has to push ahead with four railway projects that have already commenced, namely, phase 1 of the West Rail, the Ma On Shan to Tai Wai Rail Link, the Tsim Sha Tsui Extension and the Sheung Shui to Lok Ma Chau Spur Line. These four projects, of which investments total over \$70 billion, are scheduled for completion within the next few years. During the same period, the KCRC will also have to plan for the implementation of its share of three railway projects conceived in the Railway Development Strategy 2000, namely, the Kowloon Southern Link, the Port Rail Line and the Northern Link. Moreover, the KCRC has already submitted a tender for the Sha Tin to Central Link, and can bid for the Regional Express Line in future. Therefore, the KCRC may have to plan for the implementation of additional railway works at a cost of between \$20 billion to \$60 billion by 2016.

The challenges on the service side are equally formidable. After the commissioning of the West Rail in 2003, the KCRC will register a drastic increase of 30% in its ridership. The patronage of the Kowloon-Canton Railway is projected to reach 2.4 million to 3.2 million passenger trips daily in 2011. Expansion of the commuter network will bring heavier customer pressure for more and better services. On top of all these, the KCRC will have to play a role in exploring and expanding medium and long-haul freight service into the hinterland in the wake of the development of the Western Region and the accession of our country to the World Trade Organization.

To cope with these mammoth developments, the KCRC executives have to actively implement the relevant construction programmes and provide efficient and reliable rail service to cater for a rapidly expanding patronage. All these are exacting tasks that demand from the KCRC Board vision to regularly review the services and policies of the Corporation and conduct strategic planning. We believe it is difficult to achieve optimal results by concentrating these daunting responsibilities of the Chairman and the CEO on one single KCRC officer. It is now time to effect a separation of the functions and duties of the Chairman and the chief executive of the KCRC to ensure that both can best serve their respective duties, and that strategic planning and day-to-day management receive due undivided attention.

We believe a part-time Chairman should be appointed to lead the KCRC Board. The Chairman should concentrate on the following tasks:

- (1) reviewing and guiding corporate strategy and business development plans;
- (2) overseeing financial planning, major capital expenditure, acquisition and divestiture;
- (3) setting performance objectives and monitoring the achievement of such objectives by the executives;
- (4) ensuring the adequacy and integrity of the accounting, financial reporting and risk management systems; and
- (5) identifying candidates for key executive positions, overseeing succession planning and determining executive remuneration.

The CEO of the KCRC should focus on:

- (1) implementing the business strategies determined by the Board;
- (2) delivery of operational and financial performance objectives set by the Board;
- (3) day-to-day management of the rail operation and rail construction; and
- (4) internal administration of the Corporation.

The separation of the functions and duties of the Chairman and the CEO is in keeping with the international trend of best corporate governance practice. It is also the model adopted by major public bodies, such as the Airport Authority, the Urban Renewal Authority and the Mandatory Provident Fund Schemes Authority. The Chairman, separate from the executives, will strengthen the independence of the Board and hence its ability to discharge its supervisory functions. The CEO can, in future, devote more attention to railway operation and the implementation of committed railway projects. We believe the separation of the functions and duties of the Chairman and the CEO will enhance the governance efficiency of the KCRC, thus enabling the Corporation to serve the public better in the provision of quality transportation services.

With these remarks, I hope that Members will support the Bill. Thank you, Madam President.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Kowloon-Canton Railway Corporation (Amendment) Bill 2001 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.

INLAND REVENUE (AMENDMENT) BILL 2001

SECRETARY FOR THE TREASURY (in Cantonese): Madam President, I move the Second Reading of the Inland Revenue (Amendment) Bill 2001.

Earlier, it was proposed in the policy address released by the Chief Executive that the tax-reduction ceiling for housing loan interest be raised, hoping to ease the financial burden of home owners in a slackening economy. The Inland Revenue (Amendment) Bill 2001 seeks to implement this proposal put forward by the Chief Executive.

The Bill proposes that starting from this year, the tax-reduction ceiling for housing loan interest be increased from the existing \$100,000 to \$150,000 per annum for two consecutive years. Taxpayers making housing loan interest payments can pay less income tax because of the increase in the tax-reduction

ceiling if their interest expenditure exceeds \$100,000 during the assessment years of 2001-02 and 2002-03. We chose to set the new tax-reduction ceiling at \$150,000 for the current and next fiscal years after striking a balance between relieving the financial burden of homeowner taxpayers and the Government's financial position. With the tax-reduction ceiling being raised to \$150,000, more than 110 000 taxpayers and their families per annum are estimated to benefit from it. As a result, they can make a maximum yearly tax saving of \$8,500 for this and the next fiscal years, whereas the public coffers will incur a cost of more than \$1 billion in salaries tax revenue.

The Bill also proposes one transitional provision which allows a taxpayer with a housing loan interest expenditure exceeding or very likely to exceed \$100,000 to make an application to the Inland Revenue Department (IRD) for re-assessment of his provisional income tax for the year 2001-02, and pay the lower amount of provisional income tax after the Bill is passed. Without this transitional provision, a taxpayer has to wait until early 2003 when final assessment of his income tax for the fiscal year 2001-02 is completed before he can benefit from the increased tax-reduction ceiling.

If the Legislative Council can complete the work of scrutinizing and pass the Bill around the middle of next month, taxpayers will have sufficient time to submit applications and the IRD to complete the re-assessment of the first provisional income tax for the year 2001-02, which is to be paid within the period of next January to March. In this way, taxpayers can immediately benefit from the tax reduction resulting from the new ceiling. If the scrutiny and passage of the Bill cannot be completed around the middle of next month, some taxpayers will then have to wait until the period between next April and June when they pay for their second provisional income tax for the year 2001-02 before the benefit they can reap from the new tax-reduction ceiling can be reflected.

Madam President, Members all agree that to relieve the public's plight is an urgent matter. Therefore, I would like to call upon Members to scrutinize the Bill expeditiously here, so that eligible taxpayers can smoothly get a tax reduction early next year.

The IRD will publicize widely at once after the passage of the Bill, enabling taxpayers to know how they should submit their applications and the

timetable concerned. The IRD will also try to mail individual application forms to as many affected taxpayers as possible according to its records. Upon receiving the applications from taxpayers, the IRD will re-assess the provisional income tax payable by taxpayers for the fiscal year 2001-02 next year, and taxpayers will be informed in writing of the tax payable after re-assessment before the due date of the first provisional income tax.

With these remarks, Madam President, I hope that the Legislative Council can pass the Bill as soon as possible. Thank you.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Inland Revenue (Amendment) Bill 2001 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 Companies (Amendment) Bill 2001.

COMPANIES (AMENDMENT) BILL 2001

Resumption of debate on Second Reading which was moved on 6 June 2001

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 Companies (Amendment) Bill 2001 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): Companies (Amendment) Bill 2001.

Council went into Committee.

Committee Stage

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

COMPANIES (AMENDMENT) BILL 2001

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Companies (Amendment) Bill 2001.

CLERK (in Cantonese): Clauses 1, 2, 3, 5 and 8.

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Clauses 4, 6 and 7.

SECRETARY FOR FINANCIAL SERVICES: Madam Chairman, I move the amendments to clauses 4, 6 and 7, as set out in the paper circularized to Members.

The amendments can be classified into two categories. The first category relates to clause 4(3), clause 6 and clause 7(b), and its main purpose is to add section 141CAA to the Companies Ordinance. Section 141CAA provides that if an entitled person in relation to a listed company does not send a notice of intent to the company within a specified period indicating his wishes as regards whether to receive a summary financial report or the relevant financial documents, the entitled person shall be treated as having sent a notice of intent to the company within the specified period notifying the company that he agrees to be sent a summary financial report in place of the relevant financial documents.

The second category relates to section 141CG, which is proposed to be added to the Companies Ordinance under clause 6. Section 141CG allows a listed company to fulfil its obligation to send a summary financial report or the relevant financial documents to an entitled person by putting such report or documents on a computer network. Section 141CG(2)(a) specifically provides for the period in which the report or documents are required to be kept on the computer network. I now propose to amend the wording of this section to clarify that the report or documents would be required to be kept on the computer network until the date of the following annual general meeting or the date of a general meeting held in accordance with a direction of the court.

Thank you.

Proposed amendments

Clause 4 (see Annex II)

Clause 6 (see Annex II)

Clause 7 (see Annex II)

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Clauses 4, 6, and 7 as amended.

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

(Members raised their hands)

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

(No hands raised)

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

CHAIRMAN (in Cantonese): Council now resumes.

Council then resumed.

Third Reading of Bill

PRESIDENT (in Cantonese): Bill: Third Reading.

COMPANIES (AMENDMENT) BILL 2001

SECRETARY FOR FINANCIAL SERVICES: Madam President, the

Companies (Amendment) Bill 2001

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

PRESIDENT (in Cantonese): I now proposed the question to you and that is: That the Companies (Amendment) Bill 2001 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): Companies (Amendment) Bill 2001.

MOTIONS

PRESIDENT (in Cantonese): Motions. Two proposed resolutions under the Interpretation and General Clauses Ordinance.

First motion.

PROPOSED RESOLUTION UNDER THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE

SECRETARY FOR THE ENVIRONMENT AND FOOD (in Cantonese): Madam President, I move that the first motion under the Interpretation and General Clauses Ordinance, as printed on the Agenda, be passed. This motion seeks to make two amendments to the Public Health (Animals and Birds) (Chemical Residues) Regulation.

The purpose of the Regulation is to ensure that the relevant government departments can more effectively control the improper feeding of chemicals to food animals, with a view to further safeguarding public health.

Before I explain the proposed amendments, I wish to thank the Subcommittee set up to scrutinize the Regulation for its efforts over the past three months. The Chairman of the Subcommittee, Dr LO Wing-lok, and the other members of the Subcommittee have made detailed deliberations on the Regulation and provided valuable input. Here, I wish to express my sincere gratitude to them.

Having considered the views of Members as well as those of the legal advisers to the Subcommittee and the Government, I have proposed the following two amendments to the Regulation.

Repealing Section 21

The first amendment proposes the repeal of section 21, which concerns the liability of the directors and managing officers of an offending body corporate. Let me first explain the policy intent. As this Regulation involves food safety and public health, which is an important issue, we consider that the directors and managing officers of an offending body corporate must be made liable if the offence was committed with their consent or connivance. Section 21 of the

Regulation was thus formulated by virtue of the relevant empowering sections in the principal ordinance (Cap. 139).

A great majority of members of the Subcommittee shared our view that the directors and managing officers of an offending body corporate should be made liable. However, the Honourable Tommy CHEUNG and Miss Cyd HO opposed section 21 under which the onus of proof would rest with the directors or managing officers of a body corporate. Counsel to the Subcommittee also pointed out that if section 21 was repealed, the directors or managing officers of the company might still be convicted under section 101E of the Criminal Procedure Ordinance (Cap. 221) if the prosecution could prove that the offence was committed with their consent or connivance, thus serving the same purpose as section 21.

Having listened to the relevant legal opinion and proposals of the Subcommittee, we gave very careful consideration to section 21. Given that no prosecution has ever been instituted against any body corporate under Chapter 139 or its subsidiary legislation, and that the directors and managing officers of an offending body corporate can still be regulated by Chapter 221, we agree to repeal section 21 and impose regulation on these people by section 101E of Chapter 221 instead. This amendment is consistent with the underlying spirit and purpose of section 21. Yet, we will review the situation if there is any future case proving that Chapter 221 is not applicable to this Regulation.

Amending Schedule 4

The second amendment proposes a technical amendment to Schedule 4 of the Regulation by revising the current tattoo mark requirement for identification purposes from at least one tattoo mark comprising "5 separate alphanumeric characters" to "at least 5 separate alphanumeric characters". This technical amendment aims to ensure that there are sufficient characters for tattooing pigs. The Subcommittee is supportive of this technical amendment.

Madam President, I beg to move.

The Secretary for the Environment and Food moved the following motion:

"That the Public Health (Animals and Birds) (Chemical Residues) Regulation, published in the Gazette as Legal Notice No. 146 of 2001 and laid on the table of the Legislative Council on 27 June 2001, be amended -

- (a) by repealing section 21;
- (b) in Schedule 4, in the entry in column (2) opposite to the entry of "Pig" in column (1), in paragraph (a), by repealing "5" and substituting "at least 5".

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by the Secretary for the Environment and Food be passed.

DR LO WING-LOK (in Cantonese): Madam President, the House Committee formed a Subcommittee on 29 June 2001 to study the Public Health (Animals and Birds) (Chemical Residues) Regulation and the Harmful Substances in Food (Amendment) Regulation 2001. In my capacity as Chairman of the Subcommittee, I shall report on the deliberations of the Subcommittee.

The Subcommittee has held six meetings with the Administration and met with representatives of eight food animal farmers, traders and fodder suppliers to find out their views on the relevant regulations. The Subcommittee notes that they in general support the relevant regulations as long as enforcement is fair and they are given clear guidelines and necessary training by the Government.

The Subcommittee has discussed in detail the strict liability of food animal farmers and suppliers of fodder containing prohibited chemicals. Members of the Subcommittee note that, from the Administration's past experience, it is extremely difficult to gather sufficient evidence to prove that a farmer has purchased prohibited chemicals and fed them to food animals on his farm. The act of mixing chemicals into fodder can be done very quickly and unnoticeably. It is impossible for the prosecution or the enforcement agency to stay on a farm over a long period of time to gather evidence of improper feeding. Thus unless the Administration makes strict liability offences, it will be difficult to secure a conviction against an unscrupulous farmer.

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

The Administration also pointed out that strict liability offences exist in current local food safety legislation as well as similar legislation in the United Kingdom, Canada and New Zealand. Farmers also agree that effective law enforcement will help ensure that the reputation of the trade will not be ruined by a few irresponsible farmers. Most members agree that, as a responsible farmer will have no difficulty in making out his defence, no injustice will be created.

Furthermore, the Subcommittee is very much concerned about section 21 of the Regulation relating to the liability of a body corporate. Section 21 provides that where an offence under the Regulation has been committed by a body corporate, any person, who, at the time of commission of the offence, was a director or an officer concerned in the management of the body corporate shall also be guilty of such offence unless he proves that:

- (a) the offence was committed without his consent or connivance; and
- (b) he has exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances.

As the Secretary said a moment ago, two members of the Subcommittee opposed the section and shared the view that it should be repealed. Moreover, the Legal Adviser of the Subcommittee advised that even if section 21 was repealed, it might be possible for directors or other officers concerned in the management of the company to be charged and convicted of the same offence as under section 101E of the Criminal Procedure Ordinance (Cap. 221) if it was proved that the offence was committed with their consent or connivance. However, if Chapter 221 were invoked, the onus of proof would rest with the prosecution and the standard of proof is beyond reasonable doubt.

Members also note that there are nine other ordinances providing the same defence as in section 21 of the Regulation. Out of the 11 other regulations made under Chapter 2, only one regulation contains a provision similar to section 21. Moreover, there are no precedents of prosecution having been initiated against any body corporate under Chapter 139 or its subsidiary legislation.

In the light of the above information, the Subcommittee had asked the Administration to review the need for the said provision. After considering the

opinions of the Subcommittee, the Administration agreed to move an amendment to repeal section 21. The Secretary for the Environment and Food has explained in detail the reasons why the Administration made the decision when she proposed the relevant amendment.

The Subcommittee is also concerned about the issue of Maximum Residue Limits (MLR) of agricultural and veterinary chemicals. The Administration has explained that if farmers feed the agricultural and veterinary chemicals at the recommended dose rates and withhold these chemicals from the animals for the specified period before slaughter, the concentration of these chemicals in the specified tissues and milk of food animals should be within the prescribed MLR.

Members note that the certification requirements on chemical residues in imported animals as set out in section 8 are within the ambit of the World Trade Organization's Sanitary and Phytosanitary Services Agreement. Therefore, countries engaging in export trade of food animals should have no problem in compliance. Some members also pointed out that the control on local live food animals seems to be more stringent than that on imported meat. The Administration explained that local live food animals and imported meat would be subject to the same control under the Regulation and the Amendment Regulation respectively.

The Administration has pointed out that similar legislation to control the use of chemicals on food animals has also been made in many other countries including Thailand. Before Thailand was allowed to export pork to Hong Kong, the Hong Kong Government had sent officials to examine their testing facilities and inspection procedures at slaughterhouses. Furthermore, only pork from several registered slaughterhouses may be exported to Hong Kong and these slaughterhouses have been requested to conduct the same type of ante-mortem urine tests on live pigs identical to those conducted in Hong Kong. In addition, the pork to be exported to Hong Kong has to be accompanied by a health certificate issued by the relevant health authority of Thailand certifying that the pork has passed the requisite tests and is fit for human consumption. Sample tests on meat imports will also be conducted locally.

In response to the request of the Subcommittee, the Administration has prepared information sheets setting out suggested actions for five types of persons in the supply chain of food animals to help them avoid any contravention

of the Regulation. They include food animal farmers, food animal wholesalers and importers, retailers of food animals and related products, food animal transporters and fodder suppliers.

Madam Deputy, the Subcommittee supports the relevant Regulation and the amendments proposed by the Administration.

I will now speak on my personal opinions on the Regulation and the Amendment Regulation.

The use of antibiotics on livestock is a very serious public health concern. Half of the antibiotics in the world by weight is used on livestock and there is more and more evidence showing that improper use of antibiotics on livestock constitutes a major reason why some bacteria are drug-resistant. If man is infected by drug-resistant bacteria or if the drug-resistant characteristics are passed to bacteria that may infect man, the infection may be hard to cure or even fatal because the bacteria became difficult to kill.

To effectively prevent bacteria from developing resistance to drugs, doctors must be careful in prescribing antibiotics. In addition, extreme care should be exercised by the livestock industry in the use of antibiotics on animals.

However, the use of antibiotics on livestock is often treated as a commercial behaviour part and parcel of the operation of the livestock industry. It is not given due attention from the angle of public health and short-term economic benefits prevail over considerations for the health of the people.

Bacteria are becoming increasingly resistant to antibiotics. This indeed has become a very serious economic issue. That resistance can render existing drugs ineffective and cause fatalities to men. To the community, this is loss in economic terms. To develop new drugs and new treatment to replace ineffective drugs is also a heavy burden to the community.

Therefore, the World Health Organization has made the use of antibiotics on livestock as a priority public health issue. It encourages member states to co-operate by formulating appropriate measures and laws commensurate with the needs of individual states and regions.

The two regulations to be passed today represent Hong Kong's efforts in this area. I am convinced that the regulations will gain support from a vast majority of the public as most people have learned from the media the harms of drug-resistant bacteria. In recent years, the use of other drugs on livestock, such as asthma drugs has also caused grave concern and the drugs have been brought under the control of the law.

Madam Deputy, in scrutinizing the two regulations, we were confronted, as with the scrutiny of other laws, by a very grave debate on what constitutes a strict liability offence.

If the accused wants to clear himself of a strict liability offence, the onus of proof is on him. Thus, this is different from the case where the onus of proof is on the prosecution for any charges pressed against the accused.

Colleagues in this Council are particularly careful in scrutinizing laws and regulations. On one hand, they have to ensure correct policies are supported by effective laws and regulations, and, on the other hand, they have to prevent the abuse of power by the Government. I think the powers to be conferred on the Government by the laws and regulations passed by the Legislative Council should enable the Government to effectively implement policies that are correct, no less or no more.

Thus, as I urge colleagues to support the Regulation and the Amendment Regulation as amended by the Government, and I must emphasize that as a Member of this Council, I agree to classifying the relevant offence as a strict liability offence after very carefully considering all arguments presented. Classification in this way should, however, be treated as an exception rather than a rule.

I so submit.

MR TAM YIU-CHUNG (in Cantonese): Madam Deputy, some time ago, the public would become edgy at the mere mention of pigs as a result of the serious problem of pigs fed with antihistamine agents, which has also caused great impact on the industry. According to information supplied by the Food and Environmental Hygiene Department (FEHD), from 2000 to July this year, 106 cases of food poisoning by asthma medicine (scientific name: clenbuterol)

through the consumption of contaminated pork or pig offal were registered in succession. In order to strengthen the confidence of the public in food safety and protect their health, the Government should step up the control and surveillance on food, so as to prevent and control the problem at root.

The newly made Public Health (Animals and Birds) (Chemical Residues) Regulation seeks to regulate the feeding of chemicals to food animals, thereby eliminating at root such food safety problems as pigs fed with asthma medicine. The regulation plugs the loophole in the law, and it is believed it will have positive effect on the protection of the well-being and health of the public, as well as the sound operation of the livestock industry and food animal importers.

However, I think there is another loophole in respect of regulating imported chilled meat. I think there are a lot of problems with regard to the existing measures enforced by the Government. The Government has been emphasizing all along that imported meat and local live food animals are subject to the same control and it will also conduct sample tests on meat imports, but in actual operation, the control on imported meat is far less stringent than local live food animals. With regard to the inspection procedure, the Government adopts the sample testing approach on imported chilled meat rather than withholding the entire shipment for testing. As a result, long before it is confirmed whether or not prohibited chemicals are found in the chilled meat, the merchandise may have already reached the market, or even consumed by the public.

In view of the difficulty in control, allowing the import of chilled pork is in fact a big loophole in food safety. At present, additional licensing requirements and conditions for chilled food shops and stalls are already in place, such as the chilled meat should always be stored in the freezer in such shops and stalls, and it can only be taken out and delivered to customers when it is sold to the customer. However, everybody understands that such provisions may possibly exist in name only. After a large piece of pork is cut into smaller pieces, it is virtually impossible to tell whether they are chilled or local live pork, even the FEHD is unable to distinguish from the stamp on the pig. As a result, as long as the importation of chilled pork is permitted, chilled pork can always be mixed with live pork on the counter tops of meat stalls.

Secondly, in the course of enforcement, the FEHD is unable to monitor whether or not meat traders are taking the chilled pork out of the freezer at the request of the customer. Therefore, the licensing requirements are basically

unable to achieve the desired purpose. The mixing of chilled pork with live pork for sale together will cause great hazards in food safety. Everybody knows that thawed pork tends to breed bacteria due to a rise in temperature, and may easily cause food poisoning to the public. Besides, as it is quite profitable, the smuggling of contraband chilled pork will certainly emerge in quick succession, posing an enormous threat to public health.

For this reason, and on the occasion of passing this Regulation, I wish to urge the Government again to address the problem of chilled pork seriously and resolve the matter quickly and properly, in order to plug this loophole in food safety, to protect public health and safeguard the lives and safety of the public. With these remarks, I support the passage of the Regulation.

MR WONG YUNG-KAN (in Cantonese): Madam Deputy, since fishery and agricultural products are closely related to the health of the public, after some members of the public had been hospitalized after consuming pork offal containing asthma medicine last year, I joined the industry to urge the Government repeatedly to draw up a comprehensive quality and hygiene monitoring system for fishery and agricultural products, to strengthen the spot check on meat and the control on fodder, in order to safeguard the health of the public. However, the relevant authority declined the request of the industry for the reason that free trade should not be prejudiced.

Today, the Government finally proposes amendments to the Public Health (Animals and Birds) (Chemical Residues) Regulation and the Harmful Substances in Food (Amendment) Regulation 2001 in order to exert some efforts in that respect by prohibiting the use of chemicals by farmers and food animal traders on food animals. One may well say that the industry has achieved success after making some efforts, and it may also show that the Government has heeded the wishes of the public. Being a representative of the Agriculture and Fisheries Functional Constituency in this Council, both the industry and I will support the proposed amendments of the Government, as they can better safeguard the health of the public as well as the reputation of the industry against damage by a handful of black sheeps.

Although the relevant amendments may ensure locally slaughtered animals and birds contain no chemical residues, the regulation on imported chilled meat

and the yet to be eliminated problem of contraband pork may still affect those law-abiding operators. Every time when the Government announces it has found problems in pork, it is mostly unable to explain to the public clearly the origins of the meat in question, and the public will surely hold a view that they should keep a distance from both local pork and pork imported from the Mainland. Ultimately, the ones being affected are the law-abiding operators. For this reason, both the industry and I urge the FEHD and the Customs and Excise Department to increase manpower for the inspection of imported chilled meat and to crack down on the smuggling of contraband meat.

THE PRESIDENT resumed the Chair.

Furthermore, since no university in Hong Kong offers courses in agriculture and fishery studies, most of the knowledge of local farmers in agriculture and the use of pesticides came from the Agriculture, Fisheries and Conservation Department (AFCD) and part of such knowledge came from fodder traders. This is quite different from the practice in the Mainland or in other Southeast Asian countries, as they will make such knowledge in agriculture available to farmers, so as to help them to avoid violating the law inadvertently.

The Democratic Alliance for Betterment of Hong Kong (DAB), the industry and I wish the AFCD would enhance training for the industry by offering them clear guidelines and the necessary training and guidance in the correct use of animal feeds and chemicals, and to inform them of the date when the use of a certain kind of chemical ceases to be lawful, so that they will not violate the law.

Madam President, I so submit.

MR TOMMY CHEUNG (in Cantonese): Madam President, the Government has proposed new regulations under the Public Health (Animals and Birds) Ordinance to control the feeding of chemicals to food animals with the aim of protecting the health of the public. In this connection, the Liberal Party and I support the underlying principle of the Regulation.

However, in respect of individual provisions of the Regulation, the Liberal Party and I have strong opinions about the insistence of the Government on employing strict liability provisions, which include sections 3, 5, 6, 11 and 21. These five sections cover food animal farmers, employees and directors of a body corporate, which means that once prohibited chemicals or their residues are found in food animals, such as pigs or poultry, the food animal farmers, employees and directors of a body corporate involved may well be prosecuted in a clean sweep. However, the Government as the prosecution is not required to prove the defendants are guilty. Instead, the defendants have to seek evidence to prove their innocence.

Both the Liberal Party and I consider this casual employment of strict liability unacceptable. Under the common law spirit, everyone is presumed innocent until proved otherwise. It is fine if you take me into custody, but you have to prove that I am guilty, rather than requiring me to prove my innocence after the apprehension. The onus of proof should rest with the prosecution, such as the Government, not with the defendant or the suspect, such as the general public, employees or the businesses.

The Government has explained that it is extremely difficult to gather sufficient evidence to prove a particular farmer has purchased prohibited chemicals and fed the food animals with them, for this reason it has to employ strict liability. I consider this explanation untenable. In fact, it is equally difficult to gather evidence in certain criminal offences, such as bank robbery and murder, and it is also very difficult for the prosecution to trail the suspect. In this case, should strict liability be employed to arrest several persons casually and then require them to prove that they have not committed the robbery or murder? Of course it must not be done this way.

Although strict liability provisions do exist under the common law system, they should be employed as infrequently as possible, and should be employed only under exceptional circumstances or as the last resort. It must be noted that there have been more cases lately of the Government employing the strict liability rule in new legislation and a trend of it being invoked casually is forming. For example, it is also employed in the Occupational Safety and Health (Display Screen Equipment) Regulation currently under scrutiny. The Government has also pointed out that eight regulations have already employed strict liability provisions. I do not wish to see this list becoming longer and such regulations growing in number.

Section 21 of the new Regulation prescribes that a body corporate, any person who is a director or an officer concerned in the management of the body corporate will all be prosecuted at the same time in a clean sweep, unless they can prove that the offence is committed without their consent or connivance, and they have exercised all such diligence to prevent the commission of the offence as they ought to have exercised.

This provision demonstrates that the Government does not understand business operation. Generally speaking, a director of a company or senior staff mainly engaged in administrative duties, they seldom take part in the execution or details of business operation, or they even have no idea of the entire process. Requiring them to bear criminal liabilities for operational mistakes would actually be excessively harsh and unreasonable to them.

The Government has reiterated to Members that although the provision stipulates that both the employers and employees may be prosecuted, the Government will apply flexibility in enforcement and will definitely not press charges indiscriminately. However, how can such a situation be prevented from arising in reality? Can it be achieved in the course of enforcement? If the Government can be that flexible in enforcement, why such strict laws be formulated in the first place?

Casual employment of strict liability will bring about injustice to employees and the commercial and industrial sector, and it will also cause severe impact on the investing sentiment of investors and the business environment. The crux of the matter is that all of these negative impacts can be avoided, provided that the Government adheres to the principle that the strict liability rule should be employed only when there is no alternative at all. By doing so, society will be free from unnecessary disturbance and influence. The Government finally accepted my views and proposed an amendment to repeal section 21. Unfortunately, the Government insisted on retaining the other four sections. Since other political parties and Members have shown support for these provisions, the Regulation would pass despite my opposition.

Madam President, I so submit.

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

(No Member responded)

SECRETARY FOR THE ENVIRONMENT AND FOOD (in Cantonese): Madam President, earlier on Members expressed concern over strict liability and the relevant defence provisions. We have explained in detail in the Subcommittee that the relevant provisions are reasonable and necessary, and the Subcommittee has also expressed support for the proposed imposition of strict liability for regulatory purposes. Having said that, however, I still wish to make some responses with regard to this issue.

Since 1998 the Government has implemented a voluntary pig tattooing, testing and tracing system to prevent pork and pig offals contaminated with Clenbuterol (commonly known as "asthma drug") from reaching the market. However, there has been no specific legislation to regulate the feeding of this asthma drug or other chemicals to food animals.

Over the past few years, there have been successive poisoning cases caused by consumption of food containing residues of this asthma drug. Eighteen and 85 people were poisoned due to consumption of such food in 1999 and 2000 respectively. As at 1 September this year, 31 people have been affected by similar food poisoning.

To effectively prevent the recurrence of similar poisoning cases and hence safeguard public health, we must draw up legislation to resolve this problem at root. Having carefully examined the supply process of food animals, we consider it necessary to impose strict liability regulation on food animal farming and the supply of fodder. This will help deter irresponsible and unscrupulous farmers and fodder suppliers from continuously endangering public health.

Feeding food animals and supplying fodder are business activities ongoing every day. The act of mixing chemicals into the fodder can be done very quickly and unnoticeably. It is impossible for the relevant departments to deploy staff on all farms 24 hours a day to keep a close watch on each and every detail concerning fodder supply and the feeding process, and catch those irresponsible farmers or suppliers red-handed. Further, local farms mostly operate on a small scale and farmers often live on the farms. We do not think they will welcome frequent investigations and enforcement actions by the authorities on their farms. Without the strict liability offences, the Government cannot enforce the Regulation effectively, and the deterrent effect expected of the Regulation will also be greatly undermined.

The strict liability provisions are not only pivotal to the overall deterrent effect of the Regulation, but will also help enhance the alertness of the relevant parties and encourage greater vigilance in the industry against violation of the law, thus more effectively achieving the objective of legislative control.

I note that Members are concerned about whether strict liability is consistent with the spirit of common law. In fact, strict liability has been recognized by the Court in past cases. The Court considers that strict liability is applicable to some offences created for regulating daily business activities, and the regulation in question must involve an issue of social concern. People who voluntarily take part in these business activities have the duty to improve their *modus operandi*, so as to ensure that no harms will be done to the public. The Court has even pointed out that strict liability can help encourage the industry to guard against violation of the law.

Our decision to make such daily business activities as improper feeding of livestock and supplying of fodder an offence and to impose regulatory control on such activities aims to ensure food safety. I believe Members will not disagree that food safety is an issue of immense public concern. The Subcommittee very much shares this point. Given the importance of food safety, those who voluntarily take part in food animal farming and the supplying of fodder are duty-bound to improve their *modus operandi*, in order to ensure that public interest is not jeopardized. The strict liability provisions in the Regulation can greatly enhance the vigilance of fodder suppliers and farmers, thereby ensuring food safety and safeguarding public health. Therefore, our proposal is reasonable and just under the common law.

From local or overseas legislation alike, we can find examples of strict liability regulation insofar as food safety is concerned. This shows that our proposal is consistent with the practice of other common law jurisdictions in the international community.

Members are also concerned about the onus of proof resting with fodder suppliers and farmers, who are required to establish a defence themselves under the strict liability provisions. I very much appreciate Members' concern. The liability of farmers and fodder suppliers under the Regulation is not absolute liability, but strict liability. The defendant still may not be convicted even if his offence is proven by the prosecution. The defendant only has to prove that he "did not know and had no reason to suspect the existence of the circumstances

giving rise to the contravention" and he may then establish a defence by virtue of section 17(4) or (5) of the Regulation. It is not difficult for farmers or fodder suppliers who are genuinely innocent to be exempt from liability under the relevant defence provisions in the Regulation. No injustice will be created by our proposal.

To conclude, whether this Regulation can effectively regulate the feeding of harmful or excessive chemicals to food animals largely hinges on strict liability regulation. Having listened to the reasons and justifications of our proposal to impose strict liability for the purpose of regulation, the Subcommittee expressed support for the relevant provisions.

In fact, as the Honourable WONG Yung-kan has said, farmers support the Regulation, including the strict liability provisions. They even emphasized that effective legislation is pivotal to successfully deterring irresponsible and unscrupulous fodder suppliers and farmers from continuously supplying or using prohibited harmful chemicals, so as to protect the reputation of the local livestock farming industry from being ruined and to ensure that the livelihood of the law-abiding members of the industry will not be affected.

I am grateful to the industry for their support for the Regulation. The Agriculture, Fisheries and Conservation Department has started organizing seminars for the industry, and will arrange sufficient publicity campaigns to facilitate the proper feeding of drugs to animals in the industry.

Moreover, Members have put forward views on the control of imported meat and operations against the smuggling of meat. I will mention the regulation of imported meat when I move the second motion later, and will respond to them then.

Thank you, Madam President.

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

(Members raised their hands)

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

(No hands raised)

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

PRESIDENT (in Cantonese): Second motion.

PROPOSED RESOLUTION UNDER THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE

SECRETARY FOR THE ENVIRONMENT AND FOOD (in Cantonese): Madam President, I move that the second motion under the Interpretation and General Clauses Ordinance, as printed on the Agenda, be passed. This second motion seeks to make a technical amendment to the Harmful Substances in Food (Amendment) Regulation 2001.

To tie in with the regulation on food animals effected by the Public Health (Animals and Birds) (Chemical Residues) Regulation, we consider it necessary make the maximum residue limits for the seven prohibited chemicals and 37 agricultural and veterinary chemicals under the Regulation also applicable to food control. We, therefore, propose to amend the Harmful Substances in Food Regulation to ensure a consistent standard of control over chemical residues throughout the entire food supply process, with a view to further safeguarding public health.

This second motion seeks to amend section 4 of the Amendment Regulation. After discussions with the Subcommittee, we consider that apart from prohibiting the sale of fish, meat or milk containing prohibited chemicals, the import of such non-compliant food should also be prohibited. This amendment serves to standardize the regulation on the import of food containing prohibited chemicals and the sale of such food in the local market, in order to provide more comprehensive safeguards for food safety and public health. The Subcommittee has expressed support for this technical amendment.

Madam President, I beg to move.

The Secretary for the Environment and Food moved the following motion:

"That the Harmful Substances in Food (Amendment) Regulation 2001, published in the Gazette as Legal Notice No. 148 of 2001 and laid on the table of the Legislative Council on 27 June 2001, be amended by repealing section 4 and substituting -

"4. Regulation substituted

Regulation 3A is repealed and the following substituted -

"3A. Prohibition of import and sale of fish, meat or milk containing prohibited substances

No person shall import, sell or consign or deliver for sale for human consumption, any fish, meat or milk which contains any substance specified in the Second Schedule."."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by the Secretary for the Environment and Food be passed.

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

MEMBERS' MOTIONS

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

PROPOSED RESOLUTION UNDER THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE

MRS SELINA CHOW (in Cantonese): Madam President, I move that the motion, as set out in the paper circularized to Members, be passed.

The estate agents industry is now facing great difficulties as a result of a declining property market. The Estate Agents Authority (EAA) should actually be commended for reducing the licence fees of various types of estate agents licences. However, as pointed out by members of the trade, their present business is so difficult that it defies description. There have been serious communication problems between the EAA and the trade for a long time. During the scrutiny of this regulation, the EAA refused to lower the reduction rate to 30%, so on behalf of the trade, I hereby move the motion.

Though the EAA said it would review the situation next year and consider whether further concessions should be offered, its financial estimates have always been very conservative. Whether the reduction rate can be lowered to 30% has to depend on the results of a further review, and the trade is not given any assurance at all. If the EAA were allowed to charge a higher rate on the licence fees and refund the difference later, we might as well expeditiously relieve the pressure on the trade by reducing the fees now.

Why did I just say that the financial estimates of the EAA are very conservative? Back in 1998, the EAA originally proposed a moratorium, but thanks to the fight put up by the Liberal Party, the licence fees were eventually

lowered by 20%. Instead of having a financial problem as originally feared, the EAA has so far accumulated a surplus of almost \$50 million and made a provision of \$22 million. If the EAA did not reduce its licence fees by 20% at the recommendation of the Liberal Party, it might have accumulated a surplus of \$100 million.

Therefore, given the existing financial position of the EAA, its licence fees should be further reduced by 10%. According to the estimates made by the EAA itself and information submitted to this Council, even if licence fees were reduced by 30% as per my proposal, the financial position of the EAA will still remain perfectly sound in the next two to three years. It means it will still have a surplus of \$46 million at the end of this financial year and a surplus of \$28 million in the next. It is estimated that it will still have a surplus of more than \$5 million in 2004. Together with the \$22 million provision, it will actually still have a reserve of \$50 million in 2003 and more than \$27 million in 2004. Madam President, it was reported in the newspaper that an EAA member had commented that if the licence fees were reduced by 30%, the EAA would see the red next year. However, if we take a look at the existing information of the Legislative Council, we will know that the comment is not correct.

The EAA points out that the number of licensees is continuously on the decrease, therefore if the arrangement of unconditional re-entry within 24 months is implemented, the EAA may suffer a further decrease in revenue. However, members of the trade point out that new entrants outnumber departures. Moreover, most estate agents will normally keep their licences, so that they can rejoin the industry any time when necessary. Therefore, this should make up for the drop in revenue due to a reduced number of real estate agencies, and there should not be any great impact on the financial position of the EAA.

Members of the trade also question whether it is too extravagant to make a \$22 million provision under the existing economic conditions? Moreover, they also question whether the EAA has conducted a thorough consultation among members of the trade or explained why this has to be done before making the decision? In particular, it is mentioned that an investment will be made on enhancing the Info-Hotline Service of the Rating and Valuation Department.

Some members of the trade doubt whether such researches can really reduce their future expenditure on licence fees, or whether it will increase their burden due to further demands?

Under the guiding principle of user pays, users are naturally concerned whether the EAA has tried its best to cut costs. While measures like the Enhanced Productivity Programmes (EPP) have been implemented in the Civil Service in recent years to cut costs and private sector layoffs and "downsizing" programmes have become common news in recent months, the EAA still plans to greatly increase its estimated expenditure by 6% to 16% in the next two years. Is this reasonable and should the Housing Bureau be responsible for monitoring the activities of the EAA?

Furthermore, in its latest proposed measures on alleviating the people's hardships, the cross-party coalition has also suggested that the rentals of shops in shopping malls under the management of the Housing Authority should be reduced by 30%. Therefore, the proposal on a 30% reduction in licence fees is really a very reasonable request. Thank you, Madam President.

Mrs Selina CHOW moved the following motion:

"That the Estate Agents (Licensing) (Amendment) Regulation 2001, published in the Gazette as Legal Notice No. 147 of 2001 and laid on the table of the Legislative Council on 27 June 2001, be amended by repealing section 7 and substituting:

"7. Schedule 2 amended

Schedule 2 is amended by repealing item 1 and substituting:

"1. Grant or renewal of a licence	(Per 12 months)	(Per 24 months)
(a) Salesperson's licence	1,280	2,510
(b) Estate agent's licence (individual)		
- for individual estate agent	2,010	3,930

plus		
- for operation of a sole proprietorship/ partnership under each business name at one place of business	2,120	4,140
plus		
- for operation of each additional place of business under each business name	2,120	4,140
(c) Estate agent's licence (company)		
- for operating under one business name:		
(i) at one place of business	2,800	5,460
(ii) at each additional place of business	2,120	4,140
plus		
- for operating under each additional business name:		
(i) at one place of business	2,800	5,460
(ii) at each additional place of business	2,120	4,140

Where a licence is granted or renewed for a period of less than 12 months, the licence fee payable shall be calculated by multiplying one-twelfth of such fee as set out in the third column as is appropriate by the number of months for which the licence is granted or renewed (part of a month shall be reckoned as a month).

Where a licence is granted or renewed for a period of more than 12 months, the licence fee payable shall be calculated by multiplying one-twenty fourth of such fee as set out in the fourth column as is appropriate by the number of months for which the licence is granted or renewed (part of a month shall be reckoned as a month)."."."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Mrs Selina CHOW be passed.

MR CHAN KAM-LAM (in Cantonese): Madam President, in my capacity as the Chairman of the Subcommittee, I would like to report on the deliberations of the Subcommittee on Estate Agents (Licensing) (Amendment) Regulation 2001.

The Estate Agents (Licensing) (Amendment) Regulation 2001 seeks to amend the Estate Agents (Licensing) Regulation (Cap. 511, subsidiary regulation), in order to facilitate re-entry of ex-licensees to the estate agency trade and the switch between estate agent's and salesperson's licence; to reduce licence fees; to increase the maximum validity period of licences from 12 to 24 months; to modify the requirement of licensed estate agents in stating information; and to revise certain prescribed forms.

In the course of deliberation, the Subcommittee examined whether the proposal to exempt an ex-licensee who applies for a licence not more than 24 months from the expiry date of his last licence from the educational and examination requirements for re-entry to the profession will have any impact on maintaining the professional standard of estate agents. According to the explanation given by the Administration, as major changes in the operation of the profession are not anticipated within a short period of time, the proposal strikes a balance between the practical needs of practitioners and the need for maintaining the professional standard of estate agents. As regards some members' suggestion that consideration could be given to extending the period for re-entry

to 36 months, subject to the taking of refresher courses upon re-entry, the Administration said that to put the suggestion in practice, the EAA would have to carefully consider the implementation details and these would take time. The Administration intends to complete a review of the system of licence renewal by the end of the first quarter in 2002.

Regarding the reduction in licence fees, the Subcommittee welcomes the reduction of licence fees by 20% with effect from 1 January 2002. However, it notes that the EAA will register a surplus of \$4.9 million in 2001-02 and it will have a cumulative fund of \$49.1 million after setting aside a capital fund of \$22 million. The Subcommittee notes that, despite an anticipated 17% decrease in the licensee population, there will be an annual increase of 7% in the operating expenses of the EAA, which is contrary to the requirement that statutory bodies have to reduce their operating expenses by 1% to 2% under the Enhanced Productivity Programmes (EPP). The Subcommittee also casts doubts on the need to invest on capital projects such as the enhancement of the Info-Hotline Service and setting up of a new electronic licensing system, which will reap benefits only in a booming market.

In this regard, the Subcommittee notes that the EAA should make sufficient resources available to pursue other new areas of work essential to the effective enforcement of the Estate Agents Ordinance. As the number of licensees is subject to fluctuation in the property market and an accurate estimation is hard to obtain, the EAA is obliged to make its forecasts with great caution. If sharp reductions to the fee levels are abruptly introduced and the number of licensees is not to increase correspondingly, it will become necessary for fees to be raised again within a short period of time. With the proposed 20% reduction in licence fees, the EAA will begin to run an operating deficit of \$14 million in 2003-04. In addition, the Administration has undertaken to include the examination of licence fee levels in its future review of the system of licence renewal.

Regarding the performance of the EAA, the Subcommittee notes the trade concern that the overly stringent entry requirements for estate agents have deterred new entrants. The appointment of persons who have in fact left the trade or not actively involved in estate agency work to the EAA has undermined the representativeness of the EAA. They are also disappointed that the EAA has failed to improve the conduct and integrity of estate agents since its establishment three years ago. Given that regulatory measures cannot be

implemented without the active participation of the trade, the Subcommittee shares the view that consideration should be given to appointing persons who have close connections with the trade to the EAA. Efforts should also be made to step up communication with the trade, particularly in respect of enforcement and inspection as well as training for estate agents. The Administration takes note of members' concerns and advises that the Working Group on the Review of the Practice Regulation will examine in detail the proposals raised by the trade and will consider introducing amendments if necessary. At the request of the Subcommittee, the Administration undertakes to report the outcome of the review to the Panel on Housing upon its completion in April 2002.

Madam President, the Subcommittee has fully deliberated all aspects of the Amendment Regulation, but it has not reached a consensus on whether an amendment to the Amendment Regulation is required. The amendment proposed by the Honourable Mrs Selina CHOW to reduce the licence fee by 30% was not discussed during the Subcommittee's meetings. Members can decide whether to support the original Amendment Regulation or the amendment moved by Mrs Selina CHOW.

Madam President, I would now like to talk about the position of the Democratic Alliance for Betterment of Hong Kong (DAB) in this regard.

The DAB supports Mrs Selina CHOW's resolution, which proposes a reduction of 30% in various licence fees payable by estate agents. The financial position of the EAA can be described as quite affluent. According to the information provided by the EAA to the Subcommittee, in 2001-02 the EAA will register a surplus of as much as \$4.9 million. It will also have a cumulative fund of \$49.1 million after setting aside a capital fund of \$22 million. That is to say, even if the licence fees are reduced by 30% as proposed, the financial position of the EAA in the next two to three years will still be very sound. Moreover, the EAA expects that there will be an annual increase of 7% in its operating expenses from \$50.8 million in 2001 to \$53 million in 2002 and to \$57.9 million in 2003.

The DAB considers that while most government departments and public bodies are striving to implement the EPP to reduce their operating expenses by 1% to 2% in recent years, the EAA is bucking the trend by substantially increasing its operating expenses. This is utterly unconvincing to the public. Therefore, the DAB considers it unjustified for the Government to defer a further reduction in licence fees on the grounds that there will be an increase in

the operating expenses of the EAA in the future. The DAB believes that at a time when the economy is in the doldrums, the Government should grasp every opportunity to tide over this difficult time together with the public. What is more, since the financial position of the EAA in the next few years will still be very well-off, indeed we cannot see any reason why the Government cannot further reduce the licence fees.

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

MR ALBERT HO (in Cantonese): Madam President, to enhance the professional standard of the estate agency trade, the EAA was established in 1997. The Estate Agents (Licensing) Regulation (the Regulation) was passed by the Legislative Council on 18 November 1998 and the licensing system was introduced on 1 January 1999. The EAA has reviewed the Regulation and proposed amendments to the existing licensing arrangements, as well as a reduction of the existing licence fees by 20% with effect from 1 January 2002. Mrs Selina CHOW has moved a further amendment to the Regulation, proposing a further reduction of the licence fees from 20% as originally proposed by the Government to 30%. The Democratic Party supports this amendment.

In recent years, the volume of transactions in the property market has shrunk considerably and estate agents have found business difficult. In particular, since it is difficult for small and medium estate agents to become agents for new developments, the business environment is even worse for these estate agents operating with small capital. The Democratic Party has met with a number of estate agent associations on a number of occasions and listened to their views, and of course, we have also listened to the Government's views. We learned that these associations generally consider that a further reduction in licence fees at present can help alleviate the pressure on their business operation in some measure. After considering the views of both sides, the Democratic Party is sympathetic to the plight of the trade, and after examining the relevant justifications, we feel that we should support the amendment proposed by Mrs Selina CHOW.

According to the EAA's estimates of its future revenue and expenses, if the licence fees are reduced by 30% in 2001-02, it will have a surplus of \$2.06 million that year, and the cumulative surplus will reach \$46 million. By 2002-03, if the reduction in licence fees are kept at 30%, there will be a deficit of \$18

million that year, but there will still be a cumulative surplus of \$28 million. Therefore, if the licence fees are reduced by only 20%, it is estimated that the cumulative surplus in 2002-03 will be \$33 million, which is \$5 million more than the cumulative surplus of \$28 million if the licence fees are reduced by 30%. Under such circumstances, we therefore consider that the EAA still has sufficient financial capability in the next two years to cope with the financial consequences of a 30% reduction in licence fees. I have been an ardent supporter of the EAA exercising financial prudence. However, since the trade has already experienced three inclement years, we believe the EAA, which has in its possession a large surplus, should be more generous and sympathetic to the hardship of the public when dealing with the issue of licence fees, so as to give practitioners of the trade some breathing space. Although the EAA has undertaken to conduct a review on licence fees after the completion of licence renewal process in 2001, and if it finds that there is indeed room for a downward adjustment, it will consider refunding part of the licence fees to licensees, and that subject to its financial situation, it may further adjust the licence fees downwards in 2003, we believe the remedy would be too distant for the pressing needs at present. We are concerned that to defer the decision on whether to refund the licence fees to next year will make more practitioners decide to take early departure from the trade, hence rendering more people unemployed. Moreover, a reduced number of licensees will also further reduce the EAA's revenue, resulting in losses to both parties.

Even if matters do not go that far and the situation turns out to be as predicted by the EAA, that is, there is no increase in the number of licensees and the EAA fails to effect further cuts on its expenses, as a result of which financial problems are likely to arise in 2003-04, the EAA can of course propose an amendment to the legislation to the Legislative Council to increase the licence fees in order to balance its accounts then. Moreover, the Democratic Party also suggests that the EAA should examine other ways of increasing its revenue in the future, such as offering its own training courses, so that it can increase its revenue on the one hand and standardize the quality of training on the other. In the long run, the EAA should consider if it is necessary to revise its present mode of fee collection, for example, to consider imposing a levy on the transacted amount to meet the EAA's fees and expenses. This will reduce its dependence on the fees collected from individuals, thus avoiding great fluctuations in revenue arising from changes in the number of licensees. Certainly, there are also other options in respect of revising the fee structure and we hope that a comprehensive review can be conducted in the future.

The economy of Hong Kong has gone from bad to worse after the financial turmoil and the property agency trade has taken the brunt of it. Adjusting the licence fees further downwards by 30% will benefit 15 000 practitioners of the property agency trade. On the face of it, the amount in question is not substantial, but we should remember that all parties and factions are urging the Government to show more sympathy in the present economic slowdown and adopt relief policies in various areas, including reducing fees as far as possible, so as to lower the operating costs of the business sector. Therefore, we believe that generally speaking, if these policies and measures are complemented by corresponding actions from other quarters, many operators facing financial difficulties at present, including property agents who are subsisting on low salaries or just scraping by, will benefit from them. In conclusion, the Democratic Party believes that on the whole, the EAA indeed has the capability to further reduce the licence fees by 10% and use its relatively abundant surplus to alleviate the financial pressure borne by the trade. Therefore, I hope Members can support today's amendment. I so submit.

MR MA FUNG-KWOK (in Cantonese): Madam President, before I speak further, I must declare that I am a member of the EAA. As I just joined the Legislative Council through a by-election, I was unable to take part in the scrutiny of the relevant Regulation. Nor was I able to help colleagues understand the work of the EAA. Therefore, I have to do some elaboration here today.

The principal object of setting up the EAA is to enhance the service standard of the trade, ensure a quality service to clients and to protect the interest of the public.

I wish to point out that the EAA is the only self-financing statutory regulatory body in Hong Kong. It derives all of its income from licence fees paid by estate agents. Unlike other bodies, such as the Securities and Futures Commission (SFC), whose income comes from both licence fees and a certain percentage from the commission of its members, the EAA does not even have any financial support from the Government. Therefore, it must be very careful in setting the licence fees. On the one hand, it has to avoid adding any burden to the trade and on the other hand, it has to maintain a certain level of reserve for emergency use. It also has to maintain a stable licence fee to avoid any unduly large fluctuation. So, in considering the financial position of the EAA,

colleagues must take the above facts into account, which make the EAA different from other statutory bodies.

The Hong Kong property market has remained sluggish and the business of estate agents has been difficult. With the trade shrinking, many agents have changed their jobs. Since 1999, the number of applicants for licences has decreased by over 25%. According to a recent survey on the manpower situation in the property sector, the number of persons actually engaged in the business amounts to less than 80% of the number of licensees. If our proposal for a 24-month exemption period of licences is passed, a certain number of licensees would choose to leave the trade temporarily. Moreover, following the expiry of the transitional period, some licensees may be forced to leave the trade at the end of this year because they may fail to meet the examination requirements or requirement to attend courses. These factors may affect the number of licensees and hence the income of the EAA.

Faced with such uncertainties, the EAA has imposed strict controls on expenditure and reviewed its financial position before proposing a 20% reduction on licence fees, hoping to alleviate the pressure faced by the trade due to poor business. The EAA also undertakes to conduct a review in the coming year or early next year. If possible, it may also refund part of the licence fees.

In the report of the Subcommittee scrutinizing the relevant Regulation, some members of the Subcommittee questioned the high operating expenses of the EAA and considered that there was still room for a further reduction of licence fees if the EAA could exercise more stringent control over its expenditure. I agree that the EAA can exercise more stringent control over its expenditure, but that does not mean we can propose, without any reasonable financial assessment, a further reduction of 10% in addition to the 20% already suggested, making a total reduction at 30%. This is a rather rash demand.

Mrs Selina CHOW pointed out that the proposal for a 30% reduction in licence fees is consistent with a 30% reduction in rents for shops in arcades managed by the Housing Authority. This reflects the political nature of the proposal, which has not taken the uniqueness of the EAA into account.

Madam President, the EAA in considering the reduction in licence fees has taken into account the uncertainties in respect of the number of licensees and

their financial burden before arriving at a 20% reduction proposal. I must stress that the rise and fall in the number of licensees in the trade are ultimately affected by fluctuations in the property market. If Members now request that the licence fees be further reduced by 10% and the property market remains stable so that the number of licensees does not drop drastically, then the operation of the EAA will be affected and the licence fees may have to be increased. Thus, it will only add uncertainty to the licence fee issue. Any large fluctuations in licence fees are never desirable for the EAA and the trade.

Mrs Selina CHOW said the proposed 10% further reduction in licence fees would help estate agents enormously. How big would it be in real terms? A salesperson would pay \$15.8 less per month while an estate agent, \$24. I must point out that calculated on a 20% reduction in licence fees, a salesperson has to pay \$1,470 annually while an estate agent, \$2,200. We must remember that basically a salesperson can carry out almost all sorts of work carried out by an estate agent, with the exception of working in the capacity of a manager or managing an estate agency in the capacity of a manager. The real difficulty of the trade is the continual sluggish property market and markedly dropped business turnover. Licence fees are not a determining factor. If the trade participants want to cut their expenditure, they may choose to apply for salesperson's licences rather than estate agent's licences. But a further reduction in licence fees would severely affect the financial stability of the EAA. At a time when the EAA has to discharge its statutory duties, it must have a secure financial base. Anyone who cares about the long-term development of the trade would not want to see this base undermined.

Some members of the Subcommittee questioned the need of setting aside \$22 million for capital projects, given the weak market conditions. We must understand that the EAA has been set up for only a short time. A number of basic facilities have to be improved, including but not limited to the enhancement of the Info-Hotline Service and the setting up of a new electronic licensing system. There are also improvements to be made on the indexing system for property information to facilitate the work of trade practitioners and to lower the costs of searches. There is also work on assisting applicants who fail to meet transitional requirements, providing them with individual consultation and counselling to help them continue to earn a living in the agency trade. The EAA will also conduct research for the launching of a continuing professional development programme to maintain professional standard, update professional

knowledge and strengthen their professional status. I wish to point out that the projects or the work mentioned will all help enhance service quality. Indeed, it is when the market is weak that we are in particular need of enhancing our service quality. To delay or shelve these investment projects may not be good to the development of the trade. We must avoid attending to trifles to the neglect of essentials.

Madam President, the service industry, for example, tourism, insurance, banking and so on, in Hong Kong is being confronted with a slump. I trust workers in all trades are coming to grips with the problem. Regarding their future, they may also be assessing the difficulties and making decisions carefully, taking into account the special circumstances of their respective trades. I hope colleagues may give due respect to the carefully thought out proposal of the EAA.

With these remarks, I oppose Mrs Selina CHOW's amendment.

MISS CHOY SO-YUK (in Cantonese): Madam President, colleagues in this Council have heard many stories about the impact and undesirable effects on the estate agency trade since the implementation of the Estate Agents (Licensing) Regulation and the establishment of the Estate Agents Authority (EAA). Madam President, we support the way forward, that is, enhancing the service standards of estate agents in Hong Kong. Nevertheless, we find that the Government has not been addressing squarely the negative effects of the Regulation on the trade since its implementation. I would like to take this opportunity of this amendment to the subsidiary legislation to amend the law. I am in favour of Mrs Selina CHOW's amendment.

Madam President, the difficulties confronting the trade are many. In addition to those mentioned by colleagues earlier, we have heard of many others, such as the problems with the necessary procedures to follow in carrying on business as an estate agent. Procedures have become cumbersome for all agents and business deals are spoiled because prospective buyers and sellers are shying away. The EAA has been so meticulous in regulation that the operation of estate agencies has become complicated. Meanwhile, the property market is weak and we have heard or will be hearing many stories of how some estate agents fail to survive. Estate agents have to sit for examinations and overcome

many hurdles if they wish to enter the trade. Madam President, there is also the issue of fees. We must bear in mind that many estate agencies operate in the form of cottage industries. If a person operates an estate agents company, he will have to pay several fees. In addition to paying business registration fees, he will have to pay \$3,040 in submitting a statement of particulars of business, \$2,880 as estate agent's licence (individual), \$1,840 as salesperson's licence and \$4,000 as estate agent's licence (company). Madam President, these fees that we are talking about are fees that have to be paid only after the ordinance came into operation. To reduce a certain amount in some of the fees is a favour to people engaged in the trade, though this may not be deemed a big or timely help.

Madam President, I feel very sorry to hear that some officials say small-scale estate agents will one day be eliminated through competition because the world is progressing and value has to be added in order to survive. So, these agents will disappear sooner or later. Well, if these agents die away because their trade is dying or because of poor management or lack of competitiveness so that their employees lose their jobs or they have to cease business, I would not blame anyone. However, Madam President, we now find that it is the Government which is quickening their demise by introducing new measures or by being fastidious. Thus, we find that the Government on the one hand sets up funds for the people to start their businesses or encourages them to do that, and conducts retraining or encourages them to do that, and yet on the other, it quickens through various means the closure of some estate agents companies despite the fact that there are only a handful of them struggling to stay afloat.

I think the Government is acting in a self-contradictory manner. It offers to help people start their business, to help small and medium enterprises and to set up funds of various nature. But then it never considers the undesirable consequences of some laws. As far as this Regulation is concerned, the Government refuses to make any amendments whatsoever despite efforts made by people from many sectors since its implementation in 1999. The present request is only for fees to be reduced by 20% and that reduction, which relates to one item only, is such a small amount that it is just better than no reduction at all.

Therefore, Madam President, I support the comments made by colleagues earlier, with the exception of those made by the Honourable MA Fung-kwok. Without being repetitive, I would say I support Mrs Selina CHOW's amendment.

MR HENRY WU (in Cantonese): Madam President, having undergone similar experience like this before, I would like to share with Honourable Members my views on the operation and structure of the EAA, and the question of whether or not the EAA is overstaffed.

The EAA was established towards the end of 1997, and I had been a member on it for three years since its establishment. I am not an estate agent or manager of such a business, but since I have been subjected to the stringent regulation and supervision by the Securities and Futures Commission (SFC), I can feel keenly the various problems, difficulties and pressure facing members of the trade in this course of development from non-regulation to supervision presently under the EAA. It was because I did not wish to see the problem of excessive power, expenses and staffing arising from the "Gestapo" structure of the SFC happening to the EAA that during the three years I was serving on it I had always urged the EAA to put its structure, operation, expenses and staffing under proper control, with a view to achieving a fair and reasonable standard of regulation which is acceptable to the trade and the investing public.

Madam President, the EAA has operated for less than four years and can therefore be considered as still undergoing a growth process. In addition to continuously discussing with members of the trade its many monitoring policies and enforcement procedures, the EAA has also been conducting reviews and making appropriate improvements all along. In this connection, the EAA has already reviewed its staff establishment, as well as its fee collection and licensing procedures; besides, it has also streamlined its structure and voluntarily reduced its licence fees. Other government departments, particularly the SFC, should really follow this good example set by the EAA.

In fact, the staffing level and expenses of the EAA just pale into insignificance when compared with the SFC. While the staffing of the SFC is already five times that of the EAA, its expenditure on salaries is even as much as 11.9 times that of the EAA. But then, despite the claim made by the SFC that its activities are not confined to regulating the persons concerned, the number of persons it regulates is only 1.3 times that of the EAA. Yet certainly, under the close watch of the members serving on it, the structure and expenses of the EAA have been successfully maintained at an acceptable and reasonable level.

Madam President, I hold that if the EAA is to fulfil its regulatory role for a long time, it must have reasonably sufficient reserves for unexpected needs; and since the EAA has conducted reviews and made reasonable and appropriate adjustments to its licence fees, I consider its proposal acceptable and worthy of support.

Madam President, I so submit.

MR BERNARD CHAN: Madam President, as a member of the Estate Agents Authority (EAA), I am well aware of the difficulties being faced by the real estate trade. It is not surprising that estate agents want to reduce their overheads as much as possible.

The EAA is sympathetic. It reduced its licence fees by 20% in January 2000. And the people concerned believe that it can reduce them by another 20% now.

However, I do not believe that it is a good idea to reduce the fees by more than that amount at this stage. The EAA relies on these licence fees for most of its income. And the distinction between the EAA and other statutory bodies has been clearly illustrated by the Honourable MA Fung-kwok.

The number of licensees is declining. And, as a result, the EAA currently faces some uncertainty about the future levels of its licence-fee income. We do not know whether this trend will continue after the transition period, when all the relevant people have become licensed.

The EAA will have a better idea early next year. So at that time, the EAA will review the fee structure. And it will certainly consider further reductions in licence fees, if that is possible. The last thing that we want to do right now is to bring fees down too far — and then have to increase them again in a few months. It would be unfair to people who pay for licences at the wrong time. And it would be generally confusing.

In addition to reviewing its likely income from licence fees, the EAA will also look into alternative sources of income. One possibility is an value added levy on licensees' commissions.

Madam President, the EAA would ask everyone to wait a few months until its income stream is easier to predict.

In the meantime, I think it is important to remember that the proposed extra reduction in fees would not make much difference to individual licence holders. As mentioned earlier by Mr MA Fung-kwok, the saving would amount to \$15.80 a month for salespersons, and \$24 for estate agents. And you only need the estate agent's licence if you occupy a managerial position or own the actual business.

I should also point out that the EAA is not wasteful. It has reduced staff numbers by more than 10%, despite an increase in workload. It does not have fat that can be cut. I am sure that the Honourable LEE Cheuk-yan will agree with me on that.

To conclude, Madam President, we all know that the real estate trade is suffering hardship. But that is not because of licence fees — it is because of the state of the property market. It would not be prudent to cut the licence fees by a whole 30% at this stage. The EAA needs a given amount of licence fees in order to fulfill its statutory duties.

The licensing transition period is now coming to an end, and so is the growth stage of the EAA. In just a few months, the EAA will be able to plan its future income more accurately. And if it is possible to reduce licence fees at that stage, I can assure you that the EAA will definitely consider doing so.

Thank you.

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

(No Member responded)

SECRETARY FOR HOUSING (in Cantonese): Madam President, today's debate is on a proposal made by the Estate Agents Authority (EAA) to reduce licence fees by 20% with effect from 1 January 2002. In appreciation of the business difficulties faced by the trade, the EAA reduced various licence fees by 20% for the first time in 2000. This proposal seeks to reduce licence fees by

20% for a second time. The accumulated rate of reduction will thus exceed one third of the original licence fees.

Mrs Selina CHOW's motion seeks to charge the rate of reduction in reduce licence fees from 20% to 30%. The impact on individual salespersons and estate agents will be very small for the reduction will enable them to save a mere \$190 and \$290 per annum respectively. It will render only minimal assistance to them in relieving their financial burden. Actually, licence fees only account for a very small share of the trade's expenditure.

However, it is estimated that it will cost the EAA \$9.4 million in the next three years if Mrs CHOW's motion is passed, as a result of which, the cumulative fund of the EAA will be exhausted by 2004-05. As the EAA is a financially autonomous agency, it must manage its finances with prudence and prevent its revenue from falling short of expenditure. A stable financial position is even more important to an organization with a history of only four years.

Some Members hold that since the EAA has a cumulative fund of approximately \$50 million, it should be capable of reducing licence fees by 30%. We should note that although the EAA has exercised stringent control over expenditure, its expenditure still reaches \$50 million annually. Therefore, a cumulative fund of approximately \$50 million should not be considered exceedingly high.

Madam President, 84% of the income of the EAA derives from the licence fees levied on the trade. Since the implementation of the licensing system in January 1999, the number of licensees has dropped by 26% and there are only approximately 15 000 licencees at the moment. It is estimated by the EAA that after deducting the number of new entrants, the number of licensees will further reduce by 17% in 2002. Meanwhile, as pointed out by Mr MA Fung-kwok earlier, although some salespersons have obtained the qualification of estate agents, they might prefer applying for the less expensive salesperson's licences in order to reduce their expenses. Therefore, the revenue of the EAA is expected to drop even further. The EAA has given detailed consideration to the matter after Mrs Selina CHOW made the proposal of reducing licence fees by 30%. In view of the uncertainty of the number of licence renewals during the transitional period in the past three years, the EAA has decided not to change its position for it is very likely that licence fees will have to be increased two years later if they are now reduced by 30%.

Appreciating the hardship of the trade, the EAA undertook to conduct another full review of licence fees in 2002 upon the completion of its licence renewal work. If there is still room for a further reduction, the EAA will definitely consider further lowering the licence fees.

Madam President, I have provided such information because I hope Honourable Members will understand that the EAA's proposal to reduce licence fees by 20% is meant to be a prudent budgetary proposal. I hope Members can understand that it is not a suitable time for licence fees to be further reduced by 10%. I urge Members to consider carefully the principle of financial prudence adopted by the EAA and respect its decision.

Thank you, Madam President.

PRESIDENT (in Cantonese): I now call upon Mrs Selina CHOW to reply.

MRS SELINA CHOW (in Cantonese): Madam President, I believe no Member will oppose the principle of "financial prudence". In fact, we very much respect this principle and there is no doubt about it at all. Therefore, if Mr MA Fung-kwok or Secretary WONG said that we had neglected this point, I think it is unfair to Members (especially those who support this resolution). Actually, we have already studied the information provided to us in detail. We could see very clearly the actual impact on government finances if the real estate agent licence fees are reduced by 20% or 30%. Our remarks are based on the information provided to us by the Estate Agents Authority (EAA), not on our own anticipation. Therefore, Mr MA Fung-kwok's comment that we had not made a reasonable financial assessment can be regarded as an insult to us. It is because the assessment was given to us by the EAA.

I have heard the speeches delivered by three Members just now. In fact, they are closely related to the EAA because two of them are serving members of the Authority whereas the other one used to be a member of it. We certainly know very well the matter concerning views and angles, and the perspective from which they have made their speeches. However, I would like to ask this question. Insofar as their comments are concerned, how many of them had actually discussed with the industry positively and directly before they made the

conclusion after considering the information obtained carefully? For example, given that the Authority wishes to uphold the principle of financial prudence, it appears that whether there are fee reductions or not does not really matter if they are not helpful to the real estate agents. Perhaps those Members should talk with the real estate agents. Undoubtedly, the agents will tell us that a reduction of 30% may not be sufficient. Some think that it should be 50% at least, or some will say: Basically, the licence-fee charging system also warrants a review.

We also appreciate that this is a far-reaching issue. Let us not drag the matter too far away for the time being. We hope to discuss the long-term issue in detail at the Panel on Housing. However, more importantly, why did the same thing happen last time and it is so again this time? Why did many people in the industry come and talk to Members because of the issue: Why could not the Authority give their representatives enough chance of discussion? What were the factors that gave rise to the situation now? Why did we keep hearing that someone would just walk out at any moment during the discussions? Why did such circumstances arise between the EAA and the industry? If this is what has happened to the EAA and its relations with the industry, should the Housing Bureau not assume some responsibilities? Is it necessary for the Housing Bureau to review the representativeness of the EAA? Undoubtedly, when we pass the legislation, representatives from the industry are on the EAA because it is required by law that they must be included. However, can those representatives on the EAA sufficiently represent their trade? Can they really convey the views of the industry to the EAA? To my understanding, some of the representatives no longer belong to the said industry despite the fact that they are still serving members of the EAA.

Furthermore, there is another key issue. I do not mean that we must believe in everything said by the real estate agents. We also understand that business operators certainly want to lower their costs a little bit sometimes, and this is only natural. Similarly, members of the EAA will certainly speak for it. But the point is, notwithstanding this, we still have to consider some other reasons.

That is to say, why did the same circumstances arise on the last occasion? The Secretary for Housing can testify that when the licence fees were reduced by 20% last time, the EAA did not make the downward adjustment voluntarily. Rather, thanks to pressure imposed on the EAA by the Secretary for Housing

through certain channels, it then reduced its fees with great reluctance and dissatisfaction. But what then is the situation after the reduction? We now still have a surplus of \$70 million or so. Does this prove that the principle of financial prudence adopted by the Authority too prudent? Is it too much? This is already far too sufficient and there is still a lot of room. But it is very difficult for the real estate agents. This is the first point I want to make.

Another point is, the EAA is in fact facing a problem. It is because major real estate agents and medium-to-small real estate agents have conflicting views on certain matters, and this is difficult. But how should the EAA improve the situation? That is, how should it strike a right balance that is acceptable to both parties so that they both find room of survival? Has this already been achieved? Or many real estate agents, especially the medium-to-small agents, are still in particularly great difficulties?

Certainly, I also understand that agents who are below par as mentioned by us just now will be eliminated. However, the spirit of the legislation as a whole is to upgrade the overall standard as far as possible, even the standard of small agents must also be upgraded. If the standard is improved, they will have a way out. But have problems actually arisen in the course? The Secretary for Housing may need to conduct a review on this.

I think that the discussion we have on this occasion should not be stretched too far away after all. In fact, Members simply have to consider one point. If we reduce the fees by another 10% (20% was proposed originally but now a reduction of another 10% is proposed), will it cause grave difficulties to the EAA in the near future? No. What is meant by "near future"? Is year 2002 the near future? Is 2003 the near future? Is 2004 the near future? Should we give the EAA more space to make adjustments in the following months if it has no major problems in 2004? I believe the Legislative Council is also very concerned about this issue and the Panel on Housing will also take this matter close to heart and watch it closely. Anyway, I hope that the Secretary for Housing or members of the EAA present in this Council can bring the message back. All in all, I think that the best thing is not to resolve matters of this nature by submitting it to the Legislative Council every time. The best solution is to effect thorough communication and negotiation between the EAA and the industry, so that they can work out a solution acceptable and understandable to all. If you wish to convince the public, please do not keep saying: they should accept it. In fact, if another 10% of reduction is of little help to the agents,

those Members had better convinced them on other occasions outside the Legislative Council. Once they are convinced, they will not come to the Legislative Council and complain to Members, thereby obviating the need for our intervention.

Therefore, I hope the relief measures we adopt on this occasion are just short-term. I would also like to thank Members for their support for this motion. I appreciate that Members who are members of the EAA may not support this motion. However, I very much hope that this motion can be passed on the one hand, and I hope on the other that the relevant panel, the Housing Bureau and the EAA can make efforts together to resolve the relevant problems at root.

Thank you, Madam President.

Madam President, do I have to move the motion now?

PRESIDENT (in Cantonese): Mrs Selina CHOW, you have already moved the motion. Please sit down.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Mrs Selina CHOW be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

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

PRESIDENT (in Cantonese): Proposed resolution under the Legislative Council (Powers and Privileges) Ordinance.

PROPOSED RESOLUTION UNDER THE LEGISLATIVE COUNCIL (POWERS AND PRIVILEGES) ORDINANCE

MR IP KWOK-HIM (in Cantonese): Madam President, in my capacity as the Chairman of the Panel on Home Affairs (the Panel), and pursuant to the decision made by the Panel in the last Session, I move that the motion as printed on the Agenda be approved.

At the meeting held on 10 July 2001 during the last Session, the Panel discussed the nomination and selection criteria for honours and awards. Citing the reason that deliberations of the Honours Committee must remain confidential, the Administration refused to accede to the request of some Members and disclose whether the nomination of Mr YEUNG Kwong had been vetted by the Honours Committee. However, the Administration confirmed that the Chief Executive could add or delete names to or from the Honours List submitted by the Honours Committee, and that there was a similar practice before 1 July 1997.

In the last Session, at the Panel meeting held on 16 July, it was suggested that the Panel should seek the Legislative Council's authorization to exercise the powers conferred by the Legislative Council (Powers and Privileges) Ordinance for the purpose of ascertaining whether the nomination of Mr YEUNG Kwong had been vetted by the Honours Committee.

Some members supported this proposal. They were of the view that since the Chief Executive confers such awards and honours on behalf of Hong Kong, the Government should disclose to the Legislative Council the actual nomination and vetting procedure for this year.

However, some members objected to the proposal. They pointed out that the power conferred by the Legislative Council (Powers and Privileges) Ordinance should be exercised only when issues of significant public interest are involved, and so, Members should exercise such powers very carefully.

The proposal was passed with four votes in favour and three votes against.

Madam President, the following are my personal views on this motion.

Madam President, as the Chairman of the Panel in the new Session, I must follow the Rules of Procedure and propose this motion on behalf of the Panel. But I must make my own position very clear; I oppose this motion which will lead to an abuse of power by this Council. And, on behalf of the Democratic Alliance for Betterment of Hong Kong (DAB), I call upon Members to oppose it for the sake of social justice.

The system of honours and awards has a very long history. Over the past centuries, in an attempt to maintain its rule and consolidate government authority, the Royal Family of Britain has been conferring various honours and awards on those people who have made notable contribution to the Royal regime, or those who have made admirable achievements in society. Since Hong Kong was a British colony, such a system also existed in Hong Kong for some 100 years. Today, the colonial era is just over, but why have people in the establishment begun so suddenly to question this age-old system of honours and awards? This is really baffling. Maybe, this reflects how "Hong Kong people ruling Hong Kong" is being implemented here!

The Honourable Emily LAU proposes to invoke the Legislative Council (Powers and Privileges) Ordinance to force the Chief Executive or the Director of Administration to furnish to this Council the documents relating to the nomination and selection procedure for this year's Honours List, so as to ascertain whether the nomination of Mr YEUNG Kwong had been personally made by the Chief Executive. Madam President, if the Legislative Council really passed the motion on invoking the Ordinance, and if it was ascertained that the nomination was made personally by the Chief Executive, what would all this mean? As far as I know, in many countries and places where honours and awards systems are in place, the heads of government there all have the power to make final decisions with respect to the honours lists, and this power covers the making of nominations. This is an incontestable fact. Criticisms that the normal procedure has been bypassed are unfounded at all. The Director of Administration, Mr Andrew WONG, said at a meeting of the Panel that the existing honours and awards system had been in use for a very long time, and he also confirmed its operation both before and after the reunification. Another point is that everyone will have his own views about who should be conferred honours, and he is entirely free to voice his support or objection. But we have never heard, nor seen, any country with an honours and awards system ever

disclosing the criteria and procedure of vetting and deciding who should be given such honours and awards. The reason is actually very simple. There may be lots of divergent views on whether a person should be given honours. Some may be in support, while others may not, and the two sides can always offer a host of justifications. If all these reasons were debated in public, then immense damage would inevitably be done to the nominee.

Honourable Members, the Legislative Council (Powers and Privileges) Ordinance is just like a Sword of Imperial Sanction, which gives the Council very enormous powers to enable us Members to monitor the Government more effectively, uphold justice for the masses and improve administration. Members must exercise these powers with the utmost caution and prudence, instead of abusing the Ordinance to satisfy their own curiosity and desire, for this will destroy the relationship between the executive and the legislature. I urge Members to take account of public interest and the people's wishes and vote against this motion.

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

Mr IP Kwok-him moved the following motion:

"That the Panel on Home Affairs be authorized under section 9(2) of the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) to exercise the powers conferred by section 9(1) of the Ordinance for the purpose of ascertaining whether the nomination of Mr YEUNG Kwong was vetted by the 2001 Honours Committee".

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr IP Kwok-him be passed.

MR ANDREW CHENG (in Cantonese): Madam President, the purpose of our proposing this motion today is to request the Legislative Council to authorize the Panel on Home Affairs to gain access to the documents of the 2001 Honours Committee, so that the Legislative Council can ascertain whether the nominations of the 2001 honours recipients (including Mr YEUNG Kwong) have been vetted by the Honours Committee, and whether they are in compliance with the relevant criteria.

Why have we proposed this motion? The Honourable IP Kwok-him, Chairman of the Panel on Home Affairs, has already given the reasons in his speech, so I shall not dwell on them any more. In brief, it is because when the Panel discussed the agenda item relating to the honours and awards procedure, government officials refused to produce the relevant documents, thus making it difficult for the Panel to conduct any discussion. As the Chairman of the Panel on Home Affairs in the last Session, I must say that I had been very disappointed at the fact that the Government had repeatedly ignored Panel members' request and refused to produce the documents. Legislative Council Members belonging to the Democratic Party also feel sorry for government officials' disrespect for the Legislative Council.

I remember that in June this year, that is, when the last Legislative Council Session was close to its end, I read a news story about the Public Accounts Committee's scrutiny of the Director of Audit's March report; the scrutiny covers, among other things, the privatization of the abattoir under the former Urban Council. It was reported that the Government had thrice declined the Public Accounts Committee's request for three documents. Government officials even resorted to the "need for obtaining the consent of the Urban Council" as a reason for turning down the request; Members were practically between tears and laughter, as by the time, the Urban Council had already been dissolved, and so, the reason cited by the government officials was both unattainable and entirely unreasonable. In the end, it was only due to the strong demand of the Public Accounts Committee (PAC) that the Government produced one of these documents, *sans* the other two. The new Session of the Legislative Council has already started. Has the PAC received the documents from the Government? I am sure that the Honourable Eric LI, Chairman of the PAC, will certainly share my feeling about the Government's reluctance to produce the documents to the Panel on Home Affairs.

Madam President, the Democratic Party hopes that Members will not once again look upon this motion as a political dispute. Instead, we hope that in their consideration of this motion, they can focus on strengthening the monitoring of the executive by the legislature and the executive's accountability to the legislature. We also hope that they can support the proposal of invoking the Legislative Council (Powers and Privileges) Ordinance to enable the Panel on Home Affairs to exercise the power to peruse the relevant documents and discharge the legitimate duties of the Legislative Council.

The highest echelon of the Government has been saying all the time that the Government wishes to improve its relationship with the legislature. But whenever the Legislative Council requests any document from the Government, government officials will often come up with one unreasonable excuse or another, so as to turn down the Legislative Council's request for documents. Every time, the Legislative Council Members thus have to state their demand very strongly. Sometimes, a situation like what we have today may result, with a Panel having to move a motion to exert pressure on the Government. This is really undesirable. How can a government like this improve the accountability of the executive to the legislature? How can the Government convince the public that it is really sincerely in its attempt to increase its transparency and accountability? As the saying goes: "We must listen to one's words and observe one's deeds". The Democratic Party hopes that the Government can do what it says.

So much for that. Let me now say a few words on the specific details of the requested documents in question. Following the reunification, a local honours and awards system is put in place to give recognition to people who have made an outstanding contribution to Hong Kong, or who have rendered distinguished and devoted community or public service to Hong Kong. The Grand Bauhinia Medal (GBM) is the highest of these honours and awards. The name YEUNG Kwong is on the list of GBM honours recipients this year, very much out of the expectation of most people, as Mr YEUNG Kwong was closely related to the planting of home-made bombs and the 1967 Riots in our history. The award of a GBM to Mr YEUNG Kwong baffles and even enrages most Hong Kong people, and they begin to query whether the highest honours in the Hong Kong Special Administrative Region (SAR) has been reduced to a kind of "benefit" handed out personally by Mr TUNG to please the leftists, to rally their support for his re-election. The biggest problem is that such a benefit has been handed out to the mastermind of the 1967 Riots, a person who once hurt the feelings of hundreds and thousands of Hong Kong people. What has gone wrong with the procedure and criteria for honours and awards this time?

We reiterate that even though the Chief Executive is empowered to add or delete names to or from an Honours List, the additions and deletions so made must still follow an established system with criteria that take account of the views of the masses, so that the honours and awards can serve as real symbols of the SAR's appreciation and recognition of the contributions made by the honours recipients. That is why the SAR must formulate an honours and awards system to ensure that each nomination for honours and awards can be processed fairly.

The key to such a system should naturally be the nomination procedure, which should cover the Honours Committee's vetting of nominations and its recommendation to the Chief Executive on the Honours List. The system should aim to ensure that all nominations are made on the basis of uniform criteria, and that the relevant approval criteria are all met. In the final analysis, honours and awards are accorded on behalf of the SAR. They are not to be accorded by the Chief Executive in his personal capacity; it is the SAR which accords them. Failing this, and if the Chief Executive thus draws up the Honours List on the basis of personal preferences, the reputation of the whole honours and awards system and even the SAR will be adversely affected. The Honours List thus drawn up will not be accepted by the majority of the public in the end, and it may even lead to discontent and criticisms.

Madam President, as far as the honours and awards system is concerned, there is no Legislative Council representative on the Honours Committee. The Legislative Council does not have any participation throughout the entire vetting process. All decisions are made by the executive on its own. However, the Legislative Council cannot thus turn a deaf ear to the people's discontent. The Legislative Council must play its role and discharge its duty as an institution responsible for monitoring the executive. And, in order to ensure the fairness, openness and impartiality of the honours and awards system, the Democratic Party supports the proposal that the Panel on Home Affairs be authorized to peruse the documents of the 2001 Honours Committee. Once the Panel can peruse these documents, it will offer the public a full account, disclosing the number of all honours recipients not having been vetted under the normal procedure and who they are; we do not intend to pick on any particular honours recipient.

Let me add that the documents concerned are not documents that cannot be released for reasons of national defence, foreign relations, security or commercial confidentiality. To protect privacy, the Government can delete the names of defeated nominees from the documents and release only the names of honours recipients. I really cannot see why these documents should be classified as confidential, why they cannot be released, and why they cannot be produced to the Legislative Council in any form.

With these remarks, and on behalf of the Democratic Party, I support the motion.

DR DAVID CHU (in Cantonese): Madam President, the Hong Kong Progressive Alliance (HKPA) does not think that it is necessary for the Legislative Council to authorize the Panel on Home Affairs to exercise the powers conferred by section 9(1) of the Legislative Council (Powers and Privileges) Ordinance to ascertain whether the nomination of Mr YEUNG Kwong for a GBM was vetted by the Honours Committee.

Like the former British Hong Kong administration, the Government also follows two sets of honours and awards procedure: under the first set, the Honours Committee will first do the vetting and recommendation work, and the Chief Executive will then exercise his total discretion and decide whether to accept, add to and delete nominations; under the other set, the Chief Executive may decide on the honours list by following the established honours and awards criteria without having to go through the procedure of vetting and recommendation by the Honours Committee. Whether the nomination of Mr YEUNG Kwong was vetted by the Honours Committee does not matter; what matters most is the fact that the Chief Executive has, as permitted under the established mechanism, exercised the power vested in him.

Although the Legislative Council (Powers and Privileges) Ordinance does not specify the circumstances under which the powers under it may be exercised, past experience tells us that the Legislative Council will exercise the relevant privileges only when there is a need to conduct an in-depth investigation into a major blunder or scandal connected with the Government, such as the paralyzing of the new airport following its inauguration and the short-piling incident of Home Ownership Scheme flats. Since the question of whether the nomination of Mr YEUNG Kwong was vetted by the Honours Committee does not matter so much, and since the Chief Executive has adhered to the established honours and awards mechanism in making his decision, the HKPA is of the view that those Members who hope to exercise the privileges of the Legislative Council are actually making a mountain out of a molehill. The Chief Executive will make decisions relating to honours and awards every year; it stands against any reason for the Legislative Council to step in whenever anyone is not satisfied with the results.

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

MISS CYD HO (in Cantonese): Madam President, the aim of this resolution is to discuss whether the Chief Executive has bypassed the normal honours and awards procedure and add the name of YEUNG Kwong to the Honours List

recommended by the Honours Committee. I support this resolution, which aims to ascertain whether the Chief Executive has acted with due respect for the internal procedure of the Government. Suppose the Chief Executive has not acted in accordance with the established procedure, can his decision on honours and awards be regarded as appropriate? Has the Chief Executive abused his powers? We know that the kind of decision made by the Chief Executive this time will not be made every year. The award of a GMB to Mr YEUNG Kwong has led to very profound and extensive controversies never seen before. During the two whole weeks following the breaking of the news that Mr YEUNG Kwong was to be awarded a GBM, many people who had personally experienced the 1967 Riots rang up radio stations and recounted their personal experiences in phone-in programmes. These included policemen and a Hong Kong resident who claimed that he was still suffering from a sense of guilt, for he had himself planted bombs that killed a little boy and his sister. Therefore, our great concern is to find out what the Chief Executive did when making the decision — whether he had bypassed the procedure, ignored people's opinions and clung obstinately to his own views. Our concern is: In the midst of so many voices of opposition, what kinds of value judgements were applied by the Chief Executive in making this decision?

According to the Chief Executive, Mr YEUNG Kwong is to be accorded honours because he has made many significant contributions to Hong Kong during his whole life, devoting himself to trade unionism. Actually, when it comes to contribution to trade unionism, Mr YEUNG Kwong is not alone. Following the same logic, I hope that the next one to be accorded honours is the Honourable LAU Chin-shek. In view of the extensive opposition and controversies in the community, I would think that the Legislative Council is but obligated and duty-bound to uncover the truth, to find out the reasons for the Chief Executive's decision. Besides, we also need to look at the historical facts. Most of the controversies going on now center around the role played by Mr YEUNG Kwong in the 1967 Riots. If we look at the matter from this perspective, we are bound to touch upon the truth of the 1967 Riots.

Actually all the available information and materials about the 1967 Riots are incomplete and fragmentary. We have mentioned the verbal accounts given by people during phone-in radio programmes, and besides, there are also the official records obtained by Prof Ming CHAN from the British government archives and published in the local press. But all such information cannot give the people of Hong Kong a fair, complete and impartial picture.

Some say that those who want the Legislative Council to exercise this privilege to find out the truth of the 1967 Riots actually intend to persecute people, to spray salt on an old wound, and to divide the community. This is actually not our aim. Madam President, I also wish to say here that any attempt to divide society in this Chamber will be the same as a disrespect for knowledge. But if we are to find out the basis of the Chief Executive's decision, we will inevitably have to study the facts of history and return justice to the people involved. What we are doing now is to heal the wound.

In fact, many countries have taken similar moves to seek the truth of some historical incidents which they think are shameful to them. Violations of human rights did occur in Canada, South Africa and Australia, and independent committees were set up in these countries to uncover the truth of these violations. And, compensation to the victims and remedial measures were also considered.

Madam President, we are convinced that in the case of controversial historical incidents, independent inquiries are necessary as a means to achieve social harmony. But what we must first handle is the question of why the Chief Executive has made such a decision concerning the conferral of honours. Who actually finalized this decision? Was the procedure properly adhered to?

My YEUNG Kwong once remarked, to this effect, "The scale of the movement in 1967 was very large, so casualties were 'inevitable'." To him, I wish to quote French philosopher Voltaire: "To the living we owe respect, but to the dead we owe only the truth." The information now available is far from being able to show respect for the living, nor can it reveal the truth owed to the dead. This is precisely the reason why we wish to invoke the privileges of the Legislative Council to seek the documents and the underlying causes. Madam President, as responsible Members of the Legislative Council, we are duty-bound to do so.

MR TOMMY CHEUNG (in Cantonese): Madam President, today, in my capacity as the spokesman on home affairs for the Liberal Party, I shall say a few words on the resolution moved by Mr IP Kwok-him on behalf of the Legislative Council Panel on Home Affairs, that is, the resolution on invoking the Legislative Council (Powers and Privileges) Ordinance to conduct a special inquiring in respect of the Honours List this year.

I joined the Panel on Home Affairs only this Session, but I have gone through the minutes of the relevant meeting. I do not think that it is fair to pick on one of the more controversial trade unionists. The meeting on that day was actually focused on forcing the Chief Executive to confirm whether he had obtained the consent of the Honours Committee before deciding to confer a GBM on Mr YEUNG Kwong. But then, after the Director of Administration had refused to say anything on the ground that the minutes of meetings of the Honours Committee must remain confidential, the Panel passed the resolution put before us today, with four votes in favour and three votes against.

In fact, what the Director said that day was already very clear. Under the usual procedure, the Chief Executive (or the Governor during the colonial era), when deciding on an honours list, may add or delete names to or from the Honours Lists recommended by the Honours Committee, which is why there is no question of the Honours Committee being bypassed. What is most important is whether the honours recipients can meet the established honours and awards criteria. There is nothing in this matter which warrants such a big fuss, because no procedural irregularities can be detected. Are there any countries or places where the heads of government do not have the final say on an Honours List?

What is more, when it comes to assessing a person's achievements, opinions can never be just one side. Even a villain will have good friends and a nice person enemies. Since there are no procedural irregularities, do Legislative Council Members really have to take over the job of the Honours Committee and openly assess whether a nominee should deserve any honours, in what is in fact a trial by public opinions? Actually, the row that has arisen since the disclosure of the Honours List is an apt reflection of the fact that it is always difficult to have any uniform assessments.

I wish to point out that there are 266 persons on the Honours List this year, and if we are to assess them one by one openly without any good reason, we will cause lots of frustration to these people. What is more, besides seriously jeopardizing frank discussions within the Honours Committee, the disclosure of the minutes of meetings of the Committee will also expose the private personal data of those concerned. Is this fair to the honours recipients?

I think it is time we put an end to the "YEUNG Kwong incident". People have already put forward enough arguments. Now that the honours have already been conferred, what purpose do we wish to achieve by discussing the

bygone? Are we not going to stop before we stir up a climate of appraisal and plunge society into endless disputes, may I ask?

With these remarks, Madam President, the Liberal Party opposes the motion.

MS AUDREY EU (in Cantonese): Madam President, this debate is about the honours and awards system of the Hong Kong Special Administrative Region (SAR). The importance of any system lies in the presence of established procedures and objective standards, on the basis of which thorough discussions, reflection of views and mooting of ideas can be conducted to arrive at a majority view. Such is a process that any democratic society must undergo.

Under the honours and awards system adopted after the reunification, individual government departments and Policy Bureaux will first collect the views of the community and make nominations; the nominations will then be considered by the Honours Committee chaired by the Chief Secretary for Administration, which will in turn submit a finalized Honours List to the Chief Executive.

This system is by no means perfect, and it certainly cannot ensure the total absence of subjectivity, but at least decisions are not made by just one person under this system, as an honours list will first be mooted at the level of individual Policy Bureaux or government departments, and the Honours Committee also comprises non-official members, who can help gauge the views of the community.

Madam President, as confirmed by the Director of Administration, Mr Andrew WONG, and as mentioned by many colleagues in their remarks, the conferral of honours on Mr YEUNG Kwong this time is no different from past cases; the Chief Executive may bypass the Honours Committee and decide on his own who should be conferred honours. Many people say that there is nothing unusual about this, and they just wonder, "This was the case before the reunification, so why should changes be made now?" Madam President, naturally, we must follow good practices, but that does not mean that we have to retain bad practices all the time. Mr IP Kwok-him wondered whether there was anything worth talking about even if the decision had been made personally by the Chief Executive. I am sure that many people, including Mr IP Kwok-him,

would agree that the former colonial administration is different from the SAR Government; Mr TUNG Chee-hwa is also different from the Queen of England. We are now talking about the honours and awards conferred by the SAR, not personally by the Chief Executive.

Madam President, the Government's purpose of according honours and awards is to give recognition to persons who have made contribution to society and set up exemplary models in the community, in the hope of encouraging people to serve the community. If there are frequent public criticisms against individual honours recipients or the procedure, if individual recipients are frequently questioned of their quality to be models, and if there are frequent criticisms about deviation from the established procedure, the entire system will lose its credibility. This will defeat the original purpose and affect other honours recipients.

Madam President, many of the problems that have cropped up since the establishment of the SAR are actually caused by sudden decisions deviating from the established procedures, without any mooting, thus leading to public outcries. I cannot understand why the Government has all along failed to learn a lesson from these problems.

Madam President, I cannot agree with some colleagues that it does not matter so much whether the decision was made personally by the Chief Executive, and that raising a question on this matter is like making a mountain out of a molehill. Madam President, there must be a mechanism for everything, and I consider this very important. If we really respect the rule of law, and if we really wish to minimize the impact of the rule of man, then we must adhere to the relevant mechanisms all the time. Unless there are any special reasons, we should not deviate from these mechanisms.

Madam President, it is not so much because of any personal preferences or desires that I support this motion. The only reason for my support is a belief that established mechanisms must be followed all the time. And, I very much hope that the SAR Government, in particular the Chief Executive, can learn a lesson and promise us that in the future, they will adhere to the honours and awards system and follow the decisions of the Honours Committee. Madam President, for these reasons, I support the motion. Thank you, Madam President.

MISS EMILY LAU (in Cantonese): Madam President, I speak in support of the motion moved by Mr IP Kwok-him.

This year when the SAR celebrated its founding day, the Chief Executive threw a depth bomb, so to speak, for he announced that he would confer on Mr YEUNG Kwong the Grand Bauhinia Medal (GBM). Madam President, I think you will recall it, for both you and I are not so old at all. I am almost 50 and for persons of my age they will certainly remember that back in 1967, Mr YEUNG was the chairman of the Hong Kong Federation of Trade Unions (FTU) and the chairman of the Hong Kong and Kowloon Compatriots' Committee for Struggle Against the Hong Kong British Authorities' Persecution. Thirty-four years ago, Mr YEUNG and others went to the Governor's residence to demonstrate, and now, 34 years later, he is to be decorated in the same building, now renamed as the Government House. Madam President, Hong Kong has really changed, and certainly we hope it is changing for the better.

Mr IP Kwok-him has said earlier that this motion was first proposed by me during a Panel meeting. The meeting was held on 10 July. I raised the issue at the meeting, however, I requested that a vote not be taken at that time, for I really do not like pulling bolts from the blue. I think Honourable Members should be informed of the matter well beforehand, and a vote should be taken at the meeting on 16 July. Then why did I propose at that time that the Legislative Council (Powers and Privileges) Ordinance be invoked to gain access to such information? I hope colleagues would understand that the kind of information being requested is not much, for all I want to know is whether Mr YEUNG Kwong was included in the documents of the 2001 Honours Committee.

Madam President, why do I want to gain access to such information? As a matter of fact, many colleagues have mentioned earlier that, like me, they want to know if the Chief Executive was acting according to proper procedures. At the meeting, the Director of Administration told us that it did not matter for the former governors and the Chief Executive had not followed the proper procedures on some occasions. However, the Director of Administration declined to comment on individual cases and so he could not say that whether the award of the GBM to Mr YEUNG Kwong was consistent with the proper procedures. I think at that time some Honourable colleagues also supported my request. Why do we want very much to know? It is because there are reasons for the existence of certain procedures. Madam President, no matter we like

civil servants or not, and I think there may be some people who hate civil servants very much and hate the many procedures, but that is part of the rule of law. Sometimes procedures will hamper progress but they may come in handy in any examination to ascertain whether there are any problems so that some opinions can be put forward. In fact, from other sources or even from the mouth of Mr CHENG Yiu-tong, the incumbent Chairman of the FTU, we know that ever since 1997, each year the FTU will recommend that Mr YEUNG Kwong be decorated. But these attempts have failed. It is not until this year when Mr TUNG is in the last year of his term as the Chief Executive that the attempt is successful. Why? Is Mr YEUNG Kwong not on the list submitted to the Honours Committee each year? Is it true that his name was not on the list but then due to some very special reasons that at last his name was added to it in the last minute? I think Mr TUNG would have felt very surprised when he noticed such a strong reaction in the community later on. Miss Cyd HO said earlier that the radios kept on receiving phone calls complaining about the decision to honour Mr YEUNG. That is something which those in power and those who support the decision have never expected.

I agree with many Honourable Members who questioned the significance of awarding honours. Perhaps some people do not care at all whether they are decorated or not. And there are people who may never have a chance to get a decoration. However, for the public, the conferral of honours is a kind of institution whereby it shows the Government's recognition of the work done by certain people. Mr Tommy CHEUNG pointed out earlier that it would not matter at all if Mr YEUNG Kwong had met the terms and criteria of decoration. The problem now is, however, it is the opinion of many people in Hong Kong that Mr YEUNG does not meet such terms and criteria. And they question what in fact are the terms and criteria for awarding honours being applied to a person who more than three decades ago led other people to place bombs all over the territory, causing deaths and injuries to more than 50 people, and resulting in panic, chaos and even, as some people would put it, pushing the territory onto the verge of social disorder. Why is a person like this decorated and conferred the highest honours? I think the Secretary would have to explain to the public later. Maybe he would have to do this on behalf of the Chief Executive.

I am making this demand not out of my own desire or curiosity. So even if Mr IP Kwok-him disagrees with me, he needs not say such things. I have explained that I wanted to know whether or not Mr YEUNG Kwong was listed in

the documents of the Honours Committee. Of course, some people would say, what difference does it make if his name was there and what if his name was not there? If his name was not there, that means his name was added to the list at the last moment. But then people may say, there used to be examples of people's names being added to the honours list in the last minute. Madam President, that is true, there are indeed such cases before. However, those names added to the list by the former governors or the Chief Executive now have never caused such great controversy like this. And the public has never opposed to it. In fact, the Government awards many medals each year, and many left-wing people have been awarded medals too, but nothing has happened on these occasions. But this time is very much different.

I remember last time when the House Committee had a discussion on this, the Honourable NG Leung-sing asked me what in fact was my intention. As many Honourable Members have said earlier, I hope that a lesson can be learned from this. Not only should the Chief Executive learn from this, but that the SAR Government and the whole community should be informed about the matter clearly. Being decorated is a very important thing for many members of the public and this should be handled carefully. Public response should be weighed properly, for unless the SAR Government thinks that such matters do not need public recognition, a person should not be decorated unless there is unanimous opinion that he deserves the honour. That applies especially to the award of honours of the highest order. It is because if we think that a person should be awarded the honour, we hope that the majority of the public would agree that the person deserves the honour and that no one will be calling to the radio every day making a loud complaint. I am not sure if those people who recommended the award have ever thought about such consequences.

Madam President, some people asked later why such things had happened. It is because the top secret files have been brought back to Britain. I think such a view is really outrageous, for even if these files have been brought back to Britain, we all know who Mr YEUNG Kwong is and that can never be used as an excuse. I do not really know how things operate within the bureaucratic system. Maybe it is because the files have been returned to Britain that when someone mentioned Mr YEUNG, the persons concerned did not know who he was and so they did not know how to draft the papers. However, this excuse is utterly unacceptable.

Besides, for some officials in the SAR Government, the riots in 1967 did not matter very much at all, nor were they regarded as a very important part of Hong Kong history. Madam President, why am I saying that? I do not know if you have visited the Hong Kong Museum of History and it has an exhibition called The Hong Kong Story which costs six years and \$200 million to prepare. The exhibition covers a lot of things, but how about the riots in 1967? Yes, but only at the end of a film, and how much time is used on the incident? Ten seconds, may be.

Madam President, no matter how we are going to pass a judgement on this incident (in fact, I would like to know how the Government would see the incident), but if so much money is used and when an exhibition of such a large scale is put up in a grand museum like this, should we use just a few seconds in a film and gloss over an incident which is so traumatic as the riots in 1967? The Tiananmen massacre meets a similar fate and it is given only a few seconds' coverage in the film. From this we can see how those in power are treating history or how they have doctored history. After seeing the exhibition, I wrote a letter to the Secretary for Home Affairs, Mr LAM Woon-kwong. Not only do I feel ashamed at the way the 1967 Riots and the 4 June Incident are being treated, but at the way the ethnic minorities are being neglected. Actually, these ethnic minorities have contributed a lot to Hong Kong, and if they have seen the exhibition, they may have the impression that this is not the Hong Kong they know.

Madam President, I therefore very much support the motion, though I know very well that the motion will not stand any chance of being passed. It is because many Honourable colleagues, for one reason or another, would not want to know if the Chief Executive has acted wilfully and arbitrarily by putting Mr YEUNG Kwong's on the papers of the Honours Committee at a later stage, nor do they want to know why an award of honours event would find its way into the international news headlines and becomes so sensational. Nevertheless, I think what should be said must be said. Miss Cyd HO was right when she said earlier that actually many people in Hong Kong do not want to forget that incident and they will never forget it. Although not every person in Hong Kong is a victim of the event, should the dead not be compensated? Do we have the courage to face history? I know very well that the Hong Kong British administration was very brutal at that time. No one was completely right and no one was completely wrong. And some people in power think that such things should be swept under the carpet. I understand that the motion today is not to make an

investigation into the riots of 1967, but I would like to know the truth of the incident. I hope Honourable colleagues and I will be able to know it while we are alive. In Britain, some of these top secret files are being made open to the public. I think there are still some other ways of getting information on this incident. If the people of Hong Kong are not afraid to face up to history, then they should look at the information on the 1967 riots. The award of a medal may be a trivial thing, but it has caused such widespread repercussions in our community. This shows that the people have not forgotten the incident, and they never will.

Madam President, I hope Honourable colleagues will think about this: We want to pass a motion today to get the powers to look at the documents and examine if Mr YEUNG Kwong was on the list, and if it turns out that he was not on the list, that would be proof that the name was added to the list at the final stage by the Chief Executive himself. To me that would be a very problematic way of doing things. I agree with some Honourable colleagues who have raised the point that this procedure should be reviewed. For if there are some people who are not accepted by our society and they are decorated, that may affect the entire procedure and it may also have an impact on those who have been conferred similar honours. Therefore, I hope the executive authorities should think carefully on this.

With these remarks, I support the motion.

DR PHILIP WONG (in Cantonese): Madam President, I wish to raise two points about the motion today.

The first point is about the problem of vetting. I am of the view that before this Council decides whether to invoke its powers under the Legislative Council (Powers and Privileges) Ordinance to request the Government to disclose its internal information, it must carefully consider the necessity or otherwise of the request and also the possible consequences.

The Government has already offered a clear account of the vetting criteria adopted by the honours and awards mechanism. If the Government is frequently demanded without good reasons to disclose its internal vetting records, frank discussions in the Honours Committee will be seriously affected. Some members of the Honours Committee, for fear that their recommendations and

comments regarding individual nominees may be disclosed in future, may choose to express reserved views or simply remain silent during the vetting process. This will certainly affect the fairness, impartiality and effectiveness of the vetting work.

What is more, once the personal data of those being vetted, including selected and rejected nominees, are released, infringement on personal privacy will inevitably result, much to the embarrassment of the Government and the nominees. This is also something the general public do not wish to see.

In fact, if we look at government institutions in Hong Kong and other places or countries, such as our Immigration Department and the immigration authorities of other places, we will notice that they can all decide on their own whether or not to permit the entry of some particular individuals; some organizations in the community, such as the Hong Kong Jockey Club and the Stock Exchange of Hong Kong can also decide on their own whether to approve any particular application for membership. In all cases, they do not have to offer any explanation, nor do they have to disclose their internal vetting records. This should also be the case with the conferral of honours and awards. Some in the community have asked, "There was no request for 'transparency' when the British conferred honours in Hong Kong in the past, but why then, when the SAR Government does so, some people demand that there must be 'transparency'?"

Second, about the problem of "vindication". Madam President, during its colonial rule in Hong Kong, the British were in control of the ruling machinery and huge resources, and in order to protect their political and economic interests, they never stopped employing inglorious means to "frame up", discriminate against, vilify, persecute and inflict harm on dissidents. All these acts are on the records, well known to all. I think Mr YEUNG Kwong, a former Chairman of the Hong Kong Federation of Trade Unions (FTU), who is involved in the discussion on the motion today, was in fact a victim of the British colonial policies in Hong Kong.

Past experience, if not forgotten, is a guide for the future. Since the reunification, the SAR Government has been trying to clear the "fog" by reversing the erroneous policies of the British. This is pragmatic, but the work is bound to be tedious. At the same time, this is also a necessary and meaningful task widely supported by the people. Over the past few years, the

SAR Government has commended the anti-Japanese war heroes of the Dongjiang Column, restoring the good reputation of all these martyrs who were not given the right treatment by society in the past. This is a good start. Such rehabilitation work is not meant to seek revenge for those selfless individuals who were once persecuted; nor is it meant to take revenge on those who were forced by the circumstances of the time to persecute others. Rather, it aims to return justice to history, restore the good name of the victims and let the deceased rest in peace and the living live without regret. It is hoped that this can instill a greater sense of national dignity among the people and help them distinguish between right and wrong. It is also hoped that people can thus put their differences aside and work together with greater solidarity to create a new era of stability and prosperity.

Madam President, I so submit.

MR LEUNG FU-WAH (in Cantonese): Madam President, I would like to express my personal regrets to the proposing of the motion today as well as the blatant disregard and sheer ignorance by Honourable colleagues of this Council of the facts we have been stating over and over again during these past three months.

The Chief Executive, Mr TUNG Chee-hwa, said in respect of the conferral of the Grand Bauhinia Medal on Mr YEUNG Kwong, "For 30 years Mr YEUNG Kwong has been making great contributions to the labour sector. He is a pioneer of the labour movement and he has put in the best of his efforts in fighting for the welfare of the workers. He has worked hard and done a lot of things in respect of medical services and social education services for the workers. As a recognition of the decades of work he has done for the workers and the grassroots, we are awarding the Grand Bauhinia Medal to him to show that what he has done is right." Maybe some of the Honourable colleagues here in this Chamber may not have had a chance to know the contributions Mr YEUNG Kwong has made to the labour sector and the grass-roots community, so please allow me to talk about it briefly.

During the 1940s and the 1950s when Hong Kong was economically backward, a lot of workers were unemployed and living in poverty. Many children did not have a chance to go to school and many people did not receive enough medical attention. At that time, not only did the British colonial

administration in Hong Kong not bother to improve the plight of the people, but also enacted the Societies Ordinance targeting at the trade unions, the legislation on strikes and the deportation order. The FTU was set up in 1948 and since then it launched a movement on helping children who did not have a chance to go to school and offering medical services to those in need. The movement was aimed at helping those unemployed workers. Workers clinics were also set up to offer free medical services to the poor. Work was also done to set up schools for the workers' children to offer them a chance of receiving education. Workers' canteens were also set up to help workers to solve their problem of having a place for meals. In order to facilitate workers undertaking some leisure activities in their spare time, we organized workers' clubs for this purpose, at that time the City Hall was not yet built. In the 1970s and the 1980s, the FTU started the continuing education centres to provide learning opportunities for workers to engage in value-added learning. It was only 12 years later that the Government organize some retraining programmes. Throughout the 53 years since its founding, we in the FTU have made it our mission to serve the grass-roots workers. Now we have a membership of over 300 000 and we are the largest labour organization in Hong Kong. In the findings of many opinion polls, we are honoured to have the support of most people in Hong Kong. All these achievements are related to the long-standing service and contribution made by Mr YEUNG Kwong. Mr YEUNG was the leader of the FTU for more than 30 years. The efforts which I have mentioned are the results of Mr YEUNG's leadership. Despite the fact that Mr YEUNG has served in one and the same organization for decades, the work that he did and the decisions he made have enabled many people in Hong Kong to receive a variety of basic services that should otherwise have been provided by the Government.

I have been involved in trade union activities for over 20 years, but my achievements can never be compared to those of Mr YEUNG Kwong and other forefathers of the labour movement. For at that time they were putting in the best of their efforts in furthering the labour movement, risking their lives, bearing the risk of being jailed without trial or being expelled from the territory at any time. Workers now enjoy the right to strike and they will not be arrested even if they violate the provisions in the Public Order Ordinance and take to the streets to protest and demonstrate. Nowadays, workers who join trade unions and take part in strikes may lose their jobs in the worst cases, but those leaders of the labour movement at that time might lose their lives. The expression "times are different" can well illustrate the development of the labour movement in Hong Kong.

That so-called YEUNG Kwong decoration incident has become controversial and aroused the attention of the community is only an extension of the exaggeration of the media on the involvement of YEUNG Kwong in the events of 1967. When we look at history we should put all the objective facts at that time together, instead of looking at the facts in a piecemeal manner. Likewise, when passing judgement on the merits or demerits of a person, we should adopt an all-round approach. Can we just take the things which a person has done during a short span of his life and deny the contributions he has made during the greater part of his life? The 1967 incident is a complicated event in our society. Those who experienced it have come to different conclusions. For those who did not take part in it, if they want to pass any judgement on an event in history, they must look at the social conditions at that time to find out the causes. This is the most reasonable and responsible approach to take. The FTU thinks that the incident was a patriotic movement against the violence of the British. It all started with an ordinary labour dispute. Workers wanted to collect their wages after hard work and the boss reduced their wages by 20% without giving any prior notice. The Hong Kong British Government sent policemen with loaded guns to the scene. Repression, shootings, arrests, imprisonment and deportation of trade union members were made. It was because of such high-handed measures that conflicts arose between the government and the people. Hong Kong society at that time did not have any social justice and when added to the hardship of the people, there was already widespread discontent before the event erupted. People made use of this labour dispute to vent their extreme discontent and so people from different walks of life joined the activities. The nature of the incident is a spontaneous reaction of the Hong Kong people against the high-handed rule of the British colonial government and the hard life they were leading. It was a patriotic struggle against colonial rule and persecution with the aim of demanding human rights, the right to survive and the protection of legitimate rights.

The motion casts doubts on the powers of the Chief Executive under the award of honours system. Papers of this Council show that the Panel on Home Affairs raised a question on this issue in its meeting on 10 July. The Director of Administration responded to the question raised by an Honourable Member and pointed out that the Chief Executive had the power to add or delete names from the list submitted by the Honours Committee. That makes us wonder why there are people in this legislature who cannot accept a lawful exercise of rights vested in a person by law.

The powers conferred by the Legislative Council (Powers and Privileges) Ordinance are to be exercised by Members in respect of matters involving significant public interest. We used such powers to probe into the spate of incidents involving short-piling works in public housing estates with a view to preventing such incidents from recurring. This is acting in the interest of the public. However, I fail to see how the motion proposed by the Panel on Home Affairs is related to the interest of the public. Is this merely done to satisfy the curiosity of some people and to inflate the importance of the issue so that it overrides public interest?

Now that Hong Kong is facing the most critical test in its economy in 30 years. It is an important moment which the Government is riding out the storm together with the people. But we are now forced to help other people put up a political show today and I believe I am not the only person here who feel so dismayed at the frivolous nature of this motion.

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

MISS CHOY SO-YUK (in Cantonese): Madam President, as we all know, the Legislative Council (Powers and Privileges) Ordinance is the most powerful weapon at the disposal of the Legislative Council. Only when matters of significant principles are involved and when the Government refuses to cooperate with this Council that this ultimate weapon is used to compel the Government to produce confidential information. Since the powers involved are quite extensive, a lot of careful considerations and repeated discussions must be made in this Council to confirm the validity of the need before this final resort is used. Otherwise a bad precedent will be set and the public will be given a very unfavourable impression that the Legislative Council is just trying to assert its power in invoking the legislation recklessly to challenge the authority of the Government. This may also invite criticism that it is the perpetrator of the deterioration of the relationship between the executive and the legislature.

Madam President, I doubt very much what kind of purpose the motion under discussion today may serve. For what we are supposed to discuss is not whether Mr YEUNG Kwong should be awarded the honour, nor is it about how to improve on the honours system. The focus of the discussions is merely on some details permitted in the mechanism, and that cannot help but make people think that we are only hairsplitting to arrive at the conclusion that the Chief Executive is autocratic and arbitrary in action.

Some people explain that this motion is proposed because the Chief Executive has bypassed the normal procedure and the Council has therefore to invoke the Legislative Council (Powers and Privileges) Ordinance to bring his guilty acts into light, to uncover the truth to the public. I think this view is not only paradoxical but also entirely arbitrary. First of all, the practice of awarding honours is well-established, and the mechanism proven. Have we looked at the event carefully, we will find that the Administration has made many attempts to explain it in the meetings of the Panel on Home Affairs. It was pointed out that the Chief Executive has the final say on the honours list, provided that the nominees to be awarded the honours meet the established requirements and criteria for conferral of honours. The Administration also added that the former governors and the incumbent Chief Executive had on various occasions made additions to and deletions from the honours list. In other words, leaving aside the issue of whether the Chief Executive has proposed to add or delete any names, that is ultimately something within the scope of the powers of the Chief Executive, and it is part of the established procedures; there is no question of bypassing the normal procedures. The matter is as simple as that. One cannot help but suspect that the person who raises such an argument is doing this out of sheer ignorance or trying every means to pull wool over the eyes of the public, so as to reach some conclusions which are groundless.

What is more baffling is that these people did not raise any objection in the past when the governors of the colonial administration were doing the same thing, but they are pursuing the matter relentlessly after the reunification when the Chief Executive has done this. They have gone so far out of the way as distorting a normal government practice into proof of the autocratic style of the Chief Executive. They are trying every way and means to spot the smallest clues to uncover the backstage player. They will never stop before the culprit is brought to justice, so to speak. Should they not ask themselves what kind of mentality they are harbouring?

Madam President, although I support the conferral of honours on Mr YEUNG Kwong, I am aware that the award of the Grand Bauhinia Medal to Mr YEUNG has aroused some disputes in society. Those who support it think that Mr YEUNG has devoted a great part of his life to the labour movement and he is recognized as a pioneer of labour movement in Hong Kong. Mr YEUNG surely deserves this top honour. As for those who oppose this, they think that the work done by Mr YEUNG in the past has caused some negative impact and he should not be conferred the top honours of the Hong Kong Special

Administrative Region. I think the issue can be left to open and free discussions. Moreover, the fact that different persons can present their views on the case based on their own position is a merit that should be cherished and upheld in a pluralistic society like ours. It remains, of course, that the Chief Executive will note from recent discussions the divergence of public opinions on this issue. As to an objective judgement of the issue, I would think we should leave it to history.

Moreover, even if the existing mechanism is proven and there are no serious handicaps with it in my view, but for every mechanism, there is still room for improvement. If Honourable Members think that the existing honours system has room for improvement, they should make their views known and let the public discuss the various proposals so that the system can be revised and improved on basis of the consensus reached. Only by so doing can the matter be resolved fundamentally and I think that is what responsible Members of the Council should do.

Unfortunately, our discussions today are totally wide off the mark. Not only will the motion today do nothing to facilitate any in-depth and rational discussion of the issue in the community, it will do nothing to improve a system which in the eyes of some people is unreasonable. These people are moving the motion because the honours list is not to their liking and so they are urging the Legislative Council to use its most powerful weapon to find a scapegoat. One just wonders if arguments like these can stand, in future when there are disputes in respect of public policies, would the Legislative Council again make a great fuss as it is doing now to invoke this Ordinance to probe into the possibility of whether the Chief Executive is involved in any part of the decision-making process and hence should be held liable?

With these remarks, I oppose the motion.

MR TAM YIU-CHUNG (in Cantonese): Madam President, I would like to tell a story about my good friend, who was a junior of Mr YEUNG Kwong and a good brother of all colleagues of the FTU. Several years ago, this old friend of mine passed away when he was in his early forties. His early death was due to the so-called "riots" in 1967. At that time, he was just a 10-odd-year-old secondary school student. In one peaceful demonstration, he was arrested and suffered

internal injuries after he had been beaten up savagely. Since then, he had been weak and always ill. Eventually, he died early. His death was a great pain to his family and friends, and it was also a big loss to the FTU.

Madam President, the FTU has for a period of time remained silent in respect of the row caused by the incident of awarding a Grand Bauhinia Medal (GBM) to Mr YEUNG Kwong. We were silent because the 1967 incident is a painful memory to many people in the FTU, particularly our seniors including Mr YEUNG Kwong, their friends, colleagues and juniors. Many of them had suffered injuries at different degrees or even died. We were silent because we did not want to rub salt into our wounds, nor did we want to provoke new hatred. After all, people with some knowledge of history will know that the riots were a complicated political incident taking place under very complicated social, political and economic circumstances. Actually, it cannot be explained clearly just in a few words. I believe Members such as Dr the Honourable YEUNG Sum and the Honourable LAW Chi-kwong, who have conducted researches on the development of social policies in Hong Kong, will also share my point. Regrettably though, we cannot help breaking the silence owing to the noise outside. When I watched on television the so-called democrats describing the conferral of honour on Mr YEUNG Kwong as "Vicious people who commit murders or arsons will get quick promotions, whereas good people will end up in tragedies", or even described him as "Hong Kong Laden", I was furious and found it very ridiculous. In order to achieve some political purposes and deal a blow to the Chief Executive, Mr TUNG Chee-hwa, these people made use of the subject under discussion to expound their own ideas even by wantonly insulting a 70-odd-year-old man who has already retired for some years.

To the FTU, Mr YEUNG Kwong is absolutely qualified for conferral of a Grand Bauhinia Medal. We even feel that this honour has come too late. Mr YEUNG Kwong has devoted his whole life to the cause of labour movement. He not only led many large-scale movements to fight for labour interests and rights, but also led the FTU to develop welfare services for the grassroots such as opening schools, clinics, and so on in the '50s and '60s when a comprehensive welfare system was not yet established in Hong Kong. We can say that the FTU began to provide welfare services to the grassroots much earlier than the Hong Kong British Administration. Everything done by the FTU also carries the hard work of Mr YEUNG Kwong.

Madam President, the Chief Executive has made the decision of awarding the honour to Mr YEUNG Kwong on behalf of the SAR Government. This is within his scope of authority and all the relevant procedures are followed. There is no impropriety in this whole process. With these remarks, I oppose the motion.

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

MR ALBERT HO (in Cantonese): Madam President, we support this motion on the conferral of a medal of honour on Mr YEUNG Kwong because we hope that an effect of a sunlight motion can be reached. What is a sunlight motion? What does a sunlight legislation or motion imply? It signifies transparency and the right to know. In many foreign countries, a lot of bills known as sunlight legislation have been passed. These bills specify that after a certain number of years, the confidential information will be made public and many of the associated procedures will have to be made public too in order that a sunlight effect can be achieved.

The motion today is proposed by the Panel on Home Affairs pursuant to a decision made in the Panel. The key point of the motion is the above-mentioned spirit. During the debate earlier, I found many comments on the 1967 riots, and many remarks made from the bottom of the heart. We are aware of the great controversies surrounding the incident. The Honourable TAM Yiu-chung and the Honourable LEUNG Fu-wah talked about some of the historical background related to this motion, such as injustice in society, how workers were oppressed, and so on. We certainly have a certain degree of understanding of all this, but still it worths the effort to learn more.

On the other hand, the 1967 riots are iron-clad facts which many people have experienced. This is a tragedy which they will never forget even to this day. During the 1967 riots, bloody, violent and even terrorist acts were committed, such as the placing of bombs, burning people to death, and so on. Are these not terrorist acts? We must understand these things which happened at that time, but it is hard for us to draw any conclusion about them. When Mr TUNG Chee-hwa decided to confer the medal, I think he should know it very well that this will touch the nerves of many people and hurt their feelings. If Mr TUNG has any clear understanding and judgement of this event and thinks that Mr YEUNG Kwong or the Hong Kong Compatriots' Committee for

Struggle Against the Hong Kong British Authorities' Persecution was not involved in these terrorist acts, and that he himself cannot accept this kind of terrorist acts, then he should have said loud and clear, "I believe Mr YEUNG Kwong has nothing to do with these acts and he should not be held responsible for them. The fact that I am conferring this medal on him is entirely as a recognition of his achievements in the labour movement." But Mr TUNG has not explained his position with reference to the events of 1967. Evasion is no solution to the problem. At the time before and after the award of honours to Mr YEUNG Kwong, the remarks made by Mr TUNG in public showed that he was adopting an evasive attitude. He was taking a stand similar to that of Mr TAM Yiu-chung, and that is, the historical background to these events is very complicated and it cannot be explained in a few words.

Madam President, we are not denying the constructive deeds which Mr YEUNG Kwong has done to the workers and that he has made certain contribution for workers. We have no intention to do so. But for the major principles of right and wrong as regards the 1967 riots, these cannot be brushed aside simply by a few words. Can things be solved when some people simply say that they do not wish to expose wounds and rub salt into them? Madam President, this is not true. The wounds are still there and they may continue to be infected. Now it is the Chief Executive who is sprinkling salt on the wounds. So in such circumstances, if Mr YEUNG Kwong himself cannot come out and declare himself to have nothing to do with the acts of violence or even acts of terrorism as many people would see them, then how can the public accept this decision made by the Chief Executive?

However, the motion today is not a criticism on the propriety of the conferral of honour. What we want to know is how was this decision which is so controversial and which has touched a chord in many people's hearts made? What is the process whereby this decision was reached? These are the things we want to know. Many Honourable colleagues have asked whether the Chief Executive has the power to do this. That is another question. We would like to know who has exercised this power and who should be held responsible for this? This is where the controversy of the decision lies. If the public is denied the truth of the matter, would it not be unfair to the Honours Committee? So we should not look at this as if it is only a trivial matter. Madam President, the 1967 riots are already 40 years behind us. All along, no one dares to raise the topic for public discussion, for investigation, not to say for a vindication. Mr LEUNG Fu-wah and Mr TAM Yiu-chung acted earlier as if they wanted to vindicate the event, for they wanted to rectify the judgement made on this event,

including some of the acts done at that time. If they really want to do so, then the matter should be brought up for public discussion and let the people of Hong Kong learn about the truth and do justice to those people who have been wronged. Respect for history is something we want to see. The matter cannot be covered up, nor can it be glossed over. A rash decision like this would make many people feel unhappy.

Mr TAM Yiu-chung raised the point earlier that since many people have never experienced the event, then how can they talk about it? I think they can just listen to the telephone calls made by many people to the radios. Those people who phoned in have experienced the event and many of them are family members of the victims. Do they not have the right to speak up? So with respect to this issue, we are not doing this for curiosity's sake, nor for fun, we have the right to know. We should seek the truth of the matter, and this is our responsibility. This issue should be given sunlight, so that the people can know what is right and what is wrong, and who should be held responsible.

Madam President, I agree that we cannot do anything at the end of the day. Since the Chief Executive has made up his mind and even if we do not feel like it, he will be running for his second term. Nothing can be done about it. But there should at least be some record in history. We must not run away from history and cover it up. The last thing I would like to say is, no matter what decision will be made today, the issue has already caused repercussions in society. I think the day will come when the truth of the 1967 riots will be brought to light. Given due effort from all parties, and if people can have the frankness and boldness, the truth of history will be recorded. Even to this day, I think many who have experienced the event will clearly recall it and the people will make a fair judgement of it. So is it not the right time we spoke from our hearts? Indeed many people have done so. Many of the calls to the radios and the public discussions that followed are made on people's own initiative. Madam President, we are not making a political struggle, and this is absolutely not a struggle against anyone. No one is making the Chief Executive a target of attack. All these discussions have been spontaneous. I hope we can all face up to the reality and pass the motion today. Of course, this is my hope. This will make the people know what was the decision-making process involved. At least a record can be made in history and the people will know who should be held responsible for the decision.

I so submit.

MR LEUNG YIU-CHUNG (in Cantonese): Madam President, I agree with the views of some Honourable colleagues in that this debate today is actually somewhat uncalled for. Why? It is because if the Government were co-operative enough to furnish us with the relevant documents and information on the entire process, this debate would be unnecessary today. Further still, if the entire matter was the decision of the Chief Executive, he should demonstrate his courage and determination and frankly tell us the whole story.

If the Government and the Chief Executive had done their job in these two aspects, we would not have to conduct this debate today. Seeing that the Government has not done its job, many Honourable colleagues consider it necessary to put forward this motion. The purpose of this motion is not to satisfy our curiosity. Rather, we just want to find out the truth of the matter and to clear up all doubts. No one can tell at this stage what results will come out of a thorough investigation. Perhaps we will be commenting on the honours system and pondering on ways to make improvements in the end. Why do we make this presumption that things would remain the same as they are even after the doubts are all cleared up? Why must we be so pessimistic? Unless there are people who consider the present system acceptable maybe there are other people who believe it does not matter how undesirable the effect will be, they will insist on having their way. If we adopt an open attitude, we should take on board these opinions. To put it bluntly, if there were no stings in it, why should we not try to look into the matter? It would be so simple if we should all consider the system to be acceptable, we could just start looking into the matter right away. Why should we not take actions right away?

I also agree with the view of some other colleagues, particularly Mr LEUNG Fu-wah. Mr LEUNG said this matter just came too late. I also think this has come too late. It would be better if we could discuss it earlier. Why? Actually, I believe there is a need for the riots in 1967 to be vindicated. We should find out why the riots arose in 1967, for so far we are not very sure about the reasons that triggered them off. I personally think that the events of 1967 were attributable to some special factors in the Hong Kong community then. As mentioned earlier, the events were attributable to both the grave oppression the workers were faced with and the various difficulties and hardships people encountered in their daily lives at that time. But then, we should not deny the influence from mainland China then. At that time, the Mainland was under the rule of the "Gang of Four", and since the leftists in Hong Kong were also following the instructions of the "Gang of Four" blindly, those events took place

eventually. So, this is my personal view. Since I am not sure whether my view is correct or not, it would be better if the issue could be brought up for discussion earlier. That way, we can find out what has happened in history and clarify the truth of the matter, thereby helping us to better understand the present developments in China and Hong Kong.

Our proposed resolution this time is not something bad. What is more, it may even help to turn a bad thing good because we can take this opportunity to look into this part of our history again rather than making wild guesses. Unfortunately, our academics are unable to furnish us with information in this respect. At present, valuable historical information has yet to be collected to enable us to understand the actual situation then. I believe it would be a good thing if any academics or even members of the FTU who had participated in the events then could tell us why the FTU was so active in those events and what was their rationale for doing so.

I just hope colleagues in this Chamber will take a longer view rather than adopting an excessively conservative or hidebound attitude in considering the motion today. Regardless of whether one has the interests of Hong Kong or that of China at heart, it is by no means a bad thing to find out the truth of the matter.

Madam President, I support this motion, and I hope that others will not consider our proposed resolution a nitpicking attempt because this is absolutely not what we have in mind. To put it bluntly, people who cast us as nitpicking are no different from "knives who use their own yardsticks to measure the motives of upright persons". We just want to find out the truth of the matter. The historical facts must be uncovered, we cannot let them buried under the ground forever. I hereby urge Members to adopt an open attitude to consider the motion.

Madam President, I so submit.

DR YEUNG SUM (in Cantonese): Madam President, Mr TAM Yiu-chung delivered a most emotive speech earlier, telling us how dearly he missed a friend lost. Mr LEUNG Fu-wah said the 1967 incident was a patriotic movement. I think we should not look at the 1967 incident purely as a result of Hong Kong's internal social conflicts. There were other factors, I mean, outside factors, and

the Cultural Revolution was one. But if people say that the Cultural Revolution was a patriotic social movement, I would certainly disagree (If Mr LEUNG Fu-wah insists on thinking that way, he can of course do so).

The 1967 incident was a movement with far-reaching effects and impacts, caused mainly by the conflicts between internal social factors and outside ones. Yes, the then government did carry out a review of the incident and introduce many social policy reforms afterwards. This is most evident in history. But that does not mean that we should give the 1967 Riots a positive appraisal.

Mr TAM Yiu-chung grieves for his friend, who died early. But we should also grieve for all those citizens who were hurt in the 1967 Riots; we simply cannot brush aside the deaths and casualties. But, Madam President, we are not here today to give an appraisal of the 1967 Riots. We only wish to focus on the procedure, to ascertain whether the relevant decision was made by bypassing this procedure. And, suppose the Chief Executive really has the power to bypass this procedure, can he still tell us whether he really did so when making the decision? But the Government refuses to disclose anything about this. That is why Members can do nothing but invoke the Legislative Council (Powers and Privileges) Ordinance to request access to the relevant documents. Actually, we only wish to ascertain one point. If the Chief Executive really bypassed the procedure when making the decision, he should tell the truth and let the people make their own judgement. We only wish to focus on this point.

Naturally, Members belonging to the FTU are very much in support of awarding a medal to Mr YEUNG Kwong, and they also think very positively of the 1967 Riots. But my interpretation of all this is different, and the people also have many different views. The people think that the conferral of honours on Mr YEUNG Kwong is a highly controversial issue. That is why I think Members cannot possibly turn a blind eye to this. The discussions today are on the procedure of decision-making, on whether anybody has bypassed the procedure and decided to award a medal to Mr YEUNG Kwong. Since the Government is reluctant to say anything, we can only invoke our privileges to demand access to the documents.

Madam President, if it is proved in the end that somebody has really bypassed the procedure, the whole thing will become a matter of extreme importance, because if somebody is vested with the power to do so, we simply

wonder whether the rule of man will spread elsewhere. Will this produce heavy impacts on the rule of law in Hong Kong? Should we make any conclusion now? I do not think that we should. That is why it will be advisable for us to find out the truth. I hope that by exercising our powers to gain access to the documents, we can find out the truth and see whether somebody has bypassed the procedure. If the answer is yes, then we must make sure that nobody will make decisions by bypassing the procedure in the future. I also hope that after finding out the truth, all of us can act in accordance with established procedures and prevent anyone from abusing powers. Thank you, Madam President.

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

MR ALBERT CHAN (in Cantonese): Madam President, the administration of our Chief Executive, Mr TUNG Chee-hwa, has caused the economy to regress and made life extremely difficult for the people of Hong Kong, so much so that voices of grievances are heard everywhere. The honours conferral incident is another classic example of the mess he has made. I believe his governance of Hong Kong can indeed be described as unprecedented, and I believe there will never be any.

However, having listened to the many striking remarks made by Members from the Democratic Alliance for Betterment of Hong Kong (DAB) during today's debate on the mess he has made of the honour conferral incident, I begin to understand why Chief Executive TUNG Chee-hwa has made so many stupid decisions and adopted so many stupid measures. This is all because the many equally stupid people surrounding him has given him lots of "nonsense" suggestions.

The conferral of honour is obviously a historical decision and a judgement on history. During the last meeting of the Panel on Home Affairs, we already discussed the issue in detail. The Grand Bauhinia Medal (GBM) is the highest honour awarded under the honours system to recognize the award elect's lifelong contribution. If an honour other than the GBM is to be awarded to a person to recognize the contribution he has made to society or the contribution he has made to the labour movement during a certain period of time, there will probably be less controversy over the matter. Suppose a certain person has made very outstanding performance or taken on an extraordinary job or task during his

lifetime, but the things he has done have caused great harm to society, given rise to many negative effects and even brought about violence and casualties. If this person is still considered as having made contribution to society or made lifelong contribution and should therefore be awarded a GBM, then the meaning of the GBM will have to be rewritten. It is most unfortunate that the Members from the DAB in this Chamber have distorted history by calling white black and black white.

In his speech Mr TAM Yiu-chung has condemned some members of the democratic camp in Hong Kong. His strong words of condemnation were mainly targeted at the Social Democratic Front (SDF) for the petition it made against the award of honour to Mr YEUNG Kwong. On the whole, those on the SDF consider that nominees for award of honours must have made some significant contribution during their lifetime; besides, they have never denied the contribution Mr YEUNG Kwong to the labour movement in Hong Kong. But then, what Mr YEUNG did in the 1967 riots has hurt not only the feelings of many people in Hong Kong, but also the prosperity and stability of Hong Kong society, as well as the lives of many people. The riots in 1967 have caused lifelong suffering to many people and even the families of these people. If such acts should merit commendation, then "Hong Kong bin Laden" should at least be awarded an honour if not the GBM. The so-called "Hong Kong bin Laden" has poisoned some of the food items for sale in a supermarket and thus invited condemnation from all fronts. Members from the DAB have also condemned such acts in public. I just cannot help but wonder whether poisoning food items for sale in a supermarket will bring about effects graver than the impacts of the 1967 riots on Hong Kong as a whole.

I still remember that I was in primary school when a curfew was imposed on Hong Kong and many problems were caused. I could hear very clearly the news of LIN Bin being burnt to death, and there was also frontpage coverage of it in newspapers. Even till this day I can still recall the incident clearly. Do deeds of this kind merit commendation and even an award of honours? Seeing that the DAB Chairman has yet to make his speech, I hope he will say in public that "the DAB supports the riots in 1967" when he rises to speak later on. I hope the DAB will give us a clear account of its stance, rather than twisting the focus of the issue to the contribution made by trade unions. I implore the DAB to drum up the courage to rise up to this challenge by me, and I hope they will clearly explain to us how the DAB sees the riots in 1967 and the leaders of those riots. The Chinese Government has already formed an opinion on the 1967

riots and considered them wrong. I wonder whether the DAB will openly condemn those people who have tossed bombs in the 1967 riots or the leaders of such activities.

Madam President, it is in fact most misfortune for us to debate this issue today. While this principle-based motion is targeted at the "messy" administrative procedures to determine the award of honours as I mentioned just now, it has eventually turned into a political debate. This is by no means the original purpose of the motion. Having said that, however, I should also point out that I can never accept the remarks made by several Members from the DAB, particularly Mr TAM Yiu-chung's condemnation of the petition made by the democratic camp.

Madam President, there is yet another issue I wish to speak on. In my view, the Panel on Home Affairs has discussed and examined this motion in detail and we also pointed out at the Panel's meeting that this honour conferral incident has hurt the feelings of the people of Hong Kong. Has the Chief Executive abused the powers vested in him when deliberating the nominations for honours and awards? Has anything gone wrong during the entire process? If the procedures involved were not "a mess" or if they were only mistaken as "a mess" by me, I would be most interested in conducting an inquiry to find out the truth of the matter or to prove that I am wrong. But then, I am not allowed to conduct any inquiry or to find out the truth. All we can do now is to vote on the motion. I think this motion moved by us will certainly not be carried, as the Government has basically controlled the voting result or the voting decision of certain Members. As such, the truth of the matter can never be uncovered. If Mr TUNG Chee-hwa has nothing to hide, or if the entire nomination and selection process has been carried out properly, he should present facts to prove that I am wrong. But now, we are not allowed to look up records or any information. The Government just keeps saying in its authoritative tone that everything is in order and nothing has gone wrong. The people of Hong Kong will not believe blindly in the one-sided claims made by individual government officials. We had raised quite a number of questions during the detailed discussions held within the Panel and noted that it appeared on the surface that some procedures had not been observed.

I hope Members will think carefully before they cast their votes. If they wish to give support to Mr TUNG or even they wish to prove him innocent, they should vote in favour of this motion, so that this Council can conduct an inquiry

to prove how brilliant he is, and that he has not done anything wrong. If Members should vote against this motion, they would be depriving Mr TUNG Chee-hwa of the chance to prove that he has not done anything wrong.

Thank you, Madam President.

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

(No Member responded)

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, I have listened carefully to the views and comments made by Members, particularly those who spoke in favour of the motion. I urge Members to carefully consider a fundamental issue before casting their votes later: What purposes could be achieved or indeed what problems would be resolved and what repercussions would be created by the motion moved by the Panel on Home Affairs concerning the honour award to Mr YEUNG Kwong?

There is no question that the motion, if carried, will carry far-reaching repercussions. Before I explain these repercussions, let me brief Members on the nomination procedures and selection criteria under the existing honours and awards system of the Hong Kong Special Administrative Region (SAR).

We have adopted our own honours system after the handover to give recognition to persons who have made outstanding contribution to Hong Kong, who have rendered distinguished and devoted community or public service to Hong Kong, or who have personally excelled in their respective fields. Nominations for honours and awards are normally made by Policy Bureaux and departments. Those nominations from non-governmental organizations and the general public will be referred to the relevant bureaux and departments for processing.

Nominations are considered by an Honours Committee to ensure that recommendations are consistent and in line with the selection criteria. The Committee is chaired by me and comprises the Financial Secretary, Members of the Executive Council, eminent community leaders and the Chairman of the Public Service Commission.

After detailed deliberation, the Honours Committee submits its recommendations to the Chief Executive for consideration and approval, enclosing a full list of nominees, including those not recommended by the Committee. The Honours list is announced on the SAR Establishment Day each year.

My colleagues have already explained the aforesaid criteria and procedures to the Panel on Home Affairs at its meeting on 10 July this year. We have also made it clear that, in order to uphold the integrity of the system, the Administration cannot and should not make any comment on individual cases. We have also pointed out that the Chief Executive has the authority to add or remove any names to and from the list recommended by the Honours Committee.

The prerequisite is that honours are only awarded in accordance with the prescribed conditions and criteria under the honours system. This practice is the same as that before the handover. As such, there is no question of the Chief Executive bypassing the Honours Committee. Furthermore, the Administration has already explained the justifications for each award at the announcement of the Honours List in July this year.

It is obvious that even if the motion were carried, and that the Panel on Home Affairs is authorized to have access to Honours Committee papers, the move will not serve any meaningful purpose. Worse still, once such a precedent is set for making public papers and documents held by the Honours Committee lightly, it will gravely hamper the candid exchange of views in the Committee which is very important for these decisions. Some members of the Honours Committee may feel inhibited from putting forth their fair but pointed comments on individual nominations out of a concern that their comments on individuals or proposed nominations will be publicized. This will seriously impair the effective operation of the Committee in future.

Madam President, while this Council may invoke the Legislative Council (Powers and Privileges) Ordinance and authorize the Panel on Home Affairs to order attendance of witnesses, examine witnesses and require witnesses to produce documents, I hope Members would consider the matter from a broader

perspective, and in the overall interests of Hong Kong. I urge Members to exercise restraint and not to require the Administration to disclose the details of the consideration of the Honours Committee, lest our well-established honours system would be irretrievably damaged.

Thank you, Madam President.

PRESIDENT (in Cantonese): I now call upon Mr IP Kwok-him to reply.

MR IP KWOK-HIM (in Cantonese): Madam President, I have listened carefully to the views presented by many Honourable Members on the motion. Miss Emily LAU reiterated that she hoped that the discussions this time would enable access to information to ascertain whether or not the honours list in question had been vetted by the 2001 Honours Committee. She said that she wanted to get to the truth of the matter and for this I do not think she was being honest. As a matter of fact, Miss Cyd HO, a close ally of Miss Emily LAU, has said some words of truth. In her speech, she mentioned that she was hoping to call an independent inquiry into the circumstances surrounding the conferral of honours to Mr YEUNG Kwong. So, we can all know clearly that if her suggestion is to be taken seriously, then it would be better if the topic of the motion is changed to an assessment of the suitability of the award of honours to Mr YEUNG Kwong.

I have also noted the views presented by the Honourable Audrey EU. She said that she was in support of the motion because it would allow her to probe into issues on the mechanism associated with the award of honours, to see whether the existing mechanism is free from any defects. That can of course be explored into. However, the existing mechanism has already set out two parts, one is the vetting by the Honours Committee and the other the final decision to be made by the Chief Executive. It remains, of course, that discussions can always be held on these issues.

MISS MARGARET NG (in Cantonese): Madam President, may I raise a question?

PRESIDENT (in Cantonese): Miss Margaret NG, do you have a point of order? Mr IP Kwok-him, please sit down first.

MISS MARGARET NG (in Cantonese): Madam President, I have some doubts, because I understand that Mr IP Kwok-him has moved this motion in his capacity as the Chairman of the relevant Panel. After moving the motion, in his reply, is he supposed to continue to support the motion? Or is he allowed to state an opposing stance?

PRESIDENT (in Cantonese): Miss Margaret NG, please sit down first. This is actually a very difficult question to answer, and it also involves a matter of procedural importance to the Legislative Council. Whether the Chairman of a Panel agrees to the voting decision of the Panel, he is still obligated to move the motion concerned, but on the other hand, I cannot possibly require Mr IP Kwok-him to say anything against his own will. That is why I allowed him to state his personal views after moving the motion and explaining the relevant system.

For this reason, I now also allow Mr IP Kwok-him to give his personal views. Surely, he has moved the motion in his capacity as the Chairman of the Panel, and this is what he is required to do under our procedure.

MISS MARGARET NG (in Cantonese): Excuse me, Madam President, may I ask one more question?

PRESIDENT (in Cantonese): Yes.

MISS MARGARET NG (in Cantonese): Whether a Member moves a motion in his personal capacity or on behalf of a Panel, in so doing, he should hope to see the passage of the motion, instead of expecting Members to vote against it. In that case, can the mover of a motion speak against the motion in his reply?

PRESIDENT (in Cantonese): If Mr IP Kwok-him had spoken for the Panel's motion when he moved it, then when he gives his reply, he must of course support what he himself said in moving the motion. But when Mr IP Kwok-him moved the motion, he already made it clear that he did not support it. That is why I do not think that we can force him to speak in support of the motion. Miss Margaret NG, do you share my point?

This is actually a very difficult situation. In this debate, I have tried to allow Members to "pour out their hearts". (*Laughter*) Some Members' remarks are actually close to insults to colleagues. But I have not made any rulings in response, nor have I asked any Members to exercise particular caution in their speeches. I hope that Members can all say whatever they wish to say on this motion topic. If I decide not to allow Mr IP Kwok-him to state his position, then it is better not to allow him to give a reply at all. Since he is going to give his reply anyway, I will allow him to continue to say what he wants to say.

Miss Margaret NG, you have raised a very good question, and I do not think that it is wrong for you to raise it, only that the situation is really very difficult. As the President, I have allowed Members to speak freely. Since the situation is so difficult, I hope that Members can bear with one another.

Mr IP Kwok-him, you may continue with your reply.

MR IP KWOK-HIM (in Cantonese): Thank you, Madam President, for allowing me to continue with my speech. It was actually against my conscience to move the motion earlier on, and that is why I wish to be given the chance to speak from the bottom of my heart.

The second issue I mentioned just now was on historical facts. I agree very much that we should reflect the historical facts of the violent confrontations then, so that the people of Hong Kong will know clearly what happened. With regard to the records mentioned about by some Honourable colleagues earlier on, there is in fact an archive in London where one can look up the records. It is a good thing that the restrictions on some of the records concerned are being lifted gradually. Even though the restrictions on the records are being lifted gradually, we still believe that parts of the records have been crossed or blotted out. I do not know why, nor do I know whether more relevant information can be obtained. Nevertheless, these records, which were once confidential documents, should

have mentioned the establishment of a psychological warfare office in 1967. I believe Miss Emily LAU may have heard about that or even read about that before. The purpose of the psychological warfare office set up by the British Hong Kong Government was to engage in propaganda wars. The 1967 Hong Kong Annual Report has said the following to describe the bloodshed that took place at Garden Road: "..... But the communists were out to provoke violence. At once many of the demonstrators fell to the ground whether they had been hit or not; bandages (some of them already provided with artificial "bloodstains") were produced and applied; though what little effect this might have had was spoiled by the crowds of witnesses looking on from the Hilton Hotel." So, that was what the description of the situation made in the Annual Report concerned.

Later on, when Mrs Elsie TU learned about this, she went to consult in person her friends who were in the Hilton Hotel when the incident took place and found out that the story was totally different from the Annual Report description. She therefore made an inquiry with the British Hong Kong Government and demanded to see the pictures of demonstrators pretending to be injured. But the response she received was that the pictures were not clear enough and the case was closed.

Peaceful gatherings were depicted as illegal meetings of violent mobs, and incidents of police officers hitting unarmed students were described as students provoking violence. What is more, the bloodshed resulted were portrayed as demonstrators "acting" to be injured — can there be lies more incredible than these? Yet such lies have been printed in black and white and published. Would there be anything the then British Hong Kong Government could not do, stirring up conflicts between people, labelling demonstrators as "leftists", and then making use of the "cold war" tactics to link everything with the Cultural Revolution and generalizing all demonstrators as its violent followers? These are part of the strategy employed by the British Hong Kong Government to fool and divide the people. I just do not understand why some people would still take these lies for the truth.

The casualties caused in the incident then were also mentioned by Members earlier on. I believe I can clearly point out that among the 51 people killed then, 17 were killed by police gun shots — the then Anti-riot Squad. In addition, nine members of the public died in the confusion and one died in the police station under police custody. I should like to ask those Members who

made their speeches in such righteous manner the following questions: Should justice not be done for these people too? Do they think it was right to take away the lives of these people this way?

Further still, an Honourable colleague has requested Mr Jasper TSANG, Chairman of the Democratic Alliance for Betterment of Hong Kong, to respond to his speech. Here, I should also like to ask the Democratic Party whether they support the bloody measures employed by the British-Hong Kong colonial rulers to suppress our compatriots — the people of Hong Kong at that time? Do they dare to say that they support such bloody measures? I just hope Mr Martin LEE, Chairman of the Democratic Party, will respond to my questions when the opportunity arises.

I hope very much that Members have spoken from the bottom of their hearts and explained clearly the purpose of their request in this debate. If their purpose is really to obtain the necessary information, everything has been made clear now. As the Government and the Director of Administration have explained, the procedures involved are part of an established mechanism. The only question remains whether you believe it or not. Things would just be the same if every detail involved should be made clear to Members. And that is why I asked earlier on, "What difference will it make, if the nomination has really been vetted?" The honours system is an established mechanism. Things would be very straightforward and clear if our discussion were focused on this mechanism. But the problem is that many Honourable colleagues speaking on the motion in this Chamber have, basing on their own point of view, described Mr YEUNG Kwong and the actions against the violence of the British Hong Kong Government as a riot, a massacre. I cannot help but ask this question: Is such kind of view consistent with the truth in history? I am most ready to examine with Members the facts of this part of Hong Kong history, but I hope the examination will be conducted in a rational manner. Here, I particularly wish to urge Miss Emily LAU not to support this motion moved by me today. I hope she will vote against the motion. Thank you, Madam President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Mr IP Kwok-him 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)

Dr YEUNG Sum rose to claim a division.

PRESIDENT (in Cantonese): Dr YEUNG Sum 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:

Miss Margaret NG, Mr CHEUNG Man-kwong, Mr SIN Chung-kai, Mr LAW Chi-kwong and Mr 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 WONG Yung-kan, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, 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.

Geographical Constituencies and Election Committee:

Mr Albert HO, Mr Martin LEE, Mr Fred LI, Mr James TO, Mr LEUNG Yiu-chung, Dr YEUNG Sum, Miss Emily LAU, Mr Andrew CHENG, Mr SZETO Wah, Mr Albert CHAN, Mr WONG Sing-chi, Mr Frederick FUNG and Ms Audrey EU 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, Dr David CHU, Mr NG Leung-sing, Mr YEUNG Yiu-chung, Mr Ambrose LAU and Mr MA Fung-kwok 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, 27 were present, five were in favour of the motion and 22 against it; 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.

PRESIDENT (in Cantonese): 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 amendment. The mover of an amendment will have up to 10 minutes to speak. Other Members will each have up to seven minutes for their speeches. Under the Rules of Procedure, I am obliged to direct any Member speaking in excess of the specified time to discontinue.

First motion: Report of the Working Group on District Councils Review.

REPORT OF THE WORKING GROUP ON DISTRICT COUNCILS REVIEW

MR IP KWOK-HIM (in Cantonese): Madam President, I moved that the motion as printed on the Agenda be passed.

Madam President, I have been an elected member of the Central and Western District Council since 1991, and unknowingly 10 years have already passed. In my life as an elected member in the past 10 years, I have come

across and handled many different cases. I understand profoundly the importance of members serving the public in the community. This year marks the 20th anniversary of the district administration scheme implemented by the Government. Over the last 20 years, discussions held at District Councils (DCs) on ways to elevate the DCs' functions and enhance the support to DCs in particular are somehow an "age-old" problem. Besides, visible improvements are very limited.

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

After the reunification, the Chief Executive from the above right down to District Officers have "commended" DCs ostentatiously for playing an important role as the Government's consultant on district affairs and serving as the bridge of communication between the Government and the public. Since the relevant proposals on DCs were released in the policy address of 1998 to the passing of the District Councils Ordinance in the Legislative Council, the Government has all along stressed that it must strengthen the advisory and monitoring abilities of DCs, as well as enhancing its functions in respect of district administration. Regrettably, there is always talk but no action, with concrete work still nowhere to be seen.

In July this year, the Home Affairs Bureau released the Report of the Working Group on District Councils Review (the Report) which re-examined the roles and functions of DCs from a new perspective and made proposals on improving the service conditions of DCs. This Report is really "long-overdue". DC members have yearned for its "release" for a very long time and we felt "even more anxious than a woman waiting for the return of her husband from military service". I believe that this description matches well with our feelings. The Report covers five major areas and puts forward altogether 28 proposals, the contents of which include increasing the support to DC members, improving the communication between the Government and DCs, increasing the accountability and efficiency of DCs, and so on.

Madam Deputy, sometimes we feel very helpless because there is always a big gap between reality and ideal. Why do I sigh so emotively? During the two-month consultation period after the release of the Report, I attended 13 DC

meetings concerning the establishment of an advisory committee in each district to give advice on the usage and management of local cultural and leisure facilities. Nearly every time when this proposal was discussed at DC meetings, it was bombarded by most members. The circumstances were even more terrible than the bombing of Afghanistan by the allied forces of the United States and Britain. Members mostly opined that the establishment of consultative committees would overlap with the DC structure and waste resources. On the one hand, DCs' functions could not be enhanced; on the other, members would conversely think that the Government intended to clip their wings by means of this. I have earlier sent out questionnaires to all DC members in Hong Kong. The result revealed that 90% of the respondents objected to the proposal, so evidently, "this proposal will be voted out subject to the expectations of the majority".

The Report made several recommendations on arrangements for increasing DCs' funding, hoping that they can organize more cultural and recreational activities, and take forward more environmental improvement projects in the community. Although this is a "late-coming spring" and many DC members still consider the funding insufficient, the crucial point is that the Government has taken the first step by recognizing the roles presently played by DCs in community building.

On every occasion when I attended DC meetings to listen to the views expressed by members on the proposals made in the Report, I found that they shared one common point. That is, they were grumbling, "airing grievances", accusing government officials in various departments of not taking DC members' opinions seriously, feeling dissatisfied with meetings being attended by "low-ranking" officials, and protesting against the absence of officials at meetings. In connection with all this, the ranking of representatives from core departments attending DC meetings in future was stated clearly in the Report, and assurance was given that if the relevant official could not attend the meeting, he/she must give a written or verbal explanation to DCs in advance. The Democratic Alliance for Betterment of Hong Kong (DAB) welcomes this proposal.

DC members are responsible for monitoring the administration of the Government, it is understandable that the general public has higher expectations on the conduct of members. Therefore, the Report proposed that DC members be motivated to set up a comprehensive system governing the conduct of members, and the DAB supports this proposal.

In respect of increasing the support to DC members, we cannot help mentioning the need to increase the accountable allowances for them. As the old saying goes, "Before the marching of the three armed services, food and provision should move first". In order to enable DC members to provide quality services to the public, sufficient resources are certainly indispensable. Over the years, all DC members and I have been making great efforts in fighting for more support for DC members. To date, we can finally see the light at the end of the tunnel, and all of us can see "the bright moon after having waited so long for the clouds to clear". The relevant Policy Bureau has made an undertaking to set up an independent commission to review comprehensively the remuneration of DC members. I consider this a fair measure. I look forward to bringing members some good news in respect of increasing accountable allowances and expanding the scope of declaration, so that the conditions of service for members can really be improved.

In an era with advanced development in information, it is not luxurious for a DC to possess a computer. Given the circumstances that the Government does not provide members with the necessary equipment while encouraging them to use electronic documents more often in order to save more papers, I think this is contradictory. At those DC meetings attended by me, members in many districts strongly requested the Government to consider providing them with information technology equipment, and the DAB would like the Government to consider this seriously.

In recent years, the topic of enhancing DCs' functions has attracted the most divergent views. Particularly after the abolition of the two former Municipal Councils, many voices have been demanding that some of the functions of the two former Municipal Councils should be transferred to the 18 DCs. The DAB opines that the Government should examine, in accordance with Article 97 of the Basic Law, ways to expand the functions of DCs and transfer some of the two former Municipal Councils' functions such as the provision of cultural and recreational facilities and environmental improvement gradually to DCs.

Over a long period of time, many people have considered DC members as the "community pointer" by which the Government can get an understanding of the needs of the community and issues of public concern. Therefore, more DC members should actually be appointed to some advisory bodies directly relating

to the people's livelihood, so that the consultation network can be made more extensive and complete. In order to further enhance the representativeness of DC members on those advisory bodies, the DAB proposes that DC representatives be included in various central advisory and statutory bodies. Such representatives should be DC members with the necessary professional knowledge and abundant experience in district work, so that the consultative framework can reflect public opinions more extensively. The Report also proposes that chairmen of committees under DCs be invited to attend District Management Committee meetings, and participate in discussions on relevant agenda items of the committees. The DAB considers it a good practice. But at the same time, we also accept members' views that local DC members be invited to attend meetings at which discussions are made on topics related to them. In this way, we can reflect the views and needs of local residents, enabling the public to express their views more comprehensively and ensuring that the relevant projects can meet the needs of the public.

In fact, this is not the first time that we hold discussions on enhancing the functions and support of DCs. This is already the second time for me to move a debate motion on this subject in the Legislative Council. Finally, we have made some achievements this year. To adapt a famous quote of Dr SUN Yat-sen: "The revolution has yet to succeed, District Council members (comrades) still have to strive for it." I hope that the motion on reviewing DCs' functions will not become a regular chapter of our annual Motion of Thanks debate on the policy address. We hope that the Government can humbly accept good advice, implementing the views gathered at the soonest possible time.

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

Mr IP Kwok-him moved the following motion: (Translation)

"That, regarding the Report of the Working Group on District Councils Review, this Council urges the Government to accept extensively the views gathered during the public consultation and appropriately revise the recommendations contained in the Report and, in order to elevate the functions of the District Councils, this Council also requests the Government to gradually transfer to them some of the Government's functions for the provision of cultural, leisure and environmental hygiene facilities."

DEPUTY PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr IP Kwok-him be passed.

Mr Andrew CHENG will move an amendment to this motion, as printed on the Agenda. The motion and the amendment will now be debated together in a joint debate.

I now call upon Mr Andrew CHENG to speak and move his amendment.

MR ANDREW CHENG (in Cantonese): Madam Deputy, I move that Mr IP Kwok-him's motion be amended, as printed on the Agenda.

Madam Deputy, the DCs in the three-tier representative councils have been playing an advisory role ever since the system of representative government commenced operation in the '80s, providing the Government with advice on district affairs and acting as a bridge of communication between the Government and the people. The second tier, which was the two former Municipal Councils, was responsible for the provision of cultural, recreational and environmental hygiene services in the different districts across the territory. More than 20 years have lapsed since then. As we move into the 21st century, the Government of the Special Administrative Region (SAR) has forcibly "scrapped" the two Municipal Councils by abolishing this second-tier structure. Yet so far the Government has still limited DCs to their advisory role and being a bridge of communication. The Government has concentrated all powers in its hand to the neglect of the people's right to political participation. The Democratic Party expresses grave regrets about this!

In putting forward the proposal to abolish the two former Municipal Councils, the Government indicated that it would review the roles and functions of DCs and undertook to enhance the roles played by DCs. However, the consultation document on the "Review of the Roles and Functions of the District Councils" published by the Government is proof positive that the undertaking made by the Government earlier on was but a bounced cheque. The Democratic Party considers there is a need for this motion today to reflect clearly to the Government once again that the wish of the public and the many DC members is for the Government to promptly transfer the responsibility for providing cultural, leisure and environmental hygiene services to DCs, including organizing district festivals and community-based cultural and recreational

activities, upgrading district market facilities, improving district environmental hygiene, and so on.

Following the publication of the consultation document, the vast majority of DC members have expressed dissatisfaction with the Government's failure to fulfil the undertaking it made earlier on. Rather than enhancing the roles of DCs, the Government has made a recommendation to set up "district consultation committees" to belittle the system of returning DC members by election but reinforce the appointment system. According to this recommendation, consultative committees will be established outside the DC framework in the 18 districts across the territory to advise the Government on the usage and management of district leisure and cultural facilities. The members of these consultative committees, comprising DC members and other people, will all be appointed by the Government. Most of the DC members share the view of the Democratic Party in that the Government's recommendation will cause unnecessary overlapping and further undermine the roles played by DCs. The Democratic Party steadfastly opposes this recommendation.

Upon the completion of the consultation period, it is learnt from newspaper reports that the Government might abandon this recommendation in view of the strong opposition voiced. The Democratic Party hopes that the Government will openly give an undertaking today to abandon this recommendation and consider, instead, allowing more DC members to attend meetings of District Management Committees (DMCs), with a view to enhancing the participation of DC members in district management.

Madam Deputy, the original motion moved by Mr IP Kwok-him urges the Government to appropriately revise the recommendations contained in the Report. But then, what is meant by "appropriately revise"? We are afraid that the motion would be too vague if the recommendations were not revised appropriately, or if the revised recommendations did not contain any appropriate items or concrete particulars and proposals. In that case, the Government would be given a free hand to interpret the meaning of "appropriately revise". What exactly does this Council urge the Government to appropriately revise? What items or policies should be revised and in what direction should they be revised? It appears that the wording of the motion is just too vague in this respect. Earlier on, Mr IP Kwok-him quoted Dr SUN Yat-sen's famous line "the revolution has yet to succeed". I hope Mr IP understands that in my

capacity as a DC member, I hope this to be a real revolution rather than a softened one, not to say a revolution without any concrete details.

For this reason, the Democratic Party seeks to amend the content of the motion today by adding in some specific proposals, with a view to reflecting more substantially the views of the Legislative Council in this respect for the Government's consideration. In order to enhance the importance attached to DCs and to improve the community work they do, the Democratic Party has made five suggestions in the proposed amendment. These include:

Firstly, revising the recommendation for the establishment of consultative committees outside the DC framework and, instead, opening up the respective DMC of the various districts to enable the participation of more DC members. According to my understanding, at present, members of the Central and Western DC who are specifically concerned with or interested in a certain issue may attend the DMC meetings discussing that particular issue. As reflected by DC members who have attended such DMC meetings, this arrangement can help them participate more actively in district management and is therefore worth introducing to the DMCs of other districts.

Many DC members have pointed out that since DMC is the venue for discussions on specific issues of district management, if DC members who are concerned with the issue under discussion can attend the relevant DMC meeting, they can raise more effectively their views on improvement in district management for the Government's reference. Besides, as there are more chances for them to express their specific views on appropriate occasions, the commitment and active participation of DC members will also be enhanced.

Secondly, substantially increasing the funding for DCs to implement minor works projects and expanding their functions so as to improve more effectively the cityscape and leisure facilities. Given that the majority of municipal projects have been shelved after the abolition of the two former Municipal Councils, it is necessary to substantially increase the funding for DCs to implement minor works projects and expand their functions so as to improve more effectively the cityscape and leisure facilities. Moreover, arrangements should be made for the priority projects of the two former Municipal Councils to be commenced promptly, with a view to completing them within five years.

Thirdly, putting in place a mechanism for DCs to hold annual motion debates and for senior officials to respond in such debates, so as to solicit DC members' opinions on the administration of the Government and major issues of their respective districts. As to the question of whether the debate should be conducted separately in different DCs or jointly by several DCs, this could be further looked into by the Government. The purpose of this mechanism is to strengthen the interaction between DC members and the Government and to enable DC members to better discharge their function of giving advice proactively.

Fourthly, consulting the DCs on fees for district cultural and leisure facilities (such as swimming pool and stadium), market rentals, and so on. Views of the relevant DCs on the performance and service quality of the contractors concerned should also be taken into account when considering the renewal of municipal services contracts. In the past, matters concerning fees and contracts were the responsibilities of the two former Municipal Councils. Now that these two Councils have been "scrapped", the relevant responsibilities should be transferred to DCs. The present proposal of consulting DCs on these matters is a first step towards gradual elevation of DCs' participation in district management.

Fifthly, considering setting up independent DC secretariats. From an operation point of view, representative councils are elected by members of the public to monitor the Government. Thus, DCs should have independent secretariats to provide them with full and independent support in taking forward their work, so that they will not be subjected to the resource and manpower arrangement constraints of the Government. We therefore hope that researches can be conducted in this respect to look into, say, the *modus operandi* of secretariats of overseas representative councils, their functions and resources, and so on. Research should also be conducted into the secretariats of DCs in the SAR. If independent secretariats were to be set up for DCs, should each DC have one independent secretariat or would it be more cost-effective to have several DCs sharing one independent secretariat be enhanced? How best can the efficiency of those independently functioning secretariats be enhanced? I believe these questions warrant examination by the SAR Government.

I have heard some people questioning whether the provision of independent secretariats for DCs would elevate DCs to a level on par with the Legislative Council, bearing in mind that at present only the Legislative Council has an independent secretariat. I hope Members of this Council will not subscribe to this view. While the powers and responsibilities of different representative councils are visibly different from that of each other, the views of the public on the work of representative councils are based mainly on their respective powers and responsibilities. The establishment independent secretariats is meant mainly to enable DCs to make use of the funding available to determine the staff establishment, job items, as well as target quantity and quality of work for their respective secretariats in the light of the actual situation, so that the secretariats of DCs can give full play to their supportive role.

As the functions of DCs are elevated gradually, the workload of their secretariats will certainly increase. As a result of this, more support services and manpower will be required. A responsible government should therefore conduct research into the operation of DCs, and we consider setting up independent secretariats for DCs a move in the right direction.

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

Mr Andrew CHENG moved the following amendment: (Translation)

"To delete "and" from "appropriately revise the recommendations contained in the Report and," and to add "including: (a) revising the recommendation for the establishment of consultative committees outside the District Council framework and, instead, allowing more District Council members to attend meetings of District Management Committees, with a view to enhancing more active participation and commitment of District Council members in district management; (b) substantially increasing the funding for the District Councils to implement minor works projects and expanding their functions so as to improve more effectively the cityscape and leisure facilities; (c) putting in place a mechanism for the District Councils to hold annual motion debates and for senior officials to respond in such debates, so as to strengthen the interaction between District Council members and the Government and to enable District Council members to discharge their function of giving advice on their own

initiative; (d) consulting the District Councils on fees for district cultural and leisure facilities and services, market rentals and renewal of municipal services contracts; and (e) considering setting up independent District Council secretariats to provide full and independent support to the work of the District Councils;" afterwards; and to add ", including organizing district festivals and district cultural and leisure activities, upgrading district market facilities and improving district environmental hygiene" after "leisure and environmental hygiene facilities".

DEPUTY PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr Andrew CHENG to Mr IP Kwok-him's motion, be passed.

MR HOWARD YOUNG (in Cantonese): Madam Deputy, when the Government sought to scrap the two Municipal Councils in 1999, it indicated that the powers resumed subsequent to the scrapping of the Municipal Councils would be devolved to the DCs so as to expand their functions. Regrettably, it seems that the Government has no intention to honour its promise. For the past two years, the Government has been dragging on the issue of expanding the functions of the DCs. Today, the Government is still talking about reviewing the roles and functions of the DCs, despite its former claim that the relevant powers would be devolved to the DCs.

The Home Affairs Bureau has spent a whole year preparing the report of the Working Group on District Councils Review, which was finally published in early July this year. The report has put forward a total of 28 recommendations. However, most of them are merely trivial measures. The Government has not truly devolved its powers. The Liberal Party has therefore come to the view that today is definitely a timely occasion for us to hold discussions on the Report.

Madam Deputy, since the abolition of the two Municipal Councils, DCs have become the sole representative councils at the district level. Therefore, the Liberal Party agrees with the proposal put forward by Mr IP Kwok-him in the original motion that the Government should gradually transfer to the DCs some of the Government's functions for the provision of cultural, leisure and environmental hygiene facilities.

As regards the question of what facilities can be entrusted to the DCs for administration or management, we are of the view that such district cultural and leisure facilities as regional parks, swimming pools, cultural centres, and so on can be entrusted to the DCs for management, and they should be allowed to decide on such matters as opening hours, and so on. As for facilities related to the central authorities or involving a wider scope such as the Victoria Park, the Hong Kong Park and the Central Library, they should be continued to be managed by the Government. We think the Government should also continue to handle all matters relating to fees and charges since government expenditure and revenue are involved. This can also avoid unfairness as a result of different fees charging imposed by various districts. Nevertheless, the DCs may be consulted on such matters.

Furthermore, we think that some functions relating to environmental hygiene, such as the contracting-out of street-cleansing work, can be handed to the DCs for management since they can make appropriate arrangements in the light of the varying needs of different districts.

The Liberal Party agrees in principle to most of the proposals put forward by the Honourable Andrew CHENG in his amendment. However, we still have some reservations about some of the specific proposals made by him. To start with, Mr CHENG suggested the Government to consider setting up independent DC secretariats to provide full and independent support to the work of DCs. We object to this proposal because the setting up of independent DC secretariats will involve many complicated problems. For instance, it might cost the Government a lot of money for the deployment of manpower. This is because the 18 DC secretariats are at present operating under their respective district offices. Public expenditure will definitely rise sharply if the Government is to make suitable deployment and arrangements for all staff involved. Furthermore, it is doubtful whether the setting up of independent DC secretariats is the only way for the Government to strengthen its support for DC members. Perhaps the Government can achieve this purpose by such other means as allocating more resources to DC members to enable them to strengthen their own support services. I believe this is a more practical solution than setting up a huge independent secretariat.

Mr CHENG has also proposed to put in place a mechanism for DCs to hold annual motion debates. The Liberal Party does not object to this proposal in principle because it is good for DCs to hold discussion on a wide range of

matters. We consider the present advisory role played by DCs very limited since the DCs are very often consulted on a selective basis only and the Government has also been soliciting the views of DCs selectively. The DCs are actually extremely passive. The establishment of a mechanism for the DCs to hold motion debates can indeed give DC members a direct channel to raise proposals relating to government policies so that communication between the DCs and the Government can be strengthened.

Having said that, however, we must note that although this mechanism sounds good in principle, it does not mean that it is absolutely non-contentious. At present, DCs hold discussions regularly on topical issues or matters of public concern. Moreover, DC members may move motion debates of their own accord. The proposed moving of different motions in annual motion debates by each respective DC is actually no different from the existing mechanism whereby each district can hold regular discussions. Such being the case, why is it necessary to set up a mechanism for DCs to hold annual motion debates? On the other hand, if all DCs are able to reach a consensus on a certain topic and conduct a motion debate representing a uniform intent of the 18 districts, the DCs might overlap with the Legislative Council in terms of the function of conducting motion debates. Therefore, we are of the view that we must carefully examine how this proposal should be implemented before we can further explore the matter and give our support.

Madam Deputy, the Liberal Party considers the measures proposed by the Government for strengthening the roles and functions of DCs quite modest and there is still substantial room for improvement. This includes some of the proposals put forward in the amendment and Mr IP Kwok-him's original motion, which we agree. As the Liberal Party approves of the proposals contained in the original motion, we will vote in support of the motion. However, we will abstain from voting on the amendment because we cannot support all the proposals contained therein.

Madam Deputy, I so submit.

MR FREDERICK FUNG (in Cantonese): Madam Deputy, insofar as the district administration reform is concerned, the Hong Kong Association for Democracy and People's Livelihood (ADPL) and I have all along insisted that the Government should give the DCs more powers to reinforce their roles and

functions in the context of the local representative framework. Nevertheless, we have been disappointed by the Government again and again though the District Administrative Scheme has been implemented for almost two decades.

When the Hong Kong Government dissolved the two Municipal Councils years ago, it undertook to expand the powers of the DCs. After the scrapping of the two Councils, however, the Government has been using Article 97 of the Basic Law as its protective shield. There has been no progress at all with the devolution of powers to the DCs. What is more disappointing is that apart from breaking its promise, the Government has gone even further by proposing in a consultation paper to set up a consultative committee on municipal services in each of the 18 DCs. This proposal is obviously aimed at further weakening and dividing the powers of DCs, thereby weakening their functions. Actually, the Hong Kong Government has in recent years set up a number of district committees, such as co-ordinating committees for urban minor works, Clean Hong Kong co-ordinating committees and Fight Crime Committees, outside the framework of the DCs and appointed many non-elected people from the districts to these frameworks and organs. As a result, these committees often lack acceptance from the public and a popular mandate. What is more, these district committees overlap with committees currently set up under the DCs. It is therefore not advisable for the Government to set up yet another committee to advise on district-based municipal facilities for this will only make the district administrative framework even more cumbersome. It will not only lead to overlapping, but also further undermine the influence of the DCs. I would like to propose to the Secretary to incorporate into the DCs the various district consultative committees mentioned by me earlier so that they will become part of the work of DCs rather than functioning as independent committees.

On the other hand, some government officials might consider the DCs merely advisory organs which are "unappetizing and yet not bad enough to be thrown away". Therefore, they just react perfunctorily to the advices tendered by DCs and try to find excuses to shirk their responsibility. I would like to tell the Secretary that in the past six months following the publication of the consultation paper, the Sham Shui Po District Council has lodged three complaints at its DC meetings for the officials from the relevant government department had failed to attend the meetings to give explanation though the agenda had been sent to them well in advance for preparation. Government officials have often impressed DC members that "things will remain unchanged though suggestions are accepted". Such an unco-operative attitude has dampened the passion of many DC members in serving their community. In the

long term, this will certainly pose obstacles to the nurturing of talents for the administration of Hong Kong.

The ADPL and I would like to reiterate that in order to improve people's livelihood and administration at the district level, the Hong Kong Government must honour its promise of devolving its powers. Moreover, it should set up an efficient district administration framework at the district level, foster a culture of accountability of attaching importance to the DCs, as well as following up and studying the proposals raised by the DCs with a serious attitude. In addition, the DCs should be given the power to formulate district-specific policies and the function of managing district facilities so that they can introduce improvement measures to the community in the light of the situation of different districts with a view to serving the public.

Madam Deputy, the ADPL and I share the view that DCs should simultaneously play the role of a goalkeeper with respect to district affairs. By this I mean they should be empowered to scrutinize and monitor the annual departmental work programme associated with people's livelihood so as to ensure the work of various government departments meets district requirement. Apart from this, DCs should be empowered to determine priorities for community works projects, take part in managing public facilities in the districts, and improve the living environment of the community. On the other hand, the Government should enhance the intermediary role of the DCs to enable them to act as a more effective communication channel between the Central and the districts. For instance, the DCs may elect DC members to statutory organs or advisory frameworks associated with central policies to participate direct in the formulation of territory-wide policies. The Hong Kong Government should also allocate more resources to the DCs for the setting up of independent secretariats to enhance the accountability of the DCs and strengthen their work.

I believe the Secretary, Mr LAM Woon-kwong, still recalls that he once attended a seminar held by the ADPL in which he was told that 19 DC members from the ADPL greatly resented him for playing the "bird-cage politics", thereby refusing to devolve powers to the districts. The so-called remedial work carried out under the pretext of "bird-cage politics" has failed entirely to meet our demand. Clinging to its own thinking, the Government is indeed too conservative. We hope the Secretary can listen to our views and reform the DCs fundamentally.

Madam Deputy, I so submit.

MR LAU WONG-FAT (in Cantonese): Madam Deputy, DCs have been operating as a part of the representative system of Hong Kong for 20 years and witnessed the significant historical changes in Hong Kong during the same period. Indeed, as time goes by, members of the public are expecting higher and asking more of the Government in respect of community services. In particular, following the abolition of the two former Municipal Councils, it has become inevitable for the roles and functions of DCs to change.

The inter-departmental working group led by the Home Affairs Bureau has recently completed its review and made a number of recommendations in respect of enhancing the roles and functions of District Councils, support provision, and so on. To give the matter its fair deal, these recommendations really cover a wide variety of fields, and will certainly help to enhance the "quantity" of the work of DCs and their members. Regrettably, however, no new ideas are offered in the recommendations in terms of elevating the quality of the roles and functions of DCs. On the whole, these recommendations have given people the impression that the efforts made by the Government are too limited to give full play to the functions of DCs.

The Government is still confining DCs to the roles of advisory bodies, monitoring bodies and bridge of communication, rather than vesting them with greater decision-making powers to deal with affairs of their respective districts. This is like renovating the fixtures and fittings of an old building and decorating its external walls without providing any extension to it. So, we can just imagine how limited in effect these recommendations are.

As regards the proposals to strengthen the communication between the Government and DCs as well as to enhance the participation of DC members in formulating policies and the roles of DCs in monitoring district administration by the Government, there are indeed some desirable points that merit our support. Nevertheless, I still hold that a matching mechanism must be put in place to ensure that DCs can effectively monitor the work of government departments and that their views will be taken seriously by relevant government departments. At present, as the Government is repeatedly emphasizing the need to improve the accountability system, I believe members of the public do have great expectations in this respect. If the government departments concerned are not held answerable to DCs, there is no way that the latter can give play to their

monitoring role. In my view, a system should be established to enable DCs to assess the performance of government officials attending their meetings and present such assessment reports annually to the Secretary for Home Affairs or the Chief Secretary for Administration. That way, the efficiency of the government departments concerned will certainly be enhanced more effectively.

Lastly, just as I have pointed out just now, if implemented, the 28 recommendations made by the working group in respect of five major areas will certainly add considerably to the workload of DC members. To cope with this change, the Administration must increase substantially the accountable allowances payable to DC members, so that they can set up proper offices and employ suitable assistants to provide them with sufficient support in discharging their increasingly demanding duties. Otherwise, the increased workload will only leave DC members exhausted and thus unable to attend to everything within their respective parameters. That way, the quality of the work performed by DCs will inevitably be compromised. In the end, the efforts made by the Government to enhance the roles and functions of DCs will only backfire. Should that be the case, the DCs might have to follow the footsteps of the two former Municipal Councils, as they may be criticized for failing to do a good job and thus forced to complete their historical mission.

Madam Deputy, I so submit.

DR TANG SIU-TONG (in Cantonese): Madam Deputy, in Chapter IV, entitled "Political Structure", of the Basic Law, the entire section 5 is devoted to arrangements for district organizations. We can thus see the importance of district organizations to the implementation of the concepts of "Hong Kong people ruling Hong Kong" and "a high degree of autonomy". Nevertheless, the way forward for the DCs, the only district organizations left after the hasty scrapping of the two Municipal Councils by the SAR Government two years ago, remains a mystery to us. The extent to which the DCs can assume the roles of the two former Municipal Councils is still uncertain. In the policy address delivered in 2000, the Chief Executive specifically indicated that he would examine enhancing the roles played by DCs in district affairs. Now, after more than one year, the Report of the Working Group on District Councils Review was finally published in July this year for public consultation with respect to

enhancing the roles and functions of the DCs. The Report has indeed come a bit too late. The Hong Kong Progressive Alliance (HKPA) truly does not want to see the Government remains indecisive in resolving the relevant issues.

The HKPA is of the view that although the DCs are the front-line and most important district organizations representing public opinion, the guiding principles for administration of municipal affairs in Hong Kong are not subject to checking by DCs. Despite the fact that the DCs can include municipal construction, licensing and management of restaurants and markets into their agenda, their voting results are often not binding on the Government. The HKPA considers it necessary for the Government to enhance the functions of the DCs to improve municipal administration. Actually, Article 97 of the Basic Law has stipulated that "district organizations which are not organs of political power may be established in the Hong Kong Special Administrative Region, to be consulted by the government of the Region on district administration and other affairs, or to be responsible for providing services in such fields as culture, recreation and environmental sanitation". Therefore, the handing over of such services as culture, recreation and environmental sanitation to the DCs is by no means the same as converting the DCs from advisory organs into political organs. In other words, it is possible for part of the work carried out by the two former Municipal Councils, such as the implementation of district minor works, the management and provision of environmental hygiene facilities, the provision of district cultural and entertainment activities and district festivals, to be handed over to the DCs.

It is mentioned in the Report that the Government will provide additional resources to the DCs for the purpose of organizing more district activities and carrying out Minor Environmental Improvement Projects. In addition, the Government will enhance the DCs' ability in monitoring the provision and delivery of municipal services and facilities. While the HKPA supports these proposals, it hopes that the Government can try all means possible to devolve some of its powers to the DCs so that they can deal with municipal issues not involving the central and district facilities, such as the provision of municipal services, the determination of a charging scheme for municipal services, the management of liquor licences, restaurant licences, hawker licences, and so on, in order to enhance the DCs' powers and roles in decision-making.

The Report has also proposed to set up a consultative committee in each district and appoint DC members to the committee as members to advise on the usage and management of municipal facilities. I consider this proposal impractical and unnecessary for the existing DCs are already sufficiently representative. As advisory organs for the Government, the DCs have great value and it is necessary for the DCs to continue to exist. Many problems can easily be resolved so long as the Government can refrain from considering the DCs as vases merely for consultative purposes. In addition, the Government plans to invite the chairmen of committees set up under the DCs to attend the meetings of District Management Committees (DMCs) and participate in discussions. I think this move is worth supporting. Of course, the most important point is that the DMCs can respect and accept the views of the DCs.

In order to give full play to the roles played by DCs, the Government must enhance its communication with the DCs. Government officials attending DC meetings are generally of lower ranks. It is therefore very difficult for them to make specific commitment during discussions. Sometimes, they may even fail to answer the questions raised by DC members. The HKPA therefore shares the government view that officials of higher ranking should be appointed to attend DC meetings instead. Though the Report has proposed a series of measures to strengthen communication between the Government and DCs, the Government must ensure those measures will not become institutionalized and superficial. If the Government finds the consensus reached by DCs or the motion passed by DCs unacceptable, it must respond in a responsible manner. Moreover, it should appoint government officials to give detailed explanation and try all means possible to find a compromise with the DCs. The Government and the DCs cannot work in true partnership and gain twice the result with half the effort unless the Government can take the roles of DCs seriously and is prepared to devolve more functions to the DCs. We should also be glad to hear that the Government has proposed to review the support for DC members. The monthly accountable allowance of \$10,000 is certainly not enough to cater to DC members' need to meet the full cost of office rentals, remuneration of assistants, facilities, and so on. It is therefore imperative for the Government to give support in this area.

Madam Deputy, I so submit.

MR HENRY WU (in Cantonese): Madam Deputy, I am a member of the Eastern District Council (DC). Although I have worked only short years as a DC member, I daresay I know and understand the work of DCs fairly well. I speak today in the hope that I can give a general analysis of the motion on enhancing the functions of the DCs by virtue of my actual experience in participating in the work of DCs.

As the DCs are district organizations, it is natural for DC members to be more familiar with the affairs of their districts and the operation of the DCs. Therefore, it is reasonable for DCs to make decisions on certain district facilities. Under the existing mechanism, DC members can undertake certain types of district work on provisions made by the Home Affairs Department (HAD). The DCs are also frequently consulted on projects affecting the districts in such areas as environmental protection, transport, planning, and so on.

At a meeting held by the Public Works Subcommittee this morning, a proposal to increase funding for the HAD to carry out Rural Minor Works Programmes and Urban Minor Works Programmes by more than \$55 million and \$15 million respectively was endorsed with a view to increasing the provision for carrying out improvement works for community facilities at the district level. Among the minor improvement projects to be carried out, eight were proposed by the Eastern DC after deliberations. This proves that sufficient channels are available through which the Administration can solicit the views of DC members and take them on board on an extensive basis. Therefore, the existing *modus operandi* should be considered acceptable.

Nevertheless, in a speech delivered by the Secretary for Constitutional Affairs with respect to the Third Reading of the Provision of Municipal Services (Reorganization) Bill on 2 December 1999, the Government undertook to strengthen the roles and functions of the DCs in the long run. I agree the Government should honour its promise step by step.

Madam Deputy, I think the roles and functions of the DCs should be enhanced as our political structure grows more mature and stable. However, we must note that we have to progress step by step. We must not strive for immediate success for this will affect the stability of the existing political structure. Under the present circumstances, the Administration can consider progressively raising some of its functions in such areas as culture, leisure,

environmental sanitation, and so on, to the DC level. I agree that the Administration can hand over consultation relating to the design and usage of public facilities to the DCs, whereas this Council shall retain the ultimate right to approve and decide on expenses of construction works.

For instance, if a certain community is to construct a youth centre, the respective DC may be responsible for conception of the design blueprint and usage of the youth centre. DC members may open direct dialogues with the residents of the relevant districts to gauge their views as well as endorsing details on the plans, utilization, and so on before the relevant proposal is submitted to this Council for vetting and funding approval. This division-of-labour will be more in line with the two-tier *modus operandi* of the DCs and the Legislative Council.

In sum, I support the original motion. I would also like to urge the Government to suitably revise the recommendations contained in the Report of the Working Group on District Councils Review to, without affecting the stability of the political structure, devolve some of its functions related to the provision of cultural, leisure and environmental hygiene facilities to the DCs so as to elevate their roles and functions.

Madam Deputy, I so submit.

MISS CHOY SO-YUK (in Cantonese): Madam Deputy, first of all, I have to declare an interest. I am an elected member of the Eastern District Council.

Following the scrapping of the two Municipal Councils by the Government early last year, the question of how to enhance the functions of the DCs to enable them to assume the roles previously played by the Municipal Councils has been fully debated by members of the community. Not only have the merits and demerits of various proposals been elaborated in detail, a conclusion has also been drawn on the positive and negative views presented. The crux of the problem merely lies in whether the Government is willing to accept good advice and accede to various views, or prefers allowing the executive to continue to take charge of the provision of cultural, leisure and environmental hygiene services, thereby stifling the public's right to take part in the formulation of policies.

It was only after repeated calls that the Home Affairs Bureau finally released the Report of the Working Group on District Councils Review in July this year. The Report contains 28 recommendations on improving the functions of the DCs, including such proposals as setting up a new consultative committee in each of the 18 districts, appointing more DC members to advisory and statutory bodies, allocating additional funds to the DCs to launch community participation schemes, Minor Environmental Improvement Projects, and so on.

Madam Deputy, I support any proposals so long as they can improve the operation of DCs and enhance their functions. I also share the view that the Government should, in accordance with the Basic Law, devolve more decision-making powers in relation to municipal facilities, district-based cultural and leisure activities, and so on, to the DCs to answer public aspirations. Nevertheless, as the saying goes, "it is difficult to make a clap with one hand". If we want the DCs to give full play to their functions and to play a more active role in district affairs, it is essential to enhance their functions institution-wise. More importantly, government officials must change their mentality in respect of DCs.

Although the DCs have been in existence for many years, and the Government has been trying as far as possible to approach the DCs to promote the policies it is going to implement, what has been achieved is too superficial, albeit all such efforts are often dressed as solicitation of views". No one has ever made an in-depth study of what effects have actually been achieved. I once pointed out in a similar motion debate held at the end of last year that the Government remained, to a great extent, prejudiced in believing that whatever issues submitted to the DCs for consultation would become politicized. Eventually, the Government and the DCs would only become entangled in disputes because of divergent positions and there is no way that the Government can gauge the real public aspiration. Therefore, the Government has always dreaded approaching the DCs to genuinely carry out consultation. It has actually been soliciting views from the DCs in name only.

Madam Deputy, I would like to point out that in order to carry out district work smoothly, what is required is not only efficient administrative management. What matters more is co-ordination at the district level. Only through mobilizing representatives of public opinion and active participation of the people and non-governmental organizations can we yield twice the result with half the effort and gain success without effort. Given the fact that the DCs are

widely representative of public opinion and all DC members are well-versed in the situation of their own districts, enhancing the functions of the DCs and giving them more support will enable administration by the Government to proceed more smoothly and effectively. At the same time, more support from the general public can be generated as a result. Therefore, I have so far failed to understand why the Government is still reluctant to enhance the functions of DCs.

The Government should understand that enhancing the functions of DCs and giving DC members more resources are almost equivalent to succeeding in recruiting 500-odd "volunteer workers" who are well-versed in district affairs from various sectors of the community. The strength thus generated can definitely help the Government to implement its policies in such areas as cultural and leisure, environmental hygiene, civic education, and so on, more effectively and handle problems related to crime, youngsters, the elderly, the environment, and so on.

In addition to changing their attitude when consulting the DCs, government officials, particularly those responsible for planning, formulating and implementing policies, should at all times make "serving the people" their paramount objective of administration. Officials aspiring to gauge the public aspirations will naturally consult the DCs, no matter the DCs are in agreement or disagreement with the Government. I believe all problems can be resolved easily if government officials can appreciate the sentiments of the people, follow good advice, and indicate willingness to hold further discussions.

Madam Deputy, there is much to be done to improve the work and powers and responsibilities of the DCs. I have on past occasions raised two important points — the Government must allow the DCs to play a larger role in participating in district affairs, particularly district-based project items, and provide the DCs with comprehensive information for reference. In doing so, DC members will be given an opportunity to express constructive ideas, thereby changing the *status quo* in which we find the DCs strong in will but weak in power, though having been given the responsibility. Secondly, it is essential for the Government to put in place a mechanism to facilitate full reflection of the views of DC members. It is particularly important that the Government "must" consult the DCs if the relevant projects are primarily district-based in nature or having a significant impact on the residents living in the relevant districts.

Another prime task for the Government is to provide DC members with more resources to facilitate, by all means possible, their smooth discharge of duties. In the past, even if additional resources were given to DC members, the amount of the resources was so small that it could hardly meet the actual need. Insofar as the functions of the DCs are concerned, the \$10,000 accountable allowance payable to each DC member is hardly enough to meet the expenses incurred for the payment of rents, salaries, electricity and gas bills, water charges and telephone bills. I therefore hope the Government can address this problem seriously.

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

MISS MARGARET NG (in Cantonese): Madam Deputy, I can say that I have personally witnessed the setting up of the District Councils (DCs) (formerly known as the District Boards (DBs)) for I was a District Board member 21 years ago. It was also for the same reason that I was particularly interested in the development of the DBs. I rise to speak today not because I am trying to recall the olden days. Rather I wish to talk about the changing of the representative structure from three tiers to two tiers following the dissolution of the two former Municipal Councils. When the Government proposed to scrap the Municipal Councils, it undertook to enhance the functions of the DCs and transfer some of the functions of the two Municipal Councils to the DCs.

Madam Deputy, the Government must honour this commitment because it was because of this commitment that many Members supported the Government to scrap the Municipal Councils. Enhancing the roles and functions of the DCs does not mean purely enhancing their advisory roles or functions. Rather, it means that the DCs should be given powers and financial autonomy in a more direct manner for the provision of cultural, leisure, environmental hygiene services and the implementation of central policies at the district level. In other words, the DCs should be given solid powers and actual opportunities of participation. Nevertheless, the Government acted evasively whenever we talked about enhancing the functions of the DCs. It just kept on talking about ways to enhance the DCs' advisory functions, to increase allowances and to make more senior officials accountable to the DCs, and so on. Such discussions are entirely irrelevant for they can do nothing to truly enhance the roles and functions of the DCs. As a number of colleagues have already spoken at length on this point earlier, I think I need not repeat their points here.

During our discussions on this issue, the Secretary and many departmental representatives indicated that it was impossible to enhance the roles of DCs since if that really happened, 18 DCs might adopt 18 different policies and methods of implementation, thereby causing confusion. Moreover, enormous resources would be required if each DC was to be provided with an independent secretariat.

Madam Deputy, a proposal was once raised in a meeting of the Legislative Council Panel on Home Affairs (which was attended by representatives from the DCs) for a joint meeting to be held by the 18 DCs in order to reach an agreement after exchanging ideas as to in what manner the meeting should be held. If the meeting is to be held jointly and an independent secretariat is to be provided for the meeting, confusion can be avoided and the need for huge resources obviated. This proposal was supported by some DC representatives present at that meeting. I hope the Secretary can seriously consider this proposal for it will be immensely helpful to the political system of Hong Kong and the provision of services to the public.

Madam Deputy, we have all along harboured the hope that the DCs can provide a venue for the nurturing of talented people to take part in politics. Participation in politics is not merely a conviction or personal view, so people aspiring to such participation must get into contact with members of the public through their work before they can increase their experience. The DCs actually provide a good venue for the nurturing of such talents, hence enhancing the powers and responsibilities of DCs will certainly reap benefits.

Although many members of the public are disappointed by the performance of some DC members, we can see that some enthusiastic DC members are still playing a significant role in their respective districts. Working diligently to keep in touch with the public, these DC members have provided the public with additional channels of complaint and to seek help. This is indeed conducive to administration by the Government.

I would like to urge the Government not to waste these talents and their enthusiasm in serving the community. What is more, I hope the Government can expeditiously put forward some concrete proposals to enhance the functions of DCs. Thank you, Madam Deputy.

MR WONG YONG-KAN (in Cantonese): Madam Deputy, before I go on, I would like to declare an interest. I am an incumbent member of the Tai Po District Council. I have been an elected member of the Tai Po DC (formerly known as the Tai Po District Board) since 1991. I daresay I understand the operation of the DCs fairly well. At the same time, I also have some intense experience in the way government departments have all along been belittling the DCs over the years.

Since the introduction of the representative system by the former British Hong Kong Government, the functions of the DCs can be described as "having remained unchanged for 50 years", stagnant at the stage of "engaging in empty discussions among themselves". On certain trivial matters, the Government may occasionally do the DCs honour by taking on board their suggestions. But most of the time, the Government merely considers the DCs not essential.

Government officials say they "attach importance to the DCs" so often that outsiders would believe that the Government really attaches great importance to the DCs. But then the attitude of the Government towards the DCs is evident to all. The Government will remember the existence of DCs only when it needs them to solicit public opinions, so as to create an impression that our Government is an open government which, instead of operating "behind closed doors", does consult the public. But then, when it comes to proposals put forward by DC members, the Government simply ignores them. Even though the Government at times did consult the DCs on some important policies, it was not particularly enthusiastic about the suggestions advanced by the DCs.

I wish to share an experience with Members here to illustrate that the suggestions of DC members are not taken seriously by the Government. Early this year, the 18 DCs were consulted on the priorities of 149 works projects previously endorsed by the two former Municipal Councils. Though the Tai Po DC, of which I am a member, advanced suggestions on 13 works projects, only one (related to the construction of a golf course in Shuen Wan Landfill in Tai Po) was accepted by the Government. The true story is, the works project is not financed by the Government alone. Involving a building cost of more than \$130 million, the project is mostly financed by the Jockey Club, which will provide funding of more than \$100 million, whereas the Government is only required to shoulder more than \$300 million. All things in connection with the project are now ready for land has been allocated and the completion date fixed as well. However, the project is now delayed and will not be commenced until 2003-04.

Although the Tai Po DC has reached a consensus that the project be carried out "expeditiously" in the sense that it should be implemented the sooner the better, this consensus is not taken seriously by the Government.

Apart from this, the DCs have been consulted on 27 works projects, most of which being related to municipal facilities, including the Tai Po Cultural Centre and sitting-out areas. Although the DCs have urged the Government to launch the projects expeditiously, they will not be commenced until a much later date. Now the Government is saying that it has to carry out another round of consultation and an independent consultancy will be commissioned to undertake the relevant study. At the same time, a number of consultancies have been commissioned by the Food and Environmental Hygiene Department to carry out study on 19 market projects. It is evident that some municipal works programmes will inevitably be held up though the DCs would like to have them completed as soon as possible. While some of the programmes were originally scheduled to be completed in 2002, they have now been postponed to 2003-04, 2005-06, or even 2007-08. I wonder what DC members will feel. What is more demoralizing is that the Government has deleted some works programmes without consulting the DCs in advance. One of such examples is a recreation venue located in Area 33 in Tai Po. Is the consultation genuine or bogus, or is it a reflection of genuine dictatorship? For the DCs, this is really a big joke.

I remember when the Government reorganized municipal services last year, it undertook to enhance the functions of DCs and devolve more powers to them. After almost two years, the Report of the Working Group on District Councils Review has finally been published. The Report apparently proposes to enhance the roles and functions of the DCs. But actually, the DCs are still being considered as venues for empty discussions. Of course, we can say that the Government has made some progress for it has allocated additional funds to the DCs to carry out Minor Improvement Projects and organize community involvement programmes. However, what the Government has done still falls short of the expectation of DC members enormously.

DC members have not harboured the wishful thinking that the Government will devolve all the functions of the two former Municipal Councils to the DCs. But at least, it should progressively transfer some of the functions related to culture, leisure and environmental hygiene to the DCs. The Democratic Alliance for Betterment of Hong Kong would suggest the Government to set up a

steering committee under each DC to take charge of the management of the facilities associated with food, environmental hygiene as well as municipal services. Madam Deputy, DCs comprise elected, appointed and ex officio members. Their working ability is unquestionable. Why is the Government still reluctant to devolve some of its powers to the DCs? Is it because the Government lacks confidence in its own "selection" ability, or is it because the Government is sceptical of the wisdom of voters?

Madam Deputy, lastly, I wish to emphasize that if the Government belittles the DCs as an advisory body and belittles the views of DC members, it will not help the operation of DCs even if it decides to appoint more DC members to advisory and statutory bodies. For such appointments will only enable DC members to add a few more titles on their name cards as a result. Public recognition of the existence of the DCs remains questionable.

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

DR RAYMOND HO (in Cantonese): Madam Deputy, since the implementation of the District Administration Scheme by the Government in 1982, the District Councils (DCs) (formerly known as the District Boards) have taken up the role of advising the Government on district affairs, including the provision and utilization of district-based public facilities and services, benefits of people living or working in the districts, and so on. Being a key advisory organ, the DCs are also extensively consulted by the Government. Their roles and functions have since become a matter of public concern following the dissolution of the two former Municipal Councils in end-1999. I would like to present my views on the Report of the Working Group on District Councils Review published in July this year, in which a number of relevant recommendations are made, as follows.

I am of the view that the DCs should be able to play a larger role in terms of their functions. The Government should enhance DC members' participation in district work by considering setting up a consultative committee under each the DC structure, rather than outside the framework of the DCs as proposed in the Report. Under this arrangement, DC members will be able to exercise their freedom to join the committees, or nominate and elect co-opt members, like the way in which committees under the DCs are formed and operate. The consultative committees thus formed will command greater credibility. On the

other hand, in discussing certain items, the Government may consider inviting DC members belonging to affected districts to the meetings held by the District Management Committees (DMCs) to reflect and express their views.

Furthermore, the Government should consider transferring certain district work, such as that related to cultural and recreation activities, district facilities and environmental hygiene, to the DCs to enable them to play a more important role in their districts. While I very much agree and support the proposal of allocating more funds to the DCs, I also consider it necessary for the Government to allocate more funds to particularly give full impetus to improving the environment and facilities of the districts through the implementation of Minor Environmental Improvement Projects.

It is also imperative for the Government to strengthen the work of the DCs and to strengthen its communication with DC members through such means as arranging regular meetings between the DCs and Bureau Secretaries or departmental heads. Furthermore, the Home Affairs Department should strengthen its co-operation and partnership with the DCs. The Government should also enhance the functions of District Officers in co-ordinating the provision of services by government departments in the districts. In doing so, District Officers will be able to make more effective use of such existing mechanisms as the DMCs to follow up and supervise the work of various departments with a view to implementing the resolutions passed by the DCs or the committees formed under the DCs.

As regards enhanced support for DC members, I fully support the Report's recommendation of rendering more information technology support to the DCs and DC members for this will definitely help raise their efficiency. Furthermore, the Government should consider providing appointed DC members with offices at suitable locations, for this can spare appointed members the embarrassment of setting up offices in the constituencies of elected members.

Meanwhile, the Government should expeditiously examine the feasibility of providing each DC with a secretariat to provide DC members with such comprehensive services as clerical, meeting, liaison and policy research support. This will enable the DCs to operate more efficiently and play a greater role. Of course, the establishment and structure of the secretariats should be covered by the study as well.

THE PRESIDENT resumed the Chair.

Madam President, I hope the Government can seriously consider the views of this Council and expeditiously put the non-contentious recommendations contained in the Report into implementation. I strongly believe that, with the enhancement of the functions of the DCs, more people in the community including professionals will be interested in participating in the work of DCs so that the DCs will have more voices to contribute to the development of the districts.

I so submit.

MR LAU PING-CHEUNG (in Cantonese): Madam President, I understand it is very hard to prevent my colleagues of this Council from recalling the dispute arisen in connection with the abolition of the two Municipal Councils in 1999 whenever the issue pertaining to the functions and work of the DCs is debated in this Council. Today, we are discussing the Report of the Working Group on District Councils Review. I will express my views on the way forward for the DCs' functions in terms of "community building".

In July, the Government issued a consultation paper in which it was proposed that the functions of the DCs be strengthened in five different areas. I strongly support this direction and principle. Although the Government has reorganized and set up the Food and Environmental Hygiene Department and the Leisure and Cultural Services Department to take charge of the administration of municipal, cultural and leisure work immediately after the abolition of the two former Municipal Councils, it has made no active effort to formulate the relevant policies and carry out public consultation. For instance, at the overall policy level, a subcommittee, of which I am a member, was set up by this Council to follow up 160-odd unresolved major works projects left behind by the two former Municipal Councils. However, the Government has not fully consulted the DCs on the priorities of these works projects until early this year.

If members of the public disregard the desperate need for impetus to the economy through launching various works programmes because of the economic depression, they will strongly feel that the two Municipal Councils were far more efficient in launching works programmes. The key lies in the fact that the two

Municipal Councils were financially autonomous and free to make decisions with respect to the carrying out of works programmes. According to the current practice, however, even if it is decided that a certain project be launched, it has to queue up after other projects and advance progressively from Category C to Category B, and eventually to Category A, before it can secure funding to go ahead. In short, the impression given to the public is that "discussion is held but no decision is made or decision is made but implementation is impossible" or the Government is merely trying to "pay lip service".

A further question is: Do we have a mechanism to consult the public on site identification, planning and design after the completion of these 160-odd works projects or when we have to carry out massive construction works, such as building a central sports complex? Will the role formerly played by the two Municipal Councils be taken over by this Council? It is necessary for us to give active consideration to these questions.

Now I would like to say a few words on the allocation of additional resources. Under the premise of "community building", I fully agree that the Government should give DCs more resources. It is mentioned in the consultation paper that in 2001-02, the DCs will be given a total of \$168.4 million, 30% more when compared with 1999-2000, from the Government for launching community involvement schemes and carrying out minor community building projects. I consider the increase inadequate because, given the current economic situation, increased expenditure on construction will help create more jobs. Moreover, every cent spent will help improve the environment of the community so that each member of the community will eventually be benefited.

Nevertheless, we should note that a substantial part of these expenses will be used for meeting the increased accountable expenses of DC members for the ceiling of the allowance has been raised from \$4,990 to \$10,000. Madam President, I have reservations about the additional funding. Let me cite an example to illustrate my point. Participation in parliamentary work by DC members is far less frequent than that of Members of this Council. Basically, regular meetings are held in this Council on a weekly basis, whereas DC meetings are held once every two months. Like this Council, the DCs also have their own panels. However, meetings by these panels are held once every two months.

Some of the activities expenses incurred by DC members are equally controversial. For instance, we will invariably notice all kinds of bills posted by DC members or community celebrities when we visit public housing estates. A great deal of these bills will also carry the emblems of the affiliated political parties or bodies. While I understand it is only right and natural for DC members to update the residents living in the neighbourhood on the latest news of the community, is it really necessary for DC members to highlight their political affiliations? Have those political parties shared the expenses since they have gained publicity as well? Another example is that we can always see some DC members arranging coaches to carry some residents to the government headquarters or this Council to take part in petitions or demonstrations. I understand that the approximate cost of hiring a medium-sized coach for half a day is \$800. It is not inexcusable if this happens only once in a while. However, if this happens frequently, should such demonstration expenses be covered by DC members' expenditure? This is indeed open to question.

Madam President, I so submit.

MR AMBROSE LAU (in Cantonese): Madam President, I have the experience of taking part in the work of a DC for many years. Now I am still engaging in district work in collaboration with a number of DC members, and I have been serving the public through my ward office for a number of years. This gives me an opportunity to learn from experience that the DCs are not given due attention and support by the Government. At the same time, I understand there is still much room for development in respect of the DCs' functions. The Hong Kong Progressive Alliance (HKPA) welcomes the publication of the consultation paper entitled the Report of the Working Group on District Councils Review, in which a series of recommendations for enhancing the roles and functions of DCs are proposed. The recommendations include providing the DCs with additional funds to launch community involvement programmes and embark on Minor Environmental Improvement Projects, strengthening communication between the DCs and Bureau Secretaries or department heads, appointing more DC members to advisory and statutory bodies to enhance their participation in the formulation of policies so as to raise the accountability and efficiency of the DCs. These recommendations are all worthy of support. Nevertheless, the most significant deficiency of the consultation paper lies in the fact that the Government has failed to put forward specific proposals for public discussion with respect to the repositioning of the district management functions of the DCs following the abolition of the two Municipal Councils.

In fact, even before the abolition of the two Municipal Councils, people would always approach DC members to air their grievances or seek help whenever they encountered problems pertaining to municipal issues such as environmental hygiene, transport, law and order. Owners and residents would also make occasional use of DC members' offices to convene emergency meetings or annual general meetings of Owners' Corporations. Even though the power and resources given to DC members could not compare to those enjoyed by Members of the two Municipal Councils, DC members had, to a certain extent, played the role of Members of the Municipal Councils simultaneously. It can be said that DC members have been taking up a larger role in municipal work following the abolition of the two Municipal Councils. Actually, we often find that only DC members can put forward most practical and forward-looking suggestions for resolving many district-based municipal problems since they are familiar with and care for their districts. Let me cite tourism in Sai Kung as an example. Had the Government listened sincerely to the suggestions of the Sai Kung District Council (formerly known as the Sai Kung District Board) several years ago to refurbish the tourism facilities in Sai Kung promptly and develop Sai Kung into an eco-tour spot, it would not have been necessary for the Government to open up new scenic spots in Eastern New Territories hastily now when tourism in Hong Kong is caught in difficulties.

In spite of the increasing workload faced by DC members, they have all along been working under a tight budget. The consultation paper has proposed to organize more seminars for DC members, provide the DC secretariats and the Home Affairs Department with additional resources, and render more information technology support for DCs and DC members. While these proposals certainly merit support, it is more important that DC members be given enhanced financial support. The accountable allowance received by DC members at present is \$10,000 only. After deducting office rentals, the remaining sum of money is virtually unable to pay for staff remuneration and meet miscellaneous expenses. How much money will be left for DC members to set up offices after deducting their own remuneration and family expenses? The HKPA therefore feels that if the Government really wants to enhance the functions of DCs, it should raise the level of remuneration and allowance for DC members to make it compatible with the duties of DC members and public aspiration.

Madam President, I so submit.

MR ALBERT CHAN (in Cantonese): Madam President, first of all, I have to declare an interest. I have been serving on the Tsuen Wan District Council (formerly known as the District Board) as an elected member since 1985. Like the Honourable LAU Wong-fat, I have served as a DC member for a considerable period of time. One may say that Mr LAU has a very distinguished record and he should be treated as a "protected species" of the DCs. This is because he has been serving as a Tuen Mun DC member since the founding of the District Boards in 1981.

Madam President, I believe this debate will be less heated than the preceding one and there will be fewer disputes. Honourable Members should be able to say what they want to say for I think individual Members will not "react" too strongly. Although I feel that the Government has already taken a position on this topic, I still hope government officials who are present in this Chamber, particularly the Secretary, Mr LAM, will listen to Members' views with a more liberal attitude. This is because it is the hope of each of us that, through this consultation exercise and review, the soon-to-be set up or reformed councils can truly realize the fundamental principle and spirit of district administration and play certain roles in the political framework.

It has been two decades since the District Boards were established in 1981. If we compare the development of the DCs to that of a human being, the DCs are now 20 years old and should be considered a matured adult. However, the DCs are almost the same as they were 20 years ago. If we compare them again to a human being, the DCs are a dwarf who is physically and mentally handicapped. Subject to constraints over the past two decades, the DCs have been unable to make any substantial improvement or changes. Why have the DCs become a physically and mentally handicapped dwarf? In my opinion, the Government is the main culprit to blame. It has either given the baby a wrong prescription or locked it up, without giving it a reasonable and healthy environment to grow up slowly in the past two decades. The Government has merely imposed numerous constraints, or given the baby a sudden injection of antibiotic. For instance, the move of the Chief Executive to restore the appointment system for DC members immediately after his assumption of office was tantamount to giving the DCs an injection of antibiotic, thus turning the baby into a freak. This is extremely unhealthy insofar as the overall development of the DCs is concerned.

If we compare the DCs to municipal assemblies in other parts of the world, we will find that the functions and powers of the DCs and the resources under their control are indeed very small, though its percentage of elected membership is extremely high. I believe the DCs can even enter the Guinness World Records as the most powerless assembly. Members may take a look at the amount of funding under the control of the DCs. If I calculate it on the basis of the population of each district, each person will receive less than \$100 on average. It is indeed essential for a review to be conducted in this aspect. It is really ironical because even participants of the activities occasionally organized by the Government can each receive a subsidy of more than \$100. Let me cite a simple example. An audience of an international performance held in the City Hall may sometimes receive from the Government a subsidy of up to several hundred dollars per head. The fact that a council having district representativeness can only control such a small amount of resources is really a world record.

It is imperative that the Government must have confidence in itself in carrying out the review. Mr TUNG Chee-hwa has always appealed to the people of Hong Kong to have faith. We would also like to urge the Government, particularly senior government officials, to have confidence in their governance of Hong Kong. One of the reasons for the Government to make such a great effort to check the DCs is that it has no confidence in its governance and in the set-up of the DCs. I see that many of the government officials attending the meeting today have worked in the Home Affairs Department before. They should understand the operation of the DCs very well. If they deny the DCs opportunities to develop or make decisions on district-based issues, they should be taken as lacking confidence in the DCs and in themselves, fearing that things will run out of control once there are any hiccups. As a result, they prefer taking charge of everything. I therefore believe this is merely a problem of confidence. The Government, particularly Mr TUNG Chee-hwa, has always appealed to the people of Hong Kong to have faith. I would also like to ask them to have confidence in themselves and in the Government.

Even if the Government really decides to carry out a review, I do not believe it will devolve genuine powers to the DCs. Despite that, I still hope that the Government can give more token powers to the DCs. In particular, I should add that the Secretary, Mr LAM, used to work as a Deputy Director of the former Regional Services Department. My wish is indeed very simple. Many

DC members will be overjoyed if the functions played by the area committees in the Regional Council era can be transferred to the DCs. DC members have absolutely no intention to interfere with the central. Neither have they any intention to share the Government's powers. The functions played by the area committees in the Regional Council era were very simple. They were only responsible for approving district-based works projects in such areas as culture, leisure and environmental facilities as well as district-based cultural, entertainment, sports and recreation activities. At the same time, they could make final decisions on approving such matters as the organization of soccer training courses on soccer pitches or the staging of cultural and arts performances in the City Hall, and so on. Managers of the City Hall would still be responsible for planning activities. Moreover, 99.9% of the proposed activities were likely to gain approval. It was only that some DC members might voice discontent for two less Cantonese operas had been staged in a certain performance season. They would simply ask the relevant authorities to stage two more performances in the next season. Or we might suggest staging two more Shaoxing operas for people living in Tsuen Wan given the relatively large Shanghaiese population in the district. Basically, the power of control still rested with government departments. The Government is really too mean if it still refuses to devolve such powers to the DCs. I say so particularly because the Government made a lot of undertakings when it scrapped the two Municipal Councils. What is more, it undertook to give the DCs more powers at that time.

I really hope some improvement can be made following this review. Of course, I will not expect too much for I feel that executive-led Government has gradually turned into "executive hegemony" and the Government has started to act entirely insensibly. The Government's wish is to control everything and hold all decision-making powers. Although the Government is in control of everything, I hope it can let slip some of its powers to DCs in order to give DC members the feeling that they are being respected and stop them from behaving like a dwarf who is physically and mentally handicapped.

Thank you, Madam President.

MR ABRAHAM SHEK: Madam President, I speak in support of the motion moved by the Honourable IP Kwok-him and I salute to those Members of this Council who are also serving as District Council members.

When it comes to district affairs, our community will certainly turn to the 518 members from the 18 District Councils. The Working Group on District Councils Review clearly recognizes this is so in its report and it has proposed to enhance considerably the functions of the District Councils.

It should be noted that the functions of the District Councils have been enhanced, particularly in the areas of advising the Government on food and environmental hygiene services, since the District Councils Bill was passed in 1999.

On district work, the report suggests that District Councils' role to advise and monitor public services at a district level be further strengthened.

They will be given chances to meet Policy Secretaries and Department Heads to express district needs. But, Madam President, will our government officials listen to them and act on their advice? Or will they just listen and forget about the advice? When they do not, the loser is definitely not the officials but the community, because advice from District Councils represent the interests and the wishes of the people in particular districts.

And it is also suggested that the District Council members be allocated more funding to manage community involvement in district projects as well as minor environmental improvement projects.

These new recommendations will serve as a start to increase District Council members' participation in local affairs. In the long run, I believe that the District Councils should take up more administrative role in cultural, leisure and environmental hygiene facilities. But this power transfer should take time to evolve.

At the moment, the provision of cultural, leisure and environmental hygiene facilities is still best be done by the Government centrally in order to ensure service continuity and quality.

At the local district level, the District Councils should be given more opportunities to deliver and manage various public facilities. This will give District Council members a stronger sense of commitment to the community, thereby encouraging their continuous contribution to serve the people in the district.

Madam President, I also support that appropriate level of allowances should be given to those District Council members to encourage them to continue to work for the districts.

Thank you, Madam President.

MR MA FUNG-KWOK (in Cantonese): Madam President, early last year, Prof NG Ching-fai proposed a motion to "enhance the functions of the District Councils" and the motion was passed. A common point between the motion proposed by Prof NG and the motion today is the hope that the DCs would have greater decision-making powers in respect of cultural, leisure and environmental hygiene affairs, and that they could bring their functions in district administration into real play.

I recall that after the abolition of the two Municipal Councils, the community discussed the functions, responsibilities and development of the newly formed DCs and an initial consensus was reached to reinforce the functions of the newly formed DCs so that they could concurrently perform certain functions of the two Municipal Councils. However, in response to the appeal to enhance the functions of the DCs, actions taken by the Government have been superficial so far.

Although the Home Affairs Bureau has published the Report of the Working Group on District Councils Review and made 28 major recommendations in five areas, it seems that it still fails to meet the demand of the community. The motion proposed by Mr IP Kwok-him and the amendment by Mr Andrew CHENG both stressed that, besides the recommendations made in the Report, the Government should gradually transfer certain functions in respect of cultural, leisure and environmental hygiene facilities to the DCs so as to elevate the functions of DCs.

In fact, the DCs are an important component of the democratic structure in Hong Kong. Improving the quality and enhancing the functions of the DCs not only allows the public greater participation in community affairs but also helps the Government in implementing and consolidating policies and enhancing efficiency. Besides, it serves a more important purpose of turning DCs into a cradle for nurturing political leaders and laying a solid foundation for "Hong Kong people ruling Hong Kong" and pacing up the progress of constitutional reform. The DCs are capable of meeting the new challenges and we have to re-position the DCs to allow them to set out again.

Madam President, to re-position the DCs and enhance district administration, we should give up the existing structure. Let us imagine what functions the DCs should have if they start from scratch. We can then make timely and suitable adjustments to the functions of DCs and allow DC members to better perform their functions in serving the community. This is a more responsible attitude. Gradually transferring to the DCs some of the functions of providing cultural, leisure and environmental hygiene facilities and services are definitely a correct direction to follow in order to elevate the functions of the DCs.

Madam President, the contents of the Report are not comprehensive enough and even the five suggestions espoused in the amendment of Mr Andrew CHENG are only made in the light of the direction of development of district administration within an incomplete and incomprehensive framework. Actually, we should think about the following issues first.

What should be the direction of the future development of district administration? It is a pity that not a word is mentioned in this Report about the evolution of the functions of DCs as district organizations. There are some fundamental questions, for instance, must there be 18 DCs? Is it necessary to review the boundaries of DCs and the further demarcation of boundaries within each DC? The Report has also failed to mention the positioning and relationship between the "small three-tier" of district administration, that is, DCs, District Management Committees and area committees, much to our enormous disappointment.

DCs have been operating for almost 20 years and the major recommendations made in the Report are to enhance the role and functions of the DCs and increase the funding for them. Quite a few DC members have actually asked the government departments to consult the DCs at the initial planning stages of cultural, leisure and municipal facilities and services, and to confer on DCs the power to participate in the formulation of the relevant policies and the management of municipal affairs. The Government should seriously consider these views and take them on board.

A more controversial recommendation is the establishment of consultative committees in various districts to advise on the usage and management of cultural and leisure facilities in the district as well as the appointment of DC members as committee members. In my view, this is not a very good suggestion as it may not be able to elevate the functions of the DCs and it may bring about overlapping in structure.

Actually, the Chief Executive has created an appointment system for DC members in this term, and he has appointed members from different professional sectors in the light of the composition of various DCs to make the composition more diversified and professional. After the creation of appointed seats, the DCs should be more capable of coping with new functions that may arise in the future so that they would be able to make suggestions to improve, participate in decision-making and monitor cultural, leisure and environmental hygiene affairs.

I have reservations about parts of the amendment proposed by Mr Andrew CHENG. There are 18 DCs and the secretariat of each DC should be accountable to the respective DC rather than becoming independent because it would substantially increase the pressure of the DCs in respect of administration and management, and it would not help enhance their efficiency. As regards the mechanism for an annual debate, in theory, DCs can hold debates every day, and DC members can take the initiative to make suggestions at any time, fight for the support of the DCs and ask the Government to take corresponding actions. Therefore, it is not essential to establish such a mechanism.

The views of the public on the roles and development of the DCs have actually been fully expressed in the consultation that has just concluded. I hope that the Home Affairs Bureau would carefully consider the views of the public and the DCs, make suitable amendments and put them into practice. This will help nurture political talents, enhance civic awareness and increase the centripetal force of the community and the acceptability of the DCs.

With these remarks, I support the motion of Mr IP Kwok-him. Thank you, Madam President.

MR WONG SING-CHI (in Cantonese): Madam President, the topic of our discussion today is related to a review on the functions of DCs. First of all, I would like to relate an incident that I have personally experienced at home. I like to tell Members what happened at home so that they could draw lessons from my daily life or work.

My son occupies a not too spacious room at home. One day, he said to me, "Daddy, I would like to paint my room in another colour because it does not look good in white." I said he could do so because the room was his and he

could make a decision on his own. My son chose to paint it green, but he found after painting the room green that it did not look good, so, he asked to paint it blue. I let him paint his room blue and he was finally satisfied.

My son throws away a lot of waste paper every day. One day, I bought him a litter bin and put it at a corner of his room. But he told me, "Daddy, the litter bin should not be put here but near my desk as it would be more convenient to me." I told him it was fine because it was his room and he could make a decision.

While my son could decide where the litter bin should be placed in his room and the colour of his room, the DCs could not decide where litter bins should be placed in the district or what colour should the parks in the district be painted. They do not have the power. If they wish to do so, they have to make reference to the existing policies of the Leisure and Cultural Services Department and the Food and Environmental Hygiene Department first, and they would then know whether they can put litter bins at certain places. Under the existing policies, can the DCs employ workers to paint the parks? I am sorry to say that they cannot because they do not have the power.

Let me give Members another example. Recently, I invited a group of taxi drivers to discuss traffic arrangements. I am the Chairman of the Traffic and Transport Committee of the North DC and I told the Secretariat of the DC Secretariat that I would like to invite a group of taxi drivers to a meeting to be held in a room of the DC Secretariat. But the Secretary told me that "I am sorry, Mr WONG, there is not such a practice and we have never arranged for members and residents to discuss matters in a room during non-meeting hours." I expressed my dissatisfaction to the District Officer afterwards, but the District Officer said that it was merely a misunderstanding. There was a common room in the DC for the use of DC members. Yet, when a member needs to use the room, he has to call ahead to notify the Secretariat so that the staff can open the door in advance to facilitate the use of the room.

Another recent example tells me that DCs are effective. A certain group in the district wanted to construct a mosque near people's homes and the DC members raised opposition for various reasons. It was found out that relevant group had applied to the Home Affairs Department or the Lands Department for the allocation of land earlier on but a temple of another denomination had already

been built on the land, thus, the Government opposed the construction of a mosque there and it suggested that a mosque be built near people's homes. The residents raised opposition and the Home Affairs Department and the Lands Department were confused and at a loss as to what to do. If they strongly insisted on constructing a mosque there, the residents might take intensive opposition actions. Therefore, the Administration suggested that the issue be discussed in the DC and the DC members should decide whether a mosque should be constructed there. In view of the fact that the Government opposed the construction of a mosque by the relevant group at another place earlier on, it was just like "crushing a crab to death with a boulder" and the Government had not consulted the DC. Nevertheless, another site was selected this time and many people opposed. Thus, the Government consulted the DC and asked it to make a decision expeditiously to show that the DC had the right to make decisions on behalf of the Government. Actually, the Government has always used the DCs as an expedient exit out of trouble. If the Government were afraid that making a decision on certain incidents would cause political effects or other problems, it would let the DCs make the decision. Yet, the Government would make a decision on its own in respect of matters that would not cause any political problems, and it would then notify the DCs, thus, the DCs could hardly oppose on learning about the decision.

Evidently, the Government only regards the DCs as an expedient exit that does not have real power and it evidently does not respect the DCs enough.

I used to a Member of the Regional Council and many decisions were made after discussions and careful studies by the Members and the Regional Services Department, and the colleagues concerned would make great efforts to handle a lot of documents for the Regional Council. However, this had not caused the Regional Council any big trouble throughout the years. Thus, putting the cultural, leisure and environmental hygiene affairs of districts in the hands of Regional Council Members or Urban Council Members had not caused any big trouble or particular problems throughout the years. Why do we have to discuss at lengths the decision to transfer some small powers related to culture and leisure to the DCs for implementation or decision making? Obviously, the Government does not want to devolve powers to the public or enhance the powers of the public in monitoring the Government substantively. Mr Andrew CHENG has proposed the amendment in the hope that the DCs would really do something substantive for the public at the district level so that the DCs would not degenerate into "a nattering assembly".

If the Secretariats of the DCs were allowed to become independent, it would upgrade the status of DC members so that they could take forward their work more easily. Therefore, there is no reason why the DCs should not be allowed to set up independent Secretariats. I support Mr Andrew CHENG's amendment.

I so submit. Thank you, Madam President.

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

(No Member responded)

PRESIDENT (in Cantonese): Mr IP Kwok-him, you may speak on Mr Andrew CHENG's amendment. You have five minutes.

MR IP KWOK-HIM (in Cantonese): Madam President, Mr Andrew CHENG of the Democratic Party has stated in the letters he sent to Members and his speech earlier that he wished to incorporate into the original motion some specific proposals. Therefore, he has proposed the amendment to express the views of this Council to the Government more substantially. I had thought of this when I drafted this motion but we actually wished to allow Members to express their views as freely as possible through this motion. I might miss out some points if I only incorporated points (a) to (e) or (f) to (h), therefore, I did not adopt this method at the end, and proposed the motion in the present form.

Mr Andrew CHENG of the Democratic Party proposed five points of amendment in his amendment. The Democratic Alliance for Betterment of Hong Kong (DAB) supported some but disagreed to some, including point (a), that is, allowing more DC members to attend meetings of District Management Committees (DMCs). At present, the DMCs in various districts are responsible for co-ordinating public affairs such as transport, housing, public order, culture and leisure, amenities and drainage services. The District Officers currently chair the DMCs and their members include the representatives of government departments in charge of the major services in the districts and the Chairmen and Vice Chairmen of the DCs. If the meetings of the DMCs were open for

participation by the majority or all DC members, we worry that a DMC meeting might become another DC meeting. It is stated in the document provided by Mr CHENG to other Members that the meetings of the Central and Western DMC are open for attendance by DC members interested in the relevant topics. But I do not know that though I am a member of the Central and Western DC.

The DAB thinks that a more suitable practice is for the Government to consider inviting the DC members in the affected districts to attend the meetings of the DMCs to discuss matters and express views related to the DC members in the districts concerned. This would be more practical or open as Mr CHENG has said.

The DAB also thinks that it is not at all practical to establish a mechanism for annual motion debates by DCs. At present, 60 Members of this Council take four days to debate over a certain motion in this Council by taking turns, so, the DC debates would certainly be lengthy bearing in mind 519 DC members will be taking turns to speak. In particular, this Council debates many topics every year, therefore, we do not think it is necessary to have an annual debate.

In addition, the DAB does not support setting up independent DC secretariats. At present, the Legislative Council Secretariat is composed of 300 to 400 non-civil servants. Do we have to establish 18 secretariats or one super secretariat? Should the staff of the DC Secretariats be non-civil servants? If yes, where do we find such staff? I hope Members will not forget that the existing staff of the DC secretariats are civil servants. For this reason, the DAB does not agree to this amendment.

We hope Members will support the original motion and oppose the amendment of Mr Andrew CHENG. Thank you, Madam President.

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, first of all, I wish to thank Mr IP Kwok-him for moving a motion on the Report of the Working Group on District Councils Review (the Report). My thanks also go to those Members who have expressed their views on this motion. I believe Members and the Government have the same objective in mind, that is, we all hope to enhance the role of DCs in district affairs and to provide the public with better services.

The question of how to further elevate the functions of DCs was repeatedly discussed in the Legislative Council in the past year on various occasions, including the motion debate sponsored by Mr IP Kwok-him on 22 November last year, discussions on the Report in the Legislative Council Panel on Home Affairs and Panel on Constitutional Affairs during the past months, and this very debate today. These discussions are proof of this Council's concern on DCs and the importance it attaches to them.

Over the past two decades, the DCs have undergone many changes and developments. Being the most important advisory structure at the district level, the DCs have not only monitored more closely the delivery of services and facilities by government department in districts, they have also actively reflected public opinions on policies relating to people's lot, and playing an active part in upgrading the quality of public policies and efficiency of public services. The new DCs were established in January 2000. In July 2000, an inter-departmental Working Group was set up to identify ways to further enhance the functions of the new DCs.

In the course of the review, our first and foremost task was to listen to the views of the DCs and various sectors of the community on the functions of the DCs. As soon as I took office, I visited the 18 DCs and discussed with DC members in all districts the problems faced by the DCs and the proposed improvement measures. During these discussions, a number of mainstream views were brought to my attention:

- (1) DC members generally considered that government departments had not shown due respect and attached due importance to the DCs. This is particularly reflected by the ranks of departmental representatives attending DC meetings and their ability to resolve district problems;
- (2) Insufficient government funding and support to the DCs. Particularly, the establishments of the secretariats cannot cope with the increasingly heavy and busy council business of the DCs;
- (3) Insufficient government support to DC members. Particularly, the Accountable Allowance cannot meet the expenses of members' offices and the wages for the assistants of DC members;

- (4) DC members cannot obtain a full understanding of the formulation of government policies. They therefore find it very difficult to understand and monitor the effectiveness of the implementation of government policies in districts; and
- (5) DCs should and could more actively participate in and monitor district affairs, especially over the provision and management of facilities pertaining to municipal services.

In the District Administration Seminar held on 18 November last year, the 400-odd DC members attending the Seminar also put forward similar views. Having consolidated these views and listened to the opinions expressed by Honourable Members in the motion debate in November last year, the Working Group, after consideration and discussions, drew up 28 specific recommendations. Most of these recommendations are made in response to proposals made by DC members on their own initiative, and aim to further elevate the functions of the DCs under the principle that a gradual and orderly approach be adopted for this cause.

For example, it is proposed in the Report that departments responsible for district work, especially the two departments in charge of the provision of municipal services and the core departments tasked with other DC-related duties, should, in future, consult the DCs in advance on their proposed initiatives, measures and projects, and take on board the DCs' views in respect of the design and layout of the relevant facilities, provided their recommendations do not depart from the policies and are within the prescribed budget. This proposal will greatly enhance the accountability of departments and strengthen the role of the DCs in monitoring these departments as well as their actual influence on these departments.

Besides, the Working Group also proposed that all relevant departments should assign a suitable officer to provide "one-stop" services for DC members, and that they should clearly stipulate the ranks of their representatives attending DC meetings. These proposals will also enable departments to respond to the views of DCs and resolve district-based problems more effectively. Moreover, we also proposed that Policy Secretaries and Heads of Department overseeing matters affecting people's livelihood should maintain dialogues with the DCs on a regular basis, so that DC members can better understand the formulation of central policies and have the opportunity to directly reflect the views of DCs to the relevant Bureau Secretaries or Directors.

We also proposed to substantially increase the funding for DCs and the support for their secretariats. In this connection, the last Financial Secretary set aside \$100 million in the 2001-02 Budget for implementation of the recommendations in the Report. The Working Group proposed a 46% increase in the recurrent provision for DCs to implement community involvement and Minor Environmental Improvement projects, and in this provision the funding for Minor Environmental Improvement projects alone will increase by 50% compared with last year. We have also earmarked \$12 million to increase the staffing of the respective secretariats of the 18 DCs and that of the work sections, and an independent committee has been appointed to review the remuneration package of DC members.

To ensure that the recommendations can meet the needs of the public, a consultation exercise was conducted on the Report between July and September this year. Since many are of the view that the Government should not establish a consultative committee outside the DC framework to advise on the management and usage of cultural and leisure facilities, and that the relevant functions should rather be transferred to committees under the DCs, I can tell Members here that we will readily accept good advice and appropriately revise the relevant recommendations.

The first part of Mr IP Kwok-him's motion is, in substance, consistent with the position of the Government and therefore, we are most willing to support it. As for Mr Andrew CHENG's amendment which demanded that this recommendation be revised to the effect that the District Management Committees (DMC) be opened up for participation by more DC members, we have great reservations about it. On the composition of the DMCs, we proposed in the Report that chairmen of DC committees be allowed to attend meetings of the DMCs to facilitate discussion on and help finding solutions to problems in their respective districts. As the main duty of the DMCs is to co-ordinate the work of various departments in districts, if individual DC members are allowed to directly take part in meetings of DMCs, membership of the DMCs will thus greatly expand, in which case any DMC meeting will virtually become another DC meeting. This will not be of any concrete help to the co-ordination of district-based efforts and to resolving district problems. On the contrary, it will undermine the efficiency of the DMCs.

Yet, to enable DC members to know more details about the work of DMCs, the District Officer will submit a full report on the work of the DMC at each meeting of the DC, setting out in detail the progress of follow-up actions requested by the DC. Certainly, the District Officer of each district can also invite the DC members concerned to discuss individual matters concerning the district in depth with members of the DMC.

The second part of the motion moved by Mr IP Kwok-him called on the Government to gradually transfer to DCs some of its functions in respect of the provision of cultural, leisure and environmental hygiene facilities. Before I respond to this part of the motion, I would like to explain again the views of the Government on the devolution of executive powers to the DCs.

Insofar as the existing DC framework is concerned, if the executive decision-making function of departments is transferred to the 18 DCs, the number of executive decision-making bodies at the district level is bound to increase drastically, in which case confusion would arise in the decision-making process and in the powers and responsibilities of such bodies. I believe it is not the wish of the public to see 18 sets of municipal policy and service standards in this small city of Hong Kong. Therefore, while the recommendations in the Report will not turn the DCs into executive decision-making bodies, they will significantly enhance the monitoring role and influence of DCs over district-based services. With an enhanced monitoring role, the DCs can exert more direct and more practical influence on district administration of the Government.

In response to Mr IP's motion, we have no objection in principle to further looking into ways to gradually transfer to the DCs functions in respect of the provision of cultural, leisure and environmental hygiene facilities in due course. However, as the last review on the framework of district organizations was conducted only two years ago, the Government considers it inappropriate to effect substantial changes yet again to the *modus operandi* and functions of the DCs at this stage.

As regards Mr Andrew CHENG's proposal of putting in place a mechanism for the DCs to hold annual motion debates, we do not consider it necessary in reality. The DCs are already very busy with their work now. If they are strictly required to hold annual debates on various government policies, it would definitely affect the priorities and urgency of their work. As this proposal was not thoroughly discussed in the DCs in the context of the public consultation that has just been completed, we do not think that a mechanism

should be put in place under which the DCs are strictly required to hold annual motion debates.

Besides, the service of DC members should mainly be district-based. We believe all important and pressing district problems will be fully discussed at regular meetings of DCs. Should DC members feel disappointed with the responses of government departments, they can express their dissatisfaction through the Home Affairs Department or the Home Affairs Bureau or even by approaching the relevant Bureaux direct. They do not have to wait until the annual motion debates to express their views.

Moreover, as it will involve many Policy Bureaux or departments, if senior officials are required to attend the annual motion debates of all the 18 districts at specified time, the burden so created on the relevant officials will be difficult to bear. We consider that the existing practice of the Heads of the relevant Bureaux and departments meeting and maintaining dialogue with the DCs under the current arrangements to discuss with the DCs issues of concern will achieve better results. We, therefore, consider it inappropriate to put in place the proposed mechanism for holding annual motion debates at the level of DCs.

On Mr CHENG's proposal that the Government should consider setting up independent secretariats for DCs, we consider that the current work arrangements of the secretariats do not meet any major problems. At present, the District Officer of each district is responsible for discharging and following up the administrative duties of the DCs in accordance with the views of the DCs and therefore, the secretariats are currently set up under the District Offices. There is nothing wrong with this arrangement both in terms of principle and actual implementation. In the course of the consultation, the establishment of independent secretariats for the DCs was not an obvious mainstream view, and it appears that no consensus has yet been reached on this issue among DC members. Given the far-reaching implications of this proposal, we think that this proposal must be handled with care at this stage.

As for the proposal of holding joint meetings, we think this is no easy task either, for the number of members involved may turn out to be over 100 on each occasion, thus making discussions utterly difficult.

Madam President, as I said at the outset, the Government and Honourable Members actually have a common goal, that is, we all hope to enhance the role

and functions of the DCs so that the DCs can serve the public better. Our difference lies only in the speed. The Government is consolidating the views collated during the public consultation and will revise our recommendations having regard to such. Our target is to report the results of consultation and our final recommendations to the Legislative Council and the DCs within the next month, and to seek funding approval from the Finance Committee of the Legislative Council at the end of this year, in order to give effect to some of the recommendations. The Home Affairs Bureau and the Home Affairs Department will join force with the DCs to take up the responsibility of monitoring the implementation of these recommendations by government departments, to ensure that all recommendations are realized on schedule and bear results.

Madam President, Mr IP Kwok-him remarked in his speech that the DCs still have to work hard since the reforms have yet to succeed. The Government is of the view that the work of the DCs over the years is actually quite successful, but we do agree that we still have to work hard. Thank you.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the amendment, moved by Mr Andrew CHENG to Mr IP Kwok-him's motion, be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Mr Andrew CHENG rose to claim a division.

PRESIDENT (in Cantonese): Mr Andrew CHENG 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:

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

Dr Raymond HO, Mr Eric LI, Dr LUI Ming-wah, Mr HUI Cheung-ching, Mr WONG Yung-kan, Mr Abraham SHEK, Mr Henry WU, Dr LO Wing-lok and Mr IP Kwok-him voted against the amendment.

Mr James TIEN, Mrs Selina CHOW, Mrs Sophie LEUNG, Mr Howard YOUNG and Mr LAU Wong-fat abstained.

Geographical Constituencies and Election Committee:

Mr Albert HO, Mr Martin LEE, Mr Fred LI, Mr James TO, Dr YEUNG Sum, Miss Emily LAU, Mr Andrew CHENG, Mr SZETO Wah, Mr Albert CHAN, Mr WONG Sing-chi, Mr Frederick FUNG and Ms Audrey EU voted for the amendment.

Miss CHAN Yuen-han, Mr CHAN Kam-lam, Mr Jasper TSANG, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr TAM Yiu-chung, Dr TANG Siu-tong, Dr David CHU, Mr NG Leung-sing, Mr YEUNG Yiu-chung, Mr Ambrose LAU and Mr MA Fung-kwok 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, 20 were present, six were in favour of the amendment, nine against it and five abstained; while among the Members returned by geographical

constituencies through direct elections and by the Election Committee, 25 were present, 12 were in favour of the amendment and 12 against it. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negatived.

PRESIDENT (in Cantonese): Mr IP Kwok-him, you may now reply. You have four minutes 32 seconds.

MR IP KWOK-HIM (in Cantonese): Madam President, I probably would not exhaust the four minutes because this Council still has to discuss a motion proposed by Dr the Honourable LUI Ming-wah.

I wish to thank 11 Members, quite a few of them are incumbent or former District Council (DC) members, for speaking on my motion. They have participated in discussions and expressed their views, which proved that the DCs are good places for training talents for representative assemblies. I hope the Government would attach greater importance to the views of the DCs and provide them with greater support in future.

Most of the contents of the speeches of colleagues are related to the overall policy structure and the Secretary has also emphasized this. I hope that the Secretary will not shelve the relevant work for the time being because similar efforts were made two years ago. I also hope that the Administration together with the Constitutional Affairs Bureau would consider conducting a further review on the functions of the DCs in accordance with Article 97 of the Basic Law and really transfer to the DCs powers related to cultural and recreational, leisure, and environmental hygiene affairs. I also hope that the Government would expeditiously implement 27 of the 28 recommendations (one of them would not be put into practice) and other views expressed by Members of this Council. Furthermore, I hope that the scope of power of the DCs would be defined as soon as possible.

Lastly, I hope Members will support the motion proposed by me today. I hope that Miss Emily LAU will support this motion rather than holding opposite views as she did in the preceding motion debate. Thank you.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Mr IP Kwok-him be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

Mr Andrew CHENG rose to claim a division

PRESIDENT (in Cantonese): Mr Andrew CHENG has claimed a division. The division bell will ring for three minutes.

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

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

Functional Constituencies:

Mr James TIEN, Dr Raymond HO, Mr Eric LI, Dr LUI Ming-wah, Miss Margaret NG, Mrs Selina CHOW, Mr HUI Cheung-ching, Mrs Sophie LEUNG, Mr WONG Yung-kan, Mr Howard YOUNG, Mr LAU Wong-fat, Mr Abraham SHEK, Miss LI Fung-ying, Mr Henry WU, Dr LO Wing-lok and Mr IP Kwok-him voted for the motion.

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

Geographical Constituencies and Election Committee:

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 Frederick FUNG, Ms Audrey EU, Dr David CHU, Mr NG Leung-sing, Mr YEUNG Yiu-chung, Mr Ambrose LAU and Mr MA Fung-kwok voted for the motion.

Mr Albert HO, Mr Martin LEE, Mr Fred LI, Mr James TO, Dr YEUNG Sum, Miss Emily LAU, Mr Andrew CHENG, Mr SZETO Wah, Mr Albert CHAN and Mr WONG Sing-chi abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 20 were present, 16 were in favour of the motion and four abstained; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 25 were present, 14 were in favour of the motion and 10 abstained. 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: Developing nanotechnology.

DEVELOPING NANOTECHNOLOGY

DR LUI MING-WAH (in Cantonese): Madam President, I am very glad that I have the chance today to introduce Members to nanotechnology. My objective is to arouse the attention of Members because nanotechnology would affect the scientific research and economic development of the world in the 21st century.

What is nano? Nano is a numerical unit, it is 10^{-9} , that is, one billionth. A nanometre (nm) for measuring length is a billionth of a metre, that is, 10^{-9} m. If we use a 1 million times magnifier, we can see 1 nm magnified as 1 mm. If

we use a 300 000 times magnifier, we can see 1 nanometre magnified as 0.23 mm. The diameter of an atom, that is, the diameter of an atomic nucleus plus an electron, is only in the range of 0.1 nm to 0.3 nm, then you can imagine how small a nano unit is.

What is nanotechnology? Nanotechnology is the multidisciplinary scientific and technological research into the characteristics of substances, the interaction of these substances in the range of 1 nm to 100 nm and the application of these characteristics. When a matter becomes as small as in the range of 1 nm to 100 nm, it will undergo many changes as a result of quantum reaction, the limitation of the matter, assimilation, regionalism, enormous surface and interface effects, many qualitative changes that present themselves into many phenomena that are different from the macroscopic substance and the quality of the single, isolated atom. What is the ultimate purpose of nanotechnology research? It is the utilization of the new physical and chemical qualities of atoms, particles and substances to create more products with special functions. Members should be able to envisage the prospects of nanotechnology.

Around 40 years ago, scientists foresaw that if they could conduct research on materials within the nanoscale, they would strike stirring discoveries. But the rapid development of nanotechnology gathered momentum only in the late '80s. It was mainly because there was no scientific instrument before then for observing and manipulating such tiny particulates as atom and nano. The scanning tunneling microscope and atomic force microscope invented in the early '80s facilitated the research and development of nanotechnology.

The *Business Week* magazine of the United States ranked nanotechnology among the three areas that might make a breakthrough in the 21st century. The two other areas included life science, biotechnology and extraterrestrial energy. Since 1999, the United States Government has made nanotechnology research one of the 11 key areas of research within the 10 years before the turn of the 21st century. They thought that, just like information technology or biotechnology, nanotechnology would have significant effects on the economy, national defence and society in the 21st century, and it might induce another industrial revolution. It showed the degree of importance that the United States attached to the development of nanotechnology.

Actually, nanotechnology brings the knowledge of human beings about the material world into a new domain. This domain will be the source of

development of new technologies and full of virgin opportunities for innovation. From the perspective of sustainable development, nanotechnology will promote the development of microscopic and environmentally-friendly products with excellent properties. It will also be able to substantially save resources and energy, thus providing technology and assurance for sustainable development at a higher level.

Nanotechnology is the multidisciplinary and centralized embodiment of various disciplines and it cuts across and integrates them. However, we cannot incorporate nanotechnology into any traditional discipline of science. If nanotechnology is integrated with traditional disciplines, there may be such streams as nanomaterial studies, nanoelectronics, nanobiology, nanochemistry, nanomechanical studies and nanoprocessing. Yet, these disciplines will intersect and overlap one another.

The development of nanotechnology has very promising prospects. Let me give several examples. Regarding materials and manufacturing, through precision control of composition and size, we can produce nano-class lighter and harder new materials or various materials that are not found in Nature. In respect of microelectronics and computer technology, as nanomaterials are so tiny, the efficiency of nanomicroprocessor will increase by 1 million times and the storage efficiency will even increase by 10 million times. Concerning the environment and energy, materials with sequential nanometre holes and nanomembranes can be used to eliminate water and air pollution. Nanomaterials can also substantially increase the energy conversion efficiency of solar cells. In medicine and health, after intelligent drugs wrapped in nanoparticles have entered the body, they can voluntarily seek and attack cancerous cells and mend damaged tissues. They can produce artificial tissues, devices, organs and nanosensory systems. In biotechnology, on a nanoscale, bioactivated protein and Ribonucleic acid can be produced according to preset symmetry and order. If biomaterial is embedded into nanomaterials and devices, articles so produced will have biological and other functions. Biological bionic chemical products and biodegradable materials can produce gene chips for improving and treating animal genes and DNA analysis. In aerospace and aviation, nanodevices can increase the effective load and reduce energy consumption, produce nano-class new materials and electronic devices, heat-resistant and wear-resistant nanostructure coating, and be used for testing and control instruments.

Let us take a look at the plans of developed countries for developing nanotechnology. In February 2001, the United States announced that it would start promoting the National Nanotechnology Scheme. It would conduct basic research and innovative application, and set up 10 nanocentres and networks. Last year, the United States Government injected US\$500 million into the relevant research.

Germany is going to establish six nanotechnology research and development centres and start promoting a national research scheme, with a national injection of US\$370 million into the relevant research.

France is going to set up a nanotechnology invention centre comprising 3 500 people and the Government will make an investment of FF 800 million.

In fact, Japan is the first country to implement a nanotechnology research scheme. Japan has now continued to promote nanotechnology research that started long ago. Last year, Japan invested US\$400 million in the promotion of a new national scheme and setting up a new research centre.

Korea set up a Nanotechnology Industrialization Committee last year. At this stage, they focus on such domains of research as semiconductor and fibre-optic communication industries as well as industries related to biology, energy and the environment. Korea has established material manufacture and works as the basic domains.

Let us take a look at the development of nanotechnology in mainland China. The Chinese Government realized the importance of nanotechnology long ago. Last year, the Ministry of Science and Technology started the promotion of key nanomaterial-related basic research projects of the State. China has made significant achievements in nanomaterial research. There are over 300 nanotechnology-related enterprises all over China and a nanomaterial and research industry belt is formed, centring around Beijing, Shanghai and Shenzhen. In June this year, the Chinese Science Institute set up in the Northeast the Shenyang State Materials Science (Union) Laboratory, the major task of which is to conduct research in nano-class materials. China makes an annual investment of around US\$500 million.

Hong Kong is not lagging behind in nanotechnology research. The Institute of Nano Science and Technology of the Hong Kong University of

Science and Technology has made great achievements in basic research. The Institute has successfully produced the smallest single-walled carbon nanotubes in the world this year, and it is the first to discover that a single-walled carbon nanotube of only 0.1 nm exhibits superconductivity. Besides, it has also made a breakthrough in the research on current liquidation.

Lastly, let us look at the significance of nanotechnology in the economic domain. The *New Technology Weekly* of the United States pointed out that nanotechnology was a major engine for economic growth in the 21st century, and its functions far exceeded the effects of microelectronics on the world in the latter half of the 20th century. We have all seen the effects of microelectronics and electronics on the world economy in the past 30 years. The research in and future development of nanotechnology will have greater effects on the world economy than electronics. Nanotechnology not only has revolutionary effects on information and biotechnology industries; it also promotes the reform of such traditional industries as dye, paint and food industries. As nanotechnology has penetrated into traditional industries, the total value of nanotechnology and the relevant industries in the world in 2000 was US\$370 billion. It may reach US\$780 billion in 2005 and US\$1,440 billion in 2010. Evidently, nanotechnology and the business opportunities created by it are golden opportunities, following semiconductor. Although other countries have engaged in the relevant research and development for almost 10 years, as this is a brand new domain, there is still plenty of room for development in respect of basic research, theoretical study, device manufacturing and application. The Government of the Hong Kong Special Administrative Region should strategically consider taking actions, organizing, leading and supporting the technological research and industrialization of nanotechnology at once, and actively participating in this epoch-making industrial revolution so as to promote our economy to ascend another peak.

Thank you, Madam President.

Dr LUI Ming-wah moved the following motion: (Translation)

"That, as the rapid development of nanotechnology, an emerging domain of science, will bring about revolutionary changes to all industrial sectors in the 21st century, and all developed countries are now actively researching this domain, this Council urges the Government to develop nanotechnology, with a view to fostering the development of the local economy."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That Dr LUI Ming-wah's motion be passed.

MR HOWARD YOUNG: Dr the Honourable LUI's scientific and mathematical explanations of "nano", to a layman like me, really means short and small. So I will also attempt to make my speech short so that it will not make this debate extending to the nano hours of the morning.

MR HOWARD YOUNG (in Cantonese): Madam President, according to the research report of the Euro Committee, within a short period of time, the development of nanotechnology will become the second largest manufacturing industry in the world, following chip manufacturing. As compared with other domains of research, nanotechnology can be regarded as a large piece of virgin land, and the advanced countries in the world have already injected a lot of resources into the development of this new area.

Although basic scientific research and high technology industries are not the expertise of Hong Kong, the research in nanotechnology in Hong Kong has gain a footing in the world in recent years. The research in nanotechnology of the Hong Kong University of Science and Technology (HKUST) has made a significant breakthrough and the HKUST has established a first Institute of Nano Science and Technology in Hong Kong. The Liberal Party thinks that Hong Kong should encourage nanotechnology research which has enormous potentials of application to couple with the development of high technology.

Talent is an important prerequisite for scientific research. In this respect, Hong Kong should endeavour to attract talents of the highest calibre to conduct research in Hong Kong. This *crème de la crème* will then attract more of their kind to Hong Kong to form a virtuous cycle. With the trend of globalization, all countries will continuously introduce preferential measures to attract professionals and prevent brain drain. For example, the United Nations published the Report on Manpower Development 2001 in August this year. It was estimated that 100 000 professionals in India, mostly computer software talents, would migrate to the United States within the next three years. India would lose US\$2 billion education investment alone. Therefore, Hong Kong should remove all the restrictions that impede the admission of professionals, regardless of whether these people come from foreign countries or the Mainland.

Furthermore, the Government should give our universities more freedom in determining the remuneration of research staff to attract and retain more talents.

Hong Kong is lagging behind in respect of money. According to the Annual Report on World Competitiveness 2001 published by the Institute of Management Development, 49 major regions in the world had an annual per capita expenditure of US\$270 in research and development on average. However, Hong Kong had an expenditure of only \$57, ranking 29th among the 49 regions. Hong Kong only ranked 26th in respect of the per capita expenditure of the business sector on research and development. Evidently, the Government and the business sector should inject more resources into research.

It is worth noting that not fewer than 50 tertiary institutions and 300-plus mainland enterprises are engaging in basic and applied research on nanotechnology. The Government should encourage the universities in Hong Kong to enhance exchanges with the mainland research institutions, to explore the feasibility of co-operative research and make better use of the research resources. The Liberal Party also hopes that the applied technology research institute, once commissioned, would co-operate with local research institutions to develop through high level midstream research basic research results into commodities that could generate foreign exchange, thereby assisting in the development of Hong Kong into a knowledge-based economy.

Madam President, I so submit.

DR RAYMOND HO (in Cantonese): Madam President, there should be more rapid technological advancement as the times advance, otherwise, we would lag behind others and we would ultimately be flushed away by the powerful current of survival of the fittest. Such countries as the United States, Germany, France and Japan have endeavoured to develop nanotechnology in recent years. At the Fifth Plenary Session of the Fifteenth Central Committee, the development of nanotechnology was specifically listed as an important task in the Tenth Five-Year Plan. How can such an international city as Hong Kong that can be traced to the same origin of our Motherland overlook the development of nanotechnology?

"Nano" is a unit for measuring an article. Putting it more simply, it is 1 millionth of 1 mm. A strand of hair is around 60 000 nano thick. We can

then imagine how small a nano unit is. Nanotechnology is technology for the development of minuscule substances. Nanotechnology involves changing the state and stiffness of matters by directly controlling and rearranging the structure of atoms and molecules within the nanoscale. All matters are made up of atoms; the way in which the components of an article is arranged precisely constitutes the characteristics of the article. Let us taking a piece of cloth as an example. If its fibre is arranged rather tightly, it can filter larger matters, but such tiny matters as germs can still pass through. A more tightly arranged piece of cloth can be manufactured by means of nanotechnology. In other words, such tiny matters as germs and pigments would be filtered. At that time, waste water could be turned into potable water and the problem of water shortage would be readily solved.

Apart from the technologies above, nanotechnology can contribute substantially to medicine, business and even national security. Nanotechnology can manufacture lighter and stronger materials of commercial value. In national security, advanced nanotechnology electronic equipment can be used in information control and even for more effective missile interception technology.

In view of the above values, no wonder the United States announced in February this year that US\$495 million would be allocated for development of nanotechnology in the financial year 2001. In recent years, China has actively developed nanotechnology; it has made important progress and aroused international concern. In particular, in respect of nano carbon diodes and nanomaterials, China has made some research achievements. On the whole, China is still lagging far behind the United States and Japan. For the interest of China, we must try hard to catch up with the others in respect of economic affairs, medicine and national defence. As a member of China, I think Hong Kong is duty-bound to assist the Motherland in promoting the technological achievements of China to the full. Actually, Hong Kong has made great achievements in nanotechnology in recent years because the scientists in Hong Kong have produced the smallest carbon nanotubes in the world and observed that the smallest single-wall nano carbon diodes exhibited superconductivity. In the long run, nanotechnology development is certainly conducive to our economy and it would lift the international status of Hong Kong. The Government should definitely not miss the opportunity and it should provide adequate support so that we could catch up with the most advanced countries in respect of nanotechnology.

Madam President, for the above reasons, I think that nanotechnology is a valuable area that merits our concern and scientific research.

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

DR DAVID CHU: Madam President, I am rather impressed by Dr the Honourable LUI Ming-wah's very complicated speech. *(Laughter)* Because of my nanometre-sized brain, it probably would take me a long time to fully comprehend all the intricacies. I certainly share Dr LUI Ming-wah's vision of the important role that high technology plays in the future development of Hong Kong. Hong Kong's transition to a high-technology-based economy is a long journey, and I am glad that the Government, under the leadership of Mr TUNG, has already taken the decisive initial steps.

I was rather fortunate to witness the development of the two greatest high technology centres in the world. I was working and living in Boston in the 1960s, and watched its development into a high technology centre. And by chance, I was also present in San Jose, California in the mid-70s when it developed into what it is better known as the Silicon Valley today. These cities developed into high technology centres, not because the government had a policy, and not because their local legislatures had a debate on high technology. This happened because there is a demand in the market place for high technology. So we should first focus on the market and the demand, not on making ourselves a high technology centre. It is the other way round.

In the case of Boston, it is the demand for defence technology that enables Boston to fulfill this demand. And in the case of San Jose, California, it is the development of personal computers and Internet that enables San Jose to fulfill this demand and to develop into a high technology centre. So we must focus first on the market place, or which market that we want to serve. And once we have identified the market, then we have to decide which high technology that Hong Kong is best suited to move into. We may decide to serve the global market or the Asia market or the China market. The China market is the largest emerging market in the world. Once we have identified a market place, then we have to identify which high technology that we want to participate in, whether it is nanotechnology, bioelectronic technology or advanced Chinese medicine technology. Once we have identified the kind of technology, then we need to gather the experts, whether they are from China, North America, Europe or

Israel. And we need government policies to facilitate the gathering of these technical experts in Hong Kong, who would help us develop various products and services to serve our target market. This is the process. And our world-class business infrastructure and financial infrastructure should be a great help in our future development in high technology. I think our knowledge about the greatest emerging market in the world, that is China, will enable us to have a very strong competitive advantage *vis-a-vis* other competitors.

Therefore, Madam President, I fully support Dr LUI Ming-wah's motion. Thank you.

MR YEUNG YIU-CHUNG (in Cantonese): Madam President, although the development of nanotechnology has not been widely discussed in Hong Kong, it has been a frequently reported subject in popular science magazines in recent years. We would then understand that many unprecedented products or technologies would appear with the development of nanotechnology. For instance, sensors that can detect the noise produced during cell division in human bodies would allow the medical sector to discover cancerous cells in patients at an early phase. It really sounds unimaginable but the breakthrough in physics and the emergence of new theories are really smashing the existing technological constraints and developing products and materials with more outstanding properties from a new perspective. Scientists have anticipated significant changes in such domains as information systems, building materials, medical care, the environment, energy, aerospace industry and military weapons. Taking information systems as an example, computers utilizing nanotechnology would become popular in the community around 15 years later. Thus, we would live in a nano era very soon.

Evidently, nanotechnology is the tendency for the development of international competition precisely because it involves the future economic strength of a country or place, thus many developed countries have recently switched to the fast lane of the highway and established many research centres. As a result, they would have more patent interests in future.

These countries have formulated their respective strategies for development and gradually injected a lot of human and material resources into the same. Local enterprises have also jumped onto the bandwagon to develop business opportunities that correspondingly boost the development of research in

nanotechnology. Even though China is not yet ranked among the developed countries, as it understands the importance of nanotechnology, it is fully devoted to this competition. Mr JIANG Zemin, the President of China, has also indicated that China has to do better in basic and applied research on nanotechnology. At the local level in China, for instance, Shanghai has a specific resource allocation scheme to facilitate the development of nanotechnology and industrialization by almost 20 research institutions in Shanghai focusing on four aspects, namely, research and development, constructing a research platform, establishing a base for industrialization and gathering talents.

If Hong Kong overlooks its participation in the development of nanotechnology, it has only itself to blame if it lags behind others in various aspects in the future. Therefore, this motion debate is significant in that it conveys the wish that the SAR Government would practically utilize resources to promote the conduct of more researches in Hong Kong and gathering and training talents as well as establishing the basis for our future competitiveness.

Whenever we discuss technological development, the community would perhaps think that Hong Kong is disadvantaged in respect of technological development, and it should develop short-term projects with substantive benefits instead. In response to these remarks, I would only like to say that, though the problems of Hong Kong lie in the lack of technological talents and a weak atmosphere for the development of technology, we must carefully evaluate our established foundation rather than rashly underestimate the contribution to be made by technological research. As regards nanotechnology, Hong Kong is not starting from nil or lacking in ideas or direction. The universities in Hong Kong have made outstanding achievements in nanotechnology research and some organizations have recently organized seminars in Hong Kong. Therefore, community concern has been aroused in some measure and there is already some preliminary understanding of nanotechnology. Thus, Hong Kong should not think that technological research could not increase our competitiveness simply we do not have an edge presently. The SAR Government should adopt a more positive attitude towards the use of technology to help improve the overall capability of Hong Kong.

Therefore, the SAR Government should seriously plan how Hong Kong should increase investment in nanotechnology to enable its development on a sustained basis. Certainly, it includes how to deploy researches at various

levels, for example, better-equipped sites and facilities for experiments. On the one hand, the objective is to increase the technological capability of Hong Kong, while on the other, the objective is to offer more substantive assistance in different aspects, especially the industrial aspect. The application of nanotechnology would open up new horizons for products and services and enhance the economic competitiveness of Hong Kong.

Hong Kong should make use of the multi-application characteristics of nanotechnology to give Hong Kong superiority in certain domains. As nanotechnology has multidisciplinary characteristics, we can say that its usage has endless possibilities. Let us imagine this: if Hong Kong can successfully apply nanotechnology in one or two traditional industries, for instance, the textile industry that attaches great importance to the use of materials, nanotechnology research would be able to discover more materials with new properties. If Hong Kong can make achievements in the textile industry in this respect, it will live up more to its claim as a city of innovation and technology. Thus, the SAR Government should definitely attach greater importance to nanotechnology.

Apart from economic benefits, if the situation of international competition still leaves Hong Kong ample room for development, we should regard this as an opportunity for Hong Kong, and the SAR Government should actively consider making investments in nanotechnology. The present situation is that even though some countries in the world have a longer history of nanotechnology research, on the whole, nanotechnology research in the world is still at the beginning stage and there are numerous other scientific domains where nanotechnology can find room of exploration and development.

Summing up, Hong Kong is capable of and has a chance to participate in developing nanotechnology and its economic implications into an edge of Hong Kong. I hope that the Government would actively respond to the aspirations voiced in the debate today.

I so submit.

DR LO WING-LOK (in Cantonese): Madam President, I know very little about nanotechnology and I even have very shallow understanding of the medical application of nanotechnology. I am speaking today firstly because I wish to thank Dr LUI Ming-wah for bringing such an important and interesting topic into

this Council. Secondly, we can actually consider the development of nanotechnology as a typical case of industrial and technological development in Hong Kong. Although nanotechnology has been under development in foreign countries, it still has a very short history. If we start promoting nanotechnology in Hong Kong at this time, we still have a chance to catch up. Therefore, if Hong Kong wishes to copy other high technology industries in foreign countries, it may have to pay a very high price if it starts doing so now. Yet, as nanotechnology is relatively new, it is not too late for Hong Kong to start developing it now and we could still become competitive. Thus, I would support Dr LUI Ming-wah's motion and call upon the Government to pay attention to this area and try its best to assist in its development.

I also agree with the remarks just made by Dr the Honourable David CHU. Technological and industrial development has to be market-led and relies on the existence of a market. But we must consider that the future industrial development of Hong Kong depends on basic scientific research. In fact, we can approach a project that is useful and can stimulate the conduct of basic scientific research in Hong Kong from two angles, that is, market orientation and encouragement to tertiary institutions in respect of development. Hence, if the Government can give support in this respect, we stand a very good chance of achieving an "all win" situation.

If we use nanometre as a unit of measurement, all Members will become giants. But if we draw a comparison between the functions and potentials of nanotechnology and us, have we done a lot during the period from 2.30 pm to 11 pm? For this reason, the civilization and evolution of society and scientific development actually relies on technological advancement. For the same reason, I speak in support of the development of nanotechnology in Hong Kong in order to make Hong Kong more modernized and keep a better pace with the future development of the world.

Madam President, I so submit.

MR SIN CHUNG-KAI (in Cantonese): Madam President, the Democratic Party has always agreed that industries in Hong Kong should aim at high value-added and diversified development. There are two major objectives: first, promoting the technological standard of local businesses and local businesses in the Mainland, and increasing the competitiveness of Hong Kong in export and re-

export; and second, lifting the technological standard of local technological talents and the investment atmosphere of high value-added enterprises. This would further attract overseas high technology (high tech) companies or groups to set up head offices in Hong Kong and carry out such high value-added activities as scientific research and development, financing, production management and logistics. Then, the development of various trades and industries would be promoted.

Hong Kong can certainly develop such high value-added industries as nanotechnology, life science, biological technology or obtaining extraterrestrial energy as Dr LUI Ming-wah has mentioned. But how to and who should make the choice? The Democratic Party thinks that, in general, it is not most suitable for the Government or the Legislative Council to make the choice, but for private enterprises to do so. The role of the Government should be to provide necessary assistance to various trades and industries such as the technological domains. It can provide general assistance such as capital, land or manpower training and trade-specific assistance such as the assistance provided by the Cyberport project to the information technology industry or sector. There will certainly be exceptions. For example, some countries have to develop the strategic national defence industry, or when the community has reached a consensus to develop industries with higher risks for the sake of long-term economic benefits, the Government may have to take the initiative more readily and play a more positive role.

The motion proposed by Dr LUI Ming-wah urges the Government to develop nanotechnology. In the first 10 minutes of his speech, he taught us what nanotechnology is and I am very grateful to Dr LUI for this lesson. If we conduct a search on the word "nanotechnology" at the yahoo.com website, we can find dozens of websites where we can look up the relevant information. The crux of the problem is how the Government can assist and what role it should play. It is necessary to define in greater detail the meaning of organization, leadership and support. In view of the relevant policies of assistance of the Government, it seems that it would be able to assist in the development of nanotechnology to a certain extent. Dr LUI Ming-wah has referred to the experience of the Hong Kong University of Science and Technology, so I do not intend to repeat it here.

Debates over whether Hong Kong should develop high technology have been ongoing throughout the last 10-odd years, and the community has roughly

reached a consensus nowadays. In recent years, the government policy on technology has indicated that the Government has consciously provided high tech industries with more assistance but, sometimes, it is not a matter as to whether we should develop high technology but why Hong Kong has always failed to develop high technology well. Let us take a look at some specific difficulties. Do we have problems in respect of capital or land? I recall Dr LUI Ming-wah has proposed to discuss the need to support the development of the semiconductor industry. Some said that we needed 200 hectares of land, but we do not have that much land. We are actually facing serious difficulties. There are many vacant factories in the three industrial estates, but we are not in lack of factories and land. The Government has allocated \$5 billion to set up the Innovation and Technology Fund and the Fund has entered the second year of operation and started having headaches. It has headaches for there are not enough applications. In other words, not enough people have filed applications for the development of technological and research projects. What exactly are the organization, support and leadership suggested by Dr LUI Ming-wah? I hope that Dr LUI can give us an account or explain this in detail on some other occasions or when he responds later.

I wish to say that, when we mention the development of high value-added and high tech industries, the objective is not necessarily the establishment of high tech production lines in Hong Kong to increase the competitiveness of our exports. The comparative advantage of Hong Kong lies in the various business service industries. If we can further attract mainland and international high tech industries to set up regional head offices in Hong Kong, they may use the services of Hong Kong and Hong Kong would thus benefit from it. To achieve this, we should not only train up more talents for basic research but also provide technology-related professional training to various industries, especially the service industry in which Hong Kong has an edge. The Democratic Party suggests that the Government should encourage nurturing professionals in technological analysis or assessment, and evaluation institutions for commercialization of technologies, so as to provide the market with more professional and independent analyses and investments. At least, it will assist more practitioners in the financial industry and professional service practitioners to better understand the new trend of world technological development such as the definition of nanotechnology.

Madam President, the Democratic Party will support this motion today on the basis of our support for technological development. Apart from what I just

said or the general channels of technological support that the Secretary would point out in his response later, the Democratic Party is also willing to explore additional channels or methods. Yet, apart from the existing support, Dr LUI has not mentioned the additional support that should be provided by this Council or the Government. In any case, we think that we will support the motion in spirit and we are going to support it today. Nevertheless, while the Government proposes giving certain industries substantive support, it should put forward the proposal for discussion so that Members could express more substantive views.

I so submit. Thank you, Madam President.

MR CHAN KWOK-KEUNG (in Cantonese): Madam President, nanotechnology is not a new topic in Hong Kong and some universities started research on nanotechnology back in 1995, only that the community has not attached importance to the topic so far. In recent years, the Government has continuously advocated the development of high tech and high value-added projects and it has focused on such areas as computer and information technology. Yet, it has not shown concern for nanotechnology that has enormous potentials for market development.

Nano is a unit of geometric measurement and 1 nm is 1 billionth of a metre. Nanotechnology is the creation of matters with special properties through the manipulation and arrangement of atoms and molecules within a nanoscale. The relevant research involves examination and exhibition in three areas, namely nanomaterials, nanodevices and nanosize. Modern scientific research has discovered that nanomaterials not only have changes in light, heat, charge and magnetic characteristics but also a variety of new characteristics such as radiating, absorbing, catalytic and disinfectant functions.

The technology can be applied to any domain and it has unlimited potential for application in all technological researches such as information technology and biotechnology. For instance, as far as medicine is concerned, it can increase the effectiveness of disinfectants by 200 times. It can also promote the reform of traditional industries. For instance, nanotechnology has been introduced to such industries as printing and packaging, animal husbandry, domestic electrical appliances manufacturing and the textile and garment industries. According to statistics, the global nanotechnology market reached US\$75 billion last year and the technological departments in Germany have anticipated that the market would reach US\$1,440 billion by 2010.

Various countries in the world have injected a lot of human and material resources into nanotechnology with the hope that they could have a share in the market development. In February this year, the United States announced a National Nanotechnology Scheme and the research funding has increased from US\$116 million in 1997 to US\$495 million this year. Korea has decided to set up a special nanotechnology committee with a capital injection of 1,480 billion won for the development of nanotechnology and talent nurturing. France has also invested FF 800 million into the setting up of a nanotechnology invention centre that occupies 8 hectares of land and employs a research staff of 3 500 people. It has also established a home of micrometre and nanometre specialized in patent applications and assisting researchers in setting up enterprises of innovation.

Turning back to Hong Kong, a scheme for nanotechnology development has yet to be launched. In the past three years, the Hong Kong University of Science and Technology (HKUST) got \$14 million funding from the University Grants Committee for nanotechnology-related research projects. The HKUST itself injected a \$10 million research funding for the first Institute of Nano Science and Technology in Hong Kong it established in May this year. Evidently, Hong Kong has made terribly little investment in nanotechnology.

At present, the United States is the leader in nanostructure device systems, nanoparticulate manufacture and composition as well as nanobiology while the European Union is more prestigious in nanodevices, nanoequipment and ceramic and other structural materials. Japan has a very prestigious status in nanodevices and reinforced nanostructure. We cannot overlook the actual strength of Germany in such technological domains as nanomaterials and nanosurveying.

Hong Kong can no longer be indifferent to the global trend of nanotechnology development and it should inject more resources to encourage universities and technological research institutions to conduct basic researches, and to nurture and absorb nanotechnology talents. At the same time, it should also set up a nanotechnology research and application centre to consolidate the preliminary nanotechnology research results and experience of various sectors to conduct deep-level researches into its exploration and application. The HKUST developed the world's smallest carbon nanotubes and observed that the world's smallest single-walled carbon nanotubes exhibit superconductivity in April and July this year respectively. As the whole research effort from beginning to end was completed in Hong Kong, it proves that Hong Kong has the relevant talents but it only lacks complementary efforts in other aspects.

The successful conduct of any technological research relies on the co-operation and support among officials, academics and businessmen. This year, the Japanese Government injected 10.6 billion Japanese yen, more than double that of last year, into nanotechnology for the construction and expansion of research and development facilities. Quite a few enterprises such as Fujitsu and Sumitomo have also injected plenty of resources. In the academic domain, the University of Tokyo and the University of Osaka have designed a nanotechnology centre. The Chinese Government has ranked nanotechnology among the overriding key projects under the Tenth Five-Year Plan. Over 20 research institutes and over 50 universities have conducted nanotechnology research and hundreds of enterprises have indicated support for the commercialization of the technology.

What about Hong Kong? According to Prof Ping SHENG, Director of HKUST's Institute of Nano Science and Technology, though they are confident that they would preliminarily achieve the industrialization of nanotechnology within two years, the business sector remains conservative towards high tech investment and requests the production of technological products within half a year. As a result, they have failed to gain the support of suitable business partners.

As an international centre of finance, Hong Kong should fully take advantage of its edge to encourage enterprises engaging in nanotechnology research to secure financing in our market. Recently, a company engaging in the production of PCC nanopowder and micro-ceramic powder has successfully been listed on our venture board. That is a very good start.

We hope that the Government would consolidate the development of nanotechnology. Apart from giving subsidies, it should provide matching infrastructure and monitoring mechanisms, and conduct extensive education and publicity to increase the support for and acceptability of nanotechnology by enterprises and various sectors of the community.

Madam President, I so submit.

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

(No Member responded)

SECRETARY FOR COMMERCE AND INDUSTRY (in Cantonese): Madam President, after long hours of meeting, I found that many Members now look absolutely shattered. To refresh their spirits a bit, I beg your indulgence to say something more lighthearted before I respond to this motion.

Indeed, Dr LUI and me are brought together by fate. It is because the first oral question today was asked by Dr LUI and replied by me. Then the last motion debate tonight was again proposed by him and here I am replying to it now. So, we are indeed brought together by fate. Just now a Member (whose name I am not going to divulge) gave me a note on which it says, "CHOW Tak-hay, you had better be frank and make no pretence. Do you have any idea about nanotechnology before this debate?" (*Laughter*) Now I have to speak in English as I am going to make an allusion to the Constitution of the United States:

Madam President, if this were the US Congress and I was asked this question, I would invoke the fifth Amendment on the ground that my answer might serve to incriminate myself.

I am grateful to Dr LUI Ming-wah for raising this issue which is new to most Hong Kong people and, yet, a very important issue. I believe most people do not know much about nanotechnology. Personally, I only had some very superficial understanding of it and it was remote to me before this debate. I think most people are strangers to "nanometre" (納米), and are probably more familiar with "倒米" (trouble-making) or "蛀米" as in "蛀米大蟲" (referring to people who only eat and play but do not work). So, I must thank Dr LUI Ming-wah and other Members for providing valuable input on the development of nanotechnology in Hong Kong.

Nanotechnology will emerge as another revolutionary torrent in the wake of developments in information technology and biotechnology. The associated economic opportunities and improvements to the quality of living of human beings are unquestionable. Nanotechnology is closely related to such disciplines as electronics, information technology, biotechnology and precision engineering, and serves as a link for them to pursue further development.

As Dr LUI Ming-wah pointed out earlier in the debate, many advanced countries have recently injected massive resources into the research and

development of nanotechnology. But I must point out that in most cases, resources are injected in national projects. For instance, since 1999 the Government of the United States has included nanotechnology as a key domain of scientific research for the decade preceding the 21st century. In February 2000, the President of the United States announced that the Federal Government would give priority to the "National Nanotechnology Initiative". Research centres on nanotechnology have also been set up in Japan, Britain, Germany, France, Switzerland, Sweden and some other advanced countries.

Our country has also taken positive steps for the development of nanotechnology. Last year, the Ministry of Science and Technology of China initiated a project on nanomaterials under the National Basic Research Priorities Programme.

In Hong Kong, the appropriate usage of nanotechnology and nanomaterials to support industrial innovation and upgrading is in line with the Government's policy to promote innovation and technology. To implement our policy, we will have regard for the unique situation of the Hong Kong economy and use the existing back-up measures in Hong Kong to support the applied research and development of nanotechnology, with a view to exploiting the opportunities associated. Earlier on, some Members opined that the Government has attached little importance to the development of nanotechnology. This is simply not true.

In the past two years the Government has provided funding at more than \$50 million to nanotechnology-related basic and applied research. The Research Grants Council supported over 30 projects related to nanotechnology and facilitated the establishment of the Institute for Nano Science and Technology by the Hong Kong University of Science and Technology.

With regard to the Innovation and Technology Fund, it is estimated that more than \$15 million will be provided to support projects relating to nanotechnology.

Apart from providing funding support for nanotechnology-related research projects, it is more important to encourage the academia to transfer the research results to the relevant industries, so as to facilitate the commercialization of the results and the emergence of high technology firms.

This year, the Innovation and Technology Fund has supported a number of projects featuring the application of nanotechnology. For example, the development of photocatalytic nano-coating, the application of nanotechnology in manufacturing high velocity cutting tools, and the application of nanotechnology in the electrophoretic process. These projects mainly aim to study how the application of nanotechnology can upgrade the technological standard of and induce more innovations in manufacturing industries, with a view to enhancing the value-adding ability and productivity of such industries.

Moreover, the Innovation and Technology Fund is soliciting projects on the application of nanotechnology to conventional clothing materials, in the hope that nanotechnology can be introduced to conventional industries. The deadline for application happens to fall on today, and the Government will carefully examine all applications received.

The world economy is rapidly developing in a direction with knowledge-based and high value-added business activities taking the lead. Therefore, we do appreciate and share Members' concern. We will pay close attention to the development of high technology in the world, including the latest development of nanotechnology.

The Innovation and Technology Commission has launched a comprehensive study and analysis on the development of nanotechnology in Hong Kong. The objective is to obtain a clear understanding of the scope for and potential of the development of nanotechnology in Hong Kong, thereby ensuring well-targeted injection of resources, fostering co-operation with the Mainland and the international community, and facilitating the efforts of the relevant education institutions to effect a reasonable division of work and provide a greater driving force. On the other hand, the Council of Advisers on Innovation and Technology will also closely monitor the development of nanotechnology in Hong Kong.

To end, Madam President, I wish to thank Dr LUI again for giving me this opportunity to 挑燈夜"辯" (meaning burning midnight oil to engage in a debate) tonight, and I solemnly stress that it is "辯" as in "辯論" (debate). *(Laughter)* Thank you, Madam President.

PRESIDENT (in Cantonese): Dr LUI Ming-wah, you may now reply. You have three minutes 37 seconds.

DR LUI MING-WAH (in Cantonese): Madam President, nanotechnology is an emerging domain of science which is a stranger to most Members. I am glad that seven Honourable colleagues have spoken in support of the motion. Besides, I have also learned much new knowledge from the speeches made by Honourable colleagues and the Secretary.

Some say representative councils are a political arena. Indeed, heated debates on political issues often take place in this Chamber. However, if this Council can unanimously vote in favour of my motion on developing nanotechnology today, we will be telling the people of Hong Kong very clearly that we are also very much concerned about the development of the local economy and the development of science and technology. Here, I just hope the Government of the Special Administrative Region will listen to Members' heartfelt wish and take proactive and positive actions to promote the development, application and industrialization of nanotechnology, with a view to fostering the sustained development of the local economy. Thank you.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Dr LUI Ming-wah be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

NEXT MEETING

PRESIDENT (in Cantonese): I now adjourn the Council until 2.30 pm on Wednesday, 7 November 2001.

Adjourned accordingly at twenty-one minutes past Eleven o'clock.

Annex I

WRITTEN ANSWER

Translation of written answer by the Secretary for Constitutional Affairs to Miss Emily LAU's supplementary question to Question 5

We have collated some examples in which principal officials debriefed the Legislative Council on their participation in meetings on cross-boundary co-operation. Details are at Appendix A.

As stated in my main reply, apart from debriefing the Legislative Council, bureaux would also, depending on the issues involved and the progress of the discussions with the relevant mainland authorities, disseminate information about the meetings as soon as they could through other channels. The more common practice is to issue press releases and meet the media. In this connection, we have compiled some examples where the principal officials informed the public of meetings on cross-boundary matters through such channels. Details are at Appendix B.

The attached lists have not covered each and every principal official as some of them do not have an operational need to hold meetings with the mainland authorities on cross-boundary issues.

I wish to take this opportunity to point out that the Government of the Special Administrative Region (SAR) has always acted in a responsible manner and, dependent on the actual circumstances, kept the Legislative Council and the public informed of the progress of issues regarding cross-boundary co-operation.

Appendix A

Cross-boundary matters discussed with mainland officials

*Date of discussing the issue at
the Legislative Council*

Chief Secretary for Administration

- | | |
|---|--|
| 1. Issues of mutual concern between Hong Kong and the Mainland (for example, the economic performance of Hong Kong) | 18 October 2001
- Legislative Council meeting |
|---|--|

WRITTEN ANSWER — *Continued**Cross-boundary matters discussed with mainland officials**Date of discussing the issue at
the Legislative Council**Secretary for Justice*

- | | |
|---|---|
| 1. Service of judicial documents in civil and commercial matters between the Mainland and the SAR | <p>15 December 1998</p> <ul style="list-style-type: none"> - Legislative Council Panel on Administration of Justice and Legal Services <p>16 January 1999</p> <ul style="list-style-type: none"> - The Administration Wing submitted an information paper to the Legislative Council Panel on Administration of Justice and Legal Services <p>January 1999</p> <ul style="list-style-type: none"> - The Administration Wing submitted a Legislative Council Brief on the “Rules of the High Court (Amendment) Rules 1999”. The brief highlighted the salient points of the agreement reached between the Mainland and the SAR <p>13 October 1999</p> <ul style="list-style-type: none"> - Legislative Council Panel on Administration of Justice and Legal Services |
| 2. Reciprocal enforcement of arbitral awards between the Mainland and the SAR | <p>15 December 1998</p> <ul style="list-style-type: none"> - Legislative Council Panel on Administration of Justice and Legal Services <p>15 June 1999</p> <ul style="list-style-type: none"> - Director of Administration attended the meeting of Legislative Council Panel on Administration of Justice and Legal Services |

WRITTEN ANSWER — *Continued**Cross-boundary matters discussed with mainland officials**Date of discussing the issue at
the Legislative Council*

June 1999

- The Administration Wing submitted a Legislative Council Brief on the Arbitration (Amendment) Bill 1999. The brief highlighted the salient points of the agreement reached between the Mainland and the SAR

13 October 1999

- Legislative Council Panel on Administration of Justice and Legal Services

3. To promote Hong Kong as a legal services centre

29 October 2001

- Legislative Council Panel on Administration of Justice and Legal Services

4. Litigation over the right of abode

(i) To reflect the views of the SAR Government and the local community on the Court of Final Appeal's judgement passed on 29 October 1999 to the relevant mainland authorities and legal experts, and understand the Mainland's concerns

5 March 1999

- House Committee of Legislative Council

(ii) The Secretary for Justice and the Secretary for Security visited the Hong Kong and Macao Affairs Office to understand the necessary procedures for interpreting and amending the Basic Law under Articles 158 and 159

18 May 1999

- In-house meeting of Legislative Council

5. To reflect to the mainland authorities the proposals and opinions of legal practitioners in Hong Kong on extending the scope of legal services

16 October 2000

- Legislative Council Panel Meeting on Administration of Justice and Legal Services

WRITTEN ANSWER — *Continued**Cross-boundary matters discussed with mainland officials**Date of discussing the issue at
the Legislative Council**Secretary for Constitutional Affairs*

- | | |
|--|--|
| 1. Confiscation of the Home Visit Permits of Hong Kong residents | 21 March 2000 |
| | - Reply to a question raised by the Finance Committee of the Legislative Council |

Secretary for Commerce and Industry

- | | |
|--|--|
| 1. To lead a delegation to attend meetings of the Mainland/HKSAR Joint Commission on Commerce and Trade (Joint Commission) to discuss with the Ministry of Foreign Trade and Economic Co-operation and other relevant mainland authorities on ways to strengthen ties between the Mainland and Hong Kong on the economic and trade matters | 12 October 1999 and 16 October 2000 |
| | - Introduced the work of the Joint Commission at a briefing on the policy address for members of the Legislative Council Panel on Commerce and Industry. |

Secretary for the Environment and Food

- | | |
|--|---|
| 1. To discuss the possibility of storing low-level radioactive waste in the Mainland | 19 March 2001 |
| | - Legislative Council Panel on Environmental Affairs |
| 2. Joint Working Group on Sustainable Development and Environmental Protection | May 2001 |
| | - A paper was submitted to the Legislative Council Panel on Environmental Affairs |

WRITTEN ANSWER — Continued*Cross-boundary matters discussed with mainland officials**Date of discussing the issue at
the Legislative Council**Secretary for Security*

- | | | |
|--|-------------------|---|
| 1. Discussed arrangements for the transfer of fugitive offenders between the Mainland and the SAR | 3 December 1998 | - Legislative Council Panel on Security |
| | 13 April 2000 | - Legislative Council Panel on Security (special meeting) |
| | 18 January 2001 | - Submit an information paper to the Legislative Council Panel on Security |
| | 3 April 2001 | - Legislative Council Panel on Security |
| 2. Set up a Reciprocal Notification Mechanism with the Mainland in respect of Hong Kong residents detained on the Mainland | 28 May 1999 | - Legislative Council House Committee special meeting |
| | 16 September 1999 | - Legislative Council Panel on Security |
| | 24 October 2000 | - Legislative Council Panel on Security |
| 3. Discussed arrangements for the transfer of sentenced persons between the Mainland and the SAR | 7 February 2001 | - Written reply to a question raised by a member at a Legislative Council meeting |
| | 27 June 2001 | - Written reply to a question raised by a member at a Legislative Council meeting |

WRITTEN ANSWER — *Continued**Cross-boundary matters discussed with mainland officials**Date of discussing the issue at
the Legislative Council**Director of Immigration*

- | | |
|---|---|
| 1. Discussed the testing of claimed parentage with the Bureau of Exit and Entry Administration of the Ministry of Public Security | 28 November 2001
- Bills Committee of the Legislative Council |
| 2. To discuss the Admission of Mainland Professional Scheme with the Bureau of Exit and Entry Administration of the Ministry of Public Security | 9 March 2001
- Legislative Council was briefed on the Scheme

30 March 2001
- Legislative Council Panel on Manpower |

Appendix B

*Cross-boundary matters discussed with mainland officials**Dissemination of information on meeting
by way of press releases/press briefings**Chief Secretary for Administration*

- | | |
|--|--|
| 1. Discussed with the governments of Guangdong Province, Guangzhou and Shenzhen on the communication and co-ordination on infrastructure projects, and the extension of operating hours of the boundary crossing points during festivals and holidays | 27 and 28 September 2001
- Press briefing and press release |
| 2. Followed up on issues discussed at the Fourth Plenary of the Hong Kong/Guangdong Co-operation Joint Conference, including extension of operating hours of boundary crossing points, and way to further enhance the flow of people and goods across the boundary | 26 October 2001
- Press briefing held and press release |

WRITTEN ANSWER — *Continued*

- | <i>Cross-boundary matters discussed with mainland officials</i> | <i>Dissemination of information on meeting
by way of press releases/press briefings</i> |
|---|---|
| 3. Development of the Western Region | 20 May 2001
- Press release |
| 4. Matters of mutual concern between Hong Kong and the Mainland (for example, the economic situation of Hong Kong) | 16 February 2000
- Press release
18 February 2000
- Press briefing and press release |
| 5. Matters of mutual concern between Hong Kong and the Mainland (for example, the right of abode issue) | 3 May 1999
- Press release
5 May 1999
- Press briefing and press release |
| 6. Matters of mutual concern between Hong Kong and the Mainland (the economic conditions of Hong Kong, flood control and disaster relief work in the Mainland, and so on) | 19 February 1998
- Press briefing and press release |
| 7. Matters of mutual concern between Hong Kong and the Mainland (avian flu, establishment of the Office of the Government of the HKSAR in Beijing, and so on) | 5 and 6 January 1998
- Press briefing and press release |
| 8. The Hong Kong/Guangdong Co-operation Joint Conference | 30 March 1998
- Press briefing and press release
24 September 1998
- Press briefing and press release
25 September 2000
- Press briefing and press release
25 July 2001
- Press conference and press release |

WRITTEN ANSWER — *Continued*

Cross-boundary matters discussed with mainland officials *Dissemination of information on meeting
by way of press releases/press briefings*

Financial Secretary

- | | |
|---|--------------------------------------|
| 1. Explored with the Chairman of the China Securities Regulatory Commission ways to enhance co-operation between the securities markets of the Mainland and Hong Kong | 9 May 2001
- Press briefing |
| 2. Discussed various issues relating to co-operation between Guangdong Province and Hong Kong | 13 July 2001
- Press briefing |
| 3. Discussed ways to increase the number of mainland visitors to Hong Kong | 22 August 2001
- Press briefing |
| 4. Explored with the Minister of Finance ways to strengthen co-operation between the markets of the Mainland and Hong Kong | 9 September 2001
- Press briefing |
| 5. Explored ways to strengthen economic co-operation between Beijing and Hong Kong | 23 October 2001
- Press briefing |

Secretary for Constitutional Affairs

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| 1. Hong Kong/Guangdong Annual Boundary Liaison Review Meeting (four meetings have been held since reunification) | 29 May 1998
- Press briefing and press release |
| - Handled operational problems relating to management of Hong Kong and Guangdong's boundary area, and review co-operation between the two sides over the past year in respect of police, customs and immigration matters. Meetings are held annually in Hong Kong and Guangdong Province alternatively | 27 May 1999
- Press briefing and press release
24 February 2000
- Press briefing and press release
22 March 2001
- Press briefing and press release |

WRITTEN ANSWER — Continued

Cross-boundary matters discussed with mainland officials *Dissemination of information on meeting by way of press releases/press briefings*

Secretary for Commerce and Industry

1. Attended meetings of the Mainland/HKSAR Joint Commission on Commerce and Trade (Joint Commission) to discuss with the Ministry of Foreign Trade and Economic Co-operation and other relevant mainland authorities on ways to strengthen ties between the Mainland and Hong Kong on economic and trade matters
 - 6 October 1999
 - Press release issued to announce the establishment of the Joint Commission
 - 9 November 1999
 - Press release issued after the first meeting
 - 7 December 2000
 - Press release issued after the second meeting

Secretary for Environment and Food

- First Meeting of the Hong Kong/Guangdong Joint Working Group on Sustainable Development and Environmental Protection
 - 8 June 2000
 - Press release
- Second Meeting of the Hong Kong/Guangdong Joint Working Group on Sustainable Development and Environmental Protection
 - 22 February 2001
 - Press release

Secretary for Security

1. Led a delegation to Beijing to discuss arrangements for the transfer of fugitive offenders between the Mainland and Hong Kong
 - 23 December 1998
 - Press release
 - 24 March 1999
 - Press release
 - 10 April 2001
 - Press release

WRITTEN ANSWER — *Continued*

Cross-boundary matters discussed with mainland officials *Dissemination of information on meeting
by way of press releases/press briefings*

Secretary for Economic Services

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| 1. Discussed with the National Tourism Administration on matters relating to the “Hong Kong Group Tour” Scheme | 19 April 2000
- Press release issued after the meeting |
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Secretary for Planning and Lands

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|--|---|
| 1. Plenary Session of the Hong Kong and Mainland Cross-boundary Major Infrastructure Co-ordinating Committee | 16 October 1997
- Press briefing and press release |
| 2. Hong Kong/Guangdong Urban Planning Forum
- Discussed and exchanged views with relevant officials on the Guangdong side on issues relating to the relationship between the development of the two cities, transport, environmental protection and conservation, and so on | 10 September 2001
- Press release |

Commissioner, ICAC

- | | |
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| 1. Visited Beijing and Guangzhou to exchange experience and strengthen co-operation with mainland anti-corruption agencies in combating corruption | 31 October 1997
- Press release |
| 2. Met with the visiting Chief Procurator of Guangdong Provincial People's Procuratorate to review previous co-operation and strengthen liaison in the fight against cross-boundary corruption | 4 August 1998
- Press release |
| 3. Visited Beijing and Guangzhou to exchange views on fighting corruption in the Mainland | 5 November 1998
- Press release |

WRITTEN ANSWER — *Continued**Cross-boundary matters discussed with mainland officials**Dissemination of information on meeting
by way of press releases/press briefings*

- | | |
|---|--------------------------------------|
| 4. Visited Beijing, Shanghai and Guangzhou to strengthen liaison and co-operation with related mainland authorities | 31 October 1999
- Press release |
| 5. Met with the visiting Chief Procurator of Guangdong Provincial People's Procuratorate to strengthen liaison and co-operation between both sides in respect of law enforcement, corruption prevention and community education | 19 September 2000
- Press release |

Commissioner of Police

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|--|---|
| 1. Bilateral police conferences between Hong Kong and the Mainland | Press releases issued on:
13, 14 and 19 May 1998 |
| - Two conferences are held annually, one in the Mainland and one in Hong Kong, to strengthen co-operation between both sides. Issues discussed include combating cross-boundary crimes, drug abuse and commercial crimes | 5 December 1998
19 November 1999
30 November 2000 |

Director of Immigration

- | | |
|--|--|
| 1. Discussed with the Bureau of Exit and Entry Administration of the Ministry of Public Security in respect of entry of mainland residents (private) for business and training | 26 March 1998
- Press release |
| 2. Discussed with the Bureau of Exit and Entry Administration of the Ministry of Public Security on the following issues: | 2 February 1999
- Press release |
| - Follow-up work in respect of the judgement made by the Court of Final Appeal on mainland residents' right of abode in Hong Kong | 10 February 1999
- Press release
12 July 1999
- Press release |

WRITTEN ANSWER — *Continued*

Cross-boundary matters discussed with mainland officials *Dissemination of information on meeting
by way of press releases/press briefings*

- Arrangements for mainland-born children of Hong Kong residents to come to Hong Kong in a legal and orderly manner 17 July 1999
- Press release

- 3. Discussed with the Bureau of Exit and Entry Administration of the Ministry of Public Security on the detailed arrangements for the testing of claimed parentage 27 July 2001
- Press release

- 4. Discussed with the Bureau of Exit and Entry Administration of the Ministry of Public Security on the Admission of Mainland Professionals Scheme 18 May 2001
- Press release

- 5. Discussed with the Bureau of Exit and Entry Administration of the Ministry of Public Security on the following issues: 28 September 2001
- Press release
 - Expediting the processing of passenger clearance at immigration control points
 - Matters relating to mainland children joining their adoptive parents in Hong Kong through the One-way Permit Scheme
 - The prevention of pregnant women holding Two-way Exit Permits from giving birth and overstaying in Hong Kong

Commissioner of Customs and Excise

- 1. Annual Review Meeting with the Guangdong Customs (Four meetings have been held since reunification) 10 May 1998
- Press release
- This channel of communication was established in 1997 21 May 1999
- Issues discussed include: - Press release
 - Yearly review of liaison between the Guangdong and Hong Kong Customs 21 and 26 May 2000
- Press release
 - Cross-boundary smuggling activities

WRITTEN ANSWER — *Continued*

- Cross-boundary matters discussed with mainland officials*
- Dissemination of information on meeting
by way of press releases/press briefings*
- Review of the co-operation between the Guangdong and Hong Kong Customs in the protection of intellectual property
4 September 2001
 - Press release
 - Cigarette smuggling
 - Future co-operation between the Guangdong and Hong Kong Customs
2. Annual Review Meeting with the Customs General Administration, People's Republic of China
29 November 2001
 - Press release
- This channel of communications was established in 2000
- Issues discussed include:
- Yearly review of liaison between the Mainland and Hong Kong Customs
 - Cross-boundary smuggling activities
 - Drug smuggling cases detected by the customs on both sides
 - Ways to strengthen management of boundary areas
 - Co-ordination on the operation of land boundary crossings
 - Future co-operation between the Guangdong and Hong Kong Customs

Annex II

COMPANIES (AMENDMENT) BILL 2001

COMMITTEE STAGEAmendments to be moved by the Secretary for Financial ServicesClauseAmendment Proposed

4(3) In the proposed section 129G(5), by adding ", or a notice of intent treated by virtue of section 141CAA as having been sent by the member, holder or person to the company" after "359A(2)".

6 (a) By adding after the proposed section 141CA -

"141CAA. Circumstances where entitled persons are to be treated as having sent notices of intent to listed companies

Where an entitled person of a listed company does not send a notice of intent to the company within such period as is specified for the purposes of this section in regulations made under section 359A(2), then -

(a) the person shall be treated as having sent a notice of intent to the company within the specified period notifying the company that he agrees to be sent a copy of a summary financial report in place of a copy of the relevant financial documents from which the report is derived; and

(b) a reference in this Ordinance to a notice of intent sent shall,

ClauseAmendment Proposed

accordingly, be construed as including a reference to a notice of intent treated as having been sent by virtue of this section."

- (b) In the proposed section 141CG(2)(a), by adding "under this Ordinance or in accordance with a direction of the court" after "company".

- 7(b) In the proposed section 359A(2), by adding before paragraph (a) -
"(aa) specifying the period for the purposes of section 141CAA;"