

# OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 19 February 2003

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 MRS SELINA CHOW LIANG SHUK-YEE, G.B.S., 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 BERNARD CHAN, J.P.

THE HONOURABLE CHAN KAM-LAM, J.P.

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

THE HONOURABLE LEUNG YIU-CHUNG

THE HONOURABLE SIN CHUNG-KAI

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

DR THE HONOURABLE PHILIP WONG YU-HONG

THE HONOURABLE WONG YUNG-KAN

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

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

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

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

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

THE HONOURABLE LI FUNG-YING, J.P.

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

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

THE HONOURABLE MICHAEL MAK KWOK-FUNG

THE HONOURABLE ALBERT CHAN WAI-YIP

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

DR THE HONOURABLE LO WING-LOK

THE HONOURABLE WONG SING-CHI

THE HONOURABLE FREDERICK FUNG KIN-KEE

THE HONOURABLE IP KWOK-HIM, J.P.

THE HONOURABLE LAU PING-CHEUNG

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

THE HONOURABLE MA FUNG-KWOK, J.P.

**MEMBERS ABSENT:**

THE HONOURABLE MARGARET NG

THE HONOURABLE CHAN YUEN-HAN, J.P.

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

**PUBLIC OFFICERS ATTENDING:**

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

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

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

PROF THE HONOURABLE ARTHUR LI KWOK-CHEUNG, G.B.S., J.P.  
SECRETARY FOR EDUCATION AND MANPOWER

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

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

THE HONOURABLE MRS REGINA IP LAU SUK-YEE, G.B.S., J.P.  
SECRETARY FOR SECURITY

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

THE HONOURABLE FREDERICK MA SI-HANG  
SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY

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

**CLERKS IN ATTENDANCE:**

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

MR LAW KAM-SANG, J.P., DEPUTY 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>
Import and Export (General) (Amendment) Regulation 2003 .....	32/2003
Import and Export (Registration) (Amendment) Regulation 2003 .....	33/2003
Import and Export (Removal of Articles) (Amendment) Regulation 2003 .....	34/2003
Reserved Commodities (Control of Imports, Exports and Reserve Stocks) (Amendment) Regulation 2003 .....	35/2003
Electronic Transactions (Exclusion) (Amendment) Order 2003 .....	36/2003
Import and Export (General) Regulations (Amendment of Seventh Schedule) (No. 2) Notice 2003.....	37/2003
Dutiable Commodities Ordinance (Amendment of Schedule 1B) Notice 2003 .....	38/2003
Dutiable Commodities (Amendment) Ordinance 2001 (19 of 2001) (Commencement) Notice 2003.....	39/2003
Import and Export (Electronic Transactions) Ordinance 2002 (24 of 2002) (Commencement) Notice 2003.....	40/2003

Pilotage (Dues)(Amendment) Order 2002 (L.N. 234 of 2002) (Commencement) Notice 2003 .....	41/2003
Electoral Affairs Commission (Registration of Electors) (Village Representative Election) Regulation.....	47/2003
<b>Other Papers</b>	
No. 60 — Hong Kong Arts Development Council Annual Report 2001-2002	
No. 61 — The Hong Kong Academy for Performing Arts Annual Report 2001-2002 and the Financial Statements and Auditor's Report for the year ended 30 June 2002	
No. 62 — Report of the Public Accounts Committee on the Reports of the Director of Audit on the Accounts of the Government of the Hong Kong Special Administrative Region for the year ended 31 March 2002 and the Results of Value for Money Audits (Report No. 39) and Supplemental Report of the Public Accounts Committee on Report No. 38 of the Director of Audit on the Results of Value for Money Audits (February 2003 - P.A.C. Report No. 39)	
Report of the Bills Committee on Education Reorganization (Miscellaneous Amendments) Bill 2002	

## ADDRESS

**PRESIDENT** (in Cantonese): Address. Mr Eric LI, Chairman of the Public Accounts Committee, will address the Council on the Committee's Report on Report No. 39 of the Director of Audit on the Results of Value for Money Audits and on the Committee's Supplemental Report on Report No. 38 of the Director of Audit on the Results of Value for Money Audits.

**Report of the Public Accounts Committee on the Reports of the Director of Audit on the Accounts of the Government of the Hong Kong Special Administrative Region for the year ended 31 March 2002 and the Results of Value for Money Audits (Report No. 39) and Supplemental Report of the Public Accounts Committee on Report No. 38 of the Director of Audit on the Results of Value for Money Audits**

**MR ERIC LI:** Madam President, on behalf of the Public Accounts Committee (PAC), I have the honour to table our Report No. 39 today.

The Report corresponds with the Report of the Director of Audit on the Accounts of the Government of the Hong Kong Special Administrative Region for the year ended 31 March 2002 and his Report No. 39 on the results of value for money audits, which were submitted to you on 30 October 2002 and tabled in the Legislative Council on 20 November 2002.

The PAC Report No. 39 tabled today contains three main parts:

- (a) the PAC's assessment of the actions taken by the Administration in response to our recommendations made in the PAC's previous Reports Nos. 36 and 37;
- (b) our observations on the Report of the Director of Audit on the Accounts of the Government for the year ended 31 March 2002; and
- (c) the conclusions reached by the PAC on the Director of Audit's Report No. 39.

At the time when PAC Report No. 38 was finalized, the PAC's deliberations on the subject "Residential services for the elderly" were continuing. A full report on this chapter was therefore deferred. The PAC has now concluded its deliberations and has tabled the supplemental report on this chapter together with our Report No. 39.

As in previous years, the PAC has selected for detailed examination only those chapters in the Director of Audit's Report No. 39 which, in our view, referred to more serious irregularities or shortcomings. The Report tabled today covers our deliberations on five of the six subjects selected. We have decided to defer a full report on the subject "Primary education — The

administration of primary schools", as we shall hold a second public hearing on 24 February 2003 to examine, among other things, the recruitment of teaching staff in primary schools. The PAC will endeavour to finalize our report to the Council at the earliest opportunity.

I now turn to the substantive issues covered in this Report.

The PAC's report on the subject "Residential services for the elderly" had been deferred as we needed time to examine the complex issues involved.

Having deliberated the provision of infirmary places, the PAC is dismayed that as at 31 March 2001, there were 5 218 elderly persons on the waiting list for infirmary places, who on average needed to wait for 31 months. At the same time, the provision of 1 134 infirmary places by the Hospital Authority (HA) for Central Infirmary Waiting List applicants was well below the demand for such places. Even if 338 additional infirmary beds will be made available for such applicants by March 2003, there will still be a significant shortfall in the supply of such beds.

The PAC expresses deep regret and sadness that more than 7 000 elderly persons passed away in the years 1997-98 to 1999-2000 while waiting for infirmary places.

Regarding subsidized nursing-home places, the PAC is dismayed that the provision of 1 400 nursing-home places by non-governmental organizations under government subvention only represented 1.9 nursing-home places per 1 000 elderly persons aged 65 or over. On the other hand, as at 31 March 2001, there were 4 729 elderly persons on the waiting list for such places.

The PAC is also dismayed that without going through proper consultation and a proper policy revision process, the Administration regards that the planning ratio of five infirmary places per 1 000 elderly persons is no longer appropriate.

We note that the Secretary for Health, Welfare and Food has undertaken to implement, by July 2003, a work plan to address the issues relating to the provision of subsidized nursing-home and infirmary places. The work plan will include implementing a central registration system for subsidized long-term care services; rationalizing and re-engineering a wide spectrum of existing

community care and support services; providing additional places, in new contract residential care homes for the elderly, for elderly persons whose health conditions necessitate their admission to nursing homes; and conducting a review covering the basis of planning, the changing needs for infirmary beds and the role of the HA in the provision of such beds.

When considering the subject of "The Customs and Excise Department's efforts to protect government revenue from dutiable commodities", the PAC is concerned that because of the small percentage of travellers intercepted for checking at the customs examination counters, abusers of cigarette duty-free concessions could easily escape customs detection. Besides, the Customs and Excise Department (C&ED) did not monitor the sales activities at the duty-free shops to ensure compliance with the licence conditions. We are also concerned about the practicability of requiring duty-free shops to complete each transaction in five seconds as specified in "Guidelines and Procedures on Crowd Control System and Operating Arrangement", and about the slow progress made by the C&ED in implementing the measures identified in the February 2000 departmental paper for enforcing the 24-hour rule. In addition, the existing baggage examination procedures at the customs examination counters have little deterrent effect on abusers of duty-free concessions, because the procedures allow abusers to escape penalty even if they are intercepted at the counters for checking.

We acknowledge that the C&ED has revised the licence conditions for the duty-free shops to ensure that the new procedures implemented from 1 January 2003 are effective and practicable under the five-second requirement. Also, the C&ED, with the assistance of the Immigration Department, will implement new measures to enforce the 24-hour rule.

In examining the subject "Special Finance Scheme for small and medium enterprises" (the Scheme), the PAC notes that from mid-1998 to the end of 1999, repeated concerns had been expressed by some bankers, the Hong Kong Monetary Authority, the Treasury, and the Financial Services and the Treasury Bureau about the possible abuse of the Scheme by the participating lending institutions (PLIs) through the offloading of bad loans onto the Scheme. They had also expressed concerns about the adequacy of the safeguards against such abuse. The PAC is dismayed that despite these concerns, no specific provisions to restrict such offloading were added to the deed signed between the Government and a PLI.

We are also dismayed that the Administration had been economical with the truth when seeking funding approval by the Legislative Council. This is evidenced by the fact that despite a Legislative Council Member's direct question at the Finance Committee (FC) meeting held on 23 April 1999 about the possibility of some PLIs using the Scheme to offset other loans acquired by the applicants, the then Director-General of Industry did not reveal in his response the concerns of various government departments about such possible abuse. Moreover, when seeking the FC's funding approval for the Scheme in 1998, the Administration only informed the FC of the possibility that the capital commitment of the Government under the Scheme would not be recovered, in part or in whole. But it did not reveal the Government's internal assumption of a 25% default rate of the guaranteed loans under the Scheme, which was the default rate assessed by the Small and Medium Enterprises Committee.

Regarding the subject "Small house grants in the New Territories", the PAC is seriously concerned that soon after the issuance of the Certificates of Compliance, some indigenous villagers sold their small houses built under building licences or through land exchanges, notwithstanding the fact that in their applications for small house grant to the Lands Department, they had declared that they had never made and had no intention to make any private arrangements for their rights under the small house policy to be sold to other individuals or developers. The problem is not new and the PAC had commented on it in its Report No. 10 in January 1988.

We acknowledge that the Secretary for Housing, Planning and Lands has undertaken to pursue within the tenure of his office the review of the small house policy and related issues in a comprehensive manner, and that he hopes to resolve the problems associated with the policy once and for all within this time scale.

Turning to the subject "Primary education — Planning and provision of primary school places", the PAC is concerned that by 2010, the overall supply of primary school places would exceed the overall demand by 27 600 school places, which is equivalent to 35 standard schools, and mismatches would occur in nine of the 18 districts. Also, the expected excess supply of primary school places is unlikely to reverse, as the number of children in the age group of six to 11 is expected to remain at a low level for the next two decades.

We are also concerned that a serious over-enrolment situation existed in some classes where the actual number of students exceeded the standard class size by seven or more; and a serious under-enrolment existed in some classes where the unfilled places were 11 or more.

We are seriously dismayed that some schools had not made use of their vacant classrooms although they had been left idle for a long time.

On the School Improvement Programme (SIP), we are concerned that this can be more cost-effectively carried out in schools with many vacant classrooms by converting vacant classrooms into various function rooms, instead of building additional floor area. Had such an approach been adopted, the cost of the SIP works carried out would have been reduced significantly.

When considering the subject "Primary education — Delivery of effective primary education", the PAC is concerned that the Education Department had adopted the "last in, first out" arrangement to identify teachers for laying-off arising out of the reduction of classes. The arrangement is at variance with good human resource management practices. We acknowledge that the Secretary for Education and Manpower has undertaken to expeditiously review the arrangement.

We urge the Secretary for Education and Manpower to incorporate into any revised arrangement for laying off teachers the need to take into account teachers' performance and a proper appeal system. We further urge the Secretary to consult the Legislative Council and relevant parties in the review.

Madam President, the Director of Audit's Report No. 39 contains three chapters on primary education and our Report today sets out our conclusions and recommendations on two of them. I take this opportunity to urge the Secretary for Education and Manpower to proactively take action to inform all primary schools of Audit's observations as well as the PAC's conclusions and recommendations, so as to ensure that they are made aware of these and will rectify any similar irregularities.

Lastly, I wish to register my appreciation of the contributions made by members of the PAC. Our gratitude also goes to the representatives of the Administration and other organizations who have attended before the PAC. We are also grateful to the Director of Audit and his colleagues, the clerk to the PAC

and the other staff of the Legislative Council Secretariat for their unfailing support and hard work which has made it possible for us to make this Report to the Council within the tight time frame.

Thank you.

## ORAL ANSWERS TO QUESTIONS

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

### Safety of Pedestrian Refuges

1. **MR LAU WONG-FAT** (in Cantonese): *Madam President, last month, a private car went out of control and crashed into a pedestrian refuge, killing two and injuring six pedestrians at the refuge. In this connection, will the Government inform this Council:*

- (a) *of the measures in place to improve the design of pedestrian refuges in order to ensure the safety of pedestrians; and*
- (b) *whether it has reviewed if it is appropriate to provide pedestrian refuges on roads with heavy pedestrian and traffic flow?*

### SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Madam President, a pedestrian refuge is a pedestrian crossing facility which provides a safe place in the middle of a road for pedestrians to observe the traffic conditions again before they continue to cross the road.

In the planning and design of pedestrian crossing facilities including refuges, pedestrian safety is our primary concern. Apart from pedestrian and traffic flows, we will take into account the road layout in deciding whether there is a need to provide a refuge in the middle of a road for pedestrians to observe the traffic conditions again.

The provision of pedestrian refuges on roads is adopted and recognized internationally as a safe road crossing measure. In Hong Kong, the minimum

requirement for a pedestrian refuge is 2.5 m wide and 1.5 m deep, and the refuge should be at least 3 m away from a junction. Suitable facilities such as illuminated bollards would also be provided to remind drivers that there are pedestrian crossings and refuges ahead. The above design and planning standards of pedestrian refuges are in line with international safety requirements.

In addition to providing hardware such as traffic and pedestrian facilities, the alertness of road users is also important to the enhancement of road safety. We will continue to remind road users, including both drivers and pedestrians, to comply with traffic regulations through law enforcement, publicity and education.

**MR LAU WONG-FAT** (in Cantonese): *Madam President, very often, we can see that due to the limited area of pedestrian refuges, many pedestrians are obliged to stand outside the refuge confines exposing themselves to danger. Will the Secretary inform this Council if the capacity of such refuges has been taken into account in their design? Do the authorities monitor closely the overloading situation of pedestrian refuges and the safety problem so caused, with a view to taking appropriate measures to alert pedestrians or taking remedial actions?*

**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS** (in Cantonese): *Madam President, the pedestrian refuge in question is designed to accommodate 50 persons. At that particular time of the accident, there were only 10 persons on the refuge, therefore, there was no question of the pedestrians, having exceeded the capacity, were forced to stand on the carriage way. In calculating the size of a pedestrian refuge, sufficient space is provided to ensure the safety of people gathered there. In general, each person should have an area of 0.2 sq m, and a pedestrian refuge is required to be 2.5 m wide and 1.5 m deep. The design of our refuges meets the international standard, and ensures that the safety of pedestrian is afforded a certain degree of protection.*

**MR HOWARD YOUNG** (in Cantonese): *Madam President, apart from making pedestrians aware of the existence of pedestrian refuges, it is more important to let motorists passing by to know in good time the existence of the refuges. The Secretary said that illuminated bollards on pedestrian refuges could serve this*

*purpose. However, I noticed in Shenzhen recently that some flashing devices like cats' eyes are embedded along the roads. I think this is a new device that I have not seen in other places. Has the Government or the Secretary noticed that other places may have developed new devices that can help to draw the attention of drivers to facilities like pavements, zebra crossings or pedestrian refuges? If not, will the Secretary send staff to visit the place mentioned by me for inspect and to find out what can be introduced into Hong Kong?*

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

(in Cantonese): Madam President, in designing pedestrian refuges, consideration will certainly be given to the safety of vehicles and the reaction capability of drivers. As I have mentioned earlier, in Hong Kong, illuminated bollards are used to alert drivers. However, we also factor in the running speed of vehicles and place slow signs at places near pedestrian refuges. Regarding the flashing stones mentioned by Mr Howard YOUNG, we have never considered that; but I will pay a visit to Shenzhen Municipality with my colleagues to study their safety facilities, and to conduct exchanges with the authorities concerned.

**MR LEUNG YIU-CHUNG** (in Cantonese): *Madam President, in the last paragraph of the main reply, the Secretary said, "in addition to providing hardware such as traffic and pedestrian facilities, the alertness of road users is also important to the enhancement of road safety." However, the tragedy was caused not by the low alertness of road users, in particular pedestrians, but by the driver who crashed the car into the pedestrian refuge. Has the Secretary taken reference from pedestrian refuge facilities of other countries? Apart from illuminated bollards and the flashing stones suggested by Mr Howard YOUNG, would the Government consider installing additional facilities at pedestrian refuges, like crash barriers? If consideration has been given to the practices of other countries, then have they adopted similar facilities?*

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

(in Cantonese): Madam President, the Transport Department will give careful consideration to safety standards in designing road junctions and arranging operation of traffic lights. The tragedy in question is still under investigation. We know, initially, that it was a problem of the vehicle itself. We are now

collecting information on every aspect to study whether there are any facilities that are applicable to Hong Kong. For example, we will examine if safety of pedestrian refuges can be enhanced, or if the coverage of red light camera targeting at light jumping can be expanded, to step up safety precautions against illegal driving practices. In a word, we will study different approaches.

**MR LEUNG YIU-CHUNG** (in Cantonese): *Madam President, as I have just said, this incident was not caused by the pedestrian on the refuge, but rather by the vehicle user. My supplementary question is: Has reference been drawn from the pedestrian facilities of other countries, like the installation of crash barriers? If yes, can such practices be introduced into Hong Kong?*

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

(in Cantonese): *Madam President, we do not quite understand the crash protection facilities mentioned by Mr LEUNG Yiu-chung, but we will try to find it out. As for other facilities that meet international safety standards, we have already applied them to pedestrian refuges and those facilities are all up to standard. We are ready to examine any new facilities of overseas countries, like new designs of crash barriers, and will conduct relevant studies.*

**MR JAMES TIEN** (in Cantonese): *Madam President, I think, in studying the issue of pedestrian refuges, it should not be limited to the width and depth of refuges, for location should also be a concern. For example, pedestrian refuges located in places like Central District will not pose great problems, because the speed of vehicle is slow in those areas. However, I think for refuges located at the bottom of a steep road, some other facilities must be installed bearing in mind the relatively high speed of vehicles coming down slope or taking turns. My suggestion is in fact similar to that of Mr LEUNG Yiu-chung, which is also about crash protection facilities. At present, some small concrete mounds are placed before the toll booths at the several cross-harbour tunnels. I think once an accident occurs, those small mounds will certainly help to slow down the incident vehicle or reduce the damage caused by the crash. Will the Government consider taking those facilities as reference to enhance the safety of pedestrian refuges at several high-risk locations?*

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

(in Cantonese): Madam President, I have to thank Mr James TIEN for his suggestion; we will certainly study the feasibility. If it is feasible, we surely will put them into practice.

**MR YEUNG YIU-CHUNG** (in Cantonese): *Madam President, will the Secretary inform us of the number of traffic accidents caused by vehicles crashing into pedestrian refuges last year? And, how many of them can be traced to reckless driving or unclear traffic light signals?*

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

(in Cantonese): Madam President, we have the figures for the past few years. Though the question asked by Mr YEUNG Yiu-chung just now requires relatively detailed information, I will try to give an answer. In 2002, there were 1 119 accidents at pedestrian crossings, of which 345 occurred near pavements, 741 at zebra crossings, and 33 at pedestrian refuges. Regarding accidents occurred outside pedestrian crossings, there were 3 298.

**MR YEUNG YIU-CHUNG** (in Cantonese): *Madam President, the second part of my supplementary question is whether the causes of accidents have been analysed. For example, whether a crash into a pedestrian refuge was caused by reckless driving or unclear traffic light signals?*

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

(in Cantonese): Madam President, according to the figures for the past three years, accidents at pedestrian refuges represented less than 1% of the total number of accidents involving pedestrians. These accidents were mainly caused by negligence on the part of pedestrians when they crossed the road. Apart from this, reckless driving and violation of traffic light signals were some of the causes for traffic accidents. I do not have the figures at hand; I will provide a written reply to Mr YEUNG Yiu-chung if necessary. (Appendix I)

**DR TANG SIU-TONG** (in Cantonese): *Madam President, in the third paragraph of the main reply, the Government mentioned the minimum*

*requirement on the area of a pedestrian refuge, as well as the distance between a refuge and a junction. Will the Government inform us of the number of pedestrian refuges in Hong Kong that are non-compliant with such requirements? Pedestrian refuges are often criticized for their small size, leading to the "overflow" of pedestrians.*

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

(in Cantonese): Madam President, all pedestrian refuges in Hong Kong meet the area requirement, that is 2.5 m times 1.5 m, and are located 3 m away from a junction. Regarding the overflowing situation at individual refuges with heavy pedestrian flow, like those near the Victoria Park during the Lunar New Year fair, police officers may be deployed to direct traffic to avoid the overflow of pedestrians waiting to cross the road at refuges.

**MR NG LEUNG-SING** (in Cantonese): *Madam President, I would like to follow up this supplementary question. In fact, we often see that pedestrian refuges at certain busy districts are overflowed with pedestrians. Would it be adequate to provide pedestrian refuges with just an area of 2.5 m times 1.5 m? Should the area of pedestrian refuges at specific districts be expanded, or should other facilities be installed to enhance safety, such as deploying additional staff during peak hours to prevent safety problems caused the overflow of pedestrians at pedestrian refuges?*

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

(in Cantonese): Madam President, we certainly hope that pedestrian refuges are situated at safe locations. In cases where pedestrian refuges are too small to hold pedestrians during peak hours due to the competition for space by vehicles and pedestrians, we will consider other options to ensure safety of pedestrians in crossing the road. In places where conditions allow, we have already constructed footbridges or pedestrian subways, and implemented other traffic control measures mentioned earlier. However, in some cases, where the roads are too narrow or the pedestrian flow is heavy, such measures cannot be adopted. Since the size of a pedestrian refuge is restricted by the width of road surface, we have to consider whether road-crossing points are located appropriately. All these have to be analysed and considered as a whole to ensure road safety.

**DR RAYMOND HO** (in Cantonese): *Madam President, road works are often found in Hong Kong, and many of such works may cause inconvenience to pedestrians crossing the road, but temporary pedestrian refuges are not provided in such cases. I was once forced to stay in the middle of Lockhart Road outside the entrance of Wan Chai MTR Station with nearly no place to stand. While my way forward had been blocked by road works ahead, my back was pressed by rear view mirrors of vehicles behind me. Though pedestrian refuges cannot be provided where road works are in progress, should there be other practical options? Has the Government considered the high risk to which pedestrians are being exposed in crossing the road in such circumstances?*

**PRESIDENT** (in Cantonese): Dr Raymond HO, this question is on pedestrian refuges, but you are asking about safety issues in cases where no pedestrian refuge is provided?

**DR RAYMOND HO** (in Cantonese): *Madam President, what I mean is that, in view of the 20 000 to 30 000 road works undertaken each year, will pedestrian refuges compliant with the criteria stated in the third paragraph of the main reply of the Secretary be provided?*

**PRESIDENT** (in Cantonese): Dr Raymond HO, please be seated first. I am afraid I cannot allow you to raise this supplementary question. Maybe you can put it in another way.

**DR RAYMOND HO** (in Cantonese): *Madam President, maybe I can rephrase my supplementary question. Actually, in what circumstances is the minimum area requirement of 2.5 m times 1.5 m for a pedestrian refuge stated in the third paragraph of the Secretary's main reply cannot be met? For example, when road works are in progress, whether pedestrian refuges meeting the requirement can be provided?*

**PRESIDENT** (in Cantonese): Dr Raymond HO, please be seated.

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

(in Cantonese): Madam President, usually when road works are in progress, traffic volume and road surface available for use will certainly reduce. Under such circumstances, it will, to a certain extent, be quite difficult to provide a pedestrian refuge of international standard. Madam President, you must have noticed that we will adopt other measures for places where road works are in progress, because it is really difficult to provide pedestrian refuges at such places. In such circumstances, we will try to arrange better control on traffic light signals, and set up more signs for pedestrians to remind them to be more alert of the traffic condition in crossing the road under these special circumstances.

**PRESIDENT** (in Cantonese): This Council has spent more than 18 minutes on this question. Although there are still Members waiting for their turn to ask questions, I am afraid I have to let them down.

**PRESIDENT** (in Cantonese): Second question.

**Prosecuting Organizers of Unauthorized Public Processions**

2. **MS EMILY LAU** (in Cantonese): *Madam President, the Department of Justice (D of J) earlier invoked the Public Order Ordinance (POO) for the first time to prosecute three persons for organizing or assisting in organizing an unauthorized public procession on 10 February 2002. It was reported that, in giving the verdict, the Chief Magistrate responsible for hearing the case had queried whether the case, which was of a "political nature", should have been handled by the Court. Moreover, as a total of 344 public processions and meetings of which less than seven days' notice had been given were held during the period from January 1999 to July 2002, and none of the organizers of these processions and meetings had been prosecuted, there have been comments that the prosecution was selective and had undermined the spirit of the rule of law. In this connection, will the executive authorities inform this Council:*

- (a) *whether they will consider not to prosecute in the future those people who organize or assist in organizing unauthorized peaceful public processions or meetings, or give less than seven days' notice of such processions or meetings;*

- (b) *of the criteria adopted by the D of J for determining whether to prosecute those people who organize or assist in organizing unauthorized peaceful public processions or meetings, or give less than seven days' notice of such processions or meetings; and*
- (c) *whether they have assessed the impact of the prosecution on the spirit of the rule of law in Hong Kong; if so, of the assessment results; if not, the reasons for that?*

**SECRETARY FOR JUSTICE** (in Cantonese): Madam President, before dealing with the three specific parts of the question it may be helpful to note the following important general points.

First, to avoid any confusion arising from the question's reference to "executive authorities", may I clarify that the D of J, under Article 63 of the Basic Law, is the executive authorities to control criminal prosecutions, free from any interference.

Second, Ms LAU's question referred to "comments that the prosecution was selective and had undermined the spirit of the rule of the law." I wish to point out that the Chief Magistrate said in the last paragraph of his judgement that: "I hereby hold that sections 13, 13A and 14 of the Public Order Ordinance are in line with the requirements of Article 27 of the Basic Law and Article 17 in Part II of the Hong Kong Bill of Rights Ordinance. I firmly believe that the Prosecution has proved the elements constituting the three charges and I now find all defendants guilty."

Third, as Secretary for Justice I wish to encourage as much transparency in the prosecution process as possible, always bearing in mind that there are some inevitable constraints upon public discussion of ongoing court cases. The case referred to in the question is currently under appeal and it would therefore not be appropriate to make any comments concerning it. It is inevitable that my reply to the question are subject to certain constraints.

Turning to the specific parts of the question:

- (a) The D of J has been taking and will continue to take prosecutorial decisions, including those under the POO, in accordance with

established prosecution policy. The provisions of the POO, like any other piece of legislation enacted in Hong Kong, reflect the laws of our community. Those who violate our laws are liable to prosecution. People who deliberately disregard the law must expect to face the consequences of their actions. On 21 December 2000, the Legislative Council, by a vote of 36 to 21, passed a motion to support the retention of the relevant provisions of the POO, which are considered to reflect "a proper balance between protecting the individual's right to freedom of expression and right of peaceful assembly, and the broader interests of the community at large." I believe it is well understood within the Hong Kong community that the police will enforce the law in accordance with established principles, and that prosecutions will be brought by the D of J in appropriate cases.

- (b) The criteria for prosecution for offences against the POO is the same as for prosecution for any other offence. First, it must be determined if there is sufficient evidence to afford a reasonable prospect of conviction. Second, if so, it must be decided if it is in the public interest to prosecute. Within those parameters, if a breach is minor or technical or inadvertent, a warning might, in some circumstances, be all that is required. But if a person manifests a deliberate intention to defy the law, or chooses to disregard warnings given by police, a prosecution may be appropriate. Every case is examined carefully on the basis of its own individual facts.
- (c) This part of the question queries "the impact of the prosecution", and as such is difficult to answer without straying into the restricted area of discussion of ongoing court cases. However in reply to the question I should like to affirm the following. The rule of law requires that laws be respected and upheld by all. To allow some people to flout laws with impunity would undermine not only the rule of law, but also respect for the rule of law. It is therefore entirely proper for prosecutions to be brought in appropriate cases. As in other large cities, it is necessary to achieve a proper balance between the rights to freedom of expression and peaceful assembly on the one hand, and the broader interests of the community on the other. Hong Kong is a small and densely populated place, and

most people who wish to hold public processions and public meetings recognize this and co-operate responsibly with the authorities over the arrangements. Between 1 July 1997 and 31 December 2002, some 12 000 public meetings and public processions took place in Hong Kong. Only 20 events were disallowed because of concerns for public safety, public order and protection of the rights and freedoms of others. Eight of those events subsequently took place after the organizers revised their routing, venue or scale. Organizers who are aggrieved by a decision can appeal to an independent appeal board chaired by a retired Judge and made up of non-official members. The whole system has built-in safeguards and is carefully designed to achieve justice for all. That, in turn, ensures that in a sensitive area the rule of law predominates.

**MS EMILY LAU** (in Cantonese): *Madam President, in the main reply, the Secretary pointed out that "if a person manifests a deliberate intention to defy the law, or chooses to disregard warnings given by police, a prosecution may be appropriate"; she also mentioned that "to allow some people to flout laws with impunity would undermine not only the rule of law, but also respect for the rule of law. It is therefore entirely proper for prosecutions to be brought in appropriate cases."* Madam President, my supplementary question is: *There were over 300 public processions or meetings for which notice of less than seven days was given, however, only one or two cases were prosecuted, did it mean that these prosecutions were selective? Is it because there was insufficient evidence, as the Secretary said, to afford conviction of those 300-odd cases, and thus it was not appropriate to initiate prosecution? The prosecution of just one or two of those cases induced the Magistrate to say that the cases were political.*

**SECRETARY FOR JUSTICE** (in Cantonese): Madam President, I am not sure where Ms Emily LAU got the information on those some 300 cases. However, on 20 December 2000, after the Legislative Council held a debate on this issue, the Government stated clearly that, in future, anyone violating the POO would be prosecuted. According to the figures provided by the Security Bureau, between 2001 and 2002, there were 107 public processions or meetings that the organizer had not notified the police as required by law. The number of public meetings that the police should be notified as required by law was 41 in 2001, and 34 in

2002. The number of public processions that the police should be notified as stipulated in law was 14 in 2001, and 18 in 2002. Therefore, the numbers of such public processions and meetings in the past two years were 55 and 52 respectively. The number of cases referred to the D of J for prosecution was three in 2001 and five in 2002. In fact, a case related to the holding of procession and meeting without notification will soon be heard in court.

Regarding the last comment made by Ms Emily LAU, that the Magistrate queried whether it was appropriate for the Court to hear such a case of political nature, I would like to point out, the Magistrate has also made this point, that the Court must uphold the integrity of that legislation — that is, the POO — and protect the interest of society. I believe Members also expect the D of J to uphold the integrity of the POO and to protect the interest of society.

**MR LAU CHIN-SHEK** (in Cantonese): *Madam President, in part (b) of the main reply, the Secretary for Justice mentioned the criteria for prosecution of offences under the POO. The primary consideration is whether there is sufficient evidence; then decision has to be made on whether the prosecution is in public interest. May I ask the Secretary whether consideration for public interest means that prosecution will be selective or political? In deciding whether a prosecution is in public interest, how can the authorities assure transparency, and what are the criteria to be adopted?*

**SECRETARY FOR JUSTICE** (in Cantonese): Madam Present, on 25 November last year, when I attended the meeting of the Legislative Council Panel on Administration of Justice and Legal Services, I submitted to Members the Statement of Prosecution Policy and Practice, in which clear explanation on what should be done during prosecution was given. Ms Emily LAU just now asked me if we had been selective in considering public interest, I can tell Members, this is not the case. The Guidelines on the Role of Prosecutors issued by the United Nations also reminds us that consideration should be given to public interest. Regarding the concern of some Members, that whether there would be selective prosecution of a political nature, Section 13 of the Guidelines on the Role of Prosecutor states that, in the performance of their duties, prosecutors shall discharge their functions impartially and avoid all political, social, religious, racial, cultural, sexual or any other kind of discrimination. Furthermore, it is stated in Section 5.1 of the Statement of Prosecution Policy

and Practice that, a decision of whether to prosecute must not be influenced by the following factors, that is, the race, religion, sex, national origin or political associations activities or beliefs of the suspect or any other persons involved. In my view, people engaging in political activities should also abide by the law, and they should not be exempted from binding of the law just because of their political beliefs or participation in political activities.

**MR MARTIN LEE** (in Cantonese): *Madam President, in part (a) of the main reply, the Secretary for Justice mentioned that on 21 December 2000, the Legislative Council, by a vote of 36 to 21, passed a motion to support the retention of the relevant provisions of the POO, and I was one of those 21 Members who voted against it. Moreover, I would like to inform the Secretary for Justice that, about a year or so ago, a group of university students did not notify the police in advance before conducting a public meeting, and they were subsequently arrested by the police. When I learned about this, I was agitated. I held the police action with disdain. Therefore, when the group of university students staged a public meeting the next day, many Members of the democratic camp, including me, participated in it. In fact, I was trying to stage my civil disobedience to challenge the law. Later, .....*

**PRESIDENT** (in Cantonese): Mr LEE, please come to your supplementary direct.

**MR MARTIN LEE** (in Cantonese): *However, after the above-mentioned meeting, neither the students nor us were prosecuted. Is it contradictory to what the Secretary for Justice has said?*

**SECRETARY FOR JUSTICE** (in Cantonese): Madam President, I believe Mr Martin LEE is not asking the D of J to initiate prosecution on this incident now. However, as I have mentioned earlier, every case is considered on an individual basis, including the circumstances at the scene, the status of participants and their intention, and whether they were deliberate in challenging or flouting the law. These are the factors we have to consider. In respect of the case cited by Mr Martin LEE, I do not have the relevant information at hand. Perhaps I may

review the case, if Mr Martin LEE so wishes, to see if prosecution against him would be initiated. (*Laughter*)

**MR JASPER TSANG** (in Cantonese): *Madam President, regarding Mr LAU Chin-shek's earlier supplementary question on public interest, I would like the Secretary for Justice to further clarify one point. Is public interest related to political consideration, including consideration of whether the participants support or oppose the Government and the slogans chanted by them in processions or meetings?*

**SECRETARY FOR JUSTICE** (in Cantonese): Madam President, Section 9.1 of the Statement of Prosecution Policy and Practice is on the public interest criteria. It is stated, *inter alia*, that once the prosecutor is satisfied that the evidence *per se* can justify proceedings in the sense that there is a reasonable prospect of obtaining a conviction, the prosecutor must then consider whether the public interest requires a prosecution. The prosecutor should also consider the availability or efficacy of any alternatives to prosecution. For instance, just now I said that sometimes warning might suffice, but sometimes despite repeated warnings, the person concerned might continue to breach the law; this would then be a point to consider. Although public interest is a very important consideration, the interest of the victim is an important factor as opposed to public interest and must also be considered. The factors that may lead to a decision of not initiating prosecution vary from case to case. But, broadly speaking, the graver the offence, the less likelihood will the public interest consideration allow a disposal less than prosecution, for example, a caution by the police.

In assessing the gravity of an offence, it will be necessary to consider whether the victim has suffered significant harm or damages: the meaning of "significant" may be relative to the circumstances of the victim. Where an offence is not so serious as plainly to require prosecution, the prosecutor should consider whether the public interest requires a prosecution. If the case falls within any of the following categories, this may be an indication that proceedings are not required, subject to the specific circumstances of the case. Such circumstances include likely penalty, staleness, youth, old age and infirmity, mental illness or strain, sexual offence, peripheral defendants, remorse, delay,

mitigation, availability of a civil remedy, counter-productiveness of prosecution, mistake, attitude of the victim, and assistance to the authorities. So these are some of the factors that may be taken into account.

As for the POO, during the debate on it in the Legislative Council, I can recall the Secretary for Security also said that, when the police handled such cases, certain criteria would be considered, including the circumstances where verbal warning or written warning should be issued, or when such cases should be referred to us for consideration of prosecution. The authorities will also consider the attitude of suspects, that is, whether they manifest a deliberate intention to challenge the law. As the Magistrate said, we had the obligation to protect the interest of society as well as that of other people in the community, and to uphold respect for the POO. All these are our considerations. However, just as I have said and stated in our Statement of Prosecution Policy and Practice and the Guidelines on the Role of Prosecutors of the United Nations, it is obvious that a decision of whether or not to prosecute should not be influenced by the political inclinations or the political slogans chanted in support of or against the Government.

**MR CHEUNG MAN-KWONG** (in Cantonese): *Madam President, the thrust of Ms Emily LAU's main question is on peaceful public meetings and procession. Will the Government inform this Council, regarding a peaceful meeting or procession during which public safety and public order has not been affected, whether the Government should initiate selective prosecution against the organizer who has not given seven-day notice? Would it be a travesty on peace that the Government is initiating selective prosecution against a peaceful activity?*

**SECRETARY FOR JUSTICE** (in Cantonese): Madam President, I will not discuss facts relating to the case concerned, but I would like to talk about some points of law stated by the Magistrate at that time. He said that section 14 of the POO was consistent with the requirement of statutory provisions, and there was a need for the police to make arrangements to minimize the influence of demonstrations on the rest of the public to prevent confusions. He therefore considered such lawful interests of society should be covered by the concept of public safety and public order, and their protection was necessary.

What constitutes public safety that a democratic society must protect? The Magistrate gave a good explanation, let me now quote one of the paragraph, "I must give due consideration to the views of the Legislative Council of the Hong Kong Special Administrative Region that it is appropriate to enact the current POO. In this connection, the Legislative Council has conducted extended discussion and amendment to the POO with, the latest amendment to sections 13,14,15 and 17A being made in 1995, and sections 14 and 16 in 1997. Unless there are strong evidence, I will not easily allow my personal view to take priority over that of the Legislative Council."

The Magistrate then considered the Ordinance met this requirement. He said in his verdict that the law had not stifled the right to the freedom of expression, and that it met the necessary requirement of a democratic society. In other words, the public enjoys fully the right and has the ways to conduct peaceful meetings or processions, thus the notification requirement of the POO is reasonable in protecting the rights of other people in the community. The Magistrate said, "I hereby hold that the limited restriction of the existing notification system is proportionate to the aims sought to be achieved, and the criteria the Commissioner of Police applied in exercising the right to object is in line with the Hong Kong Bill of Rights Ordinance. I thus hold that the existing notification system is in line with the necessary requirement of a democratic society." He then went on to say that, "Sections 13, 13A and 14 of the POO are in line with the requirements of Article 27 of the Basic Law and Article 17 in Part II of the Hong Kong Bill of Rights Ordinance. I firmly believe that the Prosecution has proved the elements constituting the three charges and I now find all defendants guilty."

As I have said, in giving the verdict, the Magistrate said that the Court must uphold the rule of law under this Ordinance, that is the POO, so as to protect the interest of society. I believe the Secretary for Justice also has the obligation to uphold respect for this law via prosecution to protect the interest of society.

**PRESIDENT** (in Cantonese): This Council has spent more than 22 minutes on this question. We will now proceed to the third question.

**Concessionary Interchange Schemes Implemented by MTR Corporation Limited**

3. **DR RAYMOND HO** (in Cantonese): *Madam President, it is learnt that the Kowloon-Canton Railway Corporation (KCRC) has yet to reach an agreement with the MTR Corporation Limited (MTRCL) on the provision of interchange concessions for passengers of the West Rail, scheduled to commence operation in this year. In this connection, will the Government inform this Council whether it knows:*

- (a) *the reasons for the MTRCL and the KCRC not having reached such an agreement;*
- (b) *the details of the concessionary interchange schemes implemented by the MTRCL in collaboration with other public transport operators over the past two years, and the effects of these schemes on the patronage as well as the revenue and expenditure of the MTRCL; and*
- (c) *the circumstances under which the MTRCL implemented concessionary interchange schemes jointly with other public transport operators in the past two years?*

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

(in Cantonese): Madam President, the MTRCL was approached by the KCRC in August 2002 to discuss the feasibility of introducing interchange concessions for passengers interchanging between the Kowloon-Canton Railway (KCR) and the Mass Transit Railway (MTR) at Kowloon Tong Station. The relevant transport operators wished to introduce the same interchange concessions to passengers of the West Rail, which would be commissioned within this year, but the MTRCL has reservations about the proposal as it estimated that the proposal, if implemented, could not be revenue neutral, therefore it rejected the proposal.

Over the past two years, four inter-modal fare discount schemes have been offered by the MTRCL with other transport operators. These schemes include:

- (i) a fare discount ranging from \$1.3 to \$1.6 for adult Octopus Card users interchanging between the MTR and two designated bus routes

of New World First Bus Services Limited and two designated green minibus routes in Siu Sai Wan from January to April 2001;

- (ii) a flat \$1 discount for adult Octopus Card users interchanging between the MTR and four designated bus routes of New Lantao Bus Company (1973) Limited in Tung Chung from September 2001 to August 2003;
- (iii) a fare discount ranging from \$0.5 to \$1.0 for adult Octopus Card users interchanging between the MTR and six designated green minibus routes in Tseung Kwan O from October 2002 to June 2003; and
- (iv) a \$3 fare discount for adult Octopus Card users interchanging between the MTR and the Discovery Bay Bus in Tung Chung from October 2002 to March 2003.

As the patronage and revenue figures in relation to the above schemes are commercial information of the MTRCL and the relevant transport operators, the MTRCL considers that it is not appropriate to release these figures.

The authorities have all along been wishing the MTRCL could seek active collaboration with other transport operators to implement inter-modal fare discount schemes based on the principle that such schemes would not affect its revenue. However, the MTRCL was of the view that there would be adverse impact from time to time according to the figures it worked out in this respect, but it will continue to explore the feasibility of implementing further concessionary interchange schemes with other transport operators with a view to making the MTR more accessible to a greater number of people and offsetting the adverse impact on its revenue due to the fare concessions.

**DR RAYMOND HO** (in Cantonese): *Madam President, the Secretary mentioned in the first paragraph of the main reply that the Government had approached the MTRCL and the KCRC regarding the introduction of interchange concessions for passengers interchanging between the KCR and the MTR at Kowloon Tong Station, but the MTRCL had reservations about the proposal as it estimated that the proposal, if implemented, could not be revenue neutral. Since the Secretary is a member of the board of the MTRCL, and it is obvious*

*that the proposal would attract some KCR passengers to take the MTR, it would be quite favourable as far as the revenue of the MTRCL is concerned. May I ask the Secretary if it is impossible to convince the MTRCL to accept the proposal?*

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

(in Cantonese): Madam President, in the course of discussions, the two railway corporations have presented their own schemes and data as support. Under the current fare mechanism and in the context of their competition with the buses operators, there is a price elasticity factor. Railway corporations would calculate whether they would be able to make up for the \$1 discount with increased patronage if they offer a flat \$1 discount? They would calculate a certain ratio according to the data collected right from the very beginning. It would be difficult for us to convince them that the data are wrong. As a board member, we have to trust those figures. For that reason, I could only encourage them to work harder and improve the operational efficiency, with a view to reducing their operating costs and having it reflected in the fares. As to concessionary interchange schemes, unless we can obtain further information and prove that such schemes would not adversely affect the revenues of railway corporations, it would be difficult for us to force the corporations to offer interchange concessions.

**PRESIDENT** (in Cantonese): As nine Members are waiting for their turns to raise supplementaries, Members should therefore make the wordings of their supplementaries as concise as possible.

**MR WONG SING-CHI** (in Cantonese): *Madam President, we have all along supported the introduction of interchange concession schemes by the two railway corporations, but both corporations have been unable to provide concessions to date. May I ask the Secretary whether she could make some proposals to ensure that the two railway corporations would implement such concessionary interchange schemes?*

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

(in Cantonese): Madam President, the Government as the regulator should

follow certain requirements in regulating the two railway corporations. The two railway corporations have executed respective operating agreements with the Government. In particular, we have to ensure that the MTRCL would not suffer losses in the course of providing interchange concessions, accordingly, the operating agreements had stated that the authorities should not do anything that would cause the corporation to suffer losses. Under this mechanism, I can only carry out an in-depth study on the past data and the past operating costs of the railway corporations, and such work is in progress. The Government should be able to detect the price elasticity from the past data if there is any difference from the past. In recent years, Hong Kong has gone through tremendous changes which could be seen and proven, such as a change in the public's sensitivity towards fare pricing, and the Government would do something in that respect.

**MR AMBROSE LAU** (in Cantonese): *Madam President, the Secretary mentioned in the main reply that the MTRCL had reservations about the proposal as it estimated that the proposal, if implemented, could not be revenue neutral. In this connection, can the Secretary tell us whether "reservations" means further discussion is possible or impossible? If further discussion is possible, are both sides actively seeking a win-win proposition now in order to bring convenience to the public?*

**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS** (in Cantonese): *Madam President, the MTRCL has stated clearly that it has reservations under the existing mechanism. It is possible that the MTRCL may have considered that if in the event of a merger between the two corporations in the future, the revenue may be transferred from company A to company B. They would take the proposal into consideration again as long as it has no direct impact on the two corporations.*

**DR LUI MING-WAH** (in Cantonese): *Madam President, both the KCRC and MTRCL are established to serve the people of Hong Kong, and they are the assets of the people of Hong Kong. The Secretary mentioned in the main reply that the MTRCL had reservations about the proposal as it estimated that the proposal, if implemented, could not be revenue neutral. In this connection, may I ask the Secretary if these quasi-government corporations have breached the objective of their founding by adopting such an attitude in operation?*

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

(in Cantonese): Madam President, although the Government is the major shareholder, the MTRCL is also a listed company. When the MTRCL was listed, its operating agreement stated the conditions of operation clearly, so the Government should therefore observe such a commercial agreement. The MTRCL has to take its operating conditions into consideration, that is, whether the provision of interchange concessions is consistent with its principle of financial prudence. If the MTRCL wishes to adjust the fares, it should follow certain procedures. Just as it proposed to raise fares in the past, it had to put forward the proposal to the Transport Advisory Committee for consideration and consult the Legislative Council's Panel on Transport, and it could adjust the fares only on approval of the board. Of course, we could learn from the history of fare increase that under the mechanism of fare adjustment, if any scheme would cause losses to the MTRCL, that is, if the corporation was unable to recover suitable returns from the relevant costs, then it would certainly disagree with the implementation of the scheme, and the Government could only act in accordance with provisions under the operating agreement.

**DR LUI MING-WAH** (in Cantonese): *Madam President, the Secretary has not answered my supplementary. Instead of making huge profits, the principal object of these quasi-government corporations should be serving the public. Has their practice breached the principle of establishing these corporations in the first place?*

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

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

(in Cantonese): Madam President, these corporations have not violated the basic principle.

**MS MIRIAM LAU** (in Cantonese): *Madam President, in fact, concessionary interchange schemes that have been implemented are few and far between, and they are limited to several bus and minibus routes only. The effect is quite insignificant when it is compared with the huge bus and minibus networks. May I ask the Secretary of the role of the Government in the entire process? Is the*

*Government allowing railway corporations or public transport operators to discuss by themselves voluntarily, so that some schemes could be implemented if agreements could be reached, but some schemes would be abandoned if no agreement is reached, or should the Government bring its co-ordinator role into play? Actually, many bus companies or taxis have not participated in concessionary interchange schemes. Will the Government consider the matter more thoroughly and will it make a more comprehensive co-ordinating effort?*

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

(in Cantonese): Madam President, the Government plays an active role to balance the needs of both sides via the Transport Department (TD). Insofar as concessionary interchange schemes, we have requested the two railway corporations to give positive response through liaison with other transport operators such as bus and minibus operators. At present, taxis are not included in the schemes, but it is possible that we would take them into consideration. We can see clearly from the overall operation that the relevant corporations would, from a commercial angle, actively take part in these concessionary interchange schemes if it would increase the overall patronage. In this respect, the TD is playing an active role. It has even requested the relevant corporation to provide interchange concessions at the initial stage of routing. We could therefore see that concessionary interchange schemes are implemented better by bus companies where over a hundred routes are involved. As to the MTRCL, I should reiterate the principle mentioned earlier, that it would not accept the proposal if the implementation could not be revenue neutral. According to this basic principle, we have been making every effort to achieve the provision of concessionary interchange schemes between several routes, and we are making such efforts continuously.

**MR ANDREW CHENG** (in Cantonese): *Madam President, the main reply stated clearly that as the MTRCL considered the proposal could not be revenue neutral and could undermine its revenue, therefore it declined to provide the concession. Obviously, such an act only takes care of the interests of minority shareholders in violation of public interest. Just now the Secretary said that she had no persuasiveness on the board, but I do not wish the Secretary to consider herself has no say over this matter simply because she considers herself unpersuasive. In fact, the Secretary does have a say in this .....*

**PRESIDENT** (in Cantonese): Mr CHENG, please come to your supplementary direct.

**MR ANDREW CHENG** (in Cantonese): *May I ask the Secretary, as the Government owns 100% of the KCRC and more than 70% of the MTRCL shares .....*

**PRESIDENT** (in Cantonese): Mr CHENG, your supplementary direct, please.

**MR ANDREW CHENG** (in Cantonese): *Will the Secretary play her trumps and require the two railway corporations to reach a consensus on the issue of providing interchange concessions as soon as possible with a view to protecting public interest?*

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

(in Cantonese): Madam President, as the Policy Bureau under the Government in charge of transport affairs, of course we hope to provide a perfect public transport network for the benefit of the public. However, at the same time, we also hope that public transport operators can keep their commercial operation going without government interference. Besides, as the Government, we should respect the provisions under the operating agreements. For that reason, despite the fact that the Government encourages active collaboration among different parties, we should not intervene and force the relevant corporations to make some imprudent commercial decisions. Although I am a board member of the railway corporations, I will adopt a rational attitude in the course of carrying out my duty as a board member. Certainly, from the Government's perspective, we may still achieve more efficient administration via other means, such as the fare mechanism under consideration, without participating in every decision of the relevant corporations or reversing the operation of the existing operating mechanism. I hope that arguments in this respect will be reduced in the near future through the fare mechanism. I also hope that both sides would gain some benefits under a mechanism that they consider acceptable.

**PRESIDENT** (in Cantonese): Last supplementary.

**MR LEE CHEUK-YAN** (in Cantonese): *Madam President, just now the Secretary said that we should keep the operation of public transport operators uninterrupted, such as the MTRCL. However, the current problem is: Can the public hang on any longer? The existing transport fares have already suffocated the public, they can no longer hang on. The Secretary said the implementation of inter-modal concession schemes should be premised on not adversely affecting the revenue of the relevant corporation. Given this, has the Government done calculations in respect of the relevant data tried to persuade the operators that the introduction of concessionary schemes would have no adverse influence? It is because it seems now the current situation is that the relevant corporations have provided the data to the Government, and the Government has accepted everything without asking a single question. Has the Government done calculations on the data provided by the relevant corporations anew and then persuaded them in a different way, that is, the schemes in fact do not only have any adverse impact and they may even bring positive impact?*

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

(in Cantonese): Madam President, Mr LEE mentioned that the public is facing pressure as a result of transport fares. However, as far as the operation of these two railway corporations or even other transport operators is concerned, we would consider the impact in many aspects, including the impact of the schemes on their employees. Railway corporations are mammoth organizations, so if the introduction of any scheme is not profitable or even makes them suffer losses, it would adversely affect the entire organization and the employees, therefore we have to strike the right balance insofar as the interests of all parties are concerned. As to the data provided by the railway corporations, we would of course study them in detail. I mentioned earlier that as the MTRCL was of the view that the concessionary interchange schemes would cause adverse impact on the corporation, and such estimate was calculated on basis of past statistics, I believe the data provided by the relevant corporation were comprehensive enough. As to the data we have obtained, we are currently doing the calculations.

**PRESIDENT** (in Cantonese): Fourth question.

**Practice for Handling Public Meetings and Processions**

4. **MR ALBERT HO** (in Cantonese): *Madam President, in a newspaper article on the Public Order Ordinance published on 30 November 2000, the Secretary for Security stated that, "When the police are aware of meetings and processions for which notifications have not been given in accordance with the law, they will take appropriate actions having regard to the circumstances of the event. Usually, verbal or written warning will be given at the beginning. If the situation is comparatively serious, such as involving the breach of public peace, the police will carry out follow up investigation and seek necessary legal advice."* In this connection, will the Government inform this Council:

- (a) *whether the current practice adopted for handling public meetings and public processions for which notifications have not been given in accordance with the law has deviated from that mentioned in the article; if it has, of the reasons;*
- (b) *of the respective numbers of public meetings and public processions held without prior notification in the past five years; and among these activities, the respective numbers of those for which notification was required under the law; and*
- (c) *of the criteria for determining whether cases of public meetings and public processions for which notifications have not been given in accordance with the law should be submitted to the Department of Justice (D of J) for consideration of instituting prosecutions; and the respective numbers of cases which the authorities submitted and did not submit to the D of J over the past five years and, among the submitted cases, the respective numbers of those involving the breach of public peace and those which the D of J after consideration instituted prosecutions?*

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

- (a) The article quoted in the question was published in a newspaper on 30 November 2000. It explained in brief the way the police

handled public meetings and processions for which notifications have not been given in accordance with the law. I had explained in detail the policy of the police in enforcing the Public Order Ordinance (POO) in a debate on the POO in the Legislative Council on 21 December 2000. I will repeat that again today.

"At a peaceful event with a minor, technical or unplanned breach of the POO, the Police Commander will give a verbal warning to the person in charge of the event. Details will be recorded and the event allowed to proceed.

"At a peaceful event where the organizer has deliberately breached the law or disobeyed the lawful orders given by the police, the Police Commander will give a verbal warning to the person in charge of the event. The latter will be informed that the police will consider possible prosecution action. Evidence of offences committed will be collected and presented to the D of J for advice.

"At an event where a possible or actual breach of the peace occurs, the police commander will give a verbal warning to the person in charge and the participants of the event directing immediate cessation of any unlawful activity. If the warning is ignored, the Police Commander will consider peaceful dispersal or physical removal of the crowd or arrest action as appropriate. Evidence of any unlawful activity will be collected and legal advice will be sought after the event with a view to initiating prosecution."

The police still follow the above policy in handling public meetings and public processions that have not been notified in accordance with the law.

- (b) The numbers of public meetings and public processions in the past five years, for which notifications should be given to the police in accordance with the law, but were not given, are shown in the reply that has been distributed to Members.

Type	Year					Total
	1998	1999	2000	2001	2002	
"Notifiable" but not notified public meetings	96	131	89	41	34	391
"Notifiable" but not notified public processions	30	52	32	14	18	146
Total	126	183	121	55	52	537

- (c) I have already explained the police's criteria for submitting cases of public meetings and processions to the D of J for consideration of instituting prosecutions in part (a). Out of the 537 public meetings and processions in the past five years for which notifications should be given in accordance with the law, but were not given, 12 cases were referred to the D of J for consideration of instituting prosecution. Until now, prosecutions have been instituted on two cases after consideration by the D of J. Out of the 12 cases, one involved breach of the peace.

**MR ALBERT HO** (in Cantonese): *Madam President, in the Secretary's reply, in which she quoted her remarks made in this Council, it is pointed out that as regards cases that are in breach of the POO, at a peaceful event where the organizer has deliberately breached the law or disobeyed the lawful orders given by the police, the police will collect evidence of offences committed and presented it to the D of J for decision on whether or not to institute prosecution. The Secretary then pointed out in part (b) that during the period from 1998 to 2002, 537 cases of public meetings and processions were in breach of the POO. The Secretary also mentioned in part (c) of the main reply that only 12 cases were referred to the D of J for consideration. May I ask the Secretary, of the 537 cases, if it is true that the police had only given verbal warning or advice in relation to 12 cases but those warnings and advices were ignored; while no warning at all was given in the other cases and so the question of disobeying the verbal warnings of the police or deliberately breaching the law did not arise in those cases? If the Secretary said many people were given verbal warnings, then may I ask the Secretary whether those 12 cases were selected for prosecution because the defendants are social activists who frequently criticize the Government and none of them are Legislative Council Members? Has the Secretary selected those 12 cases for this particular reason?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, if Mr HO has paid attention to my main reply, he would have realized that verbal warnings would be given by the police in all the meetings and processions for which notifications have not been given in accordance with the law. So verbal warnings would be given by the police, regardless of whether the event is unlawful in a technical, unplanned or non-deliberate manner. The 12 cases for which consideration of instituting prosecution has been made either involved a deliberate breach of the law or disobeying the lawful orders given by the police. In considering instituting prosecution, the police pay no regard to the status of people involved or the subject of the meetings and processions. It mainly relies on the evidence collected and whether the breach of law was repetitive and deliberate or refusal to obey lawful police orders.

**MR ALBERT HO** (in Cantonese): *Madam President, the Secretary has not answered part of my supplementary question. Of the 537 cases, apart from the 12 cases that were submitted to the D of J, is it true that the police did not issue any verbal warning at once in the remaining cases?*

**PRESIDENT** (in Cantonese): Mr HO, I think the Secretary has already answered your supplementary question.

**MR ALBERT HO** (in Cantonese): *Madam President, the Secretary did not answer whether any verbal warning had been given. Did the police say, for example, that the event was illegal and should thus be stopped at once?*

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

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, it has always been the practice of the police to issue warnings, be it verbal or written, to meetings and processions for which notifications have not been given in accordance with the law. As regards the 12 cases, since the persons involved have deliberately and frequently breached the law, consideration will be made to instituting prosecutions in addition to issuing warnings. The question of

whether consideration will be made on instituting prosecutions depends mainly on the evidence.

**MR ANDREW WONG** (in Cantonese): *Madam President, I originally wished to ask the Secretary for Justice this question in following up the second question, that is, during the time when Ms Emily LAU had raised her question, but I could still take this opportunity to ask that question.*

*May I know, as regards instituting prosecutions, what the working and legal relationship between the D of J and the law enforcement agency (in this case, it means the police) is? As a simple example, the Secretary for Security said in the main reply that "evidence of any unlawful activity will be collected and legal advice will be sought after the event with a view to initiating prosecution." Does this mean that the police selected those 12 cases and then sought the views of the D of J with a view to initiating prosecution? In other words, the police have decided in advance that with the exception of the 12 cases, prosecutions will not be instituted against the remaining 525 cases out of the 537 cases. Does the choice rest with the law enforcement agency? Has the D of J specified under what circumstances it is the policy that the decision on whether prosecutions should be instituted is not made by the Security Bureau but must be approved by the D of J and that it is only correct to do so in enforcing the law and all criteria should be set by the D of J; or that the Security Bureau, policy-wise, can already decide when arrests and prosecutions can be made under certain circumstances, but this certainly requires the approval of the D of J because the final decision rests with the D of J? Regardless of whether the relevant directions are made by which party, that is, whether they are made by the Policy Bureaux or the D of J, for cases that are not intended to be submitted to the D of J, with a view to instituting prosecutions, does the D of J have the authority to ask that the cases be submitted to the D of J for consideration of instituting prosecutions? This is rather complicated but the relationship between the two is very delicate. As the second oral question and the fourth oral question are closely related .....*

**PRESIDENT** (in Cantonese): Mr WONG, you have already asked your supplementary question, please be seated. *(Laughter)*

**MR ANDREW WONG** (in Cantonese): *Thank you, Madam President.*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, in according to Article 63 of the Basic Law, the D of J of the Hong Kong Special Administrative Region shall control criminal prosecutions, free from any interference, therefore all decisions on instituting prosecutions should be made by the D of J. The police are only carrying their duties under the law. If there are meetings and processions for which notifications have not been given, the police must consider section 17A(3) of the POO, which specifies that "where any public meeting, public procession or public gathering or other meeting..... every person who without lawful authority or reasonable excuse, knowingly takes or continues to take part in or form or continues to form part of any such unauthorized assembly..... shall be guilty of an offence". If someone takes part in or organizes such meetings, the police must consider whether they have lawful authority or reasonable excuse and whether they have knowingly taken part, and these are the evidences.

Of the 500-odd cases that occurred from 1998 to this year, very often, it was only after the police had issued warnings before it was discovered that many of those being warned were in the dark. For example, they originally expected that 50 people would attend the meeting, but things got out of control for the meeting was attended by a few dozens more people than anticipated, therefore they had not deliberately breached the law. Or perhaps, they did not know about the relevant legislation, so there was no evidence to show that they had knowingly done so, because "knowingly" constitutes a mental element of criminality. The police must collect sufficient evidence to prove that a person has knowingly taken or continued to take part in such meetings before the file is submitted to the D of J. This is the procedure. If the police have already seen such situations on the surface and can collect such evidence, then such cases will be submitted to the D of J. I have never heard of the D of J voluntarily instituting prosecutions or requesting the police to submit the files for instituting prosecutions before the police submit the files to the D of J. I have never heard about such cases.

**SECRETARY FOR JUSTICE** (in Cantonese): Madam President, I would like to add that our prosecution policy is very clear. Those who are responsible for

prosecution will not carry out investigations and law enforcement. The principle of prosecution must be like this, so as to ensure that prosecutions could be carried out independently. Therefore, the explanation made by the Secretary for Security just now is very accurate and explicit, that is, the police are responsible for investigation and collection of evidence. After the police have completed the relevant work, they will submit the relevant file to the D of J, and we would then decide whether prosecutions should be initiated in accordance with the prosecution policy. The D of J will not request the police to make investigations and submit a report.

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

**MR ANDREW WONG** (in Cantonese): *Madam President, they have not answered my question, and that is, whether it would be up to the Security Bureau or any law enforcement authorities to decide under what circumstances will decisions on arrests or prosecutions be made. This is certainly not the final decision because the final decision still rests with the D of J. In this regard, should the policy be to first submit the case to the D of J for decision?*

**SECRETARY FOR JUSTICE** (in Cantonese): Madam President, may I add a point? The law enforcement work of the police, that is, its operation is wholly the decision of the bureau; whereas the prosecution policy is the decision of the D of J. Therefore, the two are clearly distinguished and will not be mixed up. We are only responsible for prosecution, while the police are responsible for law enforcement. The police have their own operation manual.

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

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, I have an additional point to make. My explanation is similar to that of the Secretary for Justice, and that is, in handling meetings and processions for which notifications

have not been given, the police have their own criteria, that is, the three-tier response mentioned by me earlier. Of course, this is endorsed by the bureau. And, the police make their decision on whether a case should be submitted to the D of J for consideration with a view to instituting prosecutions on the basis of such criteria.

**MR JAMES TO** (in Cantonese): *Madam President, the Court is responsible for passing judgements in accordance with the law, the D of J is responsible for making decisions on whether prosecutions should be instituted in public interest while the Security Bureau is responsible for law enforcement. I would like to follow up part (c) of the main reply on which cases should be submitted to the D of J for consideration of instituting prosecutions. Since a Chief Magistrate indicated that though he found the defendant of a certain case guilty, he questioned whether that case was of a political nature. May I ask the Secretary for Security whether she agrees that one of the factors that the Government must consider is it should avoid making certain law enforcement actions, which will lead the public or even the Court to reasonably believe that case is of a political nature and may lead the public to reasonably believe the prosecution is political?*

**SECRETARY FOR SECURITY** (in Cantonese): (in Cantonese): Madam President, Mr James TO just now mentioned law enforcement and I would like to clarify that law enforcement is the duty of the police. Of course, we would be consulted by the police in relation to policy. However, as to whether the police will submit cases of meetings and processions for which notifications have not been given in accordance with the law to the D of J is entirely up to the police, which will make the decision in view of the evidence collected on a case by case basis. The Security Bureau does not have any views on this.

I am also aware of the comments that the Magistrate, to whom Mr James TO has referred, has made in relation to a particular case. In fact, the Magistrate has also pointed out in his official judgement that the arrangement under the POO is very reasonable. He considers such a notification system is restrictive in a limited way and is in line with the objective of the protection of public order and the criteria adopted by the Commissioner of Police in exercising his veto power is compatible with the Hong Kong Bill of Rights Ordinance. He also ruled that the existing notification system is in line with the necessary

requirements of a democratic society. Therefore, the practice of the police does not involve any political consideration.

**MR JAMES TO** (in Cantonese): *Madam President, the Secretary has not answered my supplementary question. I asked whether the police would consider the need to avoid initiating law enforcement actions and prosecutions that would lead the public to reasonably believe they are political one of the factors of consideration?*

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

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, I believe the police will work according to the law. The police only have two considerations, firstly the law. The law states that every person who, without lawful authority or reasonable excuse, knowingly takes or continues to take part in or form part of such unauthorized assembly shall be guilty of an offence; secondly evidence, other considerations are irrelevant.

**MR LAU KONG-WAH** (in Cantonese): *Madam President, I note that the table in part (b) of the main reply shows that in the past five years, the number of public meetings for which notifications should be given to the police in accordance with the law, but were not given, has dropped from 131 at its peak in 1999 to 34 last year, while the number of processions has dropped from 52 to 18, and the rate of decrease is quite significant. Does the Secretary agree that the majority of the public has actually accepted that under the POO, public meetings and processions should be conducted in an orderly manner and some members of the public will think that some people are still deliberately challenging the law, so as to create chaos but the police have not made any prosecutions and that this would make them confused? Has the Secretary ever heard such comments?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, the observations of Mr LAU are indeed correct. In fact, since the Legislative

Council conducted a debate of more than eight hours (as far as I can recall) on the POO, the public has learnt more about the notification system under the POO. Therefore, during the two-year period from December 2001 to this year, the number of public processions in the past five years, for which notifications should be given but have not been given has dropped to 50-odd, showing that members of the public have generally accepted the requirement of giving notification and are more aware of the system. We discover that those who insist on not giving prior notification are only the same handful of people. Nevertheless, the police have only acted in accordance with the law and it depends on whether those persons have deliberately violated the legislation and without reasonable excuse. If there is sufficient evidence, the case will be submitted to the D of J for action.

**MR ANDREW CHENG** (in Cantonese): *Madam President, Mr TUNG has indicated in the Legislative Council during the course of restoring the "draconian law" that the POO would certainly not affect peaceful assemblies. But part (b) of the Secretary's main reply and the earlier reply of the Secretary for Justice told us explicitly that even organizers of peaceful events have to be held responsible if they have breached the law. Madam President, the gist of my question is: Does the freedom of assembly in Hong Kong vary from one person to another? If all assemblies were peaceful, in the light of the past undertaking of Mr TUNG and prosecutions taken now, what creditability of the Government is there to speak of? How can we be convinced that the Government will really guarantee that everyone can equally enjoy the freedom of assembly?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, my reply is to ask Mr Andrew CHENG to refer to the relevant legislation. The wordings of section 17A(3)(a) and (b) of the POO do not mention peaceful or non-peaceful assembly, but rather meetings for which notifications should be made but not made. In other words, the framework that was debated and accepted by the Legislative Council was that under the POO, every individual certainly enjoys the freedom of procession and assembly, but the rights of others must also be respected and the interest of society as a whole must be considered, therefore a notice of seven days or less should be given to the police. Punishment under this Ordinance is made on the basis that notification should be given but not given and the person in question has knowingly continued to participate in such

processions and meetings. The issue of peaceful meetings or otherwise is not mentioned, therefore, there is no question of whether the Chief Executive has kept his promise or not.

**MR ANDREW CHENG** (in Cantonese): *Madam President, the Secretary for Security has not answered my supplementary question because I am not talking about the wordings of the Ordinance but that Mr TUNG, as the Chief Executive, promised us back then that the freedom of peaceful assembly enjoyed by Hong Kong people would not be affected. However, the Secretary has referred to the organizers of such events many times in her main reply, that is, peaceful assemblies to which Mr TUNG referred. The gist of my question is: Will Hong Kong people's freedom to peaceful assembly vary from one person to another? Is the Government targeting at people who have been labelled by the Government as regular protesters and dissidents?*

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

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, I would like to add something briefly. I think that Mr Andrew CHENG has so far not taken a serious look at the POO. The kind of assembly that is punishable under the Ordinance bears no relevance to it being peaceful or non-peaceful. Section 17A(3) pinpoints people who do not give notice and deliberately take part in meetings without lawful authority or reasonable excuse. This is sanctioned under the POO and is not related to the public's exercise of their right to lawful and peaceful meetings demonstrations.

**PRESIDENT** (in Cantonese): This Council has spent more than 21 minutes on this question. We will now proceed to the fifth question.

### **Vetting and Approving Entry Visa Applications by Taiwan Officials**

5. **MR SIN CHUNG-KAI** (in Cantonese): *Madam President, it is learnt that the heads of Kwang Hwa Information and Culture Centre and Chung Hwa Travel*

*Service, two Taiwan organizations in Hong Kong, were only granted entry visas to Hong Kong by the Hong Kong Special Administrative Region (SAR) Government one year after their appointments. Regarding the vetting and approving of entry visa applications by Taiwan officials, will the Government inform this Council:*

- (a) of the criteria adopted for determining individual organizations as Taiwan official organizations in Hong Kong or as Taiwan civic organizations;*
- (b) of the number of entry visa applications received from Taiwan officials each year since the reunification and, among them, the number of approved cases and the average validity period of the visas; the average time required for vetting such applications; the number of visas which has taken more than three months for vetting and the reasons for that; and the number of rejected cases and the reasons for that; and*
- (c) whether there are conditions attached to the entry visas concerned, such as demanding that the visa holders promise to abide by certain stipulations or not to participate in certain activities?*

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

- (a) Taiwan has not established any official organizations in Hong Kong. Taiwan organizations in Hong Kong such as Chung Hwa Travel Service and Kwang Hwa Information and Culture Centre have been in existence before the reunification. In accordance with the Basic Principles and Policies of the Central People's Government on the handling of Taiwan-related Matters in Hong Kong after 1997 announced by Vice-Premier QIAN Qichen in 1995 (generally known as "QIAN's Seven-point Principles"), these organizations may continue to exist in Hong Kong after the reunification.
- (b) Entry permit applications to visit Hong Kong by Taiwan residents are made in their personal capacity. The Immigration Department (ImmD) does not have statistics on whether the applications involve Taiwan officials.

- (c) All visitors to Hong Kong, including Taiwan visitors, are required to abide by the laws of Hong Kong during their stay in Hong Kong. In accordance with section 11 of the Immigration Ordinance, an Immigration Officer may specify a limit of stay and other conditions of stay as appropriate on persons who are given permission to enter Hong Kong. The ImmD will handle each entry application in accordance with established policies and relevant laws.

**MR SIN CHUNG-KAI** (in Cantonese): *Madam President, in the case of LU Ping, the Director of the Kwang Hwa Information and Culture Centre, may I ask if it is because of a lack of manpower in the ImmD or other reasons that it has taken as long as one year to process her application for an entry visa? Is there any particular reason that can explain why it has taken one year to grant the visa?*

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam President, in the case of the entry visa for Ms LU Ping, the SAR Government, and I after assuming office, have handled this matter actively all along. In fact, in July last year, the SAR Government issued a single-journey entry permit to her to facilitate her participation in a reading function organized by the cultural sector in Hong Kong. In December last year, we approved of Ms LU Ping's work permit application and she came and assumed her office in January. In sum, we believe that if both sides adopt a positive attitude, all matters can be dealt with properly.

**MR SIN CHUNG-KAI** (in Cantonese): *Madam President, I wish to point out that the Secretary has not answered my supplementary. What I am asking is why it has taken one year to process the visa application? I know that the Secretary has worked very actively and so have both sides. But why has it taken one year for this entry visa application to be processed successfully?*

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam President, we will process each application for entry into Hong Kong according

to the merits of individual cases. The SAR Government makes decisions according to the actual circumstances and after taking into account various factors. Some cases may be rather sensitive or complicated, however, it is our established policy not to comment on the details of individual cases.

**MR FRED LI** (in Cantonese): *Madam President, is there any mechanism, if a Taiwanese with a sensitive identity applies for entry into Hong Kong, requiring the SAR Government to first communicate with, contact and consult the Liaison Office of the Central People's Government in Hong Kong (Liaison Office), the Ministry of Foreign Affairs or other authorities in China?*

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam President, in handling any matter relating to Taiwan, we will proceed in accordance with "QIAN's Seven-point Principles". The approach we have adopted is very clear. We can process all cases by simply following "QIAN's Seven-point Principles" and the Immigration Ordinance.

**MR FRED LI** (in Cantonese): *Madam President, I asked the Secretary if there was any mechanism but he replied with something else. My supplementary asks whether any mechanism has been put in place to deal with the entry of Taiwanese with sensitive identities? The answer should in fact simply be "yes" or "no".*

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

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam President, in my reply to Mr Fred LI's supplementary, I have indeed stated that our approach is very clear, and that is, we only have to follow " QIAN's Seven-point Principles" and the Immigration Ordinance, which are already adequate in helping us process any case. As regards our communication with the Central Government, generally we do not make any public comments.

**MR MICHAEL MAK** (in Cantonese): *Madam President, I wish to understand more about part (b) of the main reply. The Secretary said in this part that "Entry permit applications to visit Hong Kong by Taiwan residents are made in their personal capacity". I do not really understand this. The three modes of communication have in fact been established between the Mainland and Taiwan and both sides should perhaps strengthen their communication. As a matter of fact, both sides have diplomats who are in contact with each other. Why can applications submitted by Taiwanese in their capacity as diplomats not be accepted, so that their applications can be approved more quickly or processed more expeditiously?*

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): *Madam President, we have to note two very important points. Firstly, the personnel of Taiwan organizations in Hong Kong are here to undertake the work of non-government organizations; secondly, the SAR Government adheres firmly to the principle of "one China", so Taiwanese in Hong Kong cannot handle diplomatic affairs.*

**MR WONG SING-CHI** (in Cantonese): *Madam President, the Secretary has said that it is not convenient for him to disclose some of the details of the communication he had with the Chinese authorities. What are the reasons for the Secretary to say that it is not convenient for him to disclose the details?*

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): *Madam President, what I said was, generally we would not comment publicly on our communication with the Central Government. This has been the consistent position of the SAR Government.*

**MR WONG SING-CHI** (in Cantonese): *Madam President, I am not asking whether disclosure will be made, but about the reasons for non-disclosure.*

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

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam President, I believe that our position is very clear. The SAR Government works according to the Basic Law and the principle of "one country, two systems". If a matter falls within the responsibility of the Central Government, then the discussion we have over any matter related to the Central Government is a matter between the SAR Government and the Central Government and generally we will not comment on it.

**MR JAMES TO** (in Cantonese): *Madam President, I do not intend to ask the Secretary to comment on whether the relationship between the Central Government and the SAR Government is good or not, but rather, to follow up Mr Fred LI's supplementary. In fact, when considering applications for entry visas made by Taiwanese officials with sensitive identities, that is, people who are considered by Taiwan as officials, does the Government contact the Liaison Office, the Central Government or any department of the Central Government to exchange views? I am asking about the facts in this regard rather than asking the Secretary to comment on whether the relationship is good or not.*

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam President, I did not say that I want to comment on whether our relationship with the Central Government is good or otherwise. Our relationship has always been good and there is no need to elaborate on this. However, if anyone applies for entry into Hong Kong, we will deal with it according to the Immigration Ordinance and established policies. Apart from this, we will not comment further.

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

**MR JAMES TO** (in Cantonese): *No, Madam President. The Secretary mentioned established policies and what I am asking the Secretary is whether this procedure is included in the established policy.*

**PRESIDENT** (in Cantonese): Mr TO, I think the Secretary has answered your supplementary. However, I believe you are not very satisfied with the Secretary's reply. *(Laughter)*

**MS EMILY LAU** (in Cantonese): *Madam President, the Secretary said in part (b) of the reply that "Entry permit applications to visit Hong Kong by Taiwan residents are made in their personal capacity", therefore the ImmD does not have any statistics concerning Taiwanese officials. I hope that the ImmD has kept statistics on Taiwanese visitors. Among the approved applications made by Taiwanese to enter Hong Kong, how many of them were processed according to section 11 of the Immigration Ordinance, subject to certain restrictions and conditions? Madam President, in the last three years, for example, among the approved cases, be they officials or ordinary people — there is no need to mention those that were not approved — how many cases were subject to conditions and what were the details of the conditions? Mr SIN Chung-kai's question asked if visa holders had been requested not to participate in certain activities, which is one example of the conditions. Can the Secretary tell us what the other restrictions are?*

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam President, generally we do not comment on whether conditions are imposed on individual applications. As far as I know, the ImmD does not collect this type of information in particular, nor does it keep statistics on the number of cases that are approved subject to conditions. However, there are two points which may be of interest or help to Ms Emily LAU. According to the figures of 2000, 85% of the applications for work permits were processed within four weeks; according to the figures of 2002, generally applications for a visa under the iPermit Scheme can all be processed within a very short period, just a few minutes. If the application is made in the conventional way, 99% of Visit Permit applications can be processed within two days.

**MS EMILY LAU** (in Cantonese): *Madam President, my supplementary is on how many entry visa applications made by Taiwanese were approved subject to conditions in the past three years. Madam President, I am not asking about individual cases. But generally, how many approved cases are subject to*

*conditions? May I ask the Secretary if the Government has simply not collected information on this, or it cannot make any disclosure?*

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam President, as far as I know, the Government has not collected information on this.

**MS AUDREY EU** (in Cantonese): *Madam President, I wish to follow up the Secretary's reply. The Secretary said in reply to one of the supplementaries that the Government's established policy is not to disclose its communication with the Central Government, saying that it is a matter of the Central Government. Madam President, I do not know if the following supplementary should be answered by Secretary Stephen LAM, Secretary Regina IP or Secretary for Justice Elsie LEUNG. May I know if this kind of information will be considered protected information after the enactment of law on Article 23 of the Basic Law? Moreover .....*

**PRESIDENT** (in Cantonese): Ms Audrey EU, please sit down first. You cannot ask hypothetical questions. If you rephrase your supplementary, I can allow you to ask it again.

**MS AUDREY EU** (in Cantonese): *Madam President, the Bill has been published and clause 16A specifies that affairs within the responsibility of the Central Authorities are protected information. According to Secretary Stephen LAM, the Government's practice is not to disclose communication between the SAR Government and the Central Government, furthermore, it is a matter for the Central Authorities. May I ask if this type of information is protected information mentioned in clause 16A of the present Blue Bill, since its publication is already a fact?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, this supplementary is related to Article 23. *(Laughter)* Madam President, I will reply if you so permit.

**PRESIDENT** (in Cantonese): Secretary for Security, I am sorry, for I have already allowed Ms EU to proceed and ask it. *(Laughter)*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, I do not mind answering it. *(Laughter)*

**PRESIDENT** (in Cantonese): Secretary, you can decide how you answer it.

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, I have replied to this quite a number of times. We have made it clear that under the Blue Bill, information relating to the relationship between the Central Authorities and the SAR will be specified as Hong Kong affairs within the responsibility of the Central Authorities and any disclosure will be damaging to national safety and interest. What national safety means is safeguarding territorial integrity, independence and autonomy. I do not wish to comment on hypothetical situations. Whether any information is protected depends on individual circumstances.

**MR MARTIN LEE** (in Cantonese): *Madam President, the Secretary has said that he would not comment publicly on communication with the Central Authorities. However, the issue now is that the Legislative Council has the right to raise such a question and the President has also allowed us to raise this supplementary. Is the Government saying that we do not have the right to know? If so, may I know on what ground it deems that we do not have the right to know and that the Secretary does not have to answer? If the Government consults the Central Authorities, why can it not tell us about this? The Secretary for Justice, Ms Elsie LEUNG, disclosed that the Government had consulted the Central Authorities over Article 23 and she also disclosed everything about the consultation and the consensus, so why can the Secretary not make any comments?*

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam President, our principles are in fact very clear. Firstly, we deal with our relationship and affairs with Taiwan according to "QIAN's Seven-point

Principles"; secondly, the Director of Immigration will process all of these applications for entry into Hong Kong according to the Immigration Ordinance. Apart from these two major principles, we will not comment any further.

**MR MARTIN LEE** (in Cantonese): *Madam President, Mr Fred LI has asked whether there is any mechanism, but the Secretary is unwilling to give an answer. He can simply say either yes or no as is the case. How can he possibly decline to answer? Madam President, it is right and proper for us to ask this supplementary.*

**PRESIDENT** (in Cantonese): Mr Martin LEE, you do not have to remain standing. Please be seated. I allow you to ask this supplementary, but public officers can also decide how to answer. If Members disagree with the replies given by them, I am in no position to offer any assistance.

Secretary for Constitutional Affairs, do you have anything to add?

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): No, I have nothing to add.

**MR ANDREW CHENG** (in Cantonese): *Madam President, I wish to ask about part (c) of the main question. I hope the Secretary will understand that the thrust of the main question is whether any conditions have been imposed on the entry visas for people or officials from Taiwan to restrict their activities, and the Secretary said in part (c) of the main reply that "In accordance with section 11 of the Immigration Ordinance, an Immigration Officer may specify a limit of stay and other conditions of stay as appropriate on persons who are given permission to enter Hong Kong". May I know what the so-called "other conditions of stay as appropriate" targeting Taiwanese are? I hope the Secretary can tell us about them. If he still maintains that he cannot, then why not?*

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam President, as far as I know, the ImmD does not comment publicly on individual cases, including any conditions imposed.

**MR ANDREW CHENG** (in Cantonese): *Madam President, I am not referring any particular case. The question asked whether any condition had been imposed and the Secretary replied that there was, so we asked follow-ups on this. Madam President, you also allowed me to ask the supplementary. The main reply mentioned "other conditions of stay as appropriate" and the thrust of the question now is what is meant by "appropriate". I believe the Secretary for Constitutional Affairs does not have to be evasive on these questions. May I ask what is meant by "appropriate"? Taiwan and the Mainland have already established the three modes of communication, so why is the Secretary so sensitive over the issue of Taiwanese coming to Hong Kong? We only want to know what these so-called "other conditions of stay as appropriate" are insofar as Taiwanese, including officials, are concerned. If the Secretary cannot tell us, then why not? I am not talking about individual cases.*

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam President, Mr Andrew CHENG is a lawyer and he should be well aware that appropriate means appropriate. If the general policy of the ImmD is not to comment publicly on what conditions are imposed in individual cases, then we are not in a position to make comments in a general way. However, I can tell Members what the limit of stay means. Generally, the limit of stay prescribed by the ImmD can be seven days or 14 days. As regards other conditions of stay, there is also one type that I can inform Members of, that is, visitors cannot take up any job, set up or engage in any business or receive education without permission during their stay in Hong Kong. This is one condition of entry that is most often applied by the ImmD. However, concerning individual cases and individual applications made by the persons-in-charge of non-government organizations of Taiwan in particular, we do not have any comments.

**MR ALBERT HO** (in Cantonese): *Madam President, I will raise Ms Audrey EU's supplementary again from another angle. According to the Secretary's understanding and the Basic Law, is the processing of entry applications made by Taiwan officials within the responsibility of the Central Authorities or is it considered an internal affair that lies entirely within the ambit of Hong Kong?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, according to the laws of Hong Kong, the approval for people without the right of abode to

enter Hong Kong for travel or work is decided by the Director of Immigration according to the Immigration Ordinance. Therefore, the decision is made by the SAR Government.

**PRESIDENT** (in Cantonese): This Council has spent more than 18 minutes on this question. We will now proceed to the sixth question.

### **Charging for Accident and Emergency Services**

6. **MR MICHAEL MAK** (in Cantonese): *Madam President, I almost raised a supplementary on the previous oral question.*

*Madam President, the charge for Accident and Emergency (A&E) services at public hospitals was introduced on 29 November last year. In this connection, will the Government inform this Council:*

- (a) of the respective average daily numbers of attendances in A&E departments in the months before and after the introduction of the A&E service charge; whether it has assessed the impact of the service charge on the number of attendances;*
- (b) of the number of payment notices issued so far to A&E patients or their family members who were unable to settle the payment forthwith; the number and percentage of payment notices which remain unsettled one month after the date of their issue; whether the Government will make up for the loss of the Hospital Authority (HA) in this respect; and*
- (c) of the number of A&E patients who have applied for fee remission so far, together with the number and percentage of the applications approved?*

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

- (a) The average daily attendance of all the HA's A&E departments for November 2002 was 6 442. This figure includes the first two days after the A&E charge was introduced on 29 November 2002. Meanwhile, the average daily attendance for December 2002 was 5 709. The average daily attendance for December 2002 is hence 11.4% lower than the November 2002 figure.

The utilization rate of A&E service is affected by a number of factors, in particular the seasonal effect which could have a significant bearing on the usage pattern. Therefore it would also be useful to compare the utilization rate of A&E service of the month after the charge was introduced, that is, December 2002, with the same month a year ago, that is, December 2001. In December 2001, the average daily attendance of all HA's A&E departments was 6 313. The average daily attendance for December 2002 is therefore 9.6% lower than the December 2001 figure.

From the above figures, it is evident that after the introduction of A&E charge, the A&E utilization rate has shown a significant decrease irrespective whether it is compared with the preceding month or the same month a year ago.

- (b) Experience of payment collection from December 2002 to January 2003, that is, the first two full months after the A&E charge was introduced, reveals that 85% of patients settled their A&E charge immediately upon registration. Patients who were unable to settle their payment upon registration were issued a payment advice and they could settle the payment at any public hospital at a later date. In this respect, from December 2002 to January 2003, 68% of patients who were issued payment advices had already settled their A&E charge. Only 4.7% of the total attendance remained unsettled, and the HA will initiate its usual debt recovery procedures to handle these outstanding bills.

There is already an established mechanism to determine the Government's subsidy level to the HA, which has taken into account the revenue collected by the HA from its services. Nevertheless, revenue that has to be ultimately written off after debt recovery

procedures normally accounts for an insignificant proportion of the HA's operating budget.

- (c) From December 2002 to January 2003, a total of 1 105 applications for waiving of A&E charge were received, representing less than 0.3% of the total number of attendance during that period. About 92% of these applications were approved, that is, 1 012 cases.

**MR MICHAEL MAK** (in Cantonese): *Madam President, part (c) of the main reply mentioned that more than 1 000 applications for waiving A&E charge had been received. May I ask the Secretary whether the authorities have analysed whether the applicants are mostly elderly people, the chronically ill or low-income earners? If the answer is in the affirmative, then has the analysis brought any fee particular revelations in relation to remission mechanism being actively planned by the Secretary at the moment?*

**SECRETARY FOR THE HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, I do not have the analysis of such data at hand, I would give Mr MAK a written reply later. (Appendix II)

**DR LO WING-LOK** (in Cantonese): *Madam President, may I ask the Secretary which categories of patients have decreased after the introduction of A&E charge? Are they people who actually have no genuine need to use A&E service, that is, people so-called who misusing A&E service as the Secretary said; or are they elderly people who actually have a genuine need to use A&E service but unable to afford the \$100 charge? Has the pressure from the in-patient side been reduced after the introduction of A&E charge?*

**SECRETARY FOR THE HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, we could see from the triage system that people who reduce using A&E service are mostly patients under the non-urgent and semi-urgent categories. Semi-urgent patients have decreased by 10.7%, non-urgent patients have reduced by 35%, while urgent patients have remained generally unchanged. Furthermore, the utilization rate of hospitals and A&E charge are two different things, therefore it has not been affected.

**DR LAW CHI-KWONG** (in Cantonese): *Madam President, part (b) of the main reply mentioned the issue of outstanding bills, and we have raised the same question in past Council meetings. May I ask the Secretary if the A&E charge collected belongs to the HA or it will be turned over to the Treasury? If it belongs to the HA, then will the HA take the outstanding bills more seriously and spare no efforts to recover them?*

**SECRETARY FOR THE HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, the charge collected from patients will enter into the HA's account. However, the Government would take the following into consideration before allocating funds to the HA, firstly, the resources required by the HA for the provision of services, and secondly, the amount of money the HA would recover so that the allocation would be reduced accordingly. Of course, when we estimate the revenue of the HA, we would also take into account the utilization rate in general and the adjustment of charges. The Government would therefore reduce the funding to the HA accordingly. With regard to new charges, the HA has concluded an agreement with the Government under which 50% of the new charges would enter into the HA's account while the other 50% would be turned over to the Government. For the time being, the A&E charge collected would be disposed of according to the agreement, but we would discuss with the HA about the future funding mechanism and examine whether adjustment is necessary. We would dispose of the charge collected according to the past agreement, that is, the Treasury would take half of it and the HA would take the other half.

**DR TANG SIU-TONG** (in Cantonese): *Madam President, it was mentioned in part (b) of the main reply that 4.7% of the total attendance remained unsettled, and the HA would initiate its usual debt recovery procedures to handle those outstanding bills. However, revenue had to be ultimately written off after debt recovery procedures. May I ask the Secretary if this write-off rate is identical to the past write-off rate?*

**SECRETARY FOR THE HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, we would issue a payment advice if a bill is unsettled, and we

would issue a final payment advice and refer the case to the Small Claims Tribunal before eventually writing it off. Generally speaking, the number of write-off cases is falling on a yearly basis. However, it would be difficult to compare this to the A&E charge, as the A&E charge has been enforced for a short period and we have not yet reached a stage where we have to write it off.

**DR TANG SIU-TONG** (in Cantonese): *Madam President, may I ask the Secretary what the existing write-off rate of the HA is?*

**PRESIDENT** (in Cantonese): Dr TANG, is this follow-up a part of your previous supplementary?

**DR TANG SIU-TONG** (in Cantonese): *Yes, Madam President, I would like to compare it with the 4.7%. The Secretary said that 4.7% of the total attendance remained unsettled. If the Secretary finds it difficult to make the comparison as the implementation period is too short, he may compare it with the write-off rate of the HA.*

**PRESIDENT** (in Cantonese): Secretary, do you have the information?

**SECRETARY FOR THE HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, I still consider that it is difficult to make a comparison. Firstly, A&E charge is a separate fee, whereas in-patients have to pay a charge according to their bed days, it is therefore difficult to make a comparison. Moreover, A&E patients would not necessarily bring along with them enough cash, therefore it is also difficult to make the comparison. We can compare the write-off rate after we have accumulated sufficient experience. However, we have not reached that stage yet, as the HA is still trying to recover the charge.

**MR NG LEUNG-SING** (in Cantonese): *Madam President, can the Secretary inform us two different rates, that is, whether the authorities have estimated the*

*rate of receivables and the eventual write-off rate before introducing the charge? What is the difference between the current 4.7% receivables and the original estimate? Will the write-off rate exceed the original estimate?*

**PRESIDENT** (in Cantonese): Mr NG Leung-sing, are you referring to the A&E charge that the HA would not be able to recover?

**MR NG LEUNG-SING** (in Cantonese): *Madam President, the Secretary mentioned the issue of 4.7% in part (b) of the main reply. I believe there is an estimate before introducing the charge. Besides, concerning the write-off, what is the eventual write-off rate?*

**PRESIDENT** (in Cantonese): Mr NG, are you asking a prior estimate?

**MR NG LEUNG-SING** (in Cantonese): *Yes, I would like to ask what is the difference between the estimate and the actual situation.*

**PRESIDENT** (in Cantonese): Mr NG, the Secretary states that there is no write-off rate for the time being. Secretary, you may reply.

**SECRETARY FOR THE HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, you have replied for me. Since we have not reached a stage where the debt has to be written off, we cannot make the comparison. As to the percentage of the charge, that is, the amount of money we could receive is generally similar to our estimate. We originally estimated that after introducing A&E charge, some of the patients might be given waivers, and some of the unpaid charges would have to be written off by the HA. Certainly, it is difficult for us to estimate the write-off rate at the present stage, as we are far from that stage. However, the percentage of charge we would receive, according to our present experience, is not far off our estimate.

**MR ANDREW WONG** (in Cantonese): *Madam President, I would like to raise a simple supplementary about figures. The Secretary mentioned in part (b) of the main reply that 85% of patients settled their A&E charge immediately upon registration, patients who were unable to settle their payment upon registration were issued a payment advice, in which 68% of them had already settled their A&E charge, and only 4.7% of the total attendance remained unsettled. However, these figures do not add up to 100%. I believe it was because 15% of A&E patients had not settled the A&E charge immediately, in which around two thirds of them had settled the A&E charge, and only one third of them had not settled the A&E charge, therefore the figure was 4.7%. The sum of these figures is not 100%, so can the Secretary tell us whether this is the actual situation?*

**SECRETARY FOR THE HEALTH, WELFARE AND FOOD** (in Cantonese): *Madam President, I am grateful that Mr WONG has clarified the figures for me. Mr WONG was correct, 85% of patients settled their A&E charge immediately upon registration, 10% of patients settled their A&E charge later, therefore the remaining 4.7% of patients had not settled their A&E charge.*

**DR LO WING-LOK** (in Cantonese): *Madam President, some medical and health care practitioners are concerned that complaints from A&E patients would increase after the introduction of A&E charge. May I ask the Secretary if there have been any fluctuations in the number of complaints concerning A&E departments?*

**SECRETARY FOR THE HEALTH, WELFARE AND FOOD** (in Cantonese): *Madam President, at the initial stage of introducing A&E charge, there were indeed be some complaints about administrative arrangements, but the numbers are relatively low. As soon as patients have familiarized with it, there has been no significant increase in the number. If Dr LO wishes to obtain the information on complaints after the introduction of A&E charge, I would reply in writing later. (Appendix III)*

**MR JAMES TO** (in Cantonese): *Madam President, I am concerned about one thing, that is, there are various kinds of patients who use A&E service, one of the*

*categories is victims of crime. For example, victims of sexual violence may have to undergo injury assessment, body check or medical treatment. Do they have to pay the A&E charge, or do they have to apply for waiver of A&E charge just like it is stated in part (c) of the main reply? Would the enforcement agency settle the charge for them? Has the Government drawn up guidelines for that? Can the Secretary inform us briefly of the relevant guidelines?*

**SECRETARY FOR THE HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, if a patient is brought by the police or officers of an enforcement agency, he needs not pay A&E charge. Other patients who go to A&E departments by themselves should pay A&E charge.

**MR JAMES TO** (in Cantonese): *Madam President, can the Secretary elaborate whether it only includes the police, or it also includes voluntary agencies? In a sexual violence case, it is possible that the victim is accompanied by people from a voluntary agency instead of the police.*

**SECRETARY FOR THE HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, only patients brought by the police could be granted the waiver. Any patient brought by a voluntary agency should pay A&E charge.

**PRESIDENT** (in Cantonese): Last supplementary.

**MR MICHAEL MAK** (in Cantonese): *Madam President, I would like to follow up part (c) of the main reply, that is, applications for waiving of A&E charge. The Secretary said that 1 012 cases were approved, that means 93 cases were turned down. May I ask the Secretary why those 93 cases were turned down? If their applications were turned down, would they vent their spleens on the relevant staff, such as the social worker. May I ask the Secretary if he has analysed this?*

**SECRETARY FOR THE HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, under the present mechanism, medical social workers would

make the decision according to the financial status, kinship bond and clinical conditions of the applicant. Generally speaking, we would make a decision according to the income of the applicant. We do not have data showing the reasons why applicants were not qualified and why social workers did not approve of a waiver. In most cases, the major reason for their applications being turned down is their financial status failing to meet our requirement. Nevertheless, I will provide the relevant data to Mr MAK in writing. (Appendix IV)

**PRESIDENT** (in Cantonese): Question time ends here.

## **WRITTEN ANSWERS TO QUESTIONS**

### **Work of Hong Kong Economic and Trade Office in Guangdong**

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

- (a) *of the respective numbers of cases involving complaints and requests for assistance received by the Hong Kong Economic and Trade Office in Guangdong (GDETO) of the Government of the Hong Kong Special Administrative Region (SAR) since its establishment; how the GDETO has handled those cases, and of the outcome of the cases; and*
- (b) *whether the GDETO has participated in the discussions of the following: the project to construct the Hong Kong-Macao-Zhuhai bridge, the arrangement for implementing 24-hour passenger clearance between Shenzhen and Hong Kong, the ways to ensure the quality of Dongjiang water, and the promotion of total economic integration between Hong Kong and the Pearl River Delta; if it has, of the details?*

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Chinese): Madam President, the GDETO of the SAR Government is established to strengthen the trade and economic ties between Hong Kong and Guangdong

Province. It is committed to promoting trade and investment between the two places and providing support to Hong Kong businessmen with operations in Guangdong.

On part (a) of the question, the GDETO has received a total of seven cases of complaints and requests for assistance since it came into operation in April 2002. They concern properties transactions in the Mainland, commercial disputes, views on the Guangzhou Autumn Chinese Export Commodities Fair, import of steel products, as well as the work of the Hong Kong Immigration Department. The GDETO follows up cases to do with bilateral economic and trade and refers the rest to the Office of the Government of the Hong Kong Special Administrative Region in Beijing or the relevant Guangdong authorities. In the steel product case, for instance, the GDETO took it up with the Guangdong Customs Office, which appreciated the concerns of Hong Kong traders and undertook to reflect them and follow up the case with the General Administration of Customs. The efforts resulted in the promulgation of the "Notice on the Implementation of Temporary Safeguard Measures on Imports of Certain Steel Products" by the General Administration of Customs to introduce new arrangements for products that are not accompanied by the original Certificates of Origin on import to the Mainland, thus resolving the concerns of Hong Kong traders.

During the same period, the GDETO also received about 3 000 enquiries, most of which concern investment-related regulations and procedures in Guangdong and Hong Kong as well as general enquiries about Hong Kong, such as those on immigration matters. The GDETO has responded or referred them to the relevant organizations as appropriate.

As regards part (b) of the question, the GDETO is committed to enhancing the economic integration between Hong Kong and Guangdong. Since its establishment, the GDETO has established good working relationship and communication channels with the Guangdong Provincial People's Government, the 21 prefecture-level cities and the authorities in charge of economic and trade affairs within the province. It has also strengthened communication with Hong Kong businessmen in Guangdong through liaising with business chambers and associations. The GDETO has also implemented measures to facilitate the dissemination of economic and trade information on the Province, including the launch of the weekly *GDETO Newsletter*. It plans to connect its website to those of the Guangdong cities to create an electronic platform providing Hong

Kong businessmen with better access to the latest economic and trade information in these cities.

In order to strengthen Hong Kong's position as a trade platform in the region, the GDETO will engage the cities in the Province in joint investment promotion activities. These include an investment promotion visit to Japan and business missions to study the investment environment of Dongguan, as well as the western and northern parts of Guangdong. The GDETO will continue to step up efforts to enhance bilateral investment between Hong Kong and Guangdong. It will also continue to encourage more mainland enterprises to visit Hong Kong and enter the international market through Hong Kong.

Issues such as the Hong Kong-Macao-Zhuhai bridge, 24-hour passenger clearance between Shenzhen and Hong Kong as well as the quality of Dongjiang water are being followed up by the respective Policy Bureaux and departments of the SAR Government. The GDETO stands ready to contribute its effort as necessary.

### **Provision of Waste Separation Bins on Each Floor of Every Block in PRH Estates**

8. **DR LAW CHI-KWONG** (in Chinese): *Madam President, the Housing Department (HD) launched a pilot scheme to provide waste separation bins on each floor of two selected blocks of public rental housing (PRH) estates in September and October 2000. The scheme was extended to two other PRH estates in November 2001. In this connection, will the Government inform this Council:*

- (a) *of the details and effectiveness of the above pilot scheme;*
- (b) *whether it plans to provide waste separation bins on each floor of every block in PRH estates; if so, of the implementation timetable; if not, the reasons for that; and*
- (c) *whether it has launched any pilot schemes in PRH estates for recovery of recyclable materials other than plastic bottles, aluminum cans and waste paper; if it has, of the details; if not, the reasons for that?*

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

- (a) In promotion of environmental protection activities in public housing estates, the HD encourages tenants to participate in the collection of recyclable wastes. From August to November 2000, the HD supported Green Power and Friends of the Earth in launching a pilot scheme in two public housing blocks, one each in Choi Wan (I) Estate in Ngau Chi Wan and Kwong Tin Estate in Lam Tin. Waste separation bins were placed on each floor of the selected blocks for the collection of waste paper, aluminium cans and plastic bottles. In November 2001, the HD launched a similar pilot scheme in Chak On Estate in Sham Shui Po and Chun Shek Estate in Sha Tin. The outcome of the two pilot schemes is satisfactory. In comparison with the past when waste separation bins were only placed on the ground floor lobbies of housing blocks and open areas of an estate, the average monthly quantity of recyclable materials collected has increased significantly.
- (b) In view of the satisfactory outcome of the pilot schemes, we have decided to extend the scheme to other public housing estates. We plan to include six to 10 public housing estates in the scheme each year and will review progress in the light of tenants' feedback. In 2002-03, the following six estates will be included:
1. Lee On Estate in Ma On Shan
  2. Yiu Tung Estate in Shau Kei Wan
  3. Tin Shui (I) Estate in Tin Shui Wai
  4. Sam Shing Estate in Tuen Mun
  5. Shun Lee Estate in Kwun Tong
  6. Yau Tong Estate in Lam Tin
- (c) Besides waste paper, aluminium cans and plastic bottles, the HD also takes part in the "Plastic Bags Recovery Trial Scheme"

organized by the Environmental Protection Department. Collection bins for used plastic bags have been placed in public places of Homantin Estate in Kowloon since August 2002.

### **Smallpox Inoculation**

9. **MR NG LEUNG-SING** (in Chinese): *Madam President, the Government of the United States announced in December last year that, as a safeguard against attacks by biochemical weapons, it would inoculate some of its servicemen and health care personnel against smallpox and planned to stockpile sufficient quantities of smallpox vaccine for inoculating its entire population. In this connection, will the Government inform this Council:*

- (a) *whether it plans to conduct publicity campaigns to enhance people's awareness of the smallpox disease and to encourage them to have smallpox inoculation; if so, of the details; if not, the reasons for that;*
- (b) *of the cost required for inoculating the entire population of Hong Kong against smallpox; and*
- (c) *whether it has assessed the possibility of an epidemic of smallpox in Hong Kong and assessed if the local medical institutions are capable of controlling the epidemic; if so, of the assessment results?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Chinese): Madam President, smallpox has been eradicated from the globe since 1980. At present no place in the world requires smallpox inoculation, except in some countries where front-line officers are inoculated against smallpox for security reasons.

- (a) In view of the assessment in (c) below, we do not intend to conduct publicity campaigns on smallpox or encourage members of the public to have smallpox inoculation.
- (b) Market information shows that each dose of smallpox vaccine would cost between US\$3 to US\$9. We estimate that the cost for

inoculating the entire population in Hong Kong would amount to between HK\$159.12 million and HK\$477.36 million. However, in view of the possible adverse side-effects of vaccination, the World Health Organization considers that vaccination is not warranted if there is no or little real risk of exposure. In the event of an outbreak, small but rapid and thorough containment actions can break the transmission chain and halt the outbreak within a relatively short time. The health authorities of the United Kingdom and the United States have also formulated "the ring vaccination strategy", which includes targeted vaccination and monitoring of contacts, together with isolation of cases.

- (c) Hong Kong has been one of the safest cities in the world. Its socio-political environment has never featured any connection with terrorism. There is also no known terrorist infrastructure or support base in Hong Kong. The Government's assessment is that the risk of Hong Kong becoming a target of terrorist attacks with the use of biological or other weapons is low.

The Government has set up an interdepartmental working group led by the Police Force and comprising relevant departments and organizations including Department of Health (DH) and the Hospital Authority. It has devised a contingency plan to cope with situations which involve biological weapons including smallpox virus. Hong Kong has sufficient capacity in terms of facilities, equipment, medical supplies and personnel to deal with the contingencies arising from an attack by smallpox virus. Diseases caused by biological agents like bacteria and virus are the same as similar diseases contracted through natural transmission. Local medical personnel have adequate training to manage these diseases.

In minimizing the risk of any smallpox outbreak, surveillance and vigilance of the disease are of paramount importance. To monitor the situation of infectious diseases, the DH has in place an effective disease surveillance system consisting of hospitals, government out-patient clinics and private doctors. The DH has also sent letters to all doctors (including private doctors) in Hong Kong to alert them of diseases which may be caused by biological terrorist

attack, and remind them to report any unusual cases to the DH for follow-up actions. In addition, the DH has maintained a sound network with the World Health Organization and other overseas public health authorities and will seek their assistance when necessary.

### **Lift Operators Grade in Civil Service Establishment**

10. **MR HENRY WU** (in Chinese): *Madam President, regarding "Lift Operator" Grade in the civil service establishment, will the Government inform this Council:*

- (a) of the establishment and strength of Lift Operators;*
- (b) of their total monthly remuneration, and the percentage of such amount in the total monthly remuneration of the Civil Service as a whole;*
- (c) of the current number of lifts in government buildings which still have to be operated by lift operators; and*
- (d) whether it plans to phase out this grade; if so, of the details; if not, the reasons for that?*

**SECRETARY FOR THE CIVIL SERVICE** (in Chinese): *Madam President, my reply to the question raised by the Honourable Henry WU is as follows:*

- (a) As at 31 January 2003, the establishment and strength of the Lift Operator Grade in the Civil Service are two respectively. The two serving officers in the Lift Operator Grade are working in the Electrical and Mechanical Services Department and the Administration Wing of the Chief Secretary for Administration's Office respectively.*
- (b) The total monthly salaries of the two serving officers in the Lift Operator Grade are \$22,640. Their salaries account for a*

negligible percentage of the total salaries of the Civil Service, which is less than 0.0005%.

- (c) Only one cargo lift with a capacity of 2 270 kg serving the workshop in the Headquarters of the Electrical and Mechanical Services Department is currently operated by a Lift Operator. The cargo lift will be decommissioned when the Department moves to its new Headquarters in Kai Tak in 2004. This Lift Operator, apart from operating the cargo lift, is also deployed to carry out other manual labour duties in the workshop. The other officer working in the Administration Wing has been redeployed to perform the duties of Property Attendant.
- (d) The Lift Operator grade was included in the Voluntary Retirement Scheme launched in July 2000. One Lift Operator joined the scheme and left the service in mid-2001. The remaining two serving officers will reach normal retirement age in 2003 and 2004 respectively. The Lift Operator Grade will be formally abolished when the last remaining officer retires in 2004 or earlier if the officers choose to retire earlier.

### **Provision of Noise Enclosures for Two Sections of Route 5 Extension**

11. **MR TAM YIU-CHUNG** (in Chinese): *Madam President, the consultant commissioned by the Territory Development Department has completed a review on the noise issues of the two sections of Route 5 Extension passing through Discovery Park in Tsuen Wan. In this connection, will the Government inform this Council:*

- (a) *of the conclusions of the consultancy study, in particular, whether it has recommended the provision of noise enclosures for the road sections concerned; if it has, whether the consultant has mentioned how the noise enclosures are to be constructed and their effectiveness in mitigating noise impact; and*
- (b) *whether it will provide noise enclosures for the road sections concerned; if it will, of the commencement and completion dates of the works; if not, the reasons for that?*

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

(in Chinese): Madam President,

- (a) According to the findings of the consultancy study, it is possible to erect noise barriers additional to those to be built as part of the Route 5 Extension project to mitigate traffic noise impacts. The additional noise barriers would be very costly: a rough estimation indicates that they will cost about \$52 million in capital cost and \$3 million in annual maintenance cost. The consultant was only asked to examine if the erection of additional noise barriers is possible. The study report contains no recommendation as to whether they should be provided.
  
- (b) In approving the Master Layout Plan of Discovery Park in 1993, the Town Planning Board imposed specific requirements on the developer to address the traffic noise impacts including those that would arise from the Route 5 Extension project. Those requirements included leaving space in the building structure of Discovery Park to allow the Route 5 Extension to go through in future such that a section of the road will be covered by the podium of the building, and the use of suitable building orientation and setting back. As it was predicted that some units of Discovery Park would still be exposed to excessive traffic noise after the provision of the above-mentioned direct mitigation measures, the developer was required to provide those units with indirect traffic noise mitigation measures in the forms of good quality windows and air-conditioners. It was considered that those measures, together with the planned noise mitigation measures that would be implemented as part of the Route 5 Extension project, would appropriately address the traffic noise impacts on Discovery Park. Discovery Park was subsequently built in compliance with the approved Master Layout Plan and the requirements imposed on the developer.

As we explained at a recent meeting of the Legislative Council Panels on Environmental Affairs and Transport on 23 January 2003, the responsibility of providing traffic noise mitigation measures could rest with the Government and/or the developer depending on the circumstances of individual cases. In the case of Discovery

Park and Route 5 Extension, the developer of Discovery Park and the Government share the responsibility. As the traffic noise mitigation measures that have already been implemented by the developer and those that the Government will carry out as part of the Route 5 Extension project would appropriately address the traffic noise impacts on Discovery Park, no additional noise barriers will be provided.

### **Remedial Works for Tin Yuet Estate in Tin Shui Wai**

12. **DR TANG SIU-TONG** (in Chinese): *Madam President, in September 1999, unusual cracks caused by problems with the foundation works were found in Blocks 17 and 18 of Tin Yuet Estate, Tin Shui Wai, which were under construction. The Housing Department (HD) then carried out remedial works, which took over two years to complete, and announced that it would follow up the question of responsibility with the contractors concerned. In this connection, will the Government inform this Council:*

- (a) *of the final figure of the total expenditures on the remedial works; and whether there has been any overspending; if so, of the reasons;*
- (b) *whether the HD has reported to the Housing Authority (HA) and the Policy Bureau concerned on a regular basis the updated expenditures on the remedial works; if so, of the date and contents of each report; and*
- (c) *of the progress in recovering the expenditures on the remedial works from the relevant contractors?*

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

- (a) The remedial works for Blocks 17 and 18 of Tin Yuet Estate in Tin Shui Wai were completed last year. The total expenditure is about \$43 million, which is slightly higher than the original estimate of \$40 million. This is because the remedial works are more complex than originally envisaged.

- (b) The HD reports the latest estimated expenditure of the above remedial works to the Buildings Committee of the HA from time to time. In its reports to the Buildings Committee in February, June and October 2002, the HD estimated that the expenditure for the remedial works was in the region of \$40 million. In January 2003, the HD advised the Buildings Committee that the expenditure would need to be increased to \$43 million, which was approved.

The HA is an independent statutory body and has full autonomy to decide on the details and budget of its construction projects. There was no need for reporting to the former Housing Bureau. Since July 2002, the former Housing Bureau and the HD have been re-organized and amalgamated to fully integrate policy formulation and implementation functions. The need for reporting therefore does not arise.

- (c) Following discovery of building problems at Tin Yuet Estate, the HD has initiated actions to recover losses due to non-complaint construction from the contractor in accordance with the provisions of contract. As parties have different views on liabilities, the HA has engaged an independent consultant for advice and has since end 2002 taken further actions to pursue its claims. If necessary, the HA will resort to legal actions.

### **Skills Upgrading Scheme**

13. **MR CHAN KWOK-KEUNG** (in Chinese): *Madam President, in September 2001, the Government launched a Skills Upgrading Scheme (SUS) to provide skills training courses for people with secondary or lower education. In this connection, will the Government inform this Council of:*

- (a) *the respective numbers of people who have enrolled and completed training; the courses which were over subscribed and the details thereof;*
- (b) *the number of persons who were unemployed when they enrolled in the courses, together with breakdowns by the industries to which the*

*courses belonged, and the age, educational attainments and trades in which these persons had been last employed; and*

- (c) *the employment rate of those persons, who had been previously unemployed, three months after they completed their training and, among them, the number who are employed in industries related to the courses they have completed?*

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

- (a) From the launch of the SUS in September 2001 to the end of January 2003, a total of 1 161 classes have commenced with a total enrolment of 24 618 trainees. Of these, 19 643 graduates from 1 098 classes have completed training and course-end assessments. More than 90% of the 1 161 classes commenced with an enrolment rate of over 80%, and 734 classes (about 63.2%) even have 100% enrolment.

The SUS Secretariat has not collected figures on the situation of over-subscription of SUS courses. However, the Secretariat does receive requests from time to time from training bodies concerned to increase the number of approved classes. This indicates that the number of application for SUS courses often exceeds the approved training capacity. SUS courses for the retail, hairdressing, electrical engineering and property management industries are particularly well-received by the applicants. The Secretariat will offer more training places in accordance with market demand after approval from the respective Industry Working Groups has been sought, to provide more upgrading opportunities for in-service workers. By the end of January 2003, a total of 372 classes on top of the originally planned training capacity have been offered to meet market demand.

- (b) The SUS offers on-the-job skills upgrading training and the unemployed are not its primary service target. Trainees are only required to provide information about their present occupations.

As to whether trainees are unemployed, the SUS Secretariat has to rely on the self-declared information provided by the trainees.

According to the information collected by the SUS Secretariat, a total of 152 unemployed persons enrolled in SUS courses from September 2001 to January 2003. Breakdown by industries according to the courses they have taken is as follows:

*Industries*

<i>Industry</i>	<i>Number of Trainees</i>
Printing	19
Catering	11
Import/Export	14
Transport	13
Retail	4
Hairdressing	1
Electrical Engineering	63
Property Management	27

Since the trainees are required to possess working experience relevant to the course they enrol, the breakdown of the previous employment by industry of these trainees is roughly the same as the breakdown by industries according to the courses they have taken.

The breakdown by age and educational attainment is as follows:

*Age*

<i>Age</i>	<i>Number of Trainees</i>
19 or below	3
20-29	22
30-39	41
40-49	60
50-59	26

*Educational attainment*

<i>Education</i>	<i>Number of Trainees</i>
Secondary 1 to 3	40
Secondary 4 to 5	96
Matriculation	11
Others	5

- (c) Since the SUS aims primarily at providing skills upgrading training for in-service workers, the SUS Secretariat does not collect information on the trainees' employment situation after their completion of courses.

**Income and Expenditure of Foreign Domestic Helpers**

14. **MR ERIC LI** (in Chinese): *Madam President, regarding the income and expenditure of foreign domestic helpers (FDHs), will the Government inform this Council:*

- (a) *of the criteria and method of calculation adopted for setting the current minimum wage level of FDHs, and whether it carries out regular reviews on that level;*
- (b) *whether it has conducted surveys on the average monthly spending of each FDH in Hong Kong; if so, of the details; and*
- (c) *whether it has assessed the total amount of money remitted or taken back by FDHs to their home countries each year; if so, of the details?*

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

- (a) Employers of FDHs in Hong Kong are required to pay their FDHs monthly wages not less than the minimum allowable wage (MAW).

In setting the MAW, we take account of the general economic and employment situation of Hong Kong, such as the movement of the consumer price indices and the general pay trend, labour income, unemployment rate and labour market situation. The current MAW stands at \$3,670 per month. We normally review every year whether there should be any adjustment of the MAW.

(b) and (c)

The Government has not conducted any survey on the consumption pattern and amount of spending of FDHs in Hong Kong. There is also no record of the amount of money remitted or taken back by FDHs to their home countries each year as there is no exchange control in Hong Kong and FDHs can make inward or outward remittances without declaration.

### **"One Company One Job" Campaign**

15. **MR FREDERICK FUNG** (in Chinese): *Madam President, around July and August last year, the Government called upon the business and industrial community to participate in the "One Company One Job" Campaign to provide practicum places for young graduates. In this connection, will the Government inform this Council of:*

- (a) *the number of companies which have participated in the campaign;*
- (b) *the names of the top ten companies which have provided the largest number of jobs;*
- (c) *a breakdown of the number of such jobs by industries;*
- (d) *a breakdown of the number of job seekers by academic qualifications; and*
- (e) *a breakdown of the number of appointees by academic qualifications and monthly salaries (in bands of \$1,000 apart)?*

**SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR** (in Chinese): Madam President, the "One Company One Job" Campaign was jointly initiated by the business community and the Government in July last year to provide opportunities for young graduates to acquire working experience, so as to better equip them for work in future.

Companies are encouraged to employ graduates at a salary of not less than \$6,000 per month, but there is no pre-set target on the number of vacancies or the number of people to be employed under the Campaign. Employers are free to use their own channels to recruit trainees, or send job vacancy information to the Labour Department for display at its job centres and the special webpage developed under its Interactive Employment Service. Job seekers may apply to the employers direct without the need for prior registration. The Labour Department therefore does not have overall statistics on the Campaign.

In respect of the questions raised by the Honourable Frederick FUNG, our replies are as follows:

(a), (b) and (c)

Since employers need not recruit staff through the Labour Department, we do not have statistics on the number of all the participating companies and vacancies offered under the Campaign. A considerable number of vacancies received by the Labour Department come from the import and export trades, real estate, business services and the transport industries. If classified by post titles, most of the vacancies are related to the recruitment of management trainee, marketing executive/assistant, sales representative and customer services officer.

(d) Since job seekers need not register with the Labour Department to join the Campaign and can apply to the employers direct, we do not have information on the academic qualifications of the job applicants. As the Campaign is targeted mainly at university graduates and holders of higher diploma, most of the applicants for the vacancies come from these two groups.

(e) The Labour Department does not have statistics on the salaries offered to young graduates employed under the Campaign.

However, according to the information on the job vacancies provided by employers to the Labour Department, the minimum monthly salary is \$6,000, while some offer over \$10,000 per month.

### **Altering Uniform and Accoutrements of Disciplined Staff**

16. **MR LEUNG FU-WAH** (in Chinese): *Madam President, will the Government inform this Council:*

- (a) *whether the disciplined services have set criteria for altering the uniform and accoutrements of their disciplined staff; if so, of the details; if not, the reasons for that;*
- (b) *of the details of the alteration of the uniform and accoutrements of disciplined staff of various disciplined services over the past five years, including the dates and reasons of alteration, the expenses incurred, and the design life, materials and countries of origin of the new uniform and accoutrements;*
- (c) *whether the disciplined services have made reference to the practices in other jurisdictions before they decided to adopt the present uniform and accoutrements for their disciplined staff; if so, of the jurisdictions referred to and the results thereof;*
- (d) *of the most recent dates and results of the reviews made by various disciplined services on the uniform and accoutrements of their disciplined staff;*
- (e) *of the disciplined services that will be altering the uniform of their disciplined staff and making additions to their accoutrements in the near future; and*
- (f) *whether it has reviewed if the alteration of the uniform of the disciplined services (especially that of the Hong Kong Police Force) in recent years has been so frequent that public money has been wasted?*

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

- (a) All disciplined services have set criteria to assess the needs of their disciplined staff pertaining to uniform and accoutrements. Under CSR 571(1), uniform for the disciplined services is issued subject to a set of approved requirements. The design, the material to be used as well as the kind and quantity of uniform are therefore strictly stipulated. The disciplined services conduct regular reviews on their uniforms and accoutrements. They also consult the staff so as to collect their views on ways to improve the uniforms and accoutrements. The criteria to be considered in assessing proposals for change include the practical needs, safety and efficiency of the disciplined staff, cost-effectiveness as well as departmental image.
- (b) For details on major changes to the uniforms and accoutrements of the disciplined services over the past five years, please see the Annex.
- (c) In general, the disciplined services would make reference to the designs and standards of the uniforms and accoutrements of counterparts in other countries and then conduct research and tests on samples before making changes to their own uniforms and accoutrements. The places to which reference will be made vary with the uniform and accoutrements in question. The designs will be scrutinized and the staff consulted before a decision is made on whether the uniform and accoutrements are suitable for the department.
- (d) Please refer to the table below for the dates and results of the latest reviews made by various disciplined services on their uniforms and accoutrements:

	<i>Date of the latest review</i>	<i>Results of the review</i>
Hong Kong Police Force	2002	Recommendation on changing to a new uniform that caters to the operational needs of the Police Force and complies with

	<i>Date of the latest review</i>	<i>Results of the review</i>
		requirements relating to occupational safety and health.
Fire Services Department	August 2001 to May 2002	To provide firemen with new light-weight fire tunics made of special fibre to cater to their operational needs and enhance protection.
Correctional Services Department	October 2002	After trying on a nylon belt recommended earlier for use as replacement, staff representatives expressed satisfaction with its durability, flexibility in length adjustment and appearance. Recommendation on changing to a new nylon belt with a multi-function bag and a truncheon holder.
Immigration Department	July 2002	Replace the existing reefer jackets and gabardine raincoats with synthetic fibre windbreakers.
Customs and Excise Department	March 2001	No significant problem with the existing uniform in general. However, improvement on certain areas is needed, such as the workmanship of the stitching of the working dress. The department has already discussed the problem with the relevant contractor to seek improvement.
Government Flying Service	January 2003	The existing uniform and accoutrements meet operational needs. There is no need for improvement for the time being.

- (e) The plans of the disciplined services to change their uniforms and acquire additional accoutrements in the near future are as follows:

*Plans to alter their uniform and acquire additional accoutrements in the near future*

Hong Kong Police Force	To change the uniform of its staff to meet their daily operational needs.
Fire Services Department	To change the light-weight fire tunic of the firemen.
Correctional Services Department	To replace the old canvas belt with a new nylon belt including a multi-function bag and a truncheon holder.
Immigration Department	To change the uniform of the Immigration Service by replacing its old reefer jacket and gabardine raincoat with synthetic fibre windbreaker.
Customs and Excise Department	There is no plan to change its uniform in the near future, but new name badges will be provided.
Government Flying Service	There is no plan to change its uniform or accoutrements in the near future.

- (f) Change of uniform for disciplined services has not been frequent in recent years. On each occasion, careful consideration was given to the practical needs as well as financial situation before making the change to ensure the best use of resources.

As regards the Hong Kong Police Force, its existing uniform has been in use since 1970. The new design caters mainly to occupational safety and operational efficiency. The uniform can be worn throughout the year, thus saving the work and expenses in the seasonal changes of uniform. The costs will be met from accumulated savings in the past several years, so no additional resources are required.

<i>Uniform/Accoutrements</i>	<i>Date of Alteration</i>	<i>Reasons</i>	<i>Design Life</i>	<i>Materials</i>	<i>Country of Origin</i>	<i>Expenses Incurred (HK\$)</i>
<i>Hong Kong Police Force</i>						
1. expandable baton	1999	For reasons of occupational safety and health and to meet different operational needs.	normal wear and tear	composite material and metal finishing	United States	4,800,000
2. black leather gloves	1999			leather	Pakistan	1,720,000
3. round shield	2000			polycarbonate	Taiwan	1,200,000
4. yellow traffic reflective jacket	2002		five years	polyester, polytetrafluoroethylene and 100% nylon	China	6,000,000
5. patrol shoes	2002		12 months (Police Constable to Senior Inspector of Police)	24 months (Chief Inspector of Police or above)	Police leather with breathable water-proof inner lining	Hong Kong (Correctional Services Department)

<i>Uniform/Accountments</i>	<i>Date of Alteration</i>	<i>Reasons</i>	<i>Design Life</i>	<i>Materials</i>	<i>Country of Origin</i>	<i>Expenses Incurred (HK\$)</i>
<i>Fire Services Department</i>						
1 jungle boots (i) The main material has been changed from canvas to leather.  (ii) Jungle boots have been included as a standard accoutrement for ambulancemen.	1998	To improve the protection for the feet  To cater to the needs of ambulancemen in operations to rescue hikers	Anticipated to be 24 months; replacement to be approved according to circumstances.	leather	Hong Kong/ China	2,259,000
2 stockings for jungle boots	1998	To improve the protection for the feet	12 months	cotton and spandex	Hong Kong/ China	112,000
3 firemen/ambulancemen-No.1 service dress jacket, winter; an improvement on existing design	2001	The design is modernized to meet operational needs.	48 months	barathea	Hong Kong/ China	609,000
4 firemen/ambulancemen-No. 1 service dress jacket, summer; a new item	2001	The design is modernized to meet operational needs.	36 months	polyester and viscose	Hong Kong/ China	1,071,000
5 firemen/ambulancemen-black quilted jacket; a replacement for the navy blue melton overcoat	2001	All-weather design, easy to take care and is lighter and warmer	60 months	polyester outer laminated with vapour permeable fabric (Gore-tex), quilted	Hong Kong/ China	1,656,000

<i>Uniform/Accoutrements</i>	<i>Date of Alteration</i>	<i>Reasons</i>	<i>Design Life</i>	<i>Materials</i>	<i>Country of Origin</i>	<i>Expenses Incurred (HK\$)</i>
6 The new uniform for ambulancemen includes :	2002	The new uniform which includes a white shirt, blue trousers and a navy blue beret, is to replace the white safari suit and peaked cap used for over 30 years; its design is in line with the changes to the working conditions of ambulancemen and is conducive to improving their efficiency.				
➤ a white shirt			Anticipated to be 18 months; replacement to be approved according to circumstances.	cotton and polyester	Hong Kong/China	316,752
➤ blue trousers			Anticipated to be 12 months; replacement to be approved according to circumstances.	cotton and polyester	Hong Kong/China	127,697
➤ a beret			24 months	melton	Hong Kong/China	251,130
➤ a black belt			60 months	nylon	Hong Kong/China	138,450
➤ a multi-purpose pouch			Anticipated to be 60 months; replacement to be approved according to circumstances.	nylon	Hong Kong/China	35,571

<i>Uniform/Accountments</i>	<i>Date of Alteration</i>	<i>Reasons</i>	<i>Design Life</i>	<i>Materials</i>	<i>Country of Origin</i>	<i>Expenses Incurred (HK\$)</i>
<i>Correctional Services Department</i>						
windbreaker	2002	To replace the rubber raincoat which had been used for a long time and the great coat which had been used for more than 30 years; as it has a removable lining and is lighter than the great coat, coupled with its water-proof and warm qualities, it may be worn by staff in all weathers and when performing outdoor duties.	six years	lamine fabric made in the United States	Hong Kong/ China	4,617,360
<i>Immigration Department</i>						
1 The new synthetic fibre windbreaker will replace the reefer jacket and the gabardine raincoat.	Replacement in phases is expected to commence in March 2003 and complete within four years.	Outdated in material and style, the reefer jacket and the gabardine raincoat cannot meet present day operational needs and the requirements of occupational safety and health. As each new uniform only costs \$800 while the total cost of a reefer jacket and a gabardine raincoat is \$1,183, a new uniform can save \$383. More than \$1.6 million will be saved when replacement completes within four years.	six years (similar to that of the reefer jacket and the gabardine raincoat to be replaced)	Goretex	Hong Kong	3,344,000

<i>Uniform/Accountrements</i>	<i>Date of Alteration</i>	<i>Reasons</i>	<i>Design Life</i>	<i>Materials</i>	<i>Country of Origin</i>	<i>Expenses Incurred (HK\$)</i>
<i>Customs and Excise Department</i>						
1 reefer jacket of synthetic fabric to replace the old nylon reefer jacket	2001	Improvements to the old reefer jacket in view of the working environment of the staff.	48 months	breathable water-proof synthetic fabric	China	2,054,000
2 name badge; a new uniform item	2003	This is a new uniform item which will be provided to all uniformed members; it can help to enhance the transparency and the image of Customs and Excise Department staff in serving the community.	to be replaced only when necessary	plastic	Hong Kong	48,000

*Government Flying Service*

There has not been any major alteration to the design of the uniform of the Government Flying Service in the past five years.

### **Cleaning of Smeared Trees**

17. **MISS CHOY SO-YUK** (in Chinese): *Madam President, it has been reported that some horticulturists had criticized the staff of the Leisure and Cultural Services Department (LCSD) for not taking appropriate measures to prevent the cleanser from running down the soil when cleaning up a batch of smeared trees in Tsim Sha Tsui at the end of last year, thus causing undesirable effects on the growth of the trees. In this connection, will the Government inform this Council:*

- (a) *of the composition of the relevant cleanser; and*
- (b) *whether it has assessed the extend of the damage caused to the trees, and of the remedial measures that it will take?*

**SECRETARY FOR HOME AFFAIRS** (in Chinese): *Madam President, my replies to the Honourable Member's question are as follows:*

- (a) *Regarding the incident in which the palm trees around the Hong Kong Cultural Centre were spray-painted on Christmas Eve and Christmas Day last year, the staff and the cleansing contractor of the LCSD had only used fresh water to clean those trees. No cleansing detergent was used during the operation.*
- (b) *As only fresh water was used by the staff and contractor to clean the trees, it would not affect their growth. During the recent inspection conducted by staff of the LCSD, those trees were observed to be in healthful growth.*

### **Assisting SMEs in Bidding for Government IT Service Contracts**

18. **MR SIN CHUNG-KAI** (in Chinese): *Madam President, in June last year, the Information Technology Services Department (ITSD) entered, under the Information Technology Professional Services Arrangement (ITPSA), into 23 standing agreements with 12 companies. These companies are allowed to bid for service contracts of government information technology (IT) projects during a*

*30-month contract period. Moreover, during the period from 27 June to 30 September last year, in terms of the number of contracts awarded under the ITPSA and the contract sums, the ratios between local small and medium enterprises (SMEs) and foreign multinational companies registered in Hong Kong are one to 2.6 and one to eight respectively. In this connection, will the Government inform this Council whether:*

- (a) the ITPSA has laid down criteria for selecting IT service contractors by various departments; if so, of the weighting of the bidding price in the selection criteria;*
- (b) it has formulated measures to ensure that the services provided by the contractors and subcontractors who have been awarded the contracts under the ITPSA will not affect the interoperability of computer systems among various government departments; if it has, of the details; if not, the reasons for that; and*
- (c) it will formulate policies and adopt measures, such as splitting up the projects, so as to strengthen local SMEs' ability to bid for government service contracts and boost their chances of winning them; if it will, of the details; if not, the reasons for that?*

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

- (a) When the ITSD conducted public tendering for the ITPSA, contractors were selected on the basis of a scoring system in which the quality of the proposal and the tender price accounted for 70% and 30% of the total score respectively. Under the ITPSA, government departments will issue work assignment briefs and invite proposals from all ITPSA contractors within the relevant service category for individual IT projects. The contractor that submits the valid project proposal at the lowest price will be awarded the work assignment for the IT project.
- (b) We have published and implemented the "Interoperability Framework". Government departments are required to adopt the interface standards stipulated in the Interoperability Framework

when they develop new IT systems that need to exchange information with the systems in other departments. The departments have to stipulate the requirement of the Interoperability Framework in the project specifications in order to instruct contractors (and their subcontractors) when they outsource IT projects, so as to ensure the interoperability of computer systems among government departments.

- (c) It is the Government's established procurement policy to obtain the best value for money through open and fair competition, and we will not act in favour of or discriminate against any suppliers. Depending on the actual circumstances, we will adopt a flexible approach to encourage SMEs to bid for government IT projects. For example, where practicable and without affecting the overall project, we may break down a large-scale project into multiple projects of manageable sizes so as to create more opportunities for bidding by SMEs. We also encourage SMEs to participate in government tenders by enhancing the provision of information about our IT projects to the market and by reducing the financial burden on potential tenderers (for example, lowering or removing the tender and contract deposit requirement, and only requiring a performance bond or bank guarantee from a successful tenderer for high-value or complex project contracts if, during financial vetting, the tenderer is unable to supply adequate supporting information about its financial capability to perform its contractual obligations).

### **Deterrence of Unscrupulous Business Practices of Shops**

19. **MR LAU KONG-WAH** (in Chinese): *Madam President, regarding the deterrence of unscrupulous business practices of shops, will the Government inform this Council:*

- (a) *of the number of complaints received in the past three years against shops operating in an unscrupulous way, together with a breakdown by trade;*
- (b) *given that unscrupulous shops can always change to another name to continue operation immediately after being named by the*

*Consumer Council (CC), whether it has reviewed if there are more effective measures to assist consumers in identifying such shops;*

- (c) *of the number of prosecutions instituted against unscrupulous shop operators in the past three years; whether it has reviewed if the existing legislation is adequate for deterring shops from operating in an unscrupulous way, and changing its name to continue operating in an unscrupulous way after being named; and*
- (d) *of the measures in place to completely solve the problem of unscrupulous business practices by shops, including whether it will consider the enactment of laws to enhance the protection of consumer rights; if it will not consider, of the reasons for that?*

**SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR** (in Chinese): Madam President, my reply to the four parts of the question raised by the Honourable LAU Kong-wah is as follows:

- (a) The number of complaints received by the CC in the past three years alleging deceptive, misleading and unfair practices in consumer transactions, listed by trade, is as follows:

<i>Product/Services</i>	<i>2000</i>	<i>2001</i>	<i>2002</i>
Telecommunication Services	197	204	567
Photographic Equipment	311	255	464
Time Share holiday facilities	66	129	538
Electrical Appliances	172	103	157
Telecommunication Equipment	78	51	82
Medicine and Chinese Herbal Medicine	102	43	64
Others	1 204	1 077	1 293
Total	2 130	1 862	3 165

The Customs and Excise Department (C&ED), which is responsible, *inter alia*, for enforcing the Trade Descriptions Ordinance and the Weights and Measures Ordinance, has received the following number of complaints concerning deceptive, misleading and unfair practices in respect of the above-mentioned law in the last three years:

	2000	2001	2002
Trade Descriptions Ordinance	1 016	1 217	1 688
Weights and Measures Ordinance	251	309	520

- (b) Changing shop names is a normal business activity which can hardly be prohibited by the Government. A better way for consumers to identify unscrupulous shops is to increase their awareness and understanding of unscrupulous business practices. The Government has taken appropriate measures in this regard, as detailed in part (d) of the reply.
- (c) In general, the offences involving unscrupulous shops include deception, false trade descriptions and misrepresentations in respect of goods, and fraud in respect of the weights and measures of the goods supplied. Under existing legislation, deception is a criminal offence. The public may also take action under the civil law to claim compensation for loss or damages incurred as a result of deception or unscrupulous business practices. The police and the C&ED constantly take enforcement actions against these practices.

The prosecution statistics kept by the police and the C&ED on the above offences are as follows:

- (I) *Number of persons principally charged of deception offences by the police*

1999	2000	2001	2002
431	426	532	Not available yet

- (II) *Number of persons and companies prosecuted by the C&ED for making false trade descriptions and misrepresentation in respect of goods, and so on*

2000	2001	2002
1 060	832	699

(III) *Number of persons and companies prosecuted by the C&ED for committing fraud in respect of the weights and measures of the goods supplied, and so on*

<i>2000</i>	<i>2001</i>	<i>2002</i>
112	68	62

In addition, other legislation including the Sale of Goods Ordinance, the Supply of Services (Implied Terms) Ordinance, the Trade Descriptions Ordinance, the Unconscionable Contracts Ordinance, the Control of Exemption Clauses Ordinance and the Weights and Measures Ordinance afford protection to consumers and safeguard their rights in various areas. For example, early last year, a couple who had joined a timeshare scheme for holiday facilities under undue influence and pressure made a successful claim because the adjudicator ruled under the Unconscionable Contracts Ordinance to invalidate the relevant contract and ordered the company concerned to refund the amount paid to the claimants.

We consider that the existing legislation is adequate for deterring shops from these types of unscrupulous activities. In fact, the CC has so far uncovered only one case of a shop changing its name and continuing to operate in an unscrupulous way after being named. At the same time, the police have also received complaints against this shop from members of the public and is conducting investigation. There have not been similar cases after the incident was exposed.

- (d) The existing legislation and the enforcement actions taken protect the rights of consumers in various areas. We firmly believe that the fundamental safeguard for consumer rights is to "encourage" consumers to exercise their rights and make their choices.

The statutory functions of the CC include conducting product tests, undertaking market study on different products and services, and

disseminating such information to the public through its monthly publication, the *Choice* magazine. In the past three years, the sales of *Choice* averaged over 26 000 copies per issue. In addition, the CC has 12 Consumer Advice Centres and 16 enquiry hotlines, for disseminating information on goods and services and answering consumer enquiries. Consumer enquiries received by the CC have increased over the years, from 6 100 in 1976 to 120 000 in 2002: an indication that more and more consumers are using information provided by the CC as a reference in their choices of products and services. The CC also organizes various types of consumer education activities such as seminars to enhance awareness on consumer rights. Public disclosure of information on unscrupulous shop is but one aspect of the CC's work in protecting the rights of consumers.

The increase in the number of complaints received indicates growing awareness of consumers on the protection of their rights and interests. Meanwhile, the significant drop in the number of complaints against particular trades, such as medicine and Chinese herbal medicine, reflects the efficacy of consumer education.

Apart from strengthening consumer education, we have also been promoting among the traders good trade practices and inculcating a sense of responsibility and ethics. The trade, especially the travel industry, has responded positively. Since the Travel Industry Council (TIC) introduced its "100% refund" policy in February 2002, group tour members can get 100% refund of their purchases within 14 days for purchases made at shops arranged by travel agents. In fact, after the Chinese New Year holidays this year, the TIC has not received any shopping related complaint from tourists.

In addition, the Quality Tourism Services (QTS) Scheme, set up primarily for tourists, also provides useful reference for local consumers. The QTS Scheme is continuously expanding. The participation of over 2 300 retail shops and over 1 000 restaurants is testimony to the joint effort by the Government and the trade to improve services and business practices.

**Mortality Rates of Patients After Undergoing Excision Operations**

20. **MR MICHAEL MAK** (in Chinese): *Madam President, it has been reported that an investigation has revealed that, out of the 13 public hospitals in which oesophagectomy operations are performed, the post-operative mortality rates of patients of 10 of these hospitals were higher than the average international benchmark. Regarding the mortality rates of patients after undergoing excision operations in public and private hospitals, will the Government inform this Council whether:*

- (a) *it will investigate the reasons for the relatively higher mortality rates of patients after undergoing excision operations in some public hospitals, for instance, whether this is attributable to the skills of the surgeons; if no investigation will be conducted, of the reasons for that;*
- (b) *it has monitored the skills of surgeons in public hospitals who performed excision operations to see if they meet international standards, and how it protects the patients' rights to proper surgical treatments; and*
- (c) *it has compared the mortality rates of patients after undergoing such operations in public hospitals to those of private hospital patients; if it has, of the results?*

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

- (a) A clinical audit conducted by the Hospital Authority (HA) in end 2002 on the surgical outcomes of oesophagectomy of 13 public hospitals during the period January 1997 to June 2002 revealed that the clinical outcomes of all 13 hospitals in question were generally on par with international standard. The average mortality rate for the procedures was 11%. By way of comparison, the mortality

rate of such procedures in the United States was in the region of 5% to 16% (5% in two states and 16% under the United States Medicare Scheme). As in the case of Hong Kong, there were significant inter-hospital variations. In conducting the inter-hospital comparison on the clinical outcomes of the hospitals, it is necessary to adjust the data statistically to reflect the characteristics of patients and exclude the variation in outcomes due to uncontrollable random factors. On the basis of the risk adjusted and age standardized data, it was found that two out of the 13 hospitals had statistically significant higher mortality rates. There was no evidence from the audit results that the high mortality rates for the two hospitals were caused by substandard surgical skills. The high mortality rate of one hospital was due to the high-risk nature of the operations performed on patients. Also, random variation could not be excluded as the number of patients being operated on was small. In fact, the hospital concerned had ceased conducting such operations within the audit period. The HA is taking appropriate follow-up action with the other hospital to review the causes of the high mortality attributed by system factors, including the suitability of the patients for operation, the pre-operative condition of the patients and the post-operative care provided for the patients.

- (b) The HA cultivates a continuous quality improvement culture among its health care professionals with emphasis on system and process problems, monitoring feedback and evaluation of the outcomes of clinical interventions. Clinical governance is enhanced through knowledge management, the development of clinical guidelines and protocols, clinical supervision, as well as clinical audits and outcome evaluation. Clinical audits are regularly conducted by way of structured peer review to set standards for different clinical interventions in different specialties with a view to minimizing the risks of clinical activities. Through this system of peer review, clinicians will examine their practices and review results of operations against standards agreed among their peers to improve the outcome of patient care.

We have put in place a system to protect the rights of patients to receive quality health care services. The HA operates a two-tier complaint management system. Members of the public dissatisfied with the provision of public hospital services can in the first place file a complaint with the hospital concerned or the HA Head Office. If the complainants are not satisfied with the outcome of investigations conducted at the hospital or the HA Head Office level, they can lodge an appeal with the HA Public Complaints Committee which is chaired by a non-executive member of the HA Board, with members drawn from the community and the HA Board. Complaints related to the professional misconduct of doctors can also be directed to the Medical Council of Hong Kong, a statutory professional regulatory body responsible for regulating local medical practitioners. In the event a doctor is found guilty of professional misconduct, the Medical Council can as appropriate institute punishment, ranging from warning to removal of the doctor's name from the registers of medical practitioners.

The existing system also provides further safeguards in that deaths caused by any operation or deaths that occurred within 48 hours after any major operation are reportable under the Coroner's Ordinance (Cap. 504). The coroner may investigate or conduct an inquest into these reportable deaths as he deems fit.

- (c) According to the clinical audit study conducted by the HA, the average mortality rate of oesophagectomy for public hospitals during 1997 to June 2002 was 11%. There is no statutory requirement for private hospitals to report mortality rates of operations to the Government. As such, we do not have mortality rates of oesophagectomy for private hospitals. In any event, for the reasons given in (a), such as difference in disease complexity and severity of patients, and random variation, it is not meaningful to make a simple comparison of the mortality rates of such operations conducted by public and private hospitals.

**BILLS****First Reading of Bills**

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

**FORESHORE, SEA-BED AND ROADS (AMENDMENT) BILL 2003****BILLS OF EXCHANGE (AMENDMENT) BILL 2003**

**CLERK** (in Cantonese): Foreshore, Sea-bed and Roads (Amendment) Bill 2003  
Bills of Exchange (Amendment) Bill 2003.

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

**Second Reading of Bills**

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

**FORESHORE, SEA-BED AND ROADS (AMENDMENT) BILL 2003****SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS**

(in Cantonese): Madam President, I move that the Foreshore, Sea-bed and Roads (Amendment) Bill 2003 be read the Second time.

In view of the increasing public expectation that the Government should expedite public works projects to promote economic development and provide job opportunities, the Government deems it necessary to shorten the time limits for handling public objections under the Foreshore and Sea-bed (Reclamations) Ordinance, the Roads (Works, Use and Compensation) Ordinance and the Water Pollution Control (Sewerage) Regulation.

According to the existing procedures, with the exception of minor works projects, the proposals of all public works projects involving reclamations, roads and sewerage must be published in the Gazette, and members of the public may

raise objections within a period of two months. There is also a period of nine months following the expiry of the time limit for the Government to arbitrate the objections received. The Chief Executive may give approval to extend the arbitration period six months. In other words, under the existing legislation, the combined time limit for raising objections and arbitration may be long as 11 months to 17 months.

The Government proposes to amend the Foreshore and Sea-bed (Reclamations) Ordinance and the Roads (Works, Use and Compensation) Ordinance by shortening the period for raising objections from two months now to one month. It is also proposed to shorten the arbitration period from nine months to four months. In addition, we also propose to shorten the extension of the arbitration period approved by the Chief Executive from six months to three months in the maximum. In accordance with section 26 of the Water Pollution Control (Sewerage) Regulation, the amendments to the Roads (Works, Use and Compensation) Ordinance shall apply automatically to the sewerage projects gazetted by virtue of the Regulation.

To tie in with the shortened periods for objections and arbitration, the Government will adopt a series of administrative measures to enhance public consultation on public works projects and the dissemination of information during the period of gazettal. The works departments will also set up a works project steering group to ensure that objections can be arbitrated as quickly as possible. The steering group will also consult the persons raising objections on whether to extend the period as soon as it is anticipated that arbitration is unlikely to be completed within the original four months. With these new measures, and on the basis of our past experience in arbitrating objections, we believe that even after the shortening of the periods, members of the public should still have sufficient time to raise objections to works projects. We also believe that the authorities will have sufficient time to consider the objections seriously.

The proposed amendments will shorten the pre-launch planning period of public works projects by six to nine months. Once public works projects can be expedited, jobs can be created earlier. Besides, the early completion of public works projects will enable members of the public to enjoy the benefits brought about by the works at a sooner time.

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

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Foreshore, Sea-bed and Roads (Amendment) Bill 2003 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.

### **BILLS OF EXCHANGE (AMENDMENT) BILL 2003**

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): Madam President, I move that the Bills of Exchange (Amendment) Bill 2003 be read the Second time.

The Bill seeks to enable cheques to be presented for payment other than by physical presentment, so that cheques can be cleared through the transfer of electronic information by means of cheque imaging and truncation. This would improve cheque clearing efficiency and security, as well as lower the cost of cheque clearing and settlement. The new system in Hong Kong could also facilitate Hong Kong's efforts in promoting cross-border joint cheque clearing, which relies on the transport of physical cheques back to Hong Kong for clearing. Cheque imaging and truncation could allow joint cheque clearing to be done over a longer distance and not be confined to neighbouring regions of Hong Kong.

The principal amendments introduced by the Bill will enable a cheque to be presented by a banker for payment by notification of certain information relating to the cheque by electronic means, rather than by physical presentment. Consequent upon the introduction of electronic presentment of cheques for payment, the Bill also:

- (i) modifies the application of the duties of holders of bills to such presentment; and
- (ii) facilitates proof of payment by the parties concerned.

Currently, cheques are submitted in physical form for clearing through a cheque clearing system operated by the Hong Kong Interbank Clearing Limited (HKICL) for all licensed banks. With the advancement of banking technology,

cheques can now be cleared through the transfer of the electronic cheque images and data to the paying banks by means of cheque imaging and truncation. With the new system, the physical cheques remain with the collecting banks, or with the HKICL if the collecting bank has commissioned the HKICL to do the imaging on its behalf.

Banks will clear cheques below the amount of HK\$20,000 by means of cheque imaging and truncation at the early stage of implementation. The threshold value is set by the Hong Kong Association of Banks (HKAB) and may be reviewed periodically. The Hong Kong Monetary Authority (HKMA) and the HKAB consider HK\$20,000 to be an appropriate level to begin with. The HKMA will be consulted on any change to the threshold value in future.

Under the new system, settled low-value cheques will be retained for six months by all banks. This proposed period was arrived at after consultation with the HKAB, the Commissioner of Police, the Commissioner of the Independent Commission Against Corruption, the Securities and Futures Commission (SFC) and the Director of Public Prosecutions. This is already longer than the retention period for low value cheques of most of the banks under the existing system. To maintain flexibility, the above threshold value and retention period will not be specified in the Bill.

The industry will adopt a set of control policies and procedures relating to the cheque imaging and truncation system. Full compliance with these policies and procedures will ensure that cheque images are generated from a reliable and secure imaging process. Therefore, the "images" can replace physical cheques, and they can be taken as admissible evidence of collection or payment in Court when necessary. Images produced will be transmitted by encrypted leased line or delivered by sealed security bags if the images are stored in CD-ROM or tapes.

Madam President, the purpose of the Bill is not only to improve the efficiency and lower the cost of cheque clearing, but also to facilitate Hong Kong's efforts to promote cross-border joint cheque clearing. 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 Bills of Exchange (Amendment) Bill 2003 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 Education Reorganization (Miscellaneous Amendments) Bill 2002.

### **EDUCATION REORGANIZATION (MISCELLANEOUS AMENDMENTS) BILL 2002**

#### **Resumption of debate on Second Reading which was moved on 20 November 2002**

**PRESIDENT** (in Cantonese): Ms Cyd HO, Chairman of the Bills Committee on the above Bill, will now address the Council on the Committee's Report.

**MS CYD HO** (in Cantonese): Madam President, I speak in my capacity as Chairman of the Bills Committee on Education Reorganization (Miscellaneous Amendments) Bill 2002.

The main objects of the Education Reorganization (Miscellaneous Amendments) Bill 2002 (the Bill) are two-fold. Firstly, to transfer the functions of the Director of Education (D of E) to the Permanent Secretary for Education and Manpower (Permanent Secretary) and to transfer the functions of the Education Department (ED) to the Education and Manpower Bureau. Secondly, to abolish the Board of Education (BoE) and to merge the BoE and the Education Commission (EC).

Since the EC is an advisory body, not a statutory body, some Members consider it a retrograde step to abolish a statutory body and replace it with an advisory body. They are of the view that it is more appropriate for the EC to be

subsumed in the BoE, or for the new EC to be established as a statutory body. They questioned the rationale for maintaining the non-statutory status of the EC after the merger with the BoE.

The Administration has advised that the EC, being a non-statutory advisory body, has been operating effectively since its inception in 1984. Experience across the Government also indicates that there is no correlation between the legal status and the importance/influence of an advisory body. Moreover, since the ambit of the Education Ordinance covers mainly early childhood and school education, incorporating the EC into the ambit of the Education Ordinance would restrict its role in co-ordinating the development beyond the early childhood and school education sectors. The Administration considers that the EC has functioned well as a non-statutory body and there is no reason for changing it.

Members agreed that the new EC should be a statutory body in the longer term. Since this is a policy issue which falls outside the scope of the Bill and in order not to impede the passage of the Bill, these members also agreed that the issue could be followed up at other forums.

A major concern of some members is that the functions and authority of the new EC would be degraded and similar to the existing BoE. These members have pointed out that the reference to "the co-ordination and monitoring of the planning and development of education at all levels" in the existing Terms of Reference (ToR) has been replaced by the reference to "the planning and development of early childhood and school education" in the revised ToR. As early childhood and school education only refers to primary, secondary and special education, they are concerned that the future role of the EC will not cover the development of university, vocational and continuing education which are matters within the existing ToR of the EC.

The Administration explains that the existing ToR of the EC do not carry specific reference to early childhood and school education. However, in the light of the merger of the EC and the BoE, the Administration considers it appropriate to add such a reference in the revised ToR of the EC. The intention is to put beyond doubt the prominent role of the EC in not only co-ordinating, but also advising the Government on, development in these two key educational sectors.

However, members remain of the view that the revised ToR of the EC should be as broad as possible. An explicit reference to the early childhood and school education sectors is unnecessary and would lead to confusion about the future role of the EC. Having considered members' views, the Administration has agreed to delete the reference to the two sectors in the revised ToR of the EC after reporting the matter to the EC at its next meeting. The Secretary for Education and Manpower will give an undertaking in his speech today.

Clause 1(2) of the Bill proposes that the Bill shall come into operation on 1 January 2003. As this target date will not be attainable, the Administration has proposed that the commencement date should be the day of gazettal of the Ordinance, and will move an amendment accordingly.

As the Bill cannot be enacted into law before 1 January 2003, some members have raised concern whether administratively the merger of the Education and Manpower Bureau and the ED should take place on 1 January 2003 as proposed. They consider it unsatisfactory for the merger to take place ahead of the enactment of the Bill. The Bills Committee learned that the Finance Committee (FC) approved a set of establishment changes for the EC and the ED on 6 December 2002. These changes include, among other things, the deletion of the established post of D of E in the Civil Service with effect from 1 January 2003 and the consequential takeover of the duties of the D of E by the Permanent Secretary. The Bills Committee has also pointed out that implementation of any staffing and financial proposals approved by the Establishment Subcommittee and the FC respectively should be subject to the Council's approval of the relevant legislative proposals. The Bills Committee has requested the Administration to explain the procedural arrangements and legal basis for deleting the post of the D of E and merging the Education and Manpower Bureau and the ED with effect from 1 January 2003, before enactment of the Bill.

The Administration explained that the FC's approval of the establishment changes is not equal to approval of the institutional merger of the Bureau and the ED *per se*. The Administration has obtained the consent of the Chief Executive under Article 48(7) of the Basic Law to appoint the Permanent Secretary to assume the statutory office of the D of E with effect from 1 January 2003 in addition to the Permanent Secretary's own duties, before the enactment of the Bill into law. The Administration will proceed with the formal merger of the Bureau and the ED upon enactment of the Bill. Meanwhile, ED officers will continue to perform statutory functions under the Education Ordinance and any other relevant ordinances under the auspices of the D of E.

Some members have expressed concern for reduced transparency of the new EC in operation following the merger with the BoE. They consider that the new EC should operate with increased transparency and representation. Some members have requested the Secretary for Education and Manpower to make an undertaking on this in his speech today.

Madam President, I will now speak in my personal capacity.

There is indeed a need to merge the two bodies, since they can easily cause confusion. Madam President, I remember that during our deliberations on the arrangement for Directors of Bureaux on political appointment last year, the Legislative Council already knew that the second wave of implementing a system of political appointment is to merge bureaux and departments as well as reviewing the responsibilities of statutory and advisory bodies.

At that time, Members voiced two concerns, the first being the problem of the roles assumed by bureaux and departments. Departments are responsible for enforcement whereas bureaux are responsible for policymaking. With the separation of roles, it can be ensured that matters are handled in strict adherence to procedures and there is more room for front-line civil servants to remain neutral and unaffected by unreasonable interference from officials on political appointment. The merit of this merger is that the Government is now willing to cut manpower and posts and streamline its structure. This is of course a positive measure in view of the fiscal deficit. However, after the merger, will the channel for civil servants to lodge complaints be effective? I am not optimistic about this. Let us review what happened in the past eight months. In the penny stock furore, for example, everyone considered that the Secretary in charge had made mistakes in his action. The Secretary appointed by the Government came forward to apologize after repeated calls and exhortations from the public, but we did not see him actually assume responsibility for his action or inaction. Therefore, will the complaint mechanism really be able to make people who have made serious mistakes shoulder responsibility or resign, so that civil servants will have the courage to lodge complaints against their superiors? I am still not optimistic about this, and I can only adopt a wait-and-see attitude. In addition, the employment agreement of the Chairman of the Securities and Futures Commission is about to expire but there is no definite appointee for the post. Will the agreement be renewed or will there be another appointee? There is no answer yet.

The most effective checks and balances on the ruling group is democratic elections. Unfortunately, the taking of this laborious stride is not within the scope of this Bill. In the motion debate to be conducted later, Members can raise this matter and examine it in a thoroughgoing way. I can now only call on all public officers to exert their best in performing their duties in administration related to education. While doing their utmost to co-operate, they should also adhere to work procedures and norms to counteract the negative effects that excessively strong personal styles have on administration.

I will now turn to the issue of advisory bodies. There are in fact hundreds of statutory or non-statutory bodies in Hong Kong. They have always been effective channels for the Government to take on board the views of various sectors. This system has been practised for a long time, however, as time goes by, superfluous growths in the framework will naturally develop, or boards were established but no meetings were called to conduct any business. It is indeed worthwhile to review this situation. However, apart from streamlining, devolution should also be one direction of the review. The widest array of views should be solicited to encourage the participation of the community in policymaking.

However, the amendment on this occasion abolishes the BoE, which is charged with statutory responsibilities, and transfers them to the EC, which is a non-statutory body. This runs counter to the direction of liberalization. I find this a serious cause for concern because the target of the so-called second wave of implementing the accountability system is to centralize power, rather than promoting openness so that the public can monitor the implementation of education policies and participate in the formulation of policies by virtue of their statutory rights. Nor can it be effectively guaranteed that the authorities will listen to the views of these boards seriously.

Madam President, I am very much in favour of making the EC a statutory body and it is more practical and substantial to establish a pattern of co-operation on education policy between the executive and the community through legislation than merely calling for mutual trust without any solid base. It should be noted that during a Bills Committee meeting, Members from various parties, including the Liberal Party, the Democratic Alliance for Betterment of Hong Kong (DAB), the Democratic Party, the Frontier and independent Members all agreed that in the long run, the EC should become a statutory body, so I urge the executive to take action in response to the suggestions of the Legislative Council as soon as

possible. I also call on Members of various parties and independent Members to follow up this matter in the relevant panel.

Madam President, I so submit.

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

**MR YEUNG YIU-CHUNG** (in Cantonese): Madam President, the greatest merit of the merger of the relevant bureau and department is to streamline the structure to avoid overlapping of work, to speed up the policymaking and enforcement process so that policies can be implemented more efficiently. Another merger is that of the Education Commission (EC) and the Board of Education (BoE). Before their merger, some areas of their work are overlapped to some extent, for example, in their policies relating to secondary and primary schools. The EC places particular emphasis on policy research whereas the emphasis of the BoE is on measures relating to school education. Although both are responsible for advising the Government on education policies, they function separately, so the consultation process can sometimes be quite time-consuming. However, the situation will be different after the merger, since the consultation process will be shorter and there will no longer be any overlapping of work. Therefore, generally speaking, the DAB supports the two mergers. Moreover, after the merger of the EC and EoB, the EC will change from being accountable to the Chief Executive to being accountable to the Secretary for Education and Manpower. During the Bills Committee's deliberations, a Member expressed concern that such a change would degrade the status of the EC. However, the DAB considers that since the Secretary for Education and Manpower is one of the officials accountable to the Chief Executive and is in charge of education policies, it is reasonable and acceptable for the EC to be answerable to the Secretary. The Government pledged to the Bills Committee that the EC would not be degraded because of this arrangement and policies on education will still require approval by the Chief Executive in Council. This arrangement will not lead to major changes in the existing arrangements. Therefore, I hope the opinions of the EC will still be accepted and valued by the Government in future. There is concern that after the merger of the two bodies, the agenda of the EC will be too crammed and little attention can be spared for basic education. I hope the Secretary will bear this in mind.

In addition, some Members were concerned that to add the expression "the planning and development of childhood and school education" to the terms of reference of the EC will lead to the misunderstanding that the EC only advises on kindergarten and school education. In order to address this concern, the Government finally agreed to delete these words. The DAB welcomes this.

However, I believe the authorities could have done better in handling the mergers. In November last year, the Government put forward the merger proposals to the Education Panel and the Establishment Subcommittee of the Legislative Council separately and requested that they be implemented on 1 January this year. The interval between putting forward the proposals and the expected date of implementation is only more than one month. It seems the Government was highly confident of the passage of the relevant legislation, thinking that it would not take Members much time to scrutinize the Bill. However, an unprecedented and strange situation consequently occurred, that is, the Finance Committee approved the merger proposals but the Bill is still under scrutiny. From 1 January, although the expenditure for the relevant posts was cut, legally the posts are still existant. Although with the consent of the Chief Executive, the authorities arranged for the Permanent Secretary for Education and Manpower to act as the Director of Education in order to solve the legal problem, it can not be denied that such an arrangement is undesirable. I hope that such a situation of "cohabitation before signing the marriage certificate" will not occur again in future.

I so submit.

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

(No Member responded)

**PRESIDENT** (in Cantonese): If not, I now call upon the Secretary for Education and Manpower to reply.

**SECRETARY FOR EDUCATION AND MANPOWER:** Madam President, the Education Reorganization (Miscellaneous Amendments) Bill 2002 (the Bill) aims to amend the Education Ordinance (Cap. 279) (the Ordinance) and other

related Ordinances in order to transfer the functions of the Director of Education and the Education Department (ED) to the Permanent Secretary for Education and Manpower and the Education and Manpower Bureau respectively, as a result of the merger of the Education and Manpower Bureau with the former ED. The reorganization aims to integrate policymaking and implementation and to flatten the hierarchy so as to enhance efficiency and effectiveness. Following the abolition of the post of the Director of Education, the Board of Education (BoE), which was established to advise the Director of Education, will also be merged with the Education Commission (EC) so as to streamline the advisory and consultative process.

I would like to thank the Honourable Cyd HO and members of the Bills Committee for scrutinizing the Bill and for the constructive advice that they have tendered, in particular, on the status and terms of reference of the EC.

Members of the Bills Committee considered that, being the body to advise the Government on overall educational objectives and policies, the EC's revised terms of reference should be as broad as possible. In this connection, members were of the view that the explicit reference to "the planning and development of early childhood and school education" in the terms of reference of the EC was unnecessary and could be misleading. We note members' concern and agree to delete the reference to early childhood and school education in the revised terms of reference of the EC.

Members also expressed concern about the transparency and representation of the EC after the merger with the BoE. At the Bills Committee, we assured members that the membership of the EC has been broadened to include the Chairmen of the Subsidized Primary Schools Council, the Subsidized Secondary Schools Councils, the Special Schools Council and the Home-School Co-operation Committee, who were former members of the BoE. To ensure smooth transition and continuity, the BoE Chairman was also appointed to the EC as a lay member. I would stress again that the role and importance of the EC would not be affected by the merger of the EC with the BoE. It will continue to play a key role in advising the Government on overall education policies and the priorities of implementation. In so doing, the EC will continue to maintain a dialogue with the key stakeholders and publicize its work from time to time. Under the accountability system, it is reasonable to expect a higher degree of transparency of governance, not less.

I shall be moving two Committee stage amendments later on. It is necessary to change the commencement date of the Ordinance and to withdraw the provisions incidental and supplemental to the saving and transitional provisions relating to the BoE, the Director of Education and the ED.

I hope that Members will support the amendments that I shall propose in the Committee stage.

I propose that the Bill be read the Second time.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the Education Reorganization Bill (Miscellaneous Amendments) Bill 2002 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): Education Reorganization (Miscellaneous Amendments) Bill 2002.

Council went into Committee.

### **Committee Stage**

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

**EDUCATION REORGANIZATION (MISCELLANEOUS AMENDMENTS)  
BILL 2002**

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Education Reorganization (Miscellaneous Amendments) Bill 2002

**CLERK** (in Cantonese): Clauses 2 to 42.

**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 1 and 43.

**SECRETARY FOR EDUCATION AND MANPOWER:** Madam Chairman, I move the amendments to the clauses read out just now, as set out in the paper circularized to Members. I shall briefly explain the reasons for these amendments.

It is provided in subclause (2) of clause 1 that the Ordinance would come into operation on 1 January 2003. Since the target date is no longer attainable, we therefore propose to delete "and commencement" in the heading of subclause (2) of clause 1. The effective date would be the date the Ordinance is published in the Gazette.

Clause 43 contains provisions incidental and supplemental to the saving and transitional provisions relating to the Board of Education, the Director of Education and the Education Department containing in clause 42.

Subclause (5) of clause 43 provides that the Permanent Secretary for Education and Manpower or the Education and Manpower Bureau may sue on, recover or enforce any property or right vested in him or it under section 42(5), and may be sued for any liability to which he or it is subject under section 42(5).

Subclause (6) of clause 43 provides that the Permanent Secretary for Education and Manpower or the Education and Manpower Bureau may sue on, recover or enforce a choice in action vested in him or it under subclause (5) of clause 42. Since the subclauses (5) and (6) of clause 43 are already covered by the general principles laid down in clause 42 and may, according to legal advice, cause confusion, we propose to delete these two subclauses from the Bill.

I hope that Members will support and pass these amendments. Thank you, Madam Chairman.

*Proposed amendments*

**Clause 1 (see Annex)**

**Clause 43 (see Annex)**

**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 Education and Manpower be passed. Will those in favour please raise your 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 1 and 43 as amended.

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Schedule.

**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.

### **EDUCATION REORGANIZATION (MISCELLANEOUS AMENDMENTS) BILL 2002**

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

Education Reorganization (Miscellaneous Amendments) Bill 2002

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

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Education Reorganization (Miscellaneous Amendments) Bill 2002 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): Education Reorganization (Miscellaneous Amendments) Bill 2002.

## **MOTION**

**PRESIDENT** (in Cantonese): Motion. Proposed resolution under the Security and Guarding Services Ordinance to approve the criteria for issuing a Security Personnel Permit.

## **PROPOSED RESOLUTION UNDER THE SECURITY AND GUARDING SERVICES ORDINANCE**

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, I move that the motion as printed on the Agenda be passed.

Section 6 of the Security and Guarding Services Ordinance (SGSO) provides that a person must satisfy the criteria specified by the Security and Guarding Services Industry Authority (the Authority) by notice in the Gazette before the Commissioner of Police may issue a Security Personnel Permit (SPP) to him for performing security work. The notice shall not be published in the Gazette unless and until it has been laid before and approved by the Legislative Council.

Established under the SGSO, the Authority is chaired by the Honourable Miriam LAU, with most members coming from the community. In August 1995, the Authority first promulgated the criteria for issuing SPPs with regard to the four types of security work which are as follows:

- (i) Category A: Guarding Work Restricted to a "Single Private Residential Building";
- (ii) Category B: Guarding Work for all Types of Premises and Properties;
- (iii) Category C: Guarding Work, the Performance of which Requires the Carrying of Arms and Ammunition; and
- (iv) Category D: Installation, Maintenance and/or Repairing of a Security Device and/or Designing (for any particular premises or place) a System Incorporating a Security Device.

The criteria for issuing SPPs cover major aspects such as age, fitness, good character, arms licence, proficiency in security work and certification of employment by prospective employer.

Having recently completed a comprehensive review of the existing criteria, the Authority decided to introduce certain amendments so as to ensure that only fit and proper persons with good character and a sufficient level of security and guarding knowledge are issued with SPPs for performing security work. The Authority also took this opportunity to introduce technical amendments to certain provisions. The amended criteria, attached at the Annex of this motion, will be published in the Gazette subject to the approval of the Legislative Council.

The major amendments to the existing criteria as proposed by the Authority are as follows:

- (i) tighten the criteria for issuing SPPs to persons with criminal records; and
- (ii) replace the existing requirement of producing "Certification of Employment by Prospective Employer" with "Proficiency in Security Work".

In view of the fact that security personnel are relied upon to discharge the important functions of safeguarding lives and properties of others and preventing

or detecting occurrence of any offence, the Authority considers that good integrity is a prerequisite for being a security worker.

According to the existing criteria for issuing a permit, no person who was convicted of a criminal offence will normally be granted a permit if he is within two years of release from a term of imprisonment, or is currently on probation or bound over. The Authority considers that this criterion, which is usually referred to as the "Good Character" criterion, is not sufficient to debar unsuitable persons including those who had been convicted of a number of minor offences within several years from entering the security industry.

Therefore, the Authority will tighten the "Good Character" criterion so that it will stipulate clearly that no person will normally be granted a permit if he is within three years of release from a term of imprisonment, or is currently on probation, bound over, remission or suspended sentence when his application for a permit is submitted or if he had committed serious offences such as offences involving violence, fraud or dishonesty and sexual offences or had committed a number of offences within five years before submitting his application.

In considering this amendment, the Authority has to balance the need to ensure only fit and proper persons will enter the security industry and the need to rehabilitate repented offenders. The proposed amendment strikes a right balance between providing reasonable rehabilitation opportunities for offenders and rendering adequate protection for the public at large.

In addition to tightening the "Good Character" criterion, the Authority will also replace the existing requirement of producing "Certification of Employment by Prospective Employer" with a new requirement.

According to the existing criteria for issuing a permit, an applicant on his first application for a permit must produce a letter of employment from the prospective employer. This requirement, having been implemented for years, is considered by some people as no longer appropriate. Some people even think that it hinders job seekers from joining the security industry. The Authority also received complaints that individual employers had made use of the requirement of certification of employment to take advantage of job seekers. The Authority considers it necessary to amend this requirement so as to facilitate those interested in performing security work to enter the industry.

The Authority proposes to replace the requirement of producing "Certification of Employment by Prospective Employer" with "Proficiency in Security Work" in regard to the application for Categories A, B and C SPPs. The criterion of "Proficiency in Security Work" requires that:

First, the applicant has sat and passed a trade test recognized by the Authority; or

Second, he has not less than three years of cumulative working experience in performing security work in Hong Kong over the past five years; or

Third, he has not less than one year of cumulative working experience in performing security work in Hong Kong over the past two years.

As a transitional arrangement, within the 12 months after the new criterion takes effect on 1 April 2003, an SPP applicant will still be deemed as having met the requirement even if he only produces "Certification of Employment by Prospective Employer".

The new criterion can ensure that people entering into the security industry have the proficiency in performing their duties. Applicants can apply for SPPs directly and speedily without involvement of their prospective employers, thus minimizing disputes between employers and job seekers.

The Authority will also introduce other technical amendments to the existing criteria, including the criterion of "fitness", the definition of "single private residential building" and description of various categories of permits.

In conclusion, the purpose of the Authority's amendments to the criteria is to further ensure that only fit and proper persons with the necessary fitness, good character and proficiency in security work are granted SPPs to provide security services. The amendments help reduce criminality in the security industry and enhance the quality of security service, the professional standard of the industry as well as public confidence in private security services.

I earnestly hope that Members will support the motion and approve the notice at the Annex, which sets out the amended criteria for issuing an SPP. Thank you, Madam President.

**The Secretary for Security moved the following motion:**

"That the notice, as annexed to this Motion, which specifies the revised criteria that a person must satisfy before the Commissioner of Police may, under the Security and Guarding Services Ordinance, issue to him a permit to do security work, be approved.

Annex

SECURITY AND GUARDING SERVICES ORDINANCE (Chapter 460)  
(Notice under section 6(1)(b)(i))

**CRITERIA FOR ISSUING A SECURITY PERSONNEL PERMIT**

Take notice that, pursuant to section 6(1)(b)(i) of the Security and Guarding Services Ordinance, the Security and Guarding Services Industry Authority (hereafter referred to as "the Authority") hereby specifies the following revised criteria (hereafter referred to as "the revised criteria"), which replace the ones published in G.N. 2994 on 4 August 1995 with effect from 1 April 2003, for issuing a permit under the said Ordinance. The criteria specified below in relation to a particular type of security work must be satisfied by a person before the Commissioner of Police may issue to him a permit under the said Ordinance to do that type of security work.

**(A) Guarding work restricted to a "single private residential building", the performance of which does not require the carrying of arms and ammunition (See Note 1)**

- (a) *Age*
- (i) The applicant must be 18 years of age and above on the date of application.
  - (ii) If the applicant or permit holder is 65 years of age or above, he/she must produce a medical certificate (see Note 2) issued by a registered medical practitioner to certify that he/she is fit to undertake the duties required every two years.

- (b) *Fitness* The applicant must be physically fit to perform the job. A medical certificate (see Note 2) issued by a registered medical practitioner may be required if the Commissioner of Police reasonably considers necessary.
- (c) *Good Character* The applicant must be of good character having regard to his employment history, criminal records (see Note 3) and other relevant factors.
- (d) *Proficiency in Security Work* The applicant must satisfy one of the followings:
- (i) He/She must have sat and passed a trade test recognized by the Authority and announced in a manner that it thinks fit, within 1 year before submitting his/her application. (A person who has already passed a recognized trade test before the commencement of the revised criteria is eligible to apply for a permit within 1 year from the effective date of the revised criteria.); or
  - (ii) He/She must have not less than 3 years of cumulative working experience in performing security work lawfully in Hong Kong over the past 5 years immediately before submitting his/her application (Note 4); or
  - (iii) He/She must have not less than 1 year of cumulative working experience in performing security work lawfully in Hong Kong over the past 2 years immediately before submitting his/her application (Note 4); or
  - (iv) He/She must produce a letter of employment from the prospective employer (see Note 5).



performing security work lawfully in Hong Kong over the past 2 years immediately before submitting his/her application (Note 4); or

- (iv) He/She must produce a letter of employment from the prospective employer (see Note 5).

**(C) Guarding work, the performance of which requires the carrying of arms and ammunition**

(a) *Age* The applicant must be 18 years of age or above. The upper age limit for engaging in this type of security work is 55 years.

(b) *Fitness* The applicant must be physically fit to perform the job. A medical certificate (see Note 2) issued by a registered medical practitioner may be required if the Commissioner of Police reasonably considers necessary.

(c) *Good Character* The applicant must be of good character having regard to his employment history, criminal records (see Note 3) and other relevant factors.

(d) *Proficiency in Security Work* The applicant must satisfy one of the followings:

- (i) He/She must have sat and passed a trade test recognized by the Authority and announced in a manner that it thinks fit, within 1 year before submitting his/her application. (A person who has already passed a recognised trade test before the commencement of the revised criteria is eligible to apply for a permit within 1 year from the effective date of the revised criteria.); or

- (ii) He/She must have not less than 3 years of cumulative working experience in performing security work lawfully in Hong Kong over the past 5 years immediately before submitting his/her application (Note 4); or
- (iii) He/She must have not less than 1 year of cumulative working experience in performing security work lawfully in Hong Kong over the past 2 years immediately before submitting his/her application (Note 4); or
- (iv) He/She must produce a letter of employment from the prospective employer (see Note 5).

(e) *Arms Licence*                      The applicant must possess a valid arms licence for the arms used on duty issued by the Commissioner of Police.

**(D) Installation, maintenance and/or repairing of a security device and/or designing (for any particular premises or place) a system incorporating a security device**

- (a) *Age*                                      The applicant must be 18 years of age or above.
- (b) *Proficiency*                              The applicant shall have received appropriate training or can demonstrate the capability and proficiency (see Note 6) in the skills/technique required in performing his/her job.
- (c) *Good Character*                      The applicant must be of good character having regard to his employment history, criminal records (see Note 3) and other relevant factors.
- (d) *Certification of Employment by Prospective Employer*              On his/her first application for a permit, the applicant must produce a letter of employment from the prospective employer.

*Notes*

- (1) A single private residential building means an independent\* structure -
  - (a) covered by a roof and enclosed by walls extending from the foundation to the roof, and
  - (b) used substantially for private residential purpose; and
  - (c) with only one main access point<sup>+</sup>.

\* A building is considered to be independent from another if on most of the floors, one cannot get access to the quarters on the same floor in the other building without going to an upper/lower floor, roof or the street.

<sup>+</sup> "Main access point" means the entrance gate or lift lobby or staircase commonly used by residents to gain access to their flats. This excludes emergency and fire exit.
- (2) A standard medical certificate form is available from the Licensing Office of the Hong Kong Police Force.
- (3) The Commissioner of Police shall consider the nature of the criminal offence committed by the applicant and may refer the application to the Security and Guarding Services Industry Authority for decision under section 14(5)(b) of the Security and Guarding Services Ordinance. No person will normally be granted a permit if he/she -
  - (a) was convicted of any offence specified in column 2 of Schedule 2 to the Security and Guarding Services Ordinance and the penalty imposed on him/her for that offence is the corresponding penalty specified in column 3 of that Schedule, within 5 years before submitting his/her application; or
  - (b) is currently on probation, bound over, remission or suspended sentence; or
  - (c) is within 3 years of release from a term of imprisonment; or
  - (d) as convicted of 3 or more offences within 5 years before submitting his/her application. Offences involving fixed penalty tickets, traffic summons, illegal hawking, article obstruction, littering, jaywalking and failing to answer police or court bail are considered minor and will be excluded.
- (4) Working experience may be substantiated by relevant documentary evidence provided by employers or a statutory declaration of experience by the applicant.
- (5) Item (iv) will cease to have effect 12 months after the effective date of the revised criteria as published in the Gazette.
- (6) The applicant shall attach copies of certificate of relevant technical training, *or* record of employment showing his/her experience in this type of security work.

*Miriam LAU Kin-ye* *Chairman, for and on behalf of the  
Security and Guarding Services Industry Authority*

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

**MS MIRIAM LAU** (in Cantonese): Madam President, first of all, I have to declare an interest. I am the Chairman of the Security and Guarding Services Industry Authority (the Authority).

The spirit of the Security and Guarding Services Ordinance (SGSO) is to monitor the quality of services provided by security service organizations and security personnel to protect consumer rights and interests.

Since its establishment in June 1995, the Authority has maintained close contact and co-operation with the police, industry associations and trade unions of the industry, the Vocational Training Council, Employees Retraining Board and other training bodies, so as to improve the quality of security and guarding services and enhance public confidence in private security services.

*On the criterion of good character*

The Authority believes that all security personnel should be people trusted by the public. They are entrusted with the responsibility of discharging the important functions of safeguarding the lives and properties of others or preventing or detecting the occurrence of crimes. In the course of discharging their duties, they also have the opportunity to come across sensitive information on their clients. Members of the public generally expect security personnel to have high integrity and reliable character.

Since some security personnel were arrested or convicted for committing crimes whilst on duty, members of the community have, therefore, requested that the regulation policy on issuance of Security Personnel Permit (SPP) to people with criminal records should be reviewed. During the period from June to September 2001, the Authority conducted a three-month consultation and five feasible options were put forward in the consultative document for public discussions. In the light of the provisions of the Rehabilitation of Offenders Ordinance, reasonable protection for offenders was included in those five options. Of the 225 submissions received, about 71% supported tightening the relevant criterion.

As members of the community widely support tightening the "Good Character" criterion, the Authority considers it both necessary and reasonable to tighten the criterion on "Good Character" so as to ensure that only fit and proper persons will enter the security industry. The proposed amendment strikes a right balance between providing reasonable rehabilitation opportunities for offenders and rendering adequate protection for the public at large. Tightening of the criterion could also create a greater deterrent effect and increase the vigilance of security personnel to steer clear of crimes. However, for those persons who are convicted of sexual offences, after considering the views of the public, the Authority thinks that they are not fit and proper to hold SPP and discharge security-related duties. In this regard, I understand that the Government will amend the provisions in Schedule 2 of the Ordinance. This amendment provides that once SPP holders are convicted of a sexual or related offence, irrespective of the penalty imposed, including only fines or probation, the permit will be revoked by the Commissioner for Police under section 17. The Authority fully supports this amendment.

*On the criterion of Producing Certification of Employment by Prospective Employer*

According to the existing criterion for issuing a permit, an applicant on his first application for a permit must produce a letter of employment from the prospective employer. When this criterion was first set by the Authority, it sought to ensure that the applicant would really be joining the industry and was considered by the employer as fit and proper for employment. We have repeatedly received views saying that this criterion has caused inconveniences to SPP applicants who are interested in joining the security industry and also some disputes between employers and job applicants. Therefore, in October last year, the Authority conducted a one-month public consultation exercise and proposed to replace the criterion of producing "Certification of Employment by Prospective Employer" with a new criterion of "Proficiency in Security Work" with regard to application for Categories A, B and C SPPs. Among the 70 submissions received, some 78% supported the amendment.

In order to implement the proposed amendment, the Security Services Training Board (SSTB) of the Vocational Training Council has designed a trade test with regard to Categories A, B and C SPPs. The trade test assesses the

knowledge of the applicant on security work and allows security personnel to obtain a recognized trade qualification and enhances their position. In June 2000, the SSTB conducted public consultation on the trade test, to seek the views of security companies, industry associations, trade unions, organizers of recognized courses under the Authority and Owners Corporations. The findings of the consultation showed that most respondents agreed that trade tests should be conducted for security personnel. From October 2000 to May 2001, the authorities conducted three pilot tests for 150 participants, and regular trade tests for voluntary participants have been held since June 2001.

After learning from the successful experiences of the pilot and regular tests, the Authority believes it is proper to replace the criterion of producing "Certification of Employment by Prospective Employer" by trade tests and it is conducive to upgrading the standard of security services in Hong Kong as a whole.

As regards people who have already accumulated sufficient working experience in the security industry, the Authority thinks that they should have already acquired the necessary knowledge and skills on security work through in-service training and previous experience in security work. Therefore, sufficient experience in security work is also acceptable as a replacement of the existing criterion of producing certification of employment.

The new criterion can ensure that prospective and existing security personnel do possess the basic security skills required in performing security duties. After this new criterion is laid down, applicants can apply for SPPs directly and expeditiously instead of through their prospective employers.

The criterion of producing "Certification of Employment by Prospective Employer" will lapse 12 months after the new criterion has come into effect. This transitional period of one year will allow those who intend to take the trade test to get prepared and to ensure the smooth transition of the relevant arrangements.

Madam President, in the days to come, the Authority would continue to work hard to upgrade the quality of security services.

With these remarks, I urge Members to support this motion.

**MR LEUNG FU-WAH** (in Cantonese): Madam President, the existing Security and Guarding Service Ordinance (the Ordinance) was enacted in 1995. Back then, under the guiding principle of causing no impact to existing workers and establishing a practicable mechanism for the purpose of enhancing the professional standard of industry personnel, the Security and Guarding Services Industry Authority (the Authority) and the community offered induction training avenues for people from other trades to join the security industry through training courses offered by the Employees Retraining Board and to gradually improve the existing and new framework of the industry. In the past enforcement of the Ordinance, different situations had arisen and members of the industry and trade unions had expressed different views. The Authority began to conduct a comprehensive review the year before last. Legislation should change with the times, especially legislation that protects labour rights and interests should keep up with the changes in society and conditions of actual operation.

The amendment has replaced the criterion of producing "Certification of Employment by Prospective Employer" with the criterion of "Proficiency in Security Work" and this is a realistic approach. The relevant amendment can prevent job seekers from being unreasonably oppressed by employers who take advantage of the issuance of the certification of employment. However, I must point out that for the same purpose of preventing employees from being unreasonably oppressed by employers, our union has repeatedly requested the Authority to clarify and improve the existing system under which employees need to have their SPP stamped by their former employers, otherwise, unnecessary obstruction will be posed to employees who wish to change jobs. I had once accompanied a dozen or so security workers who failed to have their SPPs stamped by their former employers and thus unable to get another job to seek help from the Licensing Office of the Hong Kong Police Force. At that time, the reply we got from the duty officer was: the stamp of the former employer could not serve as proof of whether the SPP was valid and should not have any impact on the job change of employees. However, unfortunately, from a technical and practical point of view, the statement of the Licensing Office is only one-sided because at present the SPP is attached to the appointment letter and resignation certificate. On switching to another job, the new employer will ask to examine the SPP of the job seeker to check whether the back of his/her SPP has been stamped by the former employer before he/she left

the service. Naturally, if the SPP is not stamped, it will give rise to a lot of speculations and very often, such speculations are difficult to verify and result in job seekers being unfairly judged. In the case of the dozen or so security workers mentioned earlier, they could not get the resignation stamp of their previous employer simply because of salary disputes. Their former employer asked them to accept a salary reduction, but they refused and decided on collective resignation. Their employer then coerced them to accept a lower rate of terminal payments by holding up their stamp, otherwise, they would be held up for a month or so. Since the employees failed to obtain a stamp, they met a lot of obstacles in seeking a job and some of them were forced to accept terminal payments lower than the statutory rate. Though under the amendment, a statutory declaration by the applicant is also acceptable as proof of their work experience, in reality, if the SPP of the security worker is not stamped by his former employer, it would "label" that there are problems with the performance of the job seeker. At times like today, when a job is often sought after by dozens of people, this "label" could easily deprive employees of their means of living.

Innocent workers are thus caused to suffer and their rights and interests jeopardized because of a non-statutory resignation stamp and a proof, which in the opinion of the Licensing Office, is not effective. Our union requests the Authority to legislate to stipulate that employers must put a stamp on the SPPs of resigning employees. This would enable the licensing authority to keep a complete record on the appointment and resignation information of SPP holders and protect the legitimate rights and interests of employees. Though, the Authority has not adopted the suggestions of the union in this amendment exercise, we still hope that it can continue to keep an interest in the relevant issue in its future work and make improvements that are in keeping with the times, so as to prevent certain measures that are originally intended to regulate the quality of the service of the industry from being abused by unscrupulous employers to exploit their staff.

With these remarks, Madam President, I support the relevant amendments.

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

**MR JAMES TO** (in Cantonese): Madam President, on behalf of the Democratic Party, I would like to briefly state our position. We support this amendment.

First of all, procedurally, the Government consulted the public and collected their views in June 2001 and October 2002 and the Panel on Security was also consulted. In this regard, I must express my feelings. The Government conducted two consultation exercises in relation to the criteria for issuing SPPs, but we could not even get the Government to publish a White Bill in relation to legislation on Article 23 of the Basic Law. However, this is a separate issue.

The current practice of the Government goes to show that consultation is important in itself because the views of people from all sectors, including members of the public and those who are affected in different ways, could be learned. We generally feel that in tightening such criteria, a balance could be struck. As regards the case cited by Mr LEUNG Fu-wah earlier, I have also come across such cases and I can confirm that such situations do exist. In fact, this amendment is very important for the "Certification of Employment by Prospective Employer" will affect the bargaining power of many people and lead to many unnecessary disputes.

However, I would like to raise two points and hope to draw the attention of the Government to them. Firstly, though we also know that such criteria would affect some ex-offenders and limit their selection of jobs but on the whole, I still think that it can strike a very good balance. I certainly hope that ex-offenders could be able to get jobs, rejoin the community and stay away from crimes. This is very important and the relapse rate of ex-offenders is also a matter of enormous interest to the Security Bureau in its portfolio. I hope the Government can pay close attention to such situations and the views of certain organizations. However, after listening to the views of such organizations, I also think that it is acceptable to tighten the existing legal provisions.

Why have I made such considerations? This is because insofar as the current amendments are concerned, not many serving security personnel will be affected and it can actually be said that the number is extremely small. Will newcomers to the trade be affected? Frankly speaking, during the second or third year of the ex-offenders' release, I think they should mainly focus on receiving lots of training and learning to reintegrate into the community, and I think it is reasonable to tighten the legislation in such a way.

Furthermore, there is another point I wish to mention and that is, in regard to this criterion, for those who have already joined the industry or have done so after attending the retraining course, they would have possessed the recognized qualifications. So, they would have met the requirement in respect of recognized qualifications. However, as for the requirement that the applicant must have not less than three years of cumulative working experience over the past five years immediately before submitting his/her application or not less than one year of cumulative working experience over the past two years immediately before submitting his/her application, then according to my understanding, under the present condition where jobs are so scarce and applicants are so many, some people, even if they are now serving as guards, security personnel or in possession of SPPs, there is still no guarantee that they may still be able to meet the existing criteria after a period of time. Firstly, they may not meet the age requirement and it may not always be possible for them to obtain the necessary professional or recognized qualifications. Moreover, if it is required that they must have not less than three years of cumulative experience over the past five years or not less than one year of cumulative experience over the past two years, it may still be impossible for them to meet this requirement because of the different employment situation nowadays. The current situation is different from that of the past. In the past, many people could work as caretakers once they became jobless and since this trade did not have any special requirements, they could often get the cumulative working experience and meet such requirements.

However, the present circumstances are different. Some people may have switched to other jobs because the salaries they got as caretakers were very low or maybe they have slightly better choices, but after a certain period of time, the trade they have switched over to might decline, and such persons might want to work as caretakers again. However, by that time, they would be faced with the problem of recognized qualification. Under certain circumstances, would this recognized qualification have an impact on the issue of employment?

Under the present situation of underemployment, many people would like to join the guarding and security industry but a lot of them may not even be able to get a permit. So, if they have to fulfil the criterion of "proficiency in security work", they can simply meet the criterion of item (d), and that is, by producing a letter of employment from their prospective employer. Under such circumstances, employers may tell their employees, "My certification allows you to get a permit, and that means, I have saved you once again and let you rejoin

the trade." As such, the bargaining power of employees is thus undermined. Therefore, I hope the Government can pay close attention to this issue. The existing criteria can be considered still reasonable. I only hope that in the future, the employment situation of security personnel will not be such that it will bring up the old problem again, and that is, employees need to be employed by prospective employers before they can apply for a SPP as a result of this criteria, otherwise the bargaining power of employees will be further undermined.

**MR LEUNG YIU-CHUNG** (in Cantonese): Madam President, regarding the substitution of the criterion on producing employment letter of prospective employers by the criteria on having good character and passing the trade test, I would like to state my views.

In respect of the tightening of the criteria for issuing permits to persons with criminal records, some colleagues have mentioned earlier that a balance could be struck. However, I personally consider this approach somewhat excessive. In fact, if we compare a two-year period with a three-year one, would the longer period, that is the three-year one, really be better? Would the chances of committing crimes be lessened by merely extending the period to three years? There is no scientific evidence sufficient to convince us that the chances of committing crimes will be lessened after that two-year or three-year period.

On the contrary, the extension of the period to three years may even lead to a more scaring result. Why? It is because discharged prisoners left unemployed for a long period will be put in an even worse financial position, and their chances of committing crimes will rise even if they are not engaged in the security trade. There are chances that they may not commit crimes again, but if it becomes more difficult for them to find a job, they may have to rely on Comprehensive Social Security Assistance (CSSA), and this will do no good to society.

In fact, we should take a positive attitude towards discharged prisoners, and should not hold negative views against them. Our primary concern should be helping them to reintegrate into society, if not, this may give rise to another social problem.

I think the figures provided by the Security and Guarding Services Industry Authority (the Authority) are lopsided and the argument advanced is

unacceptable. The Authority just mentioned that some offenders possessed SPPs, but the actual situation of particular incidents was not explained. In general, it is more difficult for persons with criminal records to find a job, and they are more prone to run into financial problems and encounter other difficulties in life. Since their support networks are relatively constricted, it is understandable that it is easier for them to commit crimes again than those who have no criminal records. However, if the amendment to extend the period from two years to three years is only supported by this, I think it is in fact discriminating against discharged prisoners, rather than providing them with positive support.

Concerning the trade test, I think that there are some problems. The provision of a trade test that made the production of the prospective employers' employment letter not a must is certainly a progress. However, we know that the Employees Retraining Board (ERB) is, in fact, training up a lot of security personnel, and that is where the problem lies. Trainees who have already passed the course examination on completion of the relevant programme are required to sit for another trade test, the content of which is more or less the same with that of the course examination. Then, why should they be required to sit for the trade test if they have already passed the course examination? This poses a great barrier to them, and effort has to be spent on a test of a repetitive nature. I therefore think that a review should be done in this regard in future, if possible. The security personnel course organized by the ERB has a longer duration and has assisted a lot of trainees to engage in the trade. Then why can we not recognize the qualifications and skills of trainees having completed that course instead of requiring them to sit for another test? I hope the Authority will give careful consideration to this issue again. We should let the trainees feel that the course is meaningful, if not, they will query the objective of organizing such courses? And why are their qualifications not recognized despite the fact that they have completed the course?

With these remarks, Madam President, I have stated two points on this resolution.

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

(No Member responded)

**PRESIDENT** (in Cantonese): If not, I now call upon the Secretary for Security to reply.

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, I will just respond briefly to a couple of points. Mr LEUNG Fu-wah asked whether it was possible to abolish the requirement on resigning or recruit security guards to obtain stamped certification from their employers. The Security and Guarding Services Industry Authority (the Authority) is in fact considering the abolition of this requirement. However, since the relevant amendment will involve an amendment to the subsidiary legislation under the Security and Guarding Services Ordinance, the requirement cannot be abolished at this stage. But the Security Bureau will consider introducing the amendment concerned. The original intent of the legislation is to enable the licensing authority to know which organization a security guard has joined. That way, security guards can be prevented from taking up several part-time jobs and even working 24 hours a day, for this may affect their services to members of the public. However, we will still consider this amendment.

Mr LEUNG Yiu-chung suggested the Authority to offer recognition to training courses through its course recognition programme. Since training courses differ in degree of difficulty and scope, and also since the Authority and the police do not have enough manpower to regularly inspect each recognized course on their compliance with the requirements of the Authority, the Authority is not yet able to allow graduates of the courses concerned to apply direct for permits. Pending the establishment of an effective inspection mechanism, the Authority plans to make successful completion of recognized courses as of the criteria of permit application.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by the Secretary for Security 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. Two motions with no legislative effect. I have accepted the recommendations of the House Committee as to the time limits for speeches of Members. As Members are very familiar with the time limits, I will not state them here again. I just wish to remind Members that I am obliged to direct any Member speaking in excess of the specified time to discontinue.

First motion: The 2003-04 Budget.

### **THE 2003-04 BUDGET**

**DR YEUNG SUM** (in Cantonese): Madam President, the community is full of grievances today and the middle class is increasingly dissatisfied with the administration by the Government. The way in which the Government has dealt with the legislation under Article 23 of the Basic Law and its remarks about resolving the fiscal deficit have kept intensifying people's discontents. Today, the Government has broken the hearts of many people, and the prestige of the Government in governance has been crippled seriously.

How many people still believe that the Government is capable of leading us out of the economic abyss, resisting deflation and resolving the fiscal deficit? We just have to read the newspapers of the past few days to find that many surveys have sounded an alarm for the Government, that the middle class has no confidence in it, and people even have doubts about whether Mr Antony LEUNG has the abilities required of the office of Financial Secretary.

If the Financial Secretary fails to come up with proposals to improve the economy in the Budget this year and prudently resolve the fiscal deficit but conversely makes too many proposals for tax increases regardless of the discontents of the public and the community, I am afraid he will only further undermine the Government's ability to govern Hong Kong and further wreck the people's confidence in the Government.

If the Budget proposes substantial tax increases or makes excessively radical proposals to reduce expenditure, it may further aggravate deflation and deal a further blow at the people's desire to spend and the confidence of foreign investors, making the community even more pessimistic about the economic prospects.

Madam President, the Government should not underestimate the people's discontents or the existing hardships of the middle and lower classes.

The quality of life of the middle class has rapidly regressed over the past five years. They have been seriously disturbed by negative assets and subject to the pressure of unemployment and pay reduction. The numbers of bankruptcy cases and negative assets have increased continuously and the phenomenon of uneven income has gradually worsened. There are even signs of the downward movement and impoverishment of the middle class.

However, some middle class families still try their best to tolerate in silence, hoping that they can persist until the economy turns for the better. Some families that are being pressed too hard by the banks can only borrow money from relatives and friends to repay debts and they even borrow loans from banks or make purchases or cash advances on credit cards. Finally, those who are more optimistic have no alternative but to file petitions for bankruptcy while those who are more pessimistic may even choose to commit suicide.

While they are tolerating silently, the Government has made mistakes in administration again and again and changed its economic policies all too frequently. The middle class has heard a lot from the Government over the past five years. It has talked about the development of innovation and technology and the local community economy as well as promoting integration with the Pearl River Delta (PRD). However, there have not been any obvious results over the past five years. They have only found that the quality of life in Hong

Kong, the quality of administration by the Government and the situation of the economy and the Government have remained stagnant and even rapidly regressed. The people even worry that the Mainland will soon catch up with Hong Kong.

The Government has failed to improve the economy and the fiscal deficit has become an increasingly serious problem. In the last Budget, the Financial Secretary indicated that the civil service pay would be reduced by 4.75% before the completion of a civil service pay survey. Nevertheless, as a result of erroneous calculation, the Government's original estimate of \$25 billion of proceeds from land sales did not materialize as a result of the sudden introduction of "SUEN's nine strokes" which included, among others, a moratorium on land sales, so, there have only been momentary effects in stimulating the property market. Thus, the revenue of the Government has been further reduced by almost \$30 billion and the deficit this year has substantially increased to \$70 billion.

Under such circumstances, the Financial Secretary has frequently leaked some speculation that the axe would be wielded at the people. The middle class is not entirely unwilling to bear responsibilities but it is really dissatisfied with the Government's performance in administration. Although the Financial Secretary has denied that the tax increases would be targeted at the middle class, the Government has leaked information that tuition fees, medical charges, salaries tax and rates will be increased and a levy will be imposed on foreign domestic workers. How can the middle class not think that all these proposals will dig into their pockets?

Taking the salaries tax as an example, the Government has leaked information that the tax bands and tax rates will be restored to the 1997 levels, which will not affect around 10 000 taxpayers at the highest income level who are now paying taxes at the standard rate of 15%. The middle and lower classes with salaries of \$100,000 per annum who have just fallen into the tax net will have to pay \$100 to \$200 extra at the most, but most middle class taxpayers will be the hardest hit for they will have to pay additional taxes at several thousands to tens of thousands of dollars.

Education is the most important benefit enjoyed by the middle class now. However, the Government wishes to reduce expenditure across the board and increase tuition fees. The \$400 levy on foreign domestic workers will also

mainly affect the middle class. They will have a heavier burden if they do not shift the levy entirely onto the salaries of foreign domestic workers. The Government has also indicated that there will be a 5.5% increase in rates, which will put an even heavier burden on the middle class who own leased properties. Each of these tax increase items will increase their burden.

Madam President, in the face of the fiscal deficit, the Government has recently been changing its mind time and again and frequently made indiscreet remarks. The people cannot help asking what the Government really wants.

The Financial Secretary said that projects short on efficiency should be halted, and later that tax increases should be targeted at people who have savings and can afford them. But he denied this latter point soon afterwards. What is the Government's intention? Does it think that it can achieve effective governance by crying wolf and manipulating public opinion? All these remarks by the Government will basically not help restore people's confidence and they will only create greater anxieties at the end.

Recently, the Chief Executive and the Financial Secretary have said that the solution to the fiscal deficit problem will after all depend on economic recovery and then they have said that the problem must be solved as a first step in resolving the economic problems. Should priority be given to the fiscal deficit or the economy? People are sometimes puzzled. The Chief Executive has admitted that methods to resolve the fiscal deficit such as increasing taxes and reducing expenditures will inevitably deal a blow to the economy and aggravate deflation, but the Financial Secretary has said that intensified deflation may slow down future economic growth and reduce government revenue ultimately. Should the Government not make proposals to increase taxes against a deflation? But it seems that is not the case. The Government has made the people very confused and the middle class is worried that Hong Kong will meet its doom sooner or later.

Many people think that the situation of Hong Kong nowadays affords no optimism and they worry about whether Hong Kong can get out of the plight, therefore, they have made different proposals for improvement. Some think that the most pressing task is to resolve the fiscal deficit, while some others think that the prime task is to tackle deflation and improve our economy. Yet, some others think that the crux of the problem is replacing the Chief Executive.

Regardless of which method is adopted, the first and foremost task of the Government is to restore people's confidence, otherwise, it will not succeed in all its endeavours.

Madam President, various parties and groups actually have different views on how the fiscal deficit can be resolved and what the Government should do. The Democratic Party has already explained our views on different occasions and I do not wish to repeat them here.

Nevertheless, we can see from the three motions and amendments respectively proposed by the Democratic Party, the Liberal Party and the DAB that there are more or less consistent views on what the Government should not do, and the demands on the Government are clear and explicit.

The words "not to" has been used nine times in the three motions, including "not to raise tuition fees, not to increase the government fees and charges that affect the people's livelihood and the business environment, not to cut government spending across the board, and not to reduce the rates of the Comprehensive Social Security Assistance (CSSA) across the board. It is reported in the newspapers today that the Executive Council has passed an 11% cut on the CSSA rates across the board and I think quite a few Members will express their views on this later. They also demand the Government not to abolish the concessionary duty rate for ultra low sulphur diesel, not to increase the duty on petrol, and not to introduce tax increases targeted at the grass roots and the middle class. The Democratic Party will support the two amendments.

I hope that the whole Council can pass the motion and amendments and make a unanimous demand on the Government to do all the above. We hope that the Government will not neglect the hardships faced by the people while it attempts to resolve the fiscal deficit, and we object to the Government's putting a heavier burden on the grass roots and the middle class.

The Financial Secretary will announce his Budget two weeks later and I hope that the Financial Secretary and Secretary Frederick MA, can listen carefully to the views of this Council today.

Madam President, the Secretary, Dr Patrick HO, picked a Chinese fortune telling stick for Hong Kong which indicated that everything was not right and

Hong Kong would be like a boat sailing against the currents. Of course, I hope Hong Kong can tide over the difficulties as soon as possible and sail with the wind. But if the Government really increases taxes substantially in this Budget regardless of public opinion, and substantially reduces government services across the board, it will be sailing against the currents and I am afraid it will not have a pleasant ending if it acts in defiance of public opinion.

I so submit.

**Dr YEUNG Sum moved the following motion: (Translation)**

"That this Council demands the Government, when formulating the 2003-04 Budget, not to raise tuition fees, not to increase the government fees and charges that affect people's livelihood, not to cut spending across the board on government services, and not to introduce tax increases targeted at the middle class."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That Dr YEUNG Sum's motion be passed.

**PRESIDENT** (in Cantonese): Mr YEUNG Yiu-chung and Ms Miriam LAU will move amendments to this motion. Their amendments have been printed on the Agenda. The motion and the two amendments will now be debated together in a joint debate.

I now call upon Mr YEUNG Yiu-chung to speak first, to be followed by Ms Miriam LAU; but no amendments are to be moved at this stage.

**MR YEUNG YIU-CHUNG** (in Cantonese): Madam President, the community was already aware of the seriousness of the fiscal deficit problem around more or less the same time last year as this. The Year of the Horse has galloped past and there is another year less away from the year 2006-07 when the target of break-even will have to be achieved as proposed by the Financial Secretary, Mr Antony LEUNG. However, the fiscal deficit problem has not improved but has obviously worsened.

The Government has estimated that the fiscal deficit this year will exceed \$70 billion, billions of dollars more than last year while the fiscal reserve has fallen below \$300 billion. After deducting the funds for special purposes among the fiscal reserve, including a total of around \$50 billion reserve fund for civil service pensions, if the policies for revenue and expenditure remain unchanged, the existing reserve will be exhausted in less than four years.

Madam President, if the SAR Government does not quicken the pace of resolving the fiscal deficit, financial and interest rate crises may arise in Hong Kong, affecting the stability of the linked exchange rate system. The consequences will be very serious. Therefore, even though the DAB supports the motion proposed by Dr YEUNG Sum, we consider it essential to give priority to solving the fiscal deficit problem among all problems. In the Budget this year, the Government must introduce a specific and feasible proposal for the elimination of the deficit that is supported by various sectors to show various sectors and the international community that Hong Kong is determined and able to resolve the fiscal deficit.

To resolve the fiscal deficit, there are no other ways than increasing revenues and reducing expenditures. In respect of reducing expenditures, I wish to make the following three points on behalf of the DAB.

The first point is related to the civil service pay reduction. The DAB wishes to stress that the expenditure on civil service pay has not caused the enormous fiscal deficit and we have to affirm once again the contribution that has all along been made by the Civil Service to Hong Kong. We also wish to point out that, if the Budget this year still fails to propose solutions to the civil service pay reduction issue, the Government will encounter enormous resistance if it wishes to propose tax increases and impose new taxes, eventually affecting the achievement of the target of break-even by the year 2006-07.

The DAB hopes that the SAR Government and the Civil Service can expeditiously reach a consensus to implement a specific proposal for pay reduction for all civil servants.

The second point concerns the reduction of the rates of the Comprehensive Social Security Assistance (CSSA). According to press reports, the Executive Council has endorsed a reduction of the rates of the CSSA by 11.1% on the basis of the rates of decrease in the Social Security Assistance Index of Prices (SSAIP)

over the past few years. The DAB accepts that the CSSA rates for able-bodied recipients should be reduced by 11.1%, but objects to a reduction of the CSSA rates across the board. We have reservations about the reduction in the CSSA rates for the elderly mainly because they lack the abilities to look after themselves. We hope that the rate of reduction of the CSSA rates for the elderly can be more moderate and, even if reduction is really necessary, it can be implemented in stages, for instance, reducing the CSSA rates by a few percentage points a year for a period of two to three years.

(THE PRESIDENT'S DEPUTY, MRS SELINA CHOW, took the chair)

The third point is to change the bad habit of wasting resources of various government departments in the past and enhancing co-ordination among departments for more sufficient utilization of human resources. Madam Deputy, in the past, whenever the Audit Commission published a report criticizing the Government for resource wastage, the public at large would shake their heads and sigh. They would ask why there was wastage of resources while the Government was complaining about tight finances. There was a newspaper report this Monday that outsourcing of services by the Social Welfare Department would lead to 700 staff becoming redundant, most of them being clerical officers. On the other hand, the Immigration Department would spend more than \$200 million on the recruitment of 550 clerical officers on contract terms. I believe many a man in the street will ask why the Government has to recruit staff now that there is evidently surplus manpower. Madam Deputy, the DAB believes the people will understand that Hong Kong is facing difficulties and they are willing to make commitment and solve the problem together. Yet, if the Government does not conduct reflections and reduce unnecessary wastes but conversely digging into the people's pockets by increasing taxes, fees and charges as a result of the fiscal deficit problem, there is hardly any reason why the public should support it.

In respect of increasing revenues, the DAB reiterates that we do not object to tax increases under the premise of tiding over the difficulties together, but our position is that the Government cannot pinpoint at the grass roots and the middle class when it increases taxes. At present, there are around 400 000 workers who are unemployed or underemployed, and more than 70 000 households with

owners of negative assets. So the people are facing enormous difficulties in life. If the Government increases fees, charges and taxes, it will inevitably increase the burden of the grass roots and the middle class. Therefore, we do not agree with reducing the personal allowance and raising tuition fees and government fees and charges that affect the people's livelihood.

Prof Arthur LI, Secretary for Education and Manpower indicated earlier on that he would conduct a review on various areas of education including tuition fees. I am not sure about the progress of the current review on tuition fees, but I only know that increasing tuition fees is easier than all efforts to reduce expenditures because the relevant work and resultant obstruction within the Government would be less. Provided that the Education and Manpower Bureau has clearly calculated the rates of increase and the total additional revenue to the Government and it can give the Financial Secretary a good account, there will not be any opposition within the Government. However, the general public will be most affected by the increase that will no doubt rub salt into the wounds of the public. Low-income families with children are already subject to pressures of unemployment, pay reductions and even layoffs, in particular, families with children in kindergartens or tertiary institutes are already bearing a heavy burden of at least over \$3,000 monthly. The fact is that not every family is eligible to apply for the Government's fee assistance. So if the Government does not sympathize with the people's plight and obstinately raises tuition fees, I am afraid there will be popular discontent.

Yet, on the premise of not affecting the grass roots and the middle class, the DAB agrees that the Government can increase taxes in the following areas.

First, profits tax. Among all the direct taxes in Hong Kong, the salaries tax has all along been levied in a progressive manner, in which the higher the salary income, the higher the tax rate. However, the profits tax rate is a uniform 16%. Therefore, the DAB suggests again that the Government should introduce a progressive regime for profits tax, and enterprises making profits in excess of \$500 million should pay profits tax at 17% of the excess. This will not affect the tax liability of average small and medium enterprises and will enable the existing profits tax regime to conform better with the principle of longitudinal equity.

Second, implementing a two-tier structure for the standard rate of salaries tax, changing the existing standard rate of 15% into a two-tier structure of 15%

and 17%. The standard rate for the tax payable by a person earning \$2 million per annum should be changed from the existing 15% to 17%. This proposal will only target at a small group of "kings of wage earners" who have really high salaries and will not have any adverse effects on general middle class families.

The DAB believes that the above tax increase measures will increase government revenues without damaging the good business environment or dampening consumer sentiments, and also minimize the effects on various classes especially the grass roots and the middle class.

With these remarks, I propose the amendment.

**MS MIRIAM LAU** (in Cantonese): Madam Deputy, last February, this Council held a motion debate concerning the Budget and a large group of representatives from the transport industry petitioned outside this Council, demanding the Government to grant concessions on fuel duty. A year has passed and we have another motion debate concerning the Budget today, but the number of representatives from the transport industry petitioning outside this Council is larger than last year and their voices are even louder. It is simply because the Government is facing a huge fiscal deficit and complaining about its being poor all day, so they are afraid that the Government will wield the axe at the transport industry and abolish the concessionary duty rate for ultra low sulphur diesel (ULSD) and increase the duty on petrol and licence fees.

The world economy remained weak last year and the international situation turbulent, Hong Kong certainly could not just pay attention to itself without thinking about the others, and both the external and internal economic situation was seriously affected. Recently, the situation in the United States and Iraq was tensed and a war may break out at any moment. The international crude oil price has been hitting new highs and the import price of fuel has rapidly increased. Following the latest upward adjustment of fuel prices by the oil companies, the price of ULSD has increased by \$0.25 to \$6.32 per litre while the price of unleaded petrol has increased by \$0.28 to \$11.21 per litre, and the actual rates of increase and retail prices have reached new peaks within the past two years. According to the oil companies, the existing pump prices are still lagging behind the rates of increase in the import prices, and since the situation is still uncertain, it is projected that the prices of vehicle fuel may increase again within the next couple of weeks.

Consequent to the continuous increases in fuel prices, some airlines are applying to the Civil Aviation Department for a levy of fuel surcharges to make up for their operating costs. Conversely, even though the expenditure of the transport industry on fuel has continuously increased, they dare not talk about imposing fuel surcharges and they even wish to cut prices to fight for business.

In June 1998, the Government proposed a relief measure of reducing the duty on diesel to relieve the difficulties of the transport industry as a result of the Asian financial turmoil. After the introduction of the relief measure, the pump price of diesel dropped to \$5.69 per litre at that time. Later, the Government sympathized with the transport industry and extended the concession several times. Last April, the Government again extended the duty concession for ULSD and the pump price of diesel was \$5.79 per litre at that time, largely similar to the price in June 1998 but just \$0.1 higher. Today, the pump price of diesel is \$6.32 per litre, which has increased by almost 10% as compared with that last year.

Over these few years, although the transport industry has already turned from a piece of lean meat — of course, it might have changed from a piece of fat meat in the past into a piece of lean meat — into a piece of dried meat, it is still meat on the chopping board. The oil companies are already chopping it up but they may only be using a small chopper and the biggest chopper may yet to come. The biggest chopper is grasped by the Government, so if it does not take the initiative to extend the duty concession for ULSD this year, the rate of duty on ULSD will revert from \$1.11 per litre to \$2.89 per litre from 1 April onwards, and the pump price of diesel will rise sharply by almost 30% from the existing \$6.32 per litre to \$8.1 per litre. This chopper is obviously bigger than that of the oil companies. Even if the Government does not completely abolish the duty concession but moderately reduces the concession for ULSD by a half so that the duty will increase from \$1.11 to \$2, which can be described as preferential to the industry, the pump price of diesel will still rise from the present \$6.32 to \$7.21 per litre.

Even if the Government extends the duty concession on diesel, the prevailing pump price of diesel is still 11% higher than \$5.69 per litre in June 1998 and if the Government abolishes the concession on diesel, the pump price of diesel will be 42% higher than that in June 1998. Even if the Government only moderately increases the duty on diesel to \$2 per litre, the pump price of diesel will still be 27% higher than that in June 1998, and the rate of increase is

really terrible. The prevailing economic conditions and the operating environment of the transport industry are worse than those in 1998, and the industry can basically not afford the pump price of diesel that is higher than the 1998 level. Therefore, the industry not only wishes to ask the Government not to abolish the duty concession for ULSD, they actually hope that the Government will grant further concessions on diesel duty.

In asking for further concession in duty on diesel, the transport industry wishes to maintain their business and the competitiveness of Hong Kong. In his policy address this year, the Chief Executive has focused on the development of the logistics industry. However, the most important difficulty faced by the logistics industry in Hong Kong is the difference between the costs in Hong Kong and the Pearl River Delta, including the difference between the transportation charges. If the Government lacks foresight and sets its eyes only on its existing tax revenue and partly or fully abolishes the duty concession on diesel, it will only substantially increase the operating costs of the transport industry, seriously crippling the competitiveness of Hong Kong insofar as the logistics industry is concerned.

The seven parties in this Council have reached a consensus that the duty concession for ULSD should be extended, and though they have not reached a consensus on the point that the duty on petrol should not be increased, it is no different from the spirit of the idea of "targeted at the middle class" in the original motion. The middle class vehicle owners have to pay licence fees and the high duties and pump prices of petrol, and these duties and licence fees are concealed levies. The Government will only make the middle class more discontented if it increases the duty on petrol.

Besides demanding the Government not to abolish the duty concession for ULSD or increase the duty on petrol, I hope the Government will never come up with a plan about automobile liquefied petroleum gas (LPG). From the perspective of environmental protection, the Government should continue to exempt the duties on automobile LPG, otherwise, it can hardly attract public light buses to switch to LPG.

Madam Deputy, we in the Liberal Party actually have a diversity of opinions about the proposal in my amendment, which demands the Government not to increase government fees and charges that affect the business environment, so other Members of the Liberal Party will later express their worries and opinions in this regard. I will only focus my discussion on the vehicle licence

fees. In the past year, in addition to the increasing fuel costs, the transport industry has to face the hardship of substantially increased motor vehicle insurance, thus the operating costs for the industry have risen sharply. In his policy address this year, the Chief Executive made it a point that the business environment should be improved. Besides not to abolish the duty concession for ULSD and even the further remission of the duty on diesel, the transport industry thinks that the Government can consider reducing the licence fees of commercial vehicles to reduce their operating costs. Even if the Government does not reduce licence fees, it should definitely not increase them.

As I have just said, the middle class vehicle owners already have to pay licence fees for private cars, which are actually higher than those of commercial vehicles. Based on the spirit of the idea of "targeted at the middle class" in the original motion, I oppose the Government's pinpointing the middle class in increasing the licence fees of private cars.

Madam Deputy, I so submit.

**DR RAYMOND HO:** Madam Deputy, as an individual, I am tempted to support the original motion as well as the amendments for the sake of my own financial well-being. Their advocacy in no tax hikes or no fee increases is particularly appealing as we are all feeling the pinch of the persisting economic downturn.

I agree that the Government must take into consideration the economic burdens of different social strata when formulating the 2003-04 Budget. Nevertheless, the Government must resist the temptation to act so generously as if the problem of growing fiscal deficit does not exist.

With the economic recovery not yet in sight, the deficit will not simply disappear. As our fiscal deficit is structural rather than cyclical in nature, some kind of tax hikes and fee increases are inevitable. In the same vein, the Government must not target at particular groups for the purpose, such as the middle income groups.

The middle income groups, of which professionals constitute a high percentage, are indeed paying a very large share in income taxes. More often than not, they are not major recipients of government services. They seldom ask for government assistance. Even when some did so, as their own homes

have become negative assets, the Government offered them no assistance on the reasoning that these were bad investments of their own making. The Government has been criticized as most inconsiderate and is often seen to be grossly unfair to this important sector.

Any necessary tax hikes and fee increases must be made in a fair manner. All sectors in society must share the pain and burden, and take up a fair share of responsibility in balancing the public finances. For the purpose, the Government may consider making the following tax hikes.

Firstly, the profits tax. A slight increase of 1% in profits tax will significantly help ease the deficit problem. I believe that the increase would be acceptable to the business community, as the increased rate still compares very favourably with those of other countries.

Secondly, a levy on foreign domestic helpers can be considered. As we all know, the quarter of a million foreign domestic helpers working in Hong Kong enjoy the highest pay in Asia. Moreover, currencies of countries, such as the Philippine peso, have depreciated substantially in the past few years. As a result, their incomes remitted back home are actually higher. Meanwhile, the levy could recoup part of the heavy costs of public services made available to these domestic helpers.

By regulating soccer gambling, the Government could open a new revenue source in the form of gambling tax. This will definitely help balance the books.

With regard to public services, fees at reasonable levels should be charged. This will help recover some of the costs. Abuses of these services can also be prevented. Low fees charged for some services cannot sustain in the long run. A public hospital bed for a mere \$68 per day is a good example. The charge is about 2% of the actual costs which amount to more than \$3,000 per day. The \$100 fee imposed last year for accident and emergency services was, therefore, considered to be an appropriate step forward.

Madam Deputy, the days of Hong Kong having a fat fiscal reserve is over. There must be no more free lunches. It is time for different groups in society to share the responsibility. I so submit. Thank you.

**MR LEUNG FU-WAH** (in Cantonese): Madam Deputy, the Financial Secretary will announce the 2003-04 Budget two weeks later. Under the present circumstances of tight government finances and a serious deficit, I believe the public will dare not expect to find reductions in taxes, fees and charges in the Budget this year as they did in the past. I believe their greatest expectation is that the Government will not substantially increase various taxes or government charges and put a heavier financial burden on them. Nevertheless, in the face of an enormous fiscal deficit, it is not easy indeed for the Financial Secretary, who is responsible for formulating the Budget, to save expenditures and increase government revenues without affecting the public. The public must bear social responsibilities including paying taxes. Although the Government has the responsibility of expeditiously alleviating the financial pressure, it must take the hardships faced by the public into account in resolving the fiscal deficit. With the joint efforts and co-operation of the Government and the public, we hope that the problems of fiscal deficit, unemployment and economic downturn can be improved and resolved.

Regardless of whether the economic situation is good or bad, the public will certainly not welcome increases in taxes, fees and charges. However, have we, being citizens, ever thought that tax revenues are indispensable to maintaining a government and operation of society? Everybody living here has the responsibility of paying taxes to maintain the daily operation of the Government and society, and that is a civic responsibility and obligation. In Hong Kong today, some people lack a sense and concept of this civic responsibility and obligation and they only wish to rely upon the Government. They think that the Government has the responsibility of looking after the people in any case, and even though they clearly know that the Government is under heavy financial pressure, so long as there is hearsay that the Government will reduce public expenditures or adjust taxes, fees and charges, they will immediately step forward and scold the Government for being indifferent to the people's sufferings and wielding the axe at some particular groups of people or the disadvantaged.

I do not mean to say it is certainly right for the Government to increase taxes, fees and charges and reduce expenditures, but I only wish Members would rationally consider these questions. Do we really have to object to all increases? Should we object whenever public expenditures are reduced? In fact, there are no absolute answers to these questions and we can only strike a balance between the operation of society and public interests in different areas and under different circumstances.

Moreover, the civic responsibility and obligation of paying taxes can absolutely not be an excuse for supporting tax increases by the Government. Some will think that taxes can theoretically be increased after the Government has increased expenditures on public services and social welfare because expenditures should be footed by revenues, especially when the Government is financially tight. The more we listen to this "theory", the more it sounds reasonable. But have we considered the real causes of the Government's tight finances and the increasingly high deficits? Can the causes really be verified by this "theory"? I believe the true cause lies in the Government, not the public. In the past two to three decades, the scale of the Government and the establishment of the Civil Service have been expanding and the civil service pay has continuously increased. The Government often had fiscal surpluses because it had considerable land proceeds and it certainly did not know what a fiscal deficit was when there was the bubble of economic prosperity. Nevertheless, the downward adjustment of the economy in the past few years has affected the tax revenues of the Government, and the fiscal deficit has increased with the continuous increase in government expenditures.

Undeniably, one of the feasible solutions is for the Government to suitably adjust tax revenues to ameliorate the serious fiscal deficit problem. However, for the public to find it worthwhile to pay more taxes, the Government must make them feel that it has exhausted all means and spared no efforts to save resources and avoid wastage. Nevertheless, what the Government has done in this regard is really disappointing. There are many examples of wastage of resources by the Government, for instance, after the Government has announced the suspension of the sales of Home Ownership Scheme (HOS) flats, the proposal for the disposal of 25 000 HOS flats unsold still remains a mystery. If these flats are rented early for a few thousand dollars each, they will at least bring the Government hundreds of millions of dollars in revenue each year. Is it not a waste for the Government to leave these flats vacant?

Furthermore, I wish to discuss the expenditure on education. Although the Government faces a heavy financial burden, the resource commitment to education can definitely not be reduced and it should suitably be increased if necessary. Education is actually a long-term investment in the development of society which is indispensable to healthy economic development. If the Government fails to inject more resources into education due to the fiscal deficit, it should consider promoting privately run education to enable private organizations to fill the gap left by the reduced expenditure of the Government.

For example, it should encourage and provide more room for school sponsorship by private organizations. Given the virtuous competition among school sponsoring bodies, the quality of local education can be upgraded and the Government's share in the education market can become smaller, thereby reducing its expenditure by tens of billions of dollars. This will indeed kill two birds with one stone.

Madam Deputy, I so submit.

**MR LAU CHIN-SHEK** (in Cantonese): Madam Deputy, before the Financial Secretary announced the Budgets in the past few years, this Council would more or less hold relevant motion debates for colleagues to warm up first. The motion proposed by Dr YEUNG Sum today has attracted Mr YEUNG Yiu-chung and Ms Miriam LAU to propose amendments and we can see from the wordings of the motion and the amendments as well as the remarks made by colleagues of different parties and groups that we all have different demands and worries about the proposals in the Budget concerning the Government's revenues and expenditures, and they have expressed their views in the debate today.

However, I believe the expectations of the people of the new Budget of the Financial Secretary do not only include ways to deal with the fiscal deficit, but also methods to revitalize the economy. People have been arguing in the community about whether the Government should give priority to dealing with the fiscal deficit or revitalizing the economy. Some think that the two issues are not antagonistic, but complementary to each other. Nevertheless, no matter whether the Government gives priority to dealing with the fiscal deficit or revitalizing the economy, I must remind it of a very important point, that is, if certain measures make certain classes uneasy and create one disaster after another for people who are already hesitating and struggling, they will definitely cause strong repercussions in the community and ultimately undermine social cohesion and stability.

Let us take a look at the world. When other economies are facing economic slumps or downturns, most governments will stimulate their economies by reducing taxes and increasing government expenditures. Most of these governments that reduce taxes and increase expenditures will encounter deficit problems, but they will choose this course of action without turning back

for they are duty-bound. Now that the Government gives priority to reducing the fiscal deficit, it is running counter to what other places have done and it will deal another blow to the people's livelihood that is already fragile, further crippling the people's confidence. Should the Government reduce the fiscal deficit at all costs? Can it be indifferent to the life and death of the general public? The Government must think twice.

In our debate today, it is very natural for various parties and groups to fight in this Chamber for the interests of the groups or sectors that they represent. However, how can they reach a consensus if they express their views and make demands separately? I think that the resolution of the difficulties before us now hinges after all on whether the Chief Executive is resolute and shows great foresight in uniting the business and labour sectors, the parties and groups supportive of the Government and even those parties and groups with opposing views to discuss the affairs of Hong Kong. Otherwise, a consensus can never be reached if Members just express their views one after another, for eventually the Chief Executive can actually have it his way. If the people's wishes are not effectively reflected, the opposing views will be further stimulated, and if such a situation continues, it will do all Hong Kong people harm rather than good.

Taking the civil service pay issue as an example, as the issue is extremely sensitive, the Government hopes that this Council can play a certain role and enable the expeditious reduction of the civil service pay. However, dealing with the matter in a single way without comprehensive considerations will involve two questions of principle. Firstly, why should some people bear responsibility for the fiscal deficit? Secondly, is it appropriate to wield the axe at the relatively stable group in society again and again?

Madam Deputy, if the Budget to be announced by the Financial Secretary, Mr Antony LEUNG, is not supported by a majority of Hong Kong people, I am really worried that it may not only deal a blow to the financial stability and the stability of the fiscal deficit of the Government, but there may also be problems with social stability. At this critical moment, I implore the Government to conscientiously pool the views of different classes and groups in society and help them reach a consensus through dialogues with different parties, otherwise, I believe the debate here today will not be very meaningful.

Thank you, Madam Deputy.

**MS LI FUNG-YING** (in Cantonese): Madam Deputy, last month, the Chief Executive, Mr TUNG Chee-hwa, stated in his policy address that "to address our problems we must, as a priority, resolve the fiscal deficit" and "solving the deficit problem is the Government's top priority". The Chief Executive said that the Financial Secretary would present to this Council the specific proposals for resolving the fiscal deficit when he delivers the Budget speech in March. March is around the corner and what bitter pills will the general public whose living standard has drastically declined when our economy is in the doldrums have to swallow? Will their burden become heavier? We will know the results very soon.

The fiscal deficit this year is critical and it will reach \$70 billion, so we must address the problem squarely. However, is the fiscal deficit problem really as described by the Chief Executive, "if the problem is not solved as soon as possible, Hong Kong risks being exposed to heightened speculation, which may trigger outflows of capital, rising interest rates, turmoil in the financial markets leading ultimately to possible attacks on our linked exchange rate system", as if Hong Kong would develop to a state beyond redemption if it fails to reduce the fiscal deficit within a short period of time? Such a statement is similar to the current heated international argument about whether the United States should go to war against Saddam HUSSEIN. As the President of the United States has said, we must forestall the enemy, otherwise, it will be too late for us to feel sorry. The situation really makes people doubtful.

As the end of last year, our foreign exchange reserve was US\$112 billion, more than seven times the money in circulation and the rate was one of the highest in the world. It was much greater than the US\$89.6 billion foreign currency assets of Hong Kong in 1998 after the financial turmoil. It is an exaggeration to link the resolution of the fiscal deficit problem with the stability of the Hong Kong dollar. I detest war, and I hope the international community can give world peace a chance. I fully appreciate the difficulties of the lower classes in adverse economic circumstances, therefore, I hope that the Government can give people a chance to rest and build up strength. We must resolve the fiscal deficit, but Hong Kong has the time and the strength to solve the fiscal deficit problem. Given that the people are in hardships, when I think that it is equally important for the Government to balance the people's difficulties against improving the financial conditions of the Government in formulating the Budget, and the target of the Budget should not be set at giving priority to reducing the fiscal deficit. In particular, it is impossible for some government

departments providing front-line services such as the Labour Department, the Social Welfare Department and the tribunals to reduce expenditures across the board.

Today, different parties and groups in this Council have made different appeals in respect of the Budget more or less because they are worried that the Financial Secretary may hasten to attain the break-even of public finances and forget about the tender feelings of "people with one heart" in the lyrics of "Under the Lion Rock", intent on wielding the axe at the public. In fact, the remarks made by government officials in the past few months have alluded to reducing public services and the CSSA rates and imposing a levy on people whose pay has not been substantially reduced and who have a lot of bank deposits. The net is cast wide and targeted at the grass roots and the middle class as mentioned in Mr YEUNG Yiu-chung's amendment.

Madam Deputy, the Financial Secretary emphasized last week, during his visit to a district, that he would consider the tolerance of the economy as a whole and the public and propose measures to reduce the fiscal deficit in a fair and reasonable manner. But his remarks simply failed to allay the people's worries. I do not agree in principle with the Government's setting a time limit for the reduction of the fiscal deficit at five years under such adverse economic circumstances. This target of reducing the deficit regardless of changes in the economic situation in the Budget precisely makes me worried. For example, how is the Financial Secretary going to make a choice when there is a conflict between the tolerance of society and the target of reducing the fiscal deficit? How is the Financial Secretary going to make a choice between the internal conflict between stimulating economic recovery and reducing the fiscal deficit?

Madam Deputy, I so submit.

**MS AUDREY EU** (in Cantonese): Madam Deputy, as quite a few commentators, academics and Members who have spoken today have said, the permanent solution to the fiscal deficit problem is still to induce economic recovery. If the Government implements a fiscal policy of excessive austerity, it will only further dampen consumer confidence and sentiments. In that case, economic recovery cannot be achieved in the foreseeable future. When there is an economic slump

and people are living in difficulties, the best solution is to take a rest with the people instead of always thinking about how to dig into their pockets.

Concerning the Budget that will soon be announced, I trust Members will not blindly object to all increases. But I wish to stress that the Government must make every proposal for increasing revenues and reducing expenditures fully justified and carry full regard to their effects on people's livelihood. At present, most people are making reduced incomes, bearing shrunken assets and even being tortured by unemployment, so they really cannot endure a further blow.

As regards measures for reducing expenditures, I hope the Government can first reach a consensus with civil service groups as soon as possible and work out a pay adjustment mechanism acceptable to civil servants through negotiations and consultations instead of resorting to the pressure of public opinion and the business sector.

I remember that the Financial Secretary, Mr Antony LEUNG, unilaterally proposed a 4.75% civil service pay reduction in the Budget last year without adequate consultation and the course and result of the incident still remain fresh in Members' memory. I hope he will not follow the same old disastrous road this time.

Regarding the reduction in the rates of the CSSA on the basis of the deflation rate, I think the Government does not have sufficient reasons for this. Actually, the Government already reduced the standard rate of CSSA for households of three persons or more by 10% to 20% in 1998, and further reductions in the CSSA rates will definitely affect the livelihood of these households. In particular, financial problems will easily make children feel that they are inferior, so I hope that Members and government officials will consider the situation of children.

In fact, it may not necessarily be fair to adjust CSSA payments according to the Consumer Price Index and some essential household expenditures such as transport expenses, electricity tariffs and gas charges have not dropped like the general commodity prices. In the long run, the Government should reform the existing method of calculation of CSSA rates so that they can better meet the needs of real life.

Apart from the civil service pay and expenditures on CSSA, the Government still has room to reduce expenditures, such as expanding the scope of the voluntary retirement scheme and suspending the implementation of works that are not urgently required. There have recently been some newspaper reports that the Social Welfare Department has 700 surplus staff while the Immigration Department utilizes \$200 million public money to recruit 550 employees for the smart identity card issue exercise. All this reflects a failure to flexibly deploy resources within the Government.

In my opinion, the Government should increase the resources of the Audit Commission, better monitor the utilization of resources by departments and impose suitable punishment on abusers of resources. From a positive angle, the Government can also consider offering incentives to encourage departments to make proposals for saving resources and commending public officers who utilize resources well.

As far as increasing revenues is concerned, I object to the imposition of a levy on foreign domestic workers because it will be unfair to foreign domestic workers and their employers. If, as reported, the minimum wage of a foreign domestic worker will be reduced before imposing a levy on his employer, it is actually a levy on the foreign domestic worker in disguise. According to the principle of fair taxation, the Government should not target at a certain kind of employees and impose a different tax on them. Foreign domestic workers belong to the group of employees who make almost the lowest income in Hong Kong, and even if their other incomes such as the expenses on their air tickets are factored into this, their incomes are still far below the personal allowance for salaries tax payment, thus, imposing an additional levy on them cannot be justified. Even if the levy is imposed on their employers, still I do not think it merits support and I fail to see any justification for it, especially when the measure is targeted at most middle class families. The market for local part-time domestic helpers or their income will not improve as a result of this measure, and it may affect the relationship between employers and employees which is not conducive to social harmony.

I have reservations about increasing salaries tax and rates because it will affect the livelihood of the grass roots and the middle class and run counter to the target of stimulating our economy, and the increase in rates will also increase business costs. The proposal for raising tuition fees is undesirable and completely violates the guiding principle of putting emphasis on investments in

education as Mr TUNG Chee-hwa has always stressed. Even though the Government has said that loans can be extended to students, as the relevant interest rates are determined according to the prevailing market rate and the starting salaries of university graduates have continuously decreased, is it fair if they are made to be heavily in debt upon graduation?

Of course, I am not saying that no fees or charges should be increased, for instance, the Government can consider imposing the Boundary Facilities Improvement Tax and a progressive profits tax. The regularization of soccer betting can increase revenue from betting duty and imposing an environmental protection duty can put the polluter pays principle into practice and enhance the people's awareness of environmental protection.

Summing up, I think that the Government cannot take a shortcut in solving the fiscal deficit problem and it has to be patient and formulate long-term strategies. If it makes people encounter more difficulties and the economic situation even worse in hastening to eliminate the deficit, I believe it will cause more serious problems.

With these remarks, I support the original motion of Dr YEUNG Sum and Ms Miriam LAU's amendment. Thank you, Madam Deputy.

**MR CHEUNG MAN-KWONG** (in Cantonese): Madam Deputy, I support Dr YEUNG Sum's motion and Ms Miriam LAU's amendment on behalf of the Hong Kong Professional Teachers' Union (HKPTU) and demand that the Government should definitely not increase tuition fees or put a heavier burden on parents particularly when the whole community is in financial difficulties.

Education is a ladder for upward movement in society, the most important social responsibility of the Hong Kong Special Administrative Region and the most fundamental human right of students. All families have been hurt after five years of economic downturn, and unemployment and pay reductions are so common. If a family still cherishes a hope, it must lie with the studies and future of their children; they hope that their children will do well in their studies and stand out among their peers.

If the Government raises tuition fees at this time, it will give the children of these families fewer opportunities of advancement in society through studying

and undermine their abilities to choose schools and pursue further studies. We can definitely not agree with this and we strongly object to it.

Madam Deputy, the Government's recent intention to abolish rent subsidies for 19 kindergartens has caused the immediate adverse result of an increase in tuition fees of kindergartens. A kindergarten cannot immediately close down or give up the existing students after its rent subsidies has decreased by \$400,000 to \$800,000. So it is forced to raise the tuition fees of each student by several thousand dollars per year for it is the only way in which it can become self-financed. At present, the tuition fees of kindergartens are approximately \$15,000 to \$20,000 per year. If they are increased by several thousand dollars, can parents be able to bear an even heavier burden? Several thousand dollars account for a half of the monthly salary of general households, however, parents do not have alternatives and their children can only change to other kindergartens if they do not afford the increased tuition fees. How can small children in kindergartens casually change to other kindergartens? The abolition of the rent subsidies for kindergartens now not only makes the operators of kindergartens anxious but also makes the affected parents worried. They are worried that the abolition of rent subsidies by the Government will cause these kindergartens to substantially raise tuition fees.

Moreover, the Government is also planning to abolish subsidies for government evening secondary schools two years later. Therefore, the students, especially the students in junior secondary forms of government evening secondary schools who will not have graduated two years later will be forced to study at secondary schools under the outsourcing arrangements of the Government and pay market tuition fees. The students of government evening secondary schools are the most disadvantaged in the community. They may be new arrivals, repeaters, and students who have discontinued or resumed studies and they yearn for a second chance of education. The Government is duty-bound to ensure that these students who are studying in government evening secondary schools are given subsidies for the completion of studies and will not be affected by the increases in tuition fees halfway.

Madam Deputy, Mr Antony LEUNG has proposed to cut education funding and Prof Arthur LI has proposed raising the tuition fees for students in senior secondary forms, matriculation classes and universities, and they are resorting to a remedy worse than the ailment. At present, the tuition fees are around \$5,000 a year for students in senior secondary forms, some \$8,000 for students in matriculation classes and \$42,000 for university students, and a total

of more than 300 000 families will be affected. Madam Deputy, raising tuition fees under adverse economic circumstances is hitting a person when he is down, and it demonstrates a lack of sympathy for people and their sentiments, turning education from a project of hope into a project of disappointment. The HKPTU objects to all proposals to raise tuition fees and it strongly opposes the proposals in the bud because we do not want the middle and lower classes to endure yet another blow under the adverse economic circumstances though this blow is inevitable.

Madam Deputy, lastly, I wish to say that the Hong Kong Examinations and Assessment Authority (HKEAA) cannot raise examination fees. In the past two years, the HKEAA has wasted resources as a result of poor operation and its deficit has increased, and it has also planned to increase examination fees by around 9% next year. Madam Deputy, with persistent deflation in Hong Kong in the past few years, it is illogical for examination fees to be increased rather than decreased. Moreover, the HKEAA has been extravagant and wasting resources as a result of bad financial management, but it is going to shift the burden of its deficit onto students, which is utterly ridiculous. Therefore, the HKEAA can definitely not raise examination fees next year. It should also cut expenditures and freeze examination fees but not put a heavier burden on parents.

Madam Deputy, Mr TUNG Chee-hwa has said that the Government will certainly not be irresolute about expenditure on education, but the Financial Secretary, Mr Antony LEUNG, has gone in the opposite direction and is certainly not irresolute about reducing expenditure on education and he is even going to start raising tuition fees. How can a government allows education to be led by money, go back on its decision in respect of education policies, and let Antony's hand slap on Mr TUNG Chee-hwa's face?

I hope the Government will assure the public that it will definitely not raise tuition fees under adverse economic circumstances to make parents and schools feel relieved. I so submit. Thank you, Madam Deputy.

**MR ABRAHAM SHEK:** Madam Deputy, with a sense of uncertainty and apathy, everyone in Hong Kong is anxiously awaiting the Financial Secretary's Budget speech in March. The public, of course, have every reason to worry. The Secretary has hinted at, among other things, introducing tax increases and

adjusting fees and hiking charges in his new budget. The underlying message is clear: Everyone needs to share the Government's financial burden. In other words, the days of low taxes and inexpensive public services may soon be gone.

Naturally, the new measures should be accepted if they could relieve the existing fiscal and economic problems. But the public have grave doubts about their effectiveness. Even without professional training in economics, one would suspect that these tax measures could not relieve the Government's financial problem and reduce budget deficit. These measures would only add further burden onto the citizens. This is one reason why they eye the approaching budget with caution and scepticism.

The fact is that our fiscal deficit has already reached a dangerous level. By international standards, a fiscal deficit is in dangerous territory if it exceeds 3% of the Gross Domestic Product, and ours is estimated to run close to 6% this year. Some estimates expect an even higher percentage. And the persistent economic downturn and deflationary environment further complicate this situation. To prescribe the right medicine at the right dosage, Mr Antony LEUNG needs to examine the symptoms and make a correct diagnosis of the fiscal and economic ills of Hong Kong. It is a job not many would envy to have. We must, therefore, give him every support and backing.

Hastily increasing taxes and cutting fee concessions would likely further undermine economic growth and public confidence. Introducing tax raises, however small the percentage, may trigger an outflow of investments from Hong Kong. If we do not maintain a competitive tax regime, we will lose business because international capital is increasingly mobile. Just take a realistic look at the vast amount of money that our Hong Kong companies have invested in other overseas markets. The figures, I can tell you, are frightening. These companies should have invested in Hong Kong, but can you blame them, as there are not enough good investment opportunities available here and the business environment leaves much to be desired? Cases like the Cyberport office rentals discourage investors to further invest in the office development in Hong Kong.

It is also unwise to reduce government fee concessions at a time when the economy is weak, because doing so would increase the burdens of the disadvantaged in society. While it is important to balance the budget, it must not be done blindly — just for the sake of balancing — by cutting at the core and

increasing at the fringes. Balancing of budget should be achieved without affecting economic recovery, or else we would go further into deflation.

Thus, what is the cause of a fiscal deficit? As many in the community have rightly pointed out, it is a matter of how well the Government controls its expenses. Before considering new ways to raise revenue, the Government should cut its spending first. What has made the public especially unhappy is the fact that the Government intends to introduce tax increases, while getting nowhere with its own cost-cutting measures.

In my opinion, there is still considerable room for the Government to cut public spending and increase efficiency. But to do so, however, would be politically painful. It will require both courage and determination on the Government's part. Here are some of the things that the Government can do to increase revenue.

Firstly, it is to increase private participation in infrastructure development projects. This could be done through outsourcing infrastructure and public works projects to the private sector. This approach, which is commonly known as the "Private Funded Initiative", will help achieve two goals. First, the Government's capital spending would be lowered, and second, the pace of the public works projects would not slow down. By tapping into massive, largely unexploited reserves of private capital, the Government can even speed up the programme as a way to boost the economy with massive job creation and inject a much-needed dosage of confidence in Hong Kong.

Secondly, it is the sale of government assets, or to privatize government-owned assets to bring in revenue. The sale of the Kowloon-Canton Railway Corporation as a stand-alone operation would produce better financial benefits for immediate relief to budget deficit than a merger with the MTR Corporation Limited, and at a faster pace. The Government could also consider privatizing the Airport Authority, water services and the management services of public rental housing.

Thirdly, it is to open up Hong Kong as an entertainment, conventional, educational, spa and health centre of the world by inviting investors to turn our barren islands into a tropical paradise. This would create thousands and thousands of jobs and bring in the much needed money.

Fourthly, it is to expedite the implementation of civil service reform. The scope of reform should cover the pay and benefit mechanisms as well as the streamlining of existing bureaucratic structures and administrative procedures. Just by cutting civil servants' pay is not a cure but only a stop-bleeding measure, while improving efficiency and cutting wastages would yield better results.

Madam Deputy, in the light of the complexity of this problem, it may not be fair if we ask the Government not to raise certain fees or cut certain expenditure items. The picture needs to be looked at on the whole, and different economic factors and implications taken into consideration.

The basic concern is to determine the optimal level for government spending. Cutting overall public spending will lead to greater economic efficiency and enhance economic prospects for everyone in the long run.

Thank you, Madam Deputy.

**MR WONG SING-CHI** (in Cantonese): Madam Deputy, the Comprehensive Social Security Assistance (CSSA) Scheme serves to provide the community with a safety net. Unfortunately, it is reported in the newspapers today that the Executive Council has endorsed the proposal of cutting CSSA across the board by 11.1%, with all elderly and disabled recipients being affected. The approach taken by the Government is indeed dishonest, inhumane, heartless and unwise. The Democratic Party is disappointed that the Government is trying to make up for the fiscal deficit faced by the SAR at the expense of the safety net.

The Democratic Party opposes the reduction in CSSA payments across the board and, what is more, the Government's move to wield its knife at the most needy vulnerable in society because of its financial difficulties.

The Democratic Party has all along insisted that the Government must not, regardless of its financial hardship, wield its knife at the elderly and the disabled by reducing their welfare subsidy in order to cut spending. While this might not offer much assistance to the overall finance of the Hong Kong Government, the livelihood of the recipients will definitely be seriously affected.

CSSA recipients are mostly elderly or disabled. Up to the end of last month, more than 50% of the 267 000 or so CSSA recipients were elderly, and

13.3% were disabled or physically unfit. Frankly speaking, they need social assistance most, given their poor adaptability compared with ordinary people. A reduction in CSSA payments will definitely impact on their living negatively.

Besides the elderly and the disabled, the reduction in CSSA payments will also seriously affect children of CSSA families. At present, 22% of the 472 000 or so CSSA recipients are children aged under 15. If youngsters over the age of 15 who are still studying are factored into this calculation, young people are estimated to account for more than one quarter of the total number of CSSA recipients. In the previous adjustment of CSSA payments in 1999, the basic CSSA payments for families with three and four members or more were substantially reduced. At the same time, a number of special allowances, such as allowance for purchasing spectacles, were cut. Only allowances to sustain basic living were retained. CSSA families with children suffering from myopia could only rely on their meagre CSSA payment to solve their problems. How can their quality of life be described as good?

The Democratic Party is worried that the development of children who are still studying will be greatly affected if CSSA payments are further cut by 11.1%.

Given that Hong Kong is undergoing economic restructuring, knowledge is an important force of empowerment to upgrade our quality of life. All well-off families and families of the middle and upper classes will send their children to receive education of better quality and greater diversity to enable them to be more competitive in meeting challenges in society. The payments given to children living on CSSA are barely enough to meet their basic living expenses. It can neither provide them with more chances of nurture, nor upgrade their competitive edge to meet future challenges. Therefore, they are in a relatively disadvantaged position. They will also find it more difficult to rid themselves of poverty and climb up the social ladder to the middle, or even upper, classes in the future. As a result, poverty appears to be "hereditary". For children who are unfortunate to be brought up in CSSA families, their development will still be restricted however hard they work. When they grow up, they can only resign to a life among the grass roots.

Now I would like to discuss the rate of reduction in CSSA payments.

The Government's proposal of slashing CSSA payments by 11.1% is unreasonable. In a review conducted in 1999, the Social Welfare Department already slashed the standard payments for able-bodied members of three-member and four-member families by 10% and 20% respectively. It is therefore inappropriate for the Government to date back to 1996 and 1997 for the purpose of making calculations in its present review of the CSSA Scheme. Moreover, it is absolutely unreasonable of the Government to propose a reduction rate of 11.1%.

On the other hand, CSSA is now governed by an established mechanism — CSSA payment will be frozen in times of deflation and deducted progressively when inflation occurs in future. The purpose of this mechanism is to minimize the impact on the livelihood of recipients. Although deflation will still persist in the short term and it is not known when inflation will appear again, the Government cannot forget this point and this mechanism all of a sudden. If the Government recovers the excessive amount of payment made in times of deflation, the livelihood of the recipients will definitely be affected seriously. If the Government does so, it is being dishonest and immoral.

Despite the Government's constant emphasis of the need to establish a sustainable CSSA system, it is now telling us that money is limited and the number of CSSA cases is constantly on the rise. So it seems that the present CSSA system is no longer sustainable. The Government is fundamentally looking at the matter purely from the angle of money, rather than from the overall development of the community. In order to establish a sustainable social welfare system, the Government must indeed strive to help these people in need eradicate poverty and to improve their lot, rather than rubbing salt into their wounds, as what it is doing at the moment.

Madam Deputy, I so submit.

**MR HUI CHEUNG-CHING** (in Cantonese): Madam Deputy, to reduce the fiscal deficit is the focus of this year's Budget. This issue has not only a direct bearing on Hong Kong's financial stability and economic prospects, but also poses a major challenge to the ability of governance of the Government. The Financial Secretary and the Government must demonstrate tremendous courage, high-level skills and take pragmatic actions before the problem can hopefully be resolved. In my opinion, the following principles must be observed before the

fiscal deficit can be reduced. First, although people from various strata of the community must share the burden, instead of relying solely on the Government, of reducing the deficit, the Government itself must first reduce spending, "trim its size" and substantially reduce expenditure before revenue can be raised. If the Government has "overspent", it must "spend less". It will only end up spending more and more if it is allowed to ask for money when it does not have enough to spend. Second, the major means of raising revenue should be widening the tax base, rather than aggravating the existing burden of taxpayers (particularly small and medium enterprises (SMEs) and the middle class). The Government must not harbour the thinking that it is easier to "bully" the SMEs and the middle class because they are less vocal and, as a result, impose heavier taxes on them indiscriminately. Although the SMEs and the middle class seldom express their dissatisfaction by taking to the streets or drastic actions, the Government will end up getting less from its taxation plans and Hong Kong economy will become even worse should the SMEs and the middle class invest less and reduce spending.

For the above reasons, I support the Government's proposal of suitably widening its tax base. While I have no objection to raising the profits tax payable by enterprises with assessable profits exceeding \$50 million by 1% and slashing the current salaries tax allowance from \$108,000 to \$100,000, I support the introduction of "football betting duty" and imposing a levy on foreign domestic helpers, in order to widen our tax base as far as possible without adding to the existing burden of taxpayers. At the same time, I do hope the Government can understand that, unless its huge expenditure, mainly on civil servant salaries and allowances, can be slashed boldly and resolutely, little can be done to remedy the situation, regardless of the increases in tax. Over the past several years, private organizations have effected pay cuts ranging from 10% to 40%, with rent reductions reaching 10% to 50%. In comparison, the 6% pay cut imposed on civil servants is really trivial. Should the Government remain indecisive over the civil service pay cut and spend public money lavishly in an irresponsible manner by, for instance, constructing those huge, but useless, noise barriers, installing luxurious sight-seeing lifts in primary schools, paving non-essential expensive floor tiles in parks, and so on, its credibility in the public's minds will surely record a huge "deficit".

The Government must bear in mind that raising tax rates does not guarantee increased tax revenue. In order to resolve the fiscal deficit fundamentally, the Government must stimulate the economy. The fact that the

fiscal deficit might exceed \$70 billion demonstrates that Hong Kong economy is still far from recovering. Last year, Hong Kong's economic performance was not too bad. This was mainly attributed to its good performance in export, re-export and off-shore trade. However, Hong Kong can no longer benefit from export as the United States economy is now on the brink of recession and interest rates are set to rise following the country's soaring fiscal deficits and national debts resulting from its militant diplomacy. In addition, Hong Kong's internal investment (including the public's desire to purchase properties) will probably shrink rapidly as banks' interest rates rise again. All this makes it even more difficult for Hong Kong to emerge from deflation that has lasted 50 months.

In order to promote economic recovery, the Government must try every possible means to attract inward investment to earn foreign exchange. I hope the Government can expedite the implementation of its investment migrants policy and grade applicants in accordance with their academic qualifications, skills, working experience, age, and so on. With a shortage of requisite talents in Hong Kong, we can attract people from the Mainland and overseas countries (particularly people from Southeast Asia who are worried about political instability) to come to Hong Kong for employment and residence by giving them the right of abode. The Government may also consider granting the right of abode to people from the Mainland and overseas countries if they purchase properties of a certain value or set up companies of a certain size on a long-term basis. We must attract talents and money to gather in Hong Kong before we can revitalize the economy and boost government revenue.

In order to successfully curb the fiscal deficit, the Government must, apart from cutting pay and attracting investments, revamp those systems which have not only aggravated the financial burden of the Government, but also undermined the public's working desire. Let me cite the CSSA system as an example. At present, a four-member CSSA family receives \$10,015 a month, almost 15% higher than the monthly income of 860 000 workers earning the lowest income in Hong Kong, and higher than the monthly income of many four-member families which are supported solely by one working family member. The emergence of such an unreasonable phenomenon is mainly attributed to the absence of a flexible adjustment mechanism. I hope the Government can slash CSSA expenditure by 11.1% in accordance with the CSSA index and expeditiously examine the possibility of tightening the eligibility of CSSA recipients, as well as reviewing CSSA payment levels regularly in accordance with the realistic economic situation in an objective manner. This will not only help control

CSSA expenditure and help those who are genuinely in need, but also prevent more people from falling into the CSSA net "voluntarily" and give them incentive to be self-reliant. Hong Kong economy must rely on the public's restoration of their enterprising spirit before it can prosper again. Madam Deputy, I so submit.

**DR LAW CHI-KWONG** (in Cantonese): Madam Deputy, my discussion will be focused on social welfare problems in relation to the Budget.

The problem raised by Mr HUI Cheung-ching earlier is a case of erroneous comparison often raised by me. In calculating the rate of CSSA for a four-member family, comparison should be made with the income of a low income four-member family. The figures we now see merely represent a comparison between the rate of CSSA for a four-member family and the average expenditure of 20% of the people at the bottom end of the lowest income family group. The Government has never provided us with a comparison between these people and the expenditure level of CSSA recipients.

It should be noted that when the average expenditure of 20% of the people at the bottom end of the lowest income group is used as a basis for comparison, we are in fact referring to the average expenditure of all the people in the group. If I say my height exceeds the average height of all the people in this Chamber, it does not necessarily mean I am the tallest person here. Similarly, if the average expenditure is calculated on the basis of the income of 20% of the people in the lowest income group, the outcome will turn out to be similar. In brief, the expenditure level of CSSA families is roughly equal to eight percentage points of the lowest income group. So, how can this level be considered high? I simply cannot see any objective analysis telling us that an expenditure level equivalent to eight percentage points of the lowest income group should be considered excessively high.

Madam Deputy, it was decided in the reviews of the CSSA standard payment levels in mid-1997, 1998 and mid-1999 that surplus CSSA payments resulting from over-estimating the rate of inflation would not be deducted. It is because, according to the projection method used in past reviews, CSSA payments were to be raised in line with the projected inflation rate. Consequently, CSSA payments for the years 1996, 1997 and 1998 were found to

be more than needed, but the Government undertook in the reviews conducted in 1997, 1998 and 1999 that the additional payments would not be recovered. It is extremely regrettable that, owing to the fiscal deficit problem, the Government has decided that CSSA payments be reverted to the 1996 level, which is even lower than the level of basic protection conferred on us under the Basic Law after the reunification of Hong Kong in 1997. The Government is not trustworthy for it has failed to keep its promises on three separate occasions.

The Government already cut CSSA payments for three-member and four-member families by 10% and 20% respectively in 1999. Members should be aware that the people most seriously affected in these families are mostly children rather than unemployed adults. The decision to slash CSSA payments by 11.1% within a year shows that the Government is actually turning a blind eye to the needs of the elderly, the weak and the disabled. In particular, it has completely ignored the daily and developmental needs of the children from poor families. It is really inhumane of the Government to have no pity for these people at all.

To pre-empt future risks arising from political resistance, the Government intends to deduct the payments in one go, rather than in stages. It is because the Government might have to face the same risk every year if it opts for progressive deductions. Despite the Government's estimate that the accumulated room for CSSA adjustments had reached 11.1%, the calculation was done up to mid-2002 only and deflation in excess of 1.5% has not yet been factored into it. According to the present projection, deflation in excess of 3% might be accumulated this time next year. In other words, the Government will again be required to consider whether CSSA payments should be adjusted this time next year and thus face another round of political debate.

The Government is being short-sighted and unwise in believing that cutting CSSA payments by 11.1% in one go can avert political disputes. In the opinion of the Democratic Party, it is inadvisable for the Government, supposed to be trustworthy, to break its promises made in 1997, 1998 and 1999 and cut CSSA payments by 6.5%, which is an overestimate of inflation before 1999. By the same token, any deductions to be made in the future should only be confined to the level of deflation counted from 1999, either to the present moment or to the future. In the interest of the elderly, weak and disabled CSSA recipients, the Government should all the more study setting up a mechanism for CSSA

adjustments with a sympathetic and caring attitude. Thank you, Madam Deputy.

**MR LEE CHEUK-YAN** (in Cantonese): Madam Deputy, Article 23 of the Basic Law was likened by some people to a knife hung over our heads. For me, however, the Budget can indeed be described as a knife aimed at the bodies of the general public. Everyone has expected the knife hung over our heads to hack down sooner or later, the Budget will definitely hack down like a knife come 5 March. For this reason, I have found in advance a perfect location for the Government to place this knife. I have anticipated the slash of the knife blade. Though I have already located a spot for the Government to place this very knife, the worst thing has yet to happen. From the previous comments made by the Government on the imminent Budget, the poor will most likely be caused to suffer.

While Mr HUI Cheung-ching suggested earlier to target at CSSA, Dr LAW Chi-kwong presented us with a lot of statistical problems. How can a government wield its axe at the poorest, who are mostly elderly? In fact, I feel that the Government has since long ago done injustice to the elderly. Or else, the Government should have given the elderly pension, not CSSA, a long time ago, especially now that the Government is thinking of slashing CSSA. Does the Government think that the unemployed like to be unemployed very much? I believe everyone would love to work if they have a chance to. They applied for CSSA just because they lacked means of living. Yet the Government is going to wield its axe at the unemployed and the elderly CSSA recipients.

The Government is also prepared to smash 1 200 rice bowls. Actually, we have been persistently demanding the Government to not only take up the responsibility of keeping these 1 200 rice bowls, but also create more jobs in order to resolve the current unemployment problem. Yet the Government is obviously prepared to smash these rice bowls in a bid to wield its axe at the poor again.

I think the people who petition this Council today against the Government's plan to abolish subsidy for evening schools are those being ignored. They are actually poor people who wish to continue with their studies. As the Government often says, people without Hong Kong Certificate of

Education Examination certificates are finding it increasingly difficult to find a job, they have thus decided to attend evening schools. Despite their willingness to take the trouble of attending evening schools, the Government is now trying to wield its axe at education subsidy and these evening school students.

Furthermore, the Government has announced that it is going to wield its axe at foreign domestic helpers, who are also earning the lowest wages in Hong Kong. The Government is trying to pinpoint these people who may have to work 12 or 16 hours a day. It is most unfair that, being the poorest people in Hong Kong, they are pinpointed by the Government. To foreign countries, Hong Kong is an affluent city. But we often have to explain to others that the gap between the rich and the poor in Hong Kong, despite its affluence, is enormous. With such an enormous wealth gap, no government will make another deliberate attempt to widen it. Targeting at the poor or government expenditure will, to a certain extent, widen the gap. Yet our Government is obviously determined to go in the opposite direction by widening the gap. It is also wielding its axe at the middle class. For instance, civil servants are going to face pressure from both sides as a result of the pay cut and tax increases.

On the other hand, the Government's proposal of imposing a levy on foreign domestic helpers is also meant to be an attempt to wield its axe at employers who will then decide whether the tax will be passed onto their domestic helpers. In the end, some employers might bear the burden of paying the levy. So, we can take this as another attempt to target at the middle class. The Government's plan of slashing expenditure on medical services, education and welfare actually demonstrates its intention of wielding its axe at the public in general. From my own point of view, today's motions (there are altogether three motions if the two amendments are included) merely seek to give Members a chance to plead the Government for mercy on behalf of groups of their concern. Actually, I still have doubts about individual items, but I believe the overall spirit is to beg the Government for mercy. I greatly support this spirit for I personally have repeatedly appealed to the Government to make economic revival its major goal, instead of making it a rigid goal to resolve the fiscal deficit within five years. This is also the message I have always wanted to deliver to the Government.

In my opinion, the three motions today can be interpreted differently for the purpose of resolving the deficit problem. We can find out what is spared by

the Government by merely looking at what is not mentioned by the three key political parties. For instance, the Government can wield its axe at the consortiums because the three political parties have not made any reference to them. I have always advocated the introduction of progressive profits tax for it will definitely gain wide support. As no political party has ever said consortiums must not be targeted, the Government might as well consider this idea. In the course of interpreting the three motions, Members must show no mercy to what is not mentioned by the three political parties. With the exception of consortiums, which are not mentioned at all, we should show mercy to the grass roots, the middle class and car owners. I very much agree that consortiums should not be treated leniently because they are perfectly fine.

(THE PRESIDENT resumed the Chair)

I greatly share the views expressed by Honourable colleagues, that members of the public are obliged to pay tax and bear the expenditures of the Government. According to "Chief Executive YAM", all solutions to the deficit problem must command credibility and public support, or interest rates will fluctuate. I asked him today whether he was implying he had nothing to do with this issue and, even if the interest rates should fluctuate, it is all because we have lost our credibility. However, he has all along failed to provide us with any solutions to the problem. I guess what he meant is the Government should ultimately be responsible for finding a solution to the problem.

In my opinion, the biggest problem confronting us at the moment is, should the Budget be judged by credibility and public support, the public now has an expression that the Government is "fattening the top at the expense of the bottom", "obviously favouring the consortiums", allowing collaboration between government officials and businessmen, having no knowledge of the misery of the public and lacking popular support. So, how can the Government demonstrate enough credibility and moral power to ask members of the public to sacrifice themselves to the axe wielded by the Government? What can the Government do to enlist support for the Budget if it lacks such moral power? It is eventually concluded that, given the Government's lack of moral power and credibility, the only way out is to treat the public leniently if there is really no solution to the problem. Should the Government lack credibility and refuse to treat the public

leniently, how can it ask the public to tide over the hardships with it? As such, I hope the Government can adopt the key tactic of applying leniency in the end. Thank you, Madam President.

**DR TANG SIU-TONG** (in Cantonese): Madam President, given that the Budget will soon be published, recent media reports or speculations on the Budget are invariably connected with bad news that the public is most unwilling to hear, namely tax increases, fare increases, reductions in government expenditure, and so on. As the fiscal deficit continues to worsen, everyone is expecting the Government to introduce measures to reduce its fiscal deficit. In spite of this, at a time when members of the public are compelled to "tighten their belts" because of the economic depression, reductions in incomes and shrinkage in assets, how can they be convinced to give the Government more money willingly? Despite the Government's emphasis of "shared responsibility", the public will certainly ask this question: Where is the Government's responsibility? What will the Government do to improve the economy to help them? I hope the Government and the Financial Secretary can understand that the most important function of the Budget, other than levying tax and charges, is promoting socio-economic development through government policies. The public will judge the Budget by its ability to lead Hong Kong out of its economic woes.

Meanwhile, I hope the Government can understand that, after suffering serious setbacks over the past several years, Hong Kong is, like an extremely fragile person who has suffered a serious illness, badly in need of suitable treatment and recuperation before it can slowly recover. Members of the public have suffered badly in the past several years, with their income, assets and employment prospects having become far less favourable compared to the past. Their ability of withstanding the side-effects of the strong medicine administered by the Government in "raising tax, increasing fares, and cutting welfare" and the resultant challenges is indeed questionable. At this very moment, the Administration must allow the community and the public to take a good rest and recuperate. Although such measures as "raising tax, increasing fares, and cutting welfare" might make the Government's books look better, they may still cause Hong Kong economy to worsen further because government revenue may eventually drop rather than rise. I therefore urge the Government to think twice before putting its plan into action, and take into consideration the public's affordability and their confidence in Hong Kong's future prospects before making any decisions.

Madam President, I would like to say a few words on two public policies which have a direct bearing on the basic livelihood of the people, namely medical and health care and social welfare. Government expenditure in these two areas is likely to be slashed.

Accounting for 15.8% of the Government's recurrent expenditure, medical and health care ranks second in terms of public expenditure. The Government's intention of reducing expenditure on medical and health care is therefore understandable. Nevertheless, I would like to remind the Government that although raising medical charges can recover a small proportion of the costs, it can do nothing to help resolving the crucial problem arising from the severe imbalance of the utilization of services in the public and private medical systems. Raising charges can not only do nothing to resolve the problem fundamentally, but also affect the disadvantaged social groups who are not CSSA recipients. According to the figures provided by the authorities, a total of 670 000 applications for fee remission were approved by the Hospital Authority (HA) alone in the past three years. In other words, an average of 220 000 applications were approved each year. We can thus see that a large number of people are unable to meet their medical expenses at the moment. Medical charges, if raised, are bound to make more grass roots become broke. Though I believe the plan to raise charges will definitely go ahead, I would like to urge the Government to expeditiously formulate a new, simple and convenient remission mechanism to take care of the low-income earners, the elderly or chronically-ill persons who are not receiving CSSA.

In my opinion, only through more effective utilization of resources by the HA and more effective integration of the public and private medical systems can the problem of reducing public medical expenditure be resolved fundamentally. For instance, the HA can consider outsourcing some of its medical care services to private practitioners to, apart from reducing expenditure, turn welfare commitment into economic activities that can be absorbed by the market.

Madam President, besides medical and health care, social welfare, particularly CSSA expenditure, is also a matter of great concern to the public. Under the influence of such negative factors as economic recession, rising unemployment rate, ageing population, and so on, expenditure on social welfare will naturally rise constantly. I understand that there are such problems as poor efficiency and even abuse with the Government's welfare expenditure; I also support the idea that public money should be used properly to ensure the safety

net provided for the community can give play to its designed function. Nevertheless, the Government must, before putting any measures into implementation, first ensure that the basic living of poverty-stricken elderly or disabled people who are genuinely in need will not be jeopardized. In fact, nearly 70% of CSSA recipients are elderly, disabled or infirm. Unemployed and low-income cases account for less than 20% of CSSA cases. In reviewing CSSA expenditure, the Government must have regard for the feeling and hardship of these disadvantaged social groups.

I do understand that CSSA expenditure cannot go on expanding indefinitely. This is absolutely not what the public would like to see too. However, slashing the rates of assistance is not the only way to reduce CSSA expenditure. When public resources are so stringent today, the Government can perhaps consider extending the one-year residence requirement for applying CSSA so that priority in using the limited CSSA resources is given to permanent residents who are most in need. Anyhow, it is most important for the Government to try every possible means to improve the economy, boost employment opportunities, minimize the number of people being forced to fall into the CSSA net, and help CSSA recipients to become self-reliant, with a view to improving their lot.

Madam President, Hong Kong has the Mainland as backup possesses excellent software and hardware. I believe it can definitely break through its predicament and re-create prosperity. However, the Government must create favourable conditions to complement all this, and they include restoring public confidence in the future and public support for the Government. At the same time, the Government should not raise charges that may affect the business environment. For instance, the duty concession for ultra low sulphur diesel should be retained and oil duty should not be raised. Only in doing so can Hong Kong break away from its adversities expeditiously. I so submit.

**MR ALBERT HO** (in Cantonese): Madam President, caught in Hong Kong's economic predicament today, what prospects do we have? What should we do to maintain social stability and pool strengths to overcome our difficulties? In brief, there are two key strategies: First, to increase the Government's acceptance and moral strength in terms of leadership. In doing so, liberalization of the political system and democratization will surely be involved.

In this respect, I would like to draw Members' attention to the debate on the second motion to be conducted shortly.

After listening to the speeches delivered by Members and government officials, we will find that it is absolutely hopeless insofar as this point is concerned, at least in the near future, that is, in the next few years. The second point is about ways to promote future development through the application of fiscal policy. They include giving care and support to the disadvantaged social groups and the poor, safeguarding the grass roots, stabilizing the middle class, improving the business environment, and promoting economic recovery. Some people might ask this question: What can be done to resolve the problem of fiscal deficit? If the problem remains unresolved, can the abovementioned objectives be achieved? I would like to emphasize the point that, as stated by the Government, we must not panic since Hong Kong is undergoing economic transformation and the economy is yet to recover. It will be stupid and unwise of the Government to take the lead to reduce expenditure without taking into consideration the realistic needs of each government department and the negative impact of reducing expenditure on the overall economy. In doing so, it will only show that the Government, having poor confidence in the future and not knowing what to do, knows only to reduce expenditure and has even betrayed many impoverished among the grass roots and people who require care and treat them indifferently, as pointed out by Dr LAW Chi-kowng a moment ago. How can such a government stabilize the community and pool the hearts of the people?

We must not eradicate the fiscal deficit on the one hand and create poverty on the other, thus destabilizing society as a result. The Government is obliged to avoid further impoverishing and marginalizing certain people in the community. In showing concern and taking care of the disadvantaged social groups, the Government must never aggravate the disparity between the rich and the poor and polarization of the community. The Government must not shirk its responsibility under the International Covenant on Economic, Social and Cultural Rights. What is more, it must safeguard that every impoverished member of the disadvantaged groups is able to maintain a dignified living standard. In this respect, it must be stressed that the basic social security offered to the most impoverished people should in no way be reduced. Therefore, the Democratic Party insists that the CSSA payments provided to the elderly, weak and disabled must not be cut. It is also imperative for a concessionary policy to be specially formulated for the impoverished and elderly

with respect to medical charges, particularly charges for accident and emergency services.

Furthermore, we suggest the Government to endeavour to provide equal opportunities to the grass roots and middle class to enable them to give play to their potentials in pursuit of better living and greater chances of moving up the social ladder. It is therefore vital for the Government to provide these people with a stable living environment in such form as housing security, inexpensive medical and education fees, and so on. This is also one of the crucial factors that enable Hong Kong to maintain long-term social stability to enable many grass roots to receive education in a relatively stable environment and strive for development and self-improvement.

At the same time, we object to the Government's proposal of substantially increasing charges and reducing services for this will affect social cohesion in general. Under today's circumstances, fare increases will only aggravate the burden of the general public and do great harm to our confidence in the future and our efforts in promoting economic recovery.

Madam President, insofar as the taxation policy is concerned, the Democratic Party supports the imposition of a higher tax on well-off people. We advocate a clearer progressive tax regime under which certain business operators are required to pay more profits tax. We feel that this regime merits our support. The Democratic Party also believes members of the community will raise no objection to the imposition of a higher tax on certain high-income earners. For the purpose of improving the business environment, the Government must promote economic development with vision, resolve, faith and accurate judgement. Moreover, it must not slash expenditure at this stage because of its undue emphasis on the fiscal deficit problem for that will result in worsened deflation, depressed confidence and even prolonged recession. All this together will only turn Hong Kong's overall economy into a deflated balloon.

Lastly, Madam President, I would like to remind the Government that it should never think that increased taxes will guarantee higher revenue. This is because increased taxes might reduce rather than raise government revenue. Neither should the Government believe reducing expenditure substantially can definitely reduce the fiscal deficit because the deficit might rise rather than fall. I hope the Government can act cautiously and, after listening to the views

expressed by Members today, promote Hong Kong's economic recovery with a longer-term vision and confidence. Thank you, Madam President.

**MR MICHAEL MAK** (in Cantonese): Madam President, balloons are being flown in the media everywhere before the Financial Secretary announces the Budget for next year. There are rumours every day that tax hikes will be targeted at certain classes of people and expenditures will be slashed. If this is what the Government is doing to gauge public opinion, then my advice is that it should try to listen to opinions from all quarters and not to resort to cutting expenditures and raising taxes recklessly. For it is only when a government is sensitive to the needs of the people that it can win their support.

Last month, the Chief Executive delivered the first policy address of the second term of his office and he made it loud and clear that taxes would be increased. Then the Financial Secretary joined in the chorus and pointed out that the tax hikes were aimed at the high income group which could afford to pay more. In other words, the knife is out, just as Mr LEE Cheuk-yan put it, and it is placed on the necks of the middle class. The Financial Secretary said several days ago during a visit to a district that the middle class would not be bullied. What I will do for the time being is to keep a close watch of his words and deeds. I hope the Financial Secretary can really keep his promise.

However, the Government is making a lot of small moves, for example, flying balloons to hint that the salary tax and the gasoline duty are going to be increased. Sometime ago, the Financial Secretary said in a radio interview that some people had not seen any reduction in their income and they had put their money in the banks. If tax increases were targeted at these people, that would not make too much of an impact on the Hong Kong economy and consumption. So the Financial Secretary made it clear from the outset that the tax hikes were meant for those high-income earners who could afford them and whose income has not seen any great changes in recent years and who have savings in the banks. It is therefore crystal clear that the middle class will be victimized. All along the middle class is the pillar of society and the most important stabilizing factor as well. They have worked hard over the years and made a lot of contribution to Hong Kong. But the efforts and contributions they made have not been repaid in any way, for in particular after the Asian financial turmoil, many middle class people have become negative equity property owners and many of

them are bankrupt. In despair, many of them have even chosen to commit suicide. Over the past few years, the Government had done little to relieve their hardship, and yet it is targeting the tax hikes at them. This is a blatant disregard to the contribution made by them over the years. It is really requiring kindness with ingratitude.

Madam President, the Government should really adopt suitable measures to increase revenue and cut expenses. If an across-the-board approach is taken, it would definitely not be an advisable move. Take the health services sector which I represent as an example, now that the population of Hong Kong is increasing all the time and there is a serious imbalance in the utilization rate of public sector *vis-a-vis* private sector medical and health services by a ratio of 94 to 6. Sometime ago, I proposed a motion to this effect and all Members were of the view that it was really a serious problem. According to figures disclosed in the annual report of the Hospital Authority for 2001-02, the number of patients who used the out-patient service of public hospitals, excluding services for mental patients and the mentally retarded, rose from 7.75 million in 1997-98 to 8.92 million in 2001-02, representing an increase of over 15%. A similar growth can also be seen in the accident and emergency services which grow from about 2.17 million people in 1997 to about 2.52 million people in 2001-02, representing a growth of 16%. While the road to economic recovery is long and dreary, the demand for public health services keeps on growing. If the Government adopts an across-the-board approach to cut expenditure on medical and health services, then apart from adding to the workload and pressure of colleagues in the health services sector, it is very likely that the life and health of the people will be exposed to risks.

In addition, with regard to the socially disadvantaged, according to information released by the Social Welfare Department, the current number of Comprehensive Social Security Assistance (CSSA) cases is 267 610, of which elderly applicants number 142 931, or about 60% of the total. I think we are all aware of the financial hardship they face, for in general, the elderly people do not enjoy any sound retirement protection. Given the high prevailing unemployment rate, I do not think the elderly would have any means to lead a decent life other than relying on CSSA. If the CSSA payments are slashed, that would certainly add to their plight. In fact, CSSA recipients belong to the disadvantaged in society and so I hope that they can enjoy assurance of a basic quality of life.

Madam President, parents often pin their aspirations on their children and hope that their children can make outstanding achievements. An increase in the tuition fees will not only add to the financial burden of families with children studying in schools, but also add to the mental stress suffered by them. I hope that the Government will be more far-sighted when it formulates the relevant policy and take account of the conditions of the general public.

However, when the Government makes any financial arrangement or compiles the Budget, as Mr LEE Cheuk-yan has said earlier, it will try every means possible to meet the needs of the giant consortia, but it is blind to the needs of the people who are so desperately in need of help. I hope the Government will stop helping these giant consortia to fleece the people for, as Mr Albert HO has said, increasing the taxes will only achieve the opposite result. I think that this would further dampen consumer sentiments and aggravate deflation. Thus it is definitely not conducive to improving the economy. With these remarks, I support the motion.

**MR CHAN KAM-LAM** (in Cantonese): Madam President, after years of deflation and economic adjustment, both the public and the Government are suffering in the aftermath of the burst of the bubble economy formed prior to the reunification. Some people say that our economy has never improved after the reunification and blame the Government for doing nothing effective to steer the territory out of the economic doldrums. Some businessmen who are dissatisfied with the economic restructuring have criticized the Government for the wrong measures adopted to stifle the market and cause a lot of businesses to close down. Some people even blame the officials for the economic depression, promote public discontent and undermine the prestige of the Government in governing the territory.

In the opinion of the DAB, if we cannot be cool-headed enough to analyse the current problems and find out their roots, then we can never deal with them in the right manner and find a solution.

The first is the decline of the external economy in such speed and length that is beyond the expectation of any government. For an economy like Hong Kong which is highly dependent on export and the service industries, a decline in the economy of the importing countries will lead to less imports, hence causing an adverse impact on Hong Kong. When less inbound tourists visit Hong Kong,

a crisis will arise in our tourist, retail, transport, catering and hospitality industries, plus all sorts of consumer industries. Likewise, the financial, trading and other sectors will also need to wait for the economy to turn better, and all sectors cannot be immune from this.

The next cause is the damages done by the bubble economy in the 1990s. At that time the economic base of Hong Kong, the industrial production and the balanced development in our economy were all replaced by this unhealthy bubble. The rapid boom in the 1990s was only deceptive and short-lived. The Government was selling land and its assets all the time to finance the huge spending. The bursting of the bubble brought about the first evil and that was a serious imbalance in revenue and expenditure. This is best illustrated by the situation in the current financial year. As a result of the moratorium on land sales and the cancellation of the public offer of the MTR Corporation Limited shares, the deficit rises by as much as more than \$30 billion. According to the estimates made by the Financial Secretary, fiscal balance can be achieved by 2006-07 and the reserves at that time will be able to cope with the expenditure for 12 months. However, this optimistic forecast has fallen flat as a result of the further deterioration of the economy this year. I reckon that in the next financial year, the reserves will not be able to cope with the expenditure for 12 months. This is a most critical situation. The grave problem of negative equity assets in recent years is mainly caused by the excessive inflation in property value before the reunification.

In view of the economic predicament, the SAR Government has adopted moderate deficit budgets for the past two years in order to relieve the financial hardship of the people. The Government has set a goal to achieve fiscal balance by 2006-07. This arrangement serves to reduce greatly the pressure for an immediate cut in expenditures and a massive tax hike. I understand that the Government is also waiting for the economy to recover. Despite the good intentions of the Financial Secretary, our economic outlook is still worrying.

We are likewise in a dilemma when we face the huge fiscal deficit. Recently, there are some views that the Government is targeting at the poor in planning to launch the economizing measures, and it is pointed out that Hong Kong is not a caring society and it is inflicted with eight major diseases. I believe the public will judge whether such views are sensible and justified. But I am sure that Hong Kong is indeed like a patient with a deficit tumour and if it is not operated on in time, or if strong doses of medicine are not applied to arrest

the cancerous growth, it will only get worse. It remains, of course, that an operation means pain and risks.

The people of Hong Kong are rather indecisive with respect to this deficit tumour and that is why they are divided as to how the deficit problem can be resolved. They want to defend the interests and well-being of all parties, but they also realize that it is inevitable that taxes will have to be increased and expenditures be cut. We know that during the past decade or so, despite the outward prosperity of our economy, the root of the deficit tumour has already formed. Frankly speaking, no one would want the Government to increase taxes and fees, and hence add to the financial burden. Nor would anyone wish to see the Government slashing expenditures and welfare. We need to sit back and think how to solve the problem, and we should stop merely voicing opposition all the time.

I would also like to point out that while it is important for the Government to increase revenue and cut expenditures in a bid to cure this deficit tumour, the fundamental cure lies in strengthening our economic base, developing our economy and making more investments. These are important tasks which will make us stay competitive, and the Government is charged with the vital responsibility to do so.

The SAR Government often stresses that economic growth depends on corporate behaviour and the self-adjustment of the market. However, the economic integration between Guangdong and Hong Kong, for example, depends very much on the changes and amendments made to the economic, financial and trading systems and laws of both places. In the context of making rules and regulations related to the World Trade Organization alone, the governments of the two places must engage in discussions on customs issues. Therefore, the SAR Government must assume a leading role in devising strategies to make this integration with Guangdong a reality.

The economic integration with the Pearl River Delta as proposed by the Chief Executive in his policy address is a major undertaking which determines the success of our future economic development. We hope that the Chief Executive can implement this development direction and engage in more dialogue with the local governments in the Pearl River Delta so that concrete work can be done for a full-scale economic co-operation.

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

**MS CYD HO** (in Cantonese): Madam President, Hong Kong is facing a deficit problem, and as a result of the Government's bid to achieve a fiscal balance, people from all strata will be affected in one way or the other, while some may even have already been badly affected. With the persistent economic downturn, the abilities of various strata in sustaining the difficulties are becoming much weaker than before and the gap between the rich and the poor has widened. For example, the grass-roots workers have long been dealt the twin blows of increased workload and pay cut. It is often the case that two workers will have to do the work of three and the wages are slashed by as much as 40% to 50%. Some are even out of work. Therefore, I agree with the wording used in the amendment proposed by Mr YEUNG Yiu-chung, that is, "to take account ..... also of the hardship faced by the public". As people from different strata face different kinds of hardship, we need to be fair. We need to make thorough considerations before putting anything to action. We should examine what kinds of people are still financially capable and can pay more. The Government should also propose a comprehensive proposal to the people, together with plans to develop the economy, increase revenue and cut public spending. That will enable the people to have a full picture of the situation and hence arrive at a consensus. It is most unfortunate that we have seen the Financial Secretary flying balloons through different Policy Bureaux. The Secretary for Education and Manpower said of his own initiative in a press conference that he had something important to disclose, that school fees for Secondary Four and Secondary Five would be increased. Then another official said that consideration was being given to raising fees and charges related to the people's livelihood. Then the Financial Secretary said that he wanted to see who still got a lot of money in the banks and he wished to see if these people could be charged more. I fail to see why the Financial Secretary has failed to make any formal proposals rather than trying to test the response of different sectors. He would just retract when he meets some opposition, and he will go ahead when he does not meet much resistance. The result of this is society becoming more divided as different sectors hasten to speak out in defence of their own interest. What happens in the end is that there will be no more social unity in the face of the present difficulties. It is because different sectors cannot see how they can share the responsibility in a fair manner and work towards the goal of eliminating the deficit. What they see is that under the divide and rule tactic of the Government, those people who do not speak out will be bullied and they will be made to bear some unreasonable responsibilities and shoulder the burden of other people.

As for the socially disadvantaged, they have already been stigmatized as lazy and families on CSSA who are so disgraced therefore become easy targets of bully and exploitation. Likewise, those elderly people, single-parent families, the chronically ill and disabled who depend on CSSA are most easily victimized. In fact, the CSSA rates for households with three or four members were greatly slashed by 15% to 20% in 1999 and the special allowances were also abolished. These people are really fleeced to the bones and if their CSSA rates are slashed by 11.1% as proposed by the Government to offset deflation, they will be leading a really rough life. In addition, many scholars have questioned the method used to work out this proposed cut in CSSA rates based on deflation. Dr LAW Chi-kwong has explained in detail his arguments earlier. This 11.1% cut cannot really show the spending pattern of these CSSA families over the past few years. But the Government has evaded the issue entirely and refused to respond to it. What it is doing is to use a figure based on the contraction in the price index as a result of deflation and impose it on the families on CSSA whose income falls in the lowest 8% in society. This is a grossly unfair approach.

However, I would like to ask Mr YEUNG Yiu-chung, who has proposed the amendment, a question. The wording of his amendment says not to reduce the rates of CSSA across the board. Then will he agree to a reduction by two or three phases? If so, how long should it take? I hope Mr YEUNG will make a clarification or a response either in this Council or on other occasions. I feel what we should do now is to pool all the political parties together to urge the authorities to set up a mechanism which can reflect the spending pattern of families on CSSA in a more accurate manner. We also agree that CSSA rates do not have to be higher than the level necessary to meet the needs of basic living. Although we all agree to this, the mechanism whereby the rates paid out should follow the movements in inflation or deflation and reflect accurately the spending pattern of the recipient families. This is a task which this Council should do. Many people make the criticism that Members will only engage in empty talks, especially when it comes to motions without any legislative effect. For after discussions are held in this Council, the executive authorities will only need to write a letter in one or two months' time as follow-up. No measures need to be taken and the matter is then brushed aside. But actually the Legislative Council is vested with some solid powers and that is when we vet the Budget and applications for funding. The votes we cast will have a definite impact on the matter concerned. I therefore call upon those Members who have spoken today and expressed their concern about the hardship of the people, especially the life of the elderly and the families on CSSA, that when they discover the Budget goes

against our concern for the grass roots, to vote against the budget. Please remember to exercise the powers of this Council and do not be contented just with merely talking about them.

Lastly, I would like to urge the authorities, especially the Chief Secretary for Administration, the former Secretary for Health and Welfare who is in charge of the Women's Commission, as well as Honourable Members who have spoken in this Council in support of gender equality, to adopt a perspective of gender mainstreaming in deliberating on the various economizing measures proposed recently to see if women who have been full-time housewives for the last 10 years account for the majority of elderly persons who enjoy no pension and rely on CSSA for living? Do single-parent mothers account for a majority of the 33 156 single-parent families on CSSA? The authorities are thinking of outsourcing the evening classes in adult education, the result may be an increase in tuition fees two years later. So would this affect the chances of women with low educational attainments to pursue further studies? On many occasions in the past, we emphasized repeatedly that gender equality means an assessment of the impact of legislative, administrative and public expenditure measures on the sexes. When public services are to be slashed, an assessment should be conducted on the impact on women. As truthfulness of mind is tested in adversity, so in the next couple of months when votes are cast on public expenditure proposals, we can see whether or not the executive and the legislature will truly put into practice the principle of gender equality.

**MR NG LEUNG-SING** (in Cantonese): Madam President, a motion on the budget with no reference made to how the fiscal deficit should be solved is definitely not comprehensive in view of the current socio-economic conditions. As the Chief Executive has pointed out in the policy address, if the deficit problem deteriorates, there may be grave consequences to the economy of Hong Kong. The investment environment may deteriorate, the financial markets may suffer and in the end the pace of economic recovery may slow down. So the public will likewise suffer. That is why tackling the deficit problem is not the work of the Government alone, but a task that should be borne by the community as a whole.

To solve the deficit problem, one must use the right method and in the right strength. There must be good co-ordination at least in three areas, that is,

stimulating economic growth, achieving savings on public expenditure and suitably increasing revenue. If attention is merely put on revenue while overlooking economic growth, the result may be a deterioration of deflation and the economy will remain sluggish. So great care should be taken in launching any measure to increase taxes or fees, and an assessment should be made of the ability of the deflation-battered local economy to bear such measures.

With respect to structural problems in public finance which are long-standing and commonly recognized, the Government should take decisive and effective measures to address them. This includes an important task, and that is, finding a right solution to the problem of civil service pay cut. The policy address stated that the civil service establishment would be reduced by 10% by 2006-07. But that is apparently not sufficient. The key lies in making a reasonable adjustment to the wages and benefits of civil servants so that while they comply with the principles enshrined in the Basic Law, they can be reasonably comparable to those in the market. I think the Government should be bold and decisive in dealing with the problem, for only in this way can it rally the entire community, including the commercial and industrial sectors and the public at large, to foster a common aspiration to resolve the deficit problem. Moreover, the Government should speed up its efforts to review and cut non-essential public services as this would create conditions for controlling and reducing the civil service establishment and the manpower in public organizations. When the Government outsources its services, it must make the necessary arrangements to deal with the problem of redundant manpower and refrain from outsourcing before such matching and suitable arrangements are made. For if not, expenditures may increase instead of decreasing.

Social welfare and security, housing and medical services account for a great share of public expenditure and in view of the fiscal deficit, it is a most pressing task to impose rational control on such expenditures. In the area of social security, I would think that the rates of CSSA and the related allowances should be adjusted in accordance with changes in purchasing power. This is not only fair and reasonable, but also a necessary practice to put public money to the best use. In view of changes in the price index, I agree as a matter of principle that the current rates of CSSA have some room for adjustment, like 11.1%. I think it is reasonable for the authorities to take account of the special needs of certain categories of CSSA recipients and make the suitable adjustments. These adjustments are necessary and should be acceptable to the community. I also

hope that the policy in respect of CSSA should include more incentives for recipients to re-enter the labour market, such as the use of more assistance in kind as opposed to cash in order to prevent any undesirable use of cash payments. There should be more assistance in job placement and training programmes for certain specific occupations, for example, occupations like domestic helpers which do not require a high level of skill. These programmes can be offered to those low-skill unemployed persons so that they can find a job in these trades. This will also achieve the effect of relieving the problem of unemployment and the pressure on welfare spending.

In respect of medical services, it is the trend to build a community-wide medical insurance system in the long run. Even in the short run, the Government may look into measures to encourage more people who have the means to take out medical insurance of their own accord so that they may have less demand for public medical resources. As for public housing resources, I consider it necessary to stress again that while basic accommodation is provided to those in need, housing assistance should never be made a lifelong or inheritable benefit. The Government must set up a clear and suitable allocation system that can take account of changes in the financial conditions and affordability of the recipients at different points in time and also changes in the purchasing power of society with respect to housing. That will ensure public housing resources to be used on a recyclable basis to benefit people who are really in need.

Madam President, under adverse economic conditions, resistance will rise against any cut in services and social welfare expenditure. But things cannot be detached from reality. It is impossible to offer a painless cure to the deficit problem. So the Government and the Legislative Council should face the difficulties and decisions which cannot please everyone. If we cannot address the problem squarely and shoulder the responsibility of solving it, and if people in society shirk their responsibilities and refuse to make commitment, there will be no way in which Hong Kong will climb out of the doldrums and the present predicament. I so submit.

**MR BERNARD CHAN:** Madam President, I wonder whether some of my colleagues here today have lost touch with the reality. This motion essentially calls on the Government not to cut various types of spending, but at the same time, not to introduce various types of tax. The amendments expand on these

demands, calling on the Government not to cut even more types of spending, and at the same time, not to introduce even more types of tax.

The logic is: Let us carry on pretending that money grows on trees. Let us pretend that the Government is not running a deficit.

We need to be very clear about two things. Number one, the Government is spending much too much money. It has to cut its expenditure significantly. Number two, the current tax base is not broad enough and possibly not deep enough.

We see this mismatch in practice all around us. Only a small number of people are giving, and nearly everyone is taking. Wherever you look in this town, people are getting subsidies. The movie industry, the English Schools Foundation, 3 million public housing tenants, small and medium enterprises, 90% of hospital patients, business start-ups, Cyberport tenants, the Disney project, 2 million Mass Transit Railway passengers. Is there anyone that I have missed? Yes, there is — I could go on and on. It is all take, take and take. It seems that virtually, everyone in Hong Kong is being subsidized in some ways.

Few places in the world provide so many subsidies in return for such low taxes. And the reason for that is simple. But it cannot be done this way. We have to stop subsidizing so many people. Those who can afford to pay more will have to pay more.

Where we cannot reduce spending, we must raise taxes. We used to pay a lot of revenue to the Government through high property prices — so we were paying through rents and mortgages. Now, we will have to do it through visible, direct taxes. There are no free lunches — if we do not pay for lunch in one way, we have to pay for it in another.

These are the realities being ignored by this motion and by both the amendments.

We cannot assume that things will get easier with economic recovery.

We have an ageing population. Demand for services is bound to rise, while the working population might actually fall. In order to look after the most needy members of the community, especially the growing number of senior citizens, we have to stop subsidizing everyone else so much.

Given the limits on government resources, a subsidy for the middle class ultimately comes at the expense of the genuinely poor. And this applies in the business world. A subsidy for an unprofitable industry ultimately costs jobs and profits in more successful businesses.

We need to get rid of the subsidies mentality. We need to start thinking about targeting welfare, health care, housing and all the other subsidies, to make sure that they go where they are most needed. And we need to start thinking about ways to expand the revenue base, and to replace the old, property-related sources of revenue.

Madam President, the Government cannot carry on spending money that it does not have. As a community, we need to put more into the system. We need to take less out. And we need to concentrate resources on priority areas.

Thank you.

**MRS SELINA CHOW** (In Cantonese): Madam President, when it comes to taxation, many people will not forgive me if I do not say a few words on sales tax. Although the Government has stated that there will be no introduction of new taxes, I still wish to say a few words because I am a bit scared. Now that the fiscal deficit has become a heated topic, sales tax will easily come into the mind of the Government if it keeps on thinking about the deficit problem. Therefore, I have to make it clear in the first place that this is definitely not an option because not only will the people's livelihood thus be jeopardized, the operation of businesses will be damaged as well. I must state this position of mine from the outset.

Today, I have heard many colleagues express their expectations for the Budget, particularly from the angle of taxation. I see that there is a strong consensus in many areas, no matter how Members disagree among themselves. I am also pleased to hear that Members seem to have agreed that economic

revival should at least be the prime task of the Government. We in the Liberal Party have always held the view that it is useless to say anything if we do not focus our attention on helping the people of Hong Kong create wealth. We must first create wealth before people can have money to spend. When the people spend, the Government's revenue from tax will rise, without the need to do anything special. Of course, everyone will object to any proposal of taxation. This is because we can spend more generously if we have more money in our pockets. Conversely, a vicious circle will be formed if the economy performs badly. In that case, nothing can be done even if the Government has lots of plans.

When it comes to economic revival, I believe it is most important for the Government to give incentive to the business environment. There is a sure-win formula and that is to reduce the operating costs of businesses. It has been pointed out by many that Hong Kong is becoming less and less competitive. The business environment will definitely suffer if the Government insists on adhering to the "user pays" principle or resorts to fare increases indiscriminately, whether by way of taxation, licence fees or other charges. Business operators will become worried if the operating costs keep on rising. We must emphasize this point in the amendment because regard must be paid to the business environment.

There is one thing the Government must handle carefully. To reduce business costs is originally a very good idea. In order to liven up the local community economy, the Government has allowed people who used not to be business operators to operate businesses, thereby resulting in more local competition. Insofar as those who have been experiencing severe hardship in operating their businesses are concerned, the Government has made them face even tougher competition. For instance, many existing business operators have complained about the operation of private kitchens and flea markets operated in the form of night bazaars. Apart from paying all sorts of charges, they have to pay tax in accordance with the rules of the game if their businesses are profitable. But suddenly, some of these rules are changed by the Government into competitive practices considered by them to be far from fair. This explains why the matter must be handled with care.

It is inadvisable for the Government to reduce its overall investments just because everyone is now complaining about the "fiscal deficits". On the

contrary, in order to create wealth, more should be done to attract investments. For instance, greater efforts should be made to induce more people to come to Hong Kong for spending or travel, so that business operators will have more business. But this must be done by the Government for it is very difficult for the business sector to make such efforts. The Government should also provide investors with investment opportunities. At the same time, the Government should delegate some of the work that must not necessarily be done by it to private organizations as far as possible.

The Liberal Party has expressed a lot of opinions on the extra efforts that the Government must make in order to reduce expenditure. In recognition of the principle of "shared responsibility", we share the view that the middle class should not be made the target. When every one of us agrees that the grass roots and the middle class should not be targeted, there must be someone who should eventually be targeted! Members might have been told that certain tax items will prove to be detrimental to the middle class. We certainly agree with this. However, the so-called principle of "shared responsibility" will be violated if the target eventually falls on certain people, despite our assertion that the grass roots and the middle class must not be targeted.

We certainly hope the Government can reduce expenditure and so do Honourable Members. While views on this subject might differ among Members, I believe there is a strong consensus in certain matters. While tuned in to radio phone-in programmes, I often heard callers say that they could not bear watching the Government spending money like throwing water out of a bucket. For instance, we will see huge spending between February and March or before 1 April every year because every government department is required to exhaust its annual budget. Insofar as this practice is concerned, the Government should really consider what can be done to reduce expenditure. Furthermore, it is really needless for the Government to have spent so much money on certain activities. For instance, more money can be saved if more cultural and recreational activities can be handed over to private organizations.

When it comes to taxation, many tax items which will not impact on the people's livelihood or jeopardize business operation can be considered. We did talk about a levy on foreign domestic helpers, betting duty, boundary facilities improvement tax, or the discretionary levy of other taxes in an even manner. The Liberal Party will not necessarily raise objection. However, insofar as the levy on foreign domestic helpers is concerned, Ms Audrey EU opined that the

employers should not be treated in this way. Actually, many other employers are currently required to pay a levy for imported workers. Therefore, the levy on foreign domestic helpers should not be considered unfair at all.

Thank you, Madam President.

**MR SIN CHUNG-KAI** (in Cantonese): Madam President, the motion moved by the Democratic Party today seeks not to urge or beg the Government for mercy, as stated by Mr LEE Cheuk-yan. This is definitely not our intention. We only hope that the Government can refrain from making any big gestures in this year's Budget to do harm to Hong Kong economy. Certainly, we agree that the deficit problem must be resolved, but we hope at the same time that the Government will not make any wrong judgements.

Recently, many people from the investment sector have expressed doubts about the viewpoint of giving priority to "eradicate the deficit". Instead, they considered it more important for priority to be given to restoring public confidence and improving the economy.

In the November 2002 issue of *Hang Seng Economic Monthly*, it reads: "Though a balanced budget is essential, our foremost task is to promote a full economic recovery, for this is the prerequisite for government finances to stabilize."

An associate economist from Golden Sachs (Asia) opined that the deficit problem, not to be taken as a crisis, will believably be resolved as the economy improves. Since the Government has taken active measures to reduce expenditure, and coupled with the territory's huge fiscal reserves, Hong Kong should be able to stand huge deficits for at least five consecutive years. In addition, the Government may consider, for instance, issuing bonds for the purpose of resolving the deficit problem.

It was recently indicated by the directors responsible for external relations of the International Monetary Fund that, despite the rising pressure of the fiscal deficit, there should not be any worries that the linked exchange rate will face challenges because Hong Kong still has abundant reserves and its financial system is mature. In his opinion, Hong Kong and Argentina should not be put on a par. It is because the latter is more exposed financially because its

financial system is far from sophisticated and the financial capability of the Argentinian Government is relatively weak. After gaining experience from the Asian financial turmoil, Hong Kong has strengthened its resistance against external attacks. The chances of Hong Kong meeting a crisis similar to the one in Argentina are very slim.

A chief economist from HSBC also held the view that, although this year's deficit accounts for 5% of the Gross Domestic Product (GDP) for the entire year, it is not necessary for the people of Hong Kong to worry too much about the deficit problem because our fiscal reserves only account for 30% of the GDP. The Hong Kong Government is anxious to tackle the deficit problem merely because there is a provision in the Basic Law with respect to the principle of "keeping expenditure within the limits of revenues". It was also opined that the Hong Kong Government should not hastily dismiss the option of issuing bonds.

In February this year, Credit Lyonnais Securities (Asia) Limited expressed the concern that poor public confidence in the Government might impede economic recovery. Despite the fact that a series of improvement initiatives were proposed in the previous quarter, the favourable elements might be offset as a result of the discussions on Article 23 of the Basic Law. Should senior government officials make any wrong moves, the path leading to economic recovery might be disrupted.

A chief economist from Bank One also indicated this year that Hong Kong's recovery might be slowed down since the Hong Kong Government might need to ease its deficit through tax increases.

I have presented all these views from people of the investment and banking sectors in the hope that the Government can make reference to different voices in making its final decision. Instead of referring to the comments made by just one or two influential rating agencies, it must take a look at the course of events taken place over the past few weeks. Of course, we have to wait until mid-March before the United States will finalize its plan to launch an attack on Iraq. However, it should be noted that we can see before us certain other factors which are even more unfavourable than this one.

While agreeing the deficit problem must be resolved, we do not know how far we should go. We are afraid that the reviving economy will stop recovering or even become stagnant should we go too far.

In each of the two recent opinion polls conducted by the Democratic Party, 600 and 700 respondents were interviewed respectively. According to the findings, there is a very clear message from the higher-middle class, lower-middle class and the grass roots, that they will say "no" to any tax increase proposals. In brief, they oppose any tax increase.

The Democratic Party has repeatedly pointed out that, given that we are still faced with uncertainties about our economic prospects, that the impact of the war in the Middle East on our economy is still unknown, and that there is persistent deflation, a hasty decision to raise tax substantially is very likely to bring tremendous adverse impact, or might even offset the effect of tax increases. Insofar as the actual situation is concerned, the Financial Secretary must consider the matter very carefully.

The Government has once admitted that both tax increases and expenditure cuts are against its objective of revitalizing the economy and tackling deflation. However, the Government has all along insisted that the deficit problem, if remains unresolved, might beleaguer the community in the long run and make investors lose faith to the detriment of economic recovery.

Faced with such a dilemma, it appears in a glance that we can only choose either of the two options.

However, a proper balance must be struck between resolving the deficit and improving the economy.

We believe most people will agree that the fiscal deficit must ultimately be resolved. The Democratic Party wants to make it very clear that we agree that the deficit problem must be resolved. Not many people support the view that the Government must raise tax or cut expenditure substantially at all costs in order to provide an immediate solution to the \$70 billion deficit problem next year. The Government also shares the view that this must be done step by step.

We must seek to achieve a proper balance between resolving the deficit problem and improving the economy at the same time. In our opinion, the Government should give priority consideration to the suggestions made by the Democratic Party in its pursuit of a satisfactory balance point. For the purpose of resolving the deficit problem, the Government may take proper measures to

sell certain assets, such as car parks, tunnels and housing estate arcades, at hand since the impact thus produced on the people's livelihood will be relatively small. In doing so, however, we may reap substantial profits, cash or properties and thereby help offset our consolidated deficits. Of course, the Government might still need to reduce expenditure or raise tax to reduce its operating deficits, but the magnitude of such measures can be reduced substantially.

For the above reasons, we hope the Government can look at the views expressed by various parties and examine whether or not the grass roots are opposed to tax increases before taking any actions. Even the investment sector considers it necessary for the Government to look at the matter carefully again to ascertain whether excessively reducing expenditures or raising taxes will do the economy any good.

With these remarks, I support the motion and the two amendments.

**MR ALBERT CHAN** (in Cantonese): Madam President, the 2003-04 Budget under discussion today is not just the concern of the Legislative Council, but also that of the people of Hong Kong. It is also a matter of concern to leaders in the Central Government. But it is surprising to see the Financial Secretary not here tonight. I do not know why he does not care about this matter and chooses not to attend this debate in the Council. Now I would like to voice my strong condemnation of such behaviour. It is ridiculous to have such an official under such an accountability system.

The Budget involves quite a number of policy issues. We can see that for many years in the past, government policies were very confused and full of contradictions. On the one hand, the Government says that the deficit problem is very serious, and yet on the other, other policies are causing the Government to have less revenue. The most obvious example is the moratorium on land sales which has the immediate effect of reducing the proceeds from land sale by more than \$1 billion per annum. This also causes great harm to the economy as well. According to my rough estimates, the moratorium on land sales and the suspension of the production of Home Ownership Scheme flats would cause a reduction in housing construction by about 40 000 flats this year. If we take the cost for the production of one flat as \$400,000, the income for the construction industry this year would be reduced by \$16 billion. It is a fatal blow to the

construction industry, and it will cause more unemployment and undermine our economic growth. The Government is giving people an impression that it is cutting a piece of its own flesh to dress a wound, so to speak. No wonder the problem grows from bad to worse.

Many problems about the economy of Hong Kong and the Budget will point to the fiscal deficit. In an article written by Prof CHEUNG Ng-sheung in February, it was stated that the economic predicament of Hong Kong was not related to the fiscal deficit. On this issue, Mr CHAN Kam-lam said earlier that tumours must be removed, but there can be a time when a wrong diagnosis would remove healthy parts of the body as tumours.

Now the first and foremost tumour is the incompetence of Chief Executive TUNG Chee-hwa in administering Hong Kong, causing the territory to sink into the present quagmire. The second tumour which causes structural problems in our economy is the linked exchange rate. If someone is seriously ill and the heart may be the cause of the problem, but it is said that other parts of the body have tumours. Then the patient has his arms and legs amputated, but his heart condition is not treated. Then how can the patient be cured? To address the economic and deficit problems of Hong Kong, the cure lies in the linked exchange rate. So to solve the problems, the heart should be treated, and that means the linked exchange rate should be abolished.

Of course, to abolish the linked exchange rate will cause lots of reactions and sequelae. But when someone is seriously ill and an operation has to be performed on him, we must find out the problem and administer the right medical treatment. Or else, when it is said that this and that part of the patient's body is sick and his conditions are not properly treated, then the pain he suffers will be even greater. Likewise, the pains suffered by the people of Hong Kong over the past five years are caused by a wrong administration of policies to deal with the problems. Thus, some healthy people have been made sick, so sick that they are beyond cure. In other words, our jobless rate stays high and the number of bankrupts is rising. On top of these, the problem of negative equity assets is making an immense impact on Hong Kong economy as a whole.

To address the economic problems and the deficit, I think the Government should really think carefully the structural problems caused by the linked exchange rate on our economy. The people of Hong Kong are well-off and they

have a lot of savings in the banks. When Mr YAM, the Chief Executive of the Hong Kong Monetary Authority spoke in this Chamber today, he mentioned that there were \$1,800 billion of deposits in our banks and so banks are never in shortage of money. But the problem is, given the unemployment and negative equity assets, the whole economy lacks impetus, very much like a pool of stagnant water when people do not want to spend money and investors do not want to make investments despite the enormous deposits in banks. If the heart stops beating, then what can be done to make to beat again? It would be useless if the limbs are amputated and the tumours removed, for the heart does not beat. If we want to make the heart beat again, we must abolish the linked exchange rate, boost consumption and investment, and solve the problem of negative equity assets so as to solve the problem of unemployment.

However, such a decision can never be made by someone who just knows how to play with political tactics and public relations gimmicks. It must be made by someone with boldness and vision, someone who is prepared to shoulder the political risks. For the political risks and responsibilities involved are very great and the consequences that may arise can also be very serious. If the person who makes the decision is not willing to bear the political risks and only indulges in playing small tricks, that would only push Hong Kong further down the blind alley that leads to nowhere. The so-called local community economy these days are only economic activities like the Sheung Wan Gala Point. Hong Kong is an international financial centre and a cosmopolitan city, but when our Financial Secretary talks about the Hong Kong economy, he only talks about things like the Sheung Wan Gala Point. It is really ridiculous.

I think that in order to revitalize the Hong Kong economy, the Government should learn the lessons and formulate comprehensive strategies so that our economy can take on the road to recovery. As a phoenix rising from the ashes, we must undergo the ordeal of fire before we can gain a new lease of life. Thank you, Madam President.

**MR HENRY WU** (in Cantonese): Madam President, subject to influence by external factors, the overall economy of Hong Kong is experiencing a critical test in history. Encumbered with persistent economic doldrums, the long-standing high unemployment rate in Hong Kong has made public confidence waver and unsettled social instability. In order to ride out this crisis, the Government must

take gradual steps to stabilize society and allow the public a breathing spell before progressively removing uncertainties and restoring public confidence, and then it may further improve the inadequacies of the existing mechanism.

With regard to the most urgent and pressing issue, that is, the serious fiscal deficit problem, I have conducted a questionnaire survey to collect the views of the financial services sector. From the questionnaires returned, the majority view is that the Government should take a leading role in adopting retrenchment measures, which include a resolute civil service pay out by a big margin, a drastic streamlining of the structure of the Civil Service, and a focused reduction in expenditure on Comprehensive Social Security Assistance (CSSA) and the like, then the Government would have sufficient grounds to tap new revenue, otherwise it would be difficult to convince the business sector and the public that such revenue measures as increasing profits tax and widening the tax base would ameliorate the deficit problem.

Madam President, after analysing the data and information collected from the comprehensive survey, the majority industry view is that the Government may adopt the following revenue and retrenchment measures.

In respect of revenue measures, the Government can increase the profits tax by 1.5%, introduce a land departure tax of \$18 per passenger trip, increase the salaries tax by 1.5%, and reduce the personal allowance and deduction by 10%.

With regards to retrenchment measures, the Government may cut the pay of the civil servants by 10.5%, in which rate of cut for the higher-income group should be higher than the lower-income group. The Government should also streamline the structure of the Civil Service, where the range of retrenchment should depend on the intensity of the streamlining exercise. The Government should also reduce the overall CSSA expenditure by 8%, on the premise of not affecting the underprivileged and those people who are genuinely in need.

These proposed measures were put forward to the Financial Secretary earlier. It is estimated that the proposed measures would help to reduce the fiscal deficit by \$2.2 billion, without factoring in the streamlining of the civil service structure. Certainly, if we have to further resolve the fiscal deficit to

achieve fiscal balance, it is believed that the Government should adopt more positive revenue and retrenchment measures.

Madam President, the findings of the survey also showed that 90% of the respondents considered that it would take at least two to three years before the overall economy and the prospect of the financial service sector would recover, and over 60% of the respondents considered that it would take four to five years to recover. We could see that the most important thing at present is a lack of confidence among the people in the short-term prospects.

Just as the recent warning given by the Chief Executive of the Hong Kong Monetary Authority, Mr Joseph YAM, the linked exchange rate can be spared any impact only if the community at large supports the Budget. For this reason, the people's confidence in the Government is of the utmost importance, and only a stable society can induce an early recovery of the economy. After the economic predicament is resolved, the fiscal deficit problem would also be resolved. The public will have confidence in the Government only in a stable society, and investors will have faith to make investments only in a prosperous economy.

The Chief Executive pointed out in the policy address that the financial service sector was one of the four main pillars of Hong Kong economy. Given its far-reaching implications on the economic development of Hong Kong, the stable development of the financial service sector is especially important. The securities market is a major segment of the financial industry, so its sound development is conducive to an overall economic upturn and helpful to resolving the fiscal deficit problem. Meanwhile, a fair business environment is an important factor in maintaining the vitality of the industry. Besides good corporate governance and the good quality of listed companies, there should also be a reasonable and fair environment for competition.

Madam President, investors in the securities market always put emphasis on cost-effectiveness. For that reason, it is reasonable to cut the costs of investment. However, if the Government agrees that the purpose of removing the minimum brokerage commission is to keep abreast of the global trend, then it should first abolish the stamp duty, as most international securities markets, including markets in the United States, Britain, Australia and Japan, do not levy stamp duties. Therefore, the abolition of stamp duty is the true approach to

keep abreast of the global trend. Moreover, although many countries or regions have adopted a system of free negotiation of brokerage commission, the brokerage commission rate is generally higher than the 0.25% charged in Hong Kong. As far as I know, Japan is 0.6%, Malaysia is 0.5%, Indonesia is 0.4%, Britain is 0.35%, and the United States, Australia and China is 0.3%. Therefore, it is unfair to allege that brokerage commission is the cause leading to high costs. The Government has emphasized time and again that the transaction cost should be reduced in order to keep abreast of the global trend, but we should indeed abolish the stamp duty instead of the minimum brokerage commission. Certainly, an abolition of the stamp duty will affect government revenue.

Given that the brokerage commission charged for securities transactions is already so low, if the Government still wishes to cling obstinately to its course of abolishing the existing minimum brokerage commission system, then it would cause an upsurge in company closures and unemployment. In fact, a rumour has been doing the rounds in the market recently, that if the minimum brokerage commission system is really abolished by 1 April, some securities firms will streamline their manpower, downsize the scale of their operation and join the price-cut battle, and they are even prepared to close down their businesses.

Madam President, if the battle of brokerage commission cut really starts, it will not only further aggravate the long-standing high unemployment rate, government revenue from profits tax and income tax will also be affected. In that eventuality, the Government may have to increase the provision of assistance to the unemployed, thus increasing the financial pressure on the Government and running counter to the goal of resolving the fiscal deficit problem. For that reason, the Government should think twice on the issue of abolishing the minimum brokerage commission. The securities industry hopes to co-operate with the Government, as we are in the same boat and we should tide over the crisis together. Why should we not give them reasonable room of survival?

In short, it is estimated that Hong Kong would remain in a state of very little optimism in the next few years. Besides, as it may take some time to ameliorate the fiscal deficit problem, it is therefore reckoned that the people of Hong Kong will have to endure a long and bitterly-cold winter. The Government should implement the revenue and retrenchment measures determinedly and resolutely. As the revenue and retrenchment measures will have wide implications on everybody in Hong Kong, I hope that everybody can

set aside all discord under the Lion Rock, pool our efforts and unite as one to support the stable development of the economy of Hong Kong.

Madam President, I so submit.

**MR KENNETH TING** (in Cantonese): Madam President, many economic data show that the economy of Hong Kong is climbing up. But while the economy is climbing, the Government's fiscal deficit is climbing even faster and higher. Last year, the deficit was estimated to be \$45.2 billion, but the latest projection has already exceeded \$70 billion, which is equal to the total revenue of the Government 10 years ago.

Faced with a serious problem of fiscal deficit, members of the public know that an increase in tax is inevitable. The question is how much will be increased and how the increase will be effected. The Liberal Party hopes that the Government can adhere to two principles in the Budget to be released soon. One is to make every effort to cut expenditure, and the other is to promote the sharing of responsibility by the community together.

As pointed out in the policy address, the major cause of the deficit is the drastic rise in public expenditure in the last four to five years, which represented a departure from the principle of small government that we have always advocated in Hong Kong. As the saying goes, let him who tied the bell on the tiger take it off. To resolve the fiscal deficit, the Government must tackle the problem at root. It must find out the cause in itself and make every effort to cut expenditure. Only in this way can it comply with the principle of "keeping expenditure within the limits of revenues" as stipulated in the Basic Law in handling issues relating to public finance.

In fact, as early as in 2000, the then Financial Secretary, Mr Donald TSANG, was already aware of the hidden problems with public finance and set up a task force to conduct studies. Regrettably, it was only until last year when the "shark's jaw" of the fiscal deficit continued to enlarge that the Government developed a sense of crisis and vowed to vigorously reduce expenditure. Much to our regret, there are still more words than deeds and reaction is too tardy indeed.

Public opinion has already concluded that the structural deficit stemmed from "structural overspending". But it is not the time for diagnosis now. Instead, it is time that we must make up our mind to prescribe effective medicines to treat the disease. It is because as long as the economy remains in the doldrums, the tax revenue of the Government would only fall, whereas the expenditure on welfare would rise continuously. Given a reduction in revenue and an increase in expenditure, the deficit problem would continue to deteriorate and this would even affect the stability of the exchange rate of Hong Kong dollar and also the credit rating of Hong Kong.

The issue of a pay cut for civil servants has dragged on for a very long time. If such procrastination persists, the damage to society would only be bigger and bigger. Whilst the several motions today all urge the Government not to increase this fee or not to abolish that concession, I hope colleagues will pay equal attention to the issue of a pay cut for civil servants. It is because how the Government can achieve savings is at least as important as how new sources of revenue can be tapped.

Moreover, the Liberal Party has always held the view that government fees and charges should not be categorized as simple as "fees and charges affecting the people's livelihood" and "fees and charges not affecting the people's livelihood". It is because while increases in government fees and charges will directly affect the people's livelihood, a great majority of other fees and charges, such as licence fees, will certainly affect the business environment and also add to the burden of the industrial and business sector, small and medium enterprises and professionals. We appreciate the intention of the Government to implement the principle of "user pays" by gradually cutting back on government subsidies. However, the Government should not only use "user pays" as a shield. It should also make an effort to pare down the costs of the various fees and charges. We must not lose sight of the fact that these fees and charges are the "fixed costs" of the industrial and business sector, and there is indeed no room for any further savings to be achieved.

Furthermore, since the Government is making great efforts to achieve savings and implement enhanced productivity programmes, it is a matter of course that the Government should also reduce the relevant government fees and charges accordingly, with a view to improving the business environment and facilitating economic development.

Finally, Honourable colleagues appear to be very enthusiastic in the discussion today, in particular emphasizing that tax increases should not be targeted at a particular group of people. In our view, the last sentence of the amendment proposed by the Democratic Alliance for Betterment of Hong Kong, that is, "..... not to introduce tax increases targeted at the grass roots and the middle class", may prompt a question: Does it carry an implicit meaning of telling the Government to target at the rich? I hope this is not the intention of the amendment.

The Liberal Party considers that if tax increases must be effected, it is most important that they should be implemented fairly and reasonably in adherence to the principle of "share responsibility", without targeting at any sector of the community. In addition, given the very narrow tax base in Hong Kong, measures should be taken to broaden the tax base apart from increasing the tax rates, so that the burden can be shared by more people.

From another angle, a serious fiscal deficit offers a prime opportunity for the Government to carry out reforms. The Government should speed up the implementation of the civil service reforms and return to small government. To end, the Liberal Party hopes that the Budget can answer public opinions, and come up with measures to thoroughly resolve the fiscal deficit and introduce taxation proposals that can balance the interests of all sectors of the community.

Madam President, I so submit.

**MR FREDERICK FUNG** (in Cantonese): Madam President, with the economic downturn and persistent deflation in recent years, the Hong Kong Government is inevitably affected. Last year, the Financial Secretary said in announcing the Budget that the estimated deficit for this financial year was \$45.2 billion. But during the first six months of last year, the Government recorded \$70.8 billion in the reds, and our fiscal reserves fell to \$301.7 billion. Despite the accounting practice to enter the major items of revenue into the books at the end of the year, the Government has to rack its brains to fill the tens of billion dollars of deficit.

From this, we can see that the Government is under tremendous pressure in public finance, with the recurrent deficit being as great as \$60 billion. The

Financial Secretary said some time ago that a three-pronged approach of increasing revenue, cutting expenses and revitalizing the economy would be adopted to tackle the fiscal deficit problem in the direction of "shared responsibility and the capable pays more". In principle, both the Hong Kong Association for Democracy and People's Livelihood (ADPL) and I do not oppose the adoption of such measures to resolve the deficit problem in the long term. The question remains whether or not when these measures are devised, especially in terms of the target, proportion and extent, that regard is paid to the livelihood of the grass roots and the middle class. In other words, in the formulation of the Budget for next year, a balance must be struck between the control of the fiscal deficit, stabilization of the employment situation and maintaining the existing services. Efforts must be made to minimizing the impact of these measures on the grass roots and the middle class. Both the ADPL and I think that given the economic downturn and the uncertainties in the employment outlook, the Government should adopt the approach of using the fiscal reserves first and then economizing, and lastly, increasing revenue to handle this crisis in public finance.

First of all, on the question of using the reserves, both the ADPL and I realize that the financial resources are tight. However, with such grim prospects of an economic recovery and grave unemployment, we suggest using some of the fiscal reserves in an appropriate manner to boost the economy and employment. Some of the relief measures should be extended and expenditure on various services should not be slashed, so as to tide over the difficulties with the working class. Specific measures include the use of \$2 billion to create about 2 000 temporary jobs for one year in areas like the environmental protection industry, infrastructure construction, projects on improving the appearance of the city, provision of teaching assistants in schools, and so on. Also, government rates, water tariffs and the sewage charges should be waived for another year, and the tax concession on ultra low sulphur diesel should be extended for one more year.

On the question of economizing measures, currently, the remuneration of civil servants and staff of subvented organizations, as well as expenditures on pension and retirement funds, and so on, take up about 69% of the total expenditure, therefore, there have been increasing calls for the authorities to cut civil service expenditure. Both the ADPL and I do not oppose imposing control on public expenditure by streamlining the civil service establishment. However,

the authorities should not use the deficit problem as an excuse to force through a cut in the establishment or in the wages of public sector organizations without conducting negotiations on an equal footing or gaining the approval of the civil servants. This applies to the use of staff and management consultation mechanisms or the resort to administrative measures to slash civil service pay by 6% on a one-off basis or in phases. Failure to do so would deal a heavy blow to civil service morale. At the same time, efforts must be made to set up a civil service pay adjustment mechanism that allows both upward and downward adjustments, and discussions should be made on the related legislative matters. In addition, both the ADPL and I suggest that the authorities should consider launching a series of measures in phases over the next five years to control the civil service establishment and salary expenditure at acceptable levels. These measures include expanding the voluntary retirement scheme to cover all grades in the Civil Service, continuing the enhanced productivity programme, and considering the outsourcing of non-urgent and non-core services and the corporatization of government departments, and so on.

Lastly, on the question of increasing revenue, both the ADPL and I think that it is understandable that revenue should be increased in view of successive years of deficit ahead. However, all measures aiming at increasing revenue should take into account the livelihood of the people and the effect on economic recovery. In view of this, both the ADPL and I are strongly opposed to the introduction of sales tax in any form so as not to deal a further blow to consumer and investor sentiments. We also suggest continuing with the freeze of government fees and charges which are related to the people's livelihood. This will show the determination on the part of the authorities to tide over the difficulties with the people. Moreover, both the ADPL and I agree with the principle of "the capable pays more" and we suggest that the profits tax should be increased by 2%, whereas the profits tax payable those companies which have an assessable profit of more than \$10 million should be increased by a further 1%. This will serve to realize equity in tax liability and redistribution of wealth, and also reduce the disparity between the rich and the poor. It is estimated that these two ways of increasing taxes will bring \$8 billion in revenue to the Government. We also suggest that the standard rate for salaries tax be abolished, that is, persons making an annual income of \$1.5 million or above will have to pay tax at the marginal rate of 17%. It is estimated that more than 10 000 people or less than 1% of the working population in Hong Kong will be affected. But about \$300 million will be generated in revenue.

All in all, both the ADPL and I hope that while efforts are made by the Government to tackle the deficit problem, these efforts should not be targeted at the grass roots and the middle class who should never be made scapegoats in the authorities' bid to tackle the deficit problem. On the contrary, despite the tight public finances, measures aiming at relieving the people of their hardship should be introduced so that they can tide over the present difficulties.

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

**MR LEUNG YIU-CHUNG** (in Cantonese): Madam President, in the motion today, the Democratic Party has used "not to" four times and the Democratic Alliance for Betterment of Hong Kong has also added one "not to", that is, "not to reduce the rates of the Comprehensive Social Security Assistance (CSSA) across the board" and it implies agreement that the Government should reduce the CSSA rates. However, the Liberal Party, which is also a member of the ruling league, thinks that using "not to" four to five times is not enough, and it has added a sixth "not to". Regardless of whether "not to" is used six, seven or more times, I think that "not to" can still be used many more times, including not to abolish temporary jobs or introduce new fees and charges, for many of these things will affect the people's livelihood. In my opinion, instead of using "not to" again and again, we might as well use "not to" just once, that is, not to have the TUNG Chee-hwa government. Rather than objecting to its policies one by one, we might as well replace the Government. In fact, I think the TUNG Chee-hwa government has already become so hysterical that it will exhaust every means possible to eliminate the fiscal deficit. It has introduced disturbing policies one after another and they are contradictory invariably.

Madam President, many opinion polls have reflected that the people are most concerned about the unemployment problem. Concerning the existing unemployment problem, I am worried about the signs that the unemployment rate may rise again. In the policy address last year, to meet the demands of the people, the Government allocated \$20 million for two schemes to assist the middle aged in employment but, other than that, there were no measures that could better solve the unemployment problem or innovative ideas for creation of jobs. The Government has not created any further job opportunities but has conversely proposed the reduction of existing jobs because 7 000 temporary jobs were mentioned in the policy address 2000. Although the term of many of these

7 000 temporary jobs would only expire next year, the term of some of them would expire in March this year. Fortunately, thanks to the continuous fight by some workers, the Financial Secretary has promised to retain many jobs, but 1 200 will ultimately be lost. I find that the Government has not only failed to solve the unemployment problem but also created unemployment, which is completely contrary to the intentions of the people. Furthermore, Members are indeed aware that if the unemployment rate further rises, economic recovery will be impeded and a heavier burden put on the Government of Hong Kong. If the unemployment rate rises, workers cannot find jobs and they may be forced to become CSSA recipients to solve their livelihood problems, so the CSSA payments will increase rather than decrease at the end.

Yesterday, the Executive Council endorsed an 11.1% reduction of the rates of the CSSA according to the deflation rate. A less pleasant way to describe the way in which the Government reduces the fiscal deficit is that "it is grabbing rice from a beggar's bowl" and is completely indifferent to the livelihood of the lower class. The Government thinks that the CSSA rates must be reduced to solve many problems since the deflation rate has reached 11.1%. However, realistic experience tells the CSSA recipients that the prices of many commodities have not really dropped and some prices have conversely risen. If the CSSA rates are further reduced, their life will become all the more difficult. The Government cannot base on its experience or data alone and neglect the livelihood of the people. We have always emphasized that we should consider how we can help people break away from the CSSA net instead of seeking to solve the problems by reducing the CSSA rates or making the CSSA less attractive. We should be more positive. How? We should examine how certain resources can be increased for the creation of jobs, to make these people know how to find jobs and break away from the CSSA net. We should consider this issue positively, but not negatively. Otherwise, even if the rates of CSSA were reduced, people would ultimately lead a harder life, and it will be even more difficult for them to find jobs, thus, their unemployment will be prolonged eventually.

Actually, many of the policies proposed by the Government have invariably become contradictory. They have not only failed to reduce the fiscal deficit or revitalize the economy, but also conversely highlighted many problems. In fact, the crux of the problem today is that the people have lost confidence in the TUNG Chee-hwa government over the past few years. While many good policies introduced by the Government have turned bad, they have become worse.

Worse still, is the situation of Hong Kong. Therefore, in any case, if we wish to solve these problems, the first "not to" that should be considered is not to have the TUNG Chee-hwa government.

Recently, the Government has continuously publicized and emphasized that "everybody is responsible", including "everybody is responsible for defending the country" and "everybody is responsible for reducing the fiscal deficit". However, Madam President, as many academics have pointed out, if the Government is not returned by the people through universal suffrage, the people will hardly be convinced that they have to bear responsibilities for the Government's policies. Thus, the first step to be made to revitalize the economy and resolve the fiscal deficit is the popular election of the Government, which is the only way to establish the Government's prestige and restore people's confidence in the future. Then, the Government will not be overcautious in everything it does and there will not be a situation where there is deliberation but no resolution or resolution but no action. Perhaps we should discuss this when we come to the next debate, but I think that economic affairs, public finance and politics are closely related to one another. If the Government continues to be returned by small circle elections, its policies will only defend the vested interests. If the Government really does so, it should never ask ordinary people like us to bear responsibilities for resolving the fiscal deficit. Rather, it should make the large consortia or organizations that continuously support the Government to bear these responsibilities, for example, increasing the profits tax of large companies and consortia.

It is a great pity that the two amendments today have conveyed the message that we have to continuously support the Government's .....

Madam President, I so submit.

**DR DAVID CHU** (in Cantonese): Madam President, I am not at all optimistic about the Budget this year, for there is some grave error in the Government's perception of the current economic problems of Hong Kong. I must reiterate that the greatest problem we face is deflation, not the fiscal deficit. What we need now is to increase government spending, not reduce it. We need to boost the economy, not suppress it. We need to support the middle class, not to batter them.

For more than 40 months Hong Kong has been suffering from deflation. The problem of unemployment can never be solved if deflation is not eliminated. Before the economy of Hong Kong recovers, the deficit problem will just remain. But what the Government is doing is exactly the opposite. The Financial Secretary has said that he wants to resolve the deficit problem within this term of the Government. So the first thing he wants to do is to resolve the deficit problem, and the way to do it is by raising taxes, fees and charges, tuition fees, reducing all kinds of expenditure, and cutting the pay of civil servants and the CSSA rates. However, all these measures will only suppress the economy, aggravate the unemployment situation and deflation. When the economy is gloomy, how can the Government expect to find the revenue to get rid of the deficit?

I think that even a college freshman will know that not only is the major direction of the economy policy as practised by the Government not correct, but it is running exactly in the opposite direction. I would not object to cutting those unreasonable public expenditure, like the pay of civil servants and the CSSA rates which are too high, but that should be done in a gradual manner. The fact that the expenditure on these is excessive is due to errors in past policies. The Government has the responsibility to give those affected more time to adjust to the change.

I oppose any increases in tax, it is because the people who pay the most taxes are the middle class and the professionals. These people from the middle class and professionals are badly in need of support to help them solve the problems of negative equity properties and increase their employment and business opportunities, for they are the major force in maintaining social stability and driving economic recovery.

As much as \$5,000 billion of the wealth of the people of Hong Kong has evaporated over the past five years and that is equivalent to the GDP of Hong Kong for four years. It would be a difficult task for Hong Kong to climb out of the doldrums, but I am not at all worried. For I am convinced that both the people of Hong Kong and I myself would have the abilities to do so. I know we can make it. My only worry is that our legs would be pulled by government policies from behind. I so submit.

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

**DR LO WING-LOK** (in Cantonese): Madam President, I would like to talk about issues of concern to medical doctors. Despite the fact that the Government has to cut expenditure and increase revenue, I hope the Government will note the training of doctors and would make good use of the resources contributed by taxpayers, so as to ensure the quality of health care in Hong Kong.

In the past two years, I have to deal with the unemployment issue of doctors once every half year. Although I managed to find temporary shelters or jobs for newly graduated medical students after much an effort, I believe the situation would deteriorate in the next few years, as a large number of under-trained doctors would be forced to leave the public sector.

What is the cause of that? It is because in the heyday of Hong Kong, we were really too blissful: As a result of the never-ending expansion of the public sector, the majority of the people of Hong Kong could enjoy high-quality and comprehensive public health care services at no cost, or just a nominal cost. During the same period, the private sector was shrinking. It was becoming difficult to attract veteran doctors in public hospitals to leave the public sector and engage in private practice. Since veteran doctors were not leaving the public sector, it would naturally be more and more difficult for new doctors to find a job. In the past few years, in particular, due to the economic doldrums and the impending retrenchment of medical resources, it has become more difficult for the Hospital Authority (HA) and the Department of Health (DH) to provide development posts for callow doctors.

Due to the above reason, the HA introduced the system of appointing doctors on contract terms six years ago, which required them to leave the public sector after receiving a certain period of training, so that it could make room for new recruit doctors. However, the contract system led to two very undesirable effects. Firstly, more and more under-trained doctors would have to leave the HA. The less resources allocated, the shorter training and contract period they can have. For that reason, the number of this type of doctors, who could be called dabblers since they do not have much experience, would grow. Secondly, because those who have left the public sector are young doctors, if the situation persists for five or even 10 years, HA doctors would face a gap in terms of experience and skills when a large number of existing doctors appointed on

permanent terms retire. By that time, the quality of health care would plummet rapidly.

It would be a waste of resources and also be a pity that, despite medical schools trained up so many doctors each year, there is no adequate supply of postgraduate training. It needs \$3 million to train up a medical student from enrolment to graduation. The taxpayers would be let down if we do not make good use of the \$3 million.

I have heard recently that Singapore is planning to come to Hong Kong and try to "gain an unexpected advantage" by absorbing some of these young doctors. Although Hong Kong is on good terms with Singapore, the extent of the friendship should not have gone as far as spending \$3 million to train up doctors and then send them to Singapore.

In fact, I consider that the Government should consider this point in the course of formulating the Budget. Insofar as the existing resources of Hong Kong are concerned, do we really need a large number of doctors? If we have surplus manpower, shall we reduce the number of places for students in medical schools? Certainly, perhaps the health care resources of Hong Kong will be more copious than now and we would probably need more doctors to provide us with medical services if the economy recovers in future or if a health care financing mechanism is in place. However, we cannot see that coming in the near future. Therefore, consideration of further cutting the number of places for medical students is an extremely urgent task.

Of course, we need extra resources to maintain our health care quality and to prevent wasting the doctors we have trained up. I urge the Government to consider introducing incentives in the course of formulating the Budget to make more Hong Kong people willing to make greater commitment, such as taking out policies on medical insurance. Perhaps it is not practicable to raise this proposal at the present stage, but the Government should consider medical insurance as one of the options for long-term financing of health care. The middle class, in particular, should see the incentive to take out such insurance. If the Government offers certain tax concessions to people who take out medical insurance, it will enhance the incentive for them to do so. Therefore, the Government should consider this suggestion.

Besides medical insurance, to maintain the health care quality of Hong Kong, doctors leaving the HA should be veteran doctors instead of young doctors. In formulating the fiscal strategy, the Government should consider whether there are incentives to induce the departure of veteran doctors, so as to further improve the quality of practitioners in the private sector, and to make room for the induction and training of young doctors. I think the Financial Secretary should join the Secretary for Health, Welfare and Food, Dr YEOH Eng-kiong, in thinking about various issues in this connection carefully. I am not talking about providing job opportunities for doctors. Rather, I am talking about long-term planning for a quality health care system in Hong Kong.

Thank you, Madam President.

**MRS SOPHIE LEUNG** (in Cantonese): Madam President, I have listened very attentively to this debate on a subject that involves many "nots" tonight. I have listened to the many things said by many colleagues. To sum up, they are about resolving the fiscal deficit and tackling deflation. There are many things to do, including taking care of the disadvantaged groups, and so on. There is insight in every comment they have made, and they have provided a lot of input. But perhaps because I am a bit stupid, so far I have not heard a proposal that is more comprehensive and can truly resolve the prevalent predicaments of Hong Kong. Some Members opined that direct elections must be held, but I do not see how this is related to resolving the prevalent problems. I will read the Official Record of Proceedings of the Legislative Council in detail and see if I can learn anything from it.

Recently, I have talked to some bankers and got a message from them. I have asked some bankers who are specially engaged in services for Hong Kong businessmen about the recent developments. After talking to them, I got a message and I wish to discuss it with Members here. This message has dealt an even greater blow to my confidence. They told me that among businessmen with whom they had come into contact recently, those who could still make handsome profits were businessmen engaging in the exports trade. These businessmen have consistently worked hard and made profits which they want to save up for diversified investment. However, they could not find opportunities of investment in Hong Kong and so, they asked their bankers for advice on good opportunities of investment in Hong Kong. After talking with them for some

time, even the bankers came to think that there are not many constructive items worthy of investment in Hong Kong for these potential investors to choose from. In other words, the room now available for investment in Hong Kong generally does not provide adequate choices for people who wish to invest their capital in Hong Kong, even though they do wish to make investment here. Madam President, this means that even though we have worked very hard and brought back the new money that we have gained from external markets, there is no opportunity for this new money to be reinvested in Hong Kong. Consequently, these businessmen could only invest their capital in some other places where the environment is conducive to investment. It is not the case that our Government does not wish to create an environment conducive to investment. Just that we simply do not have the atmosphere for investment in Hong Kong. This is precisely what we have to worry about.

Today, we are saying "No" to everything, not allowing the Government to do this and not allowing it to do that; not allowing fees or charges to be levied and not allowing anything to be built. We in the Liberal Party consider it most important to maintain an environment conducive to business operation. But the question precisely lies in whether such an environment exists and whether we are able to offer more alternatives for investment. If the answer is in the negative, I believe this "pie" of ours would be diminishing in the future. What can we do? Do we have to add in some more "Noes"? By then, demands on the Government for measures or actions would only appear to be futile.

Madam President, I just wish to bring to the attention of this Council this message that I have got, so that colleagues can think about what problems we are now facing in their good time. If we still hang onto the interests for which a handful of people aspire, or if we only seek to protect our own interest, then we would suffer even more badly in the days to come. What can we do in that eventuality? The disadvantaged groups are telling us how dreadful their conditions are, but the present situation would in no way be any more dreadful than that of Hong Kong some two decades ago. Back then, everyone was very ambitious and persevering and worked hard to ride out the hard time with unswerving determination. But today, we cannot even withstand these small challenges. What can we do? And if the situation deteriorates in the future, what can we do then?

Madam President, I do not have any solution and I only wish to report to Members the reality that I have learned from other people.

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

(No Member responded)

**PRESIDENT** (in Cantonese): Dr YEUNG Sum, you may now speak on the two amendments. You have up to five minutes to speak.

**DR YEUNG SUM** (in Cantonese): Madam President, I am grateful to the 30 Members who have spoken on this motion and the two amendments. It shows that Members are very concerned about the Budget and have expectations for it.

Madam President, the Democratic Party basically supports the two amendments mainly because of two reasons. First, the Democratic Party is concerned about the grass roots and the middle class, for the Democratic Party is basically a political party representing the majority of people in Hong Kong. It is impossible that we represent only the middle class or the grass roots, for the votes that we have got simply do not reflect this. Therefore, our popular mandate requires us to be concerned about the grass roots on the one hand and be concerned about the middle class on the other. After all, people who belong to these two strata are facing great difficulties at the moment.

In the past, my students could basically make a very stable income after graduation. But now, I found that many university graduates also face many factors of financial instability. So do lecturers at universities. This proves that the middle-class people, like the grass roots, are also faced with great hardships. So, we support the amendment proposed by Mr YEUNG Yiu-chung of the Democratic Alliance for Betterment of Hong Kong. I do not see any problem with this amendment.

Madam President, we also support Ms Miriam LAU's amendment. It is because the logistics industry is crucial to our economic integration with the Mainland. Increases in transportation fees will not do any good to the development of the logistics industry.

Overall speaking, Madam President, the Democratic Party supports the two amendments, and we hope that Members will support them too. Some Members said that our proposals do not project a macro perspective, but Madam

President, I have no intention to make macroscopic proposals. I only have a very practical objective, hoping that the impact could be minimized as much as possible. If all colleagues throw weight behind this motion, I believe a powerful effect will be achieved when we cast our votes later.

Thank you, Madam President.

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): Madam President, I am very grateful to Dr YEUNG Sum for moving this motion today, and to Honourable Members who have spoken earlier in the debate. Owing to other official commitments, the Financial Secretary cannot attend this motion debate today. However, I would like to assure Honourable Members that I will report to the Financial Secretary the valuable suggestions made by Members on the Budget. Since the Budget will be announced on 5 March, I will only respond briefly to the opinions expressed by Members here.

The Financial Secretary has since the end of last year consulted Members of this Council, political parties, representatives of District Councils, commercial and industrial organizations, economists and the media on the 2003-04 Budget. He has also, through various channels, consulted people from various strata of the community and listened extensively to their expectations for the Budget. In the course of formulating the Budget, he will surely make reference to the valuable opinions expressed by all parties.

In the motion moved by Dr YEUNG Sum, the Government is urged not to cut spending across the board, not to increase government fees and charges that affect the people's livelihood, and not to introduce tax increases targeted at the middle class. In the amendment moved by Mr YEUNG Yiu-chung, the Government is further urged not to reduce the rates of the CSSA across the board and not to introduce tax increases targeted at the grass roots and the middle class. In another amendment proposed by Ms Miriam LAU, the Government is urged not to abolish the concessionary duty rate for ultra low sulphur diesel and not to increase the duty on petrol.

I would like to reiterate here that, according to a study report published by the Task Force on Review of Public Finances in February 2002, we are facing a structural deficit problem. Subsequent to the economic transformation

undergone by Hong Kong in the wake of the Asian financial turmoil, the Consolidated Account recorded deficits for four out of the past five years. At the same time, the Operational Account recorded deficits for five consecutive years since the year 1998-99. Yet there has been no reduction in public expenditure in the past several years. During the five years between 1997-98 and 2001-02, public expenditure recorded an average increase of 5% per annum, and 8% in operational expenditure per annum on average. However, nominal economic growth merely rose 1.1% per annum on average during the same period, with operating revenue, discounting investment proceeds, falling from \$165.2 billion to \$151.1 billion. From these figures, we could see the reasons why the "Jaw" has appeared and why the fiscal deficit problem has become so serious.

The deficit problem has become so serious that it must be tackled promptly. Otherwise, it will pose an obstacle to Hong Kong in riding out its economic difficulties. We absolutely agree with a number of Members who stressed the importance of revitalizing the economy. While we agree that this would continue to be taken as a key measure to resolve the deficit problem, retrenchment and revenue measures must be taken at the same time, given the huge size of the deficit.

As explained by the Financial Secretary to this Council some time ago, in implementing a package of initiatives to raise revenue and cut expenditures, the spirit of "shared responsibility" will be observed. The Chief Executive has also clearly pointed out in the policy address that the Government will, in reviewing various measures to resolve the fiscal deficit, ensure they will not add significantly to deflation nor, despite increased taxes, fees and charges, fundamentally change the primary principle of maintaining a simple and low tax regime.

Furthermore, the Government has undertaken in unequivocal terms that vigorous measures will be taken to reduce expenditures. According to medium range objective already set, the upper ceiling of operating expenditure for 2006-07 will be reduced by \$20 billion. In order to achieve this objective, a second voluntary retirement scheme will be launched in the next financial year with a view to further trimming the establishment of the Civil Service. In addition, the priority in providing services will be reviewed, the structure and procedures streamlined, and resources used more effectively in providing services to the public.

Earlier on in the debate, some Members made reference to the proposal made by the Immigration Department (ImmD) to recruit more than 500 contract clerical staff. I would like to inform Honourable Members that immediate follow-up actions have been taken by the Civil Service Bureau and the Financial Services and the Treasury Bureau to examine ways to provide additional manpower to assist the ImmD in accomplishing its mission of issuing identity cards through internal deployment, so as to fully utilize the existing manpower resources and reduce additional expenditure.

On 5 March, the Financial Secretary will present to this Council a Budget that can not only balance the interests of various parties, but also provide practicable solutions to bring the public finances back to balance.

Thank you, Madam President.

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

**MR YEUNG YIU-CHUNG** (in Cantonese): Madam President, I move that Dr YEUNG Sum's motion be amended, as printed on the Agenda.

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

"To add "to take account not only of the need to tackle the huge deficits, but also of the hardships faced by the public, and" after "That this Council demands the Government, when formulating the 2003-04 Budget,"; to add "not to reduce the rates of the Comprehensive Social Security Assistance across the board," after "not to cut spending across the board on government services,"; and to add "the grass roots and" after "and not to introduce tax increases targeted at"."

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

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

(Members raised their hands)

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

(Members raised their hands)

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

**PRESIDENT** (in Cantonese): Ms Miriam LAU, as Mr YEUNG Yiu-chung's amendment has been passed, I have given leave for you to revise the wordings of your amendment, as set out in the paper which has been circularized to Members today. You may now have up to three minutes to explain the revised wordings in your amendment.

**MS MIRIAM LAU** (in Cantonese): Madam President, I move that Dr YEUNG Sum's motion, as amended by Mr YEUNG Yiu-chung, be further amended by my revised amendment, as set out in the paper which has been circularized to Members today.

In fact, the wordings of my further amendment have been revised to the effect that the part on business environment is placed at the back. The purpose is to achieve better syntactical coherence. So, a few words have been added to the amendment, but the meaning is identical to that of my original amendment. I hope Members will support it.

**Ms Miriam LAU moved the following revised amendment: (Translation)**

"To add ", as well as not to increase the government fees and charges that affect the business environment, not to abolish the concessionary duty rate for ultra low sulphur diesel and not to increase the duty on petrol" after "and not to introduce tax increases targeted at the grass roots and the middle class"."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That Ms Miriam LAU's amendment to Dr YEUNG Sum's motion as amended by Mr YEUNG Yiu-chung, be passed.

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

(Members raised their hands)

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

(Members raised their hands)

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

**PRESIDENT** (in Cantonese): Dr YEUNG Sum, you may now reply and you have five minutes.

**DR YEUNG SUM** (in Cantonese): Madam President, Honourable Members, this debate today is very important indeed, particularly at a time when the Budget

will be released soon. From the Democratic Party's viewpoint, we do not support the way in which the Government has handled the fiscal deficit, for it basically has not taken care of the needs of society at large and has failed to stimulate the economy. While we must admit that the deficit is very serious, we do not see it as a crisis.

When he proposed a toast at Government House during the Lunar New Year, the Chief Executive said that we must be determined to make the utmost effort to eliminate the fiscal deficit, or else the Hong Kong dollar would be open to attacks, the interest rate would rise and economic recovery would not be realized in the foreseeable future. We beg to differ. We agree that this is a serious problem, but not a social crisis. Madam President, Hong Kong is basically not in debt. Our situation is different from that of Argentina. Members please look around the world and see which country does not have a deficit now. Although we have a deficit, we have no liabilities. Which country can still maintain such a huge surplus where a deficit prevails? We have a surplus of over \$600 billion. So, the conditions in Hong Kong are very special. We agree that this problem should be resolved gradually, but we absolutely do not agree that we are faced with a crisis.

We even suspect that the Government has a political motive behind all this. It is because in the '70s, '80s and '90s as social needs and the intelligence of the people developed, the Government introduced a wide spectrum of social services in such areas as education, medical care, housing, elderly welfare, and so on. After these services were introduced, the Government, in order to meet the needs of society back then, could do nothing but to maintain the provision of these services. How could society be so stable had the Government not done so? Despite so many hidden worries, our society is still relatively stable, thanks to the provision of social services as a whole being able to satisfy the needs of the people. The Government has been providing these services but now, it is going to cut back on them as far as possible. This is very dangerous. I think the Government has a political agenda. Many social services have been provided but now, the Government is using the deficit to create a sense of crisis in order to achieve the objective of cutting back on this and that service. The people have, therefore, kept quiet out of fear, thinking that services that can be cut should better be cut given the prevalence of such a serious deficit. Now, it is said that tuition fees have to be increased, and medical fees too. Dr LO Wing-lok said

that trained doctors could not even find a place for internship. How could the Government let this happen? The Democratic Party agrees that the economy is not as good as it used to be and we do not have the proceeds from land sale now. These, we agree. Then let us resolve these problems gradually. The Government just cannot cut all the services in one go immediately. The Government proposed a 4.7% reduction initially. Then letters were issued to departments asking them to achieve a further reduction of 10% and the Government was even asking all the departments to achieve this 10% reduction, which adds up to 14%. Worse still, the total percentage may even be bigger, for we do not know what letters the Government will send to departments later. Since we have such a huge surplus, why can we not use it slowly?

Moreover, I wish to make another point. I found that many economists and bankers have begun to agree on the issuance of bonds in respect of certain government assets and the marketizing of these assets. My view on this is pragmatic, rather than macroscopic. Some people said that our car parks, tunnels and government shopping arcades will generate considerable proceeds for the Government every year and so, why do we not issue bonds on them? Earlier in the debate, a Member said that a substantial part of funds in Hong Kong has not been channeled for investment, and as they are deposited in banks, little interest has been generated. If bonds are issued by a government with a surplus, I believe many people, including even foreigners, would be interested in buying them. The considerable proceeds to be generated can be used to finance infrastructure development. Some economists said that if YEUNG Sum proposed that the proceeds be used to support infrastructure, then they would support the proposal. But if I propose that the proceeds be used to make up for the deficit, then they would not support it. I think the truth is that they do not wish to support the proposal of the Democratic Party openly. Come to think about this. What is the difference between the two proposals? It is the Government's money anyway. So, if it is said that there is basically no outlet for government investment, issuing bonds on a number of government assets is an outlet for investment. The Government can generate proceeds from it on the one hand and make use of the proceeds to support infrastructure and increase job opportunities on the other. Professionals such as engineers and surveyors would all have jobs, and construction workers would all have jobs too. Is there anything to lose? Why does the Government simply rule out this option? So, I hope the Government can consider this seriously.

On the proposal to impose a departure tax, I am indeed puzzled by it because the Government has been championing for Hong Kong's integration with the Pearl River Delta but now, it is proposing a departure tax. Is there really a need for this? Earlier on, Members spoke on the increase in tuition fees, the slashing of the Comprehensive Social Security Assistance (CSSA) payments, and so on. The Democratic Party has held a press conference particularly on the issue of CSSA payments. I said at the press conference that the Government was loathsome — seldom do I describe the Government in this way — because the Government insisted on an across-the-board reduction of 11% in CSSA rates, not willing to spare even the elderly and the vulnerable. What kind of a government is this? For a government as unsympathetic as such, how can it talk about justice and benevolence, and how can it talk about respecting and caring for the elderly? If it does talk about these, it would not be able to sleep at night, for it would be condemned by its own conscience, if any.

Thank you, Madam President.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by Dr YEUNG Sum, as amended by Mr YEUNG Yiu-chung and Ms Miriam LAU, 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 as amended passed.

**PRESIDENT** (in Cantonese): Second motion: Public consultation on constitutional reforms.

**PUBLIC CONSULTATION ON CONSTITUTIONAL REFORMS**

**MS EMILY LAU** (in Cantonese): Madam President, I move that the motion, as printed on the Agenda, be passed.

Madam President, I often move this type of motions in this Council, and many Honourable colleagues say that I am tedious and boring, hoping that I will not spend too much time on such motions. However, I feel that it is still worthwhile to bring up such an important issue for discussion. Firstly, I wish to remind Honourable colleagues that some three years and two months ago, the Legislative Council passed a motion which was very similar to the one we are presently discussing. I believe the Secretary and other people may have read the details of that motion debate, if they have the time. At that time, the motion was passed with 34 votes in favour of it, 18 against it and two abstentions. On that occasion, some people were somehow surprised at the result because there were in fact some very conservative people in the Legislative Council. They might sometimes be said to be "blocking the natural turn of the globe". However, many people came to understand that it was necessary for Hong Kong people to start the discussion on political reforms. That was why that motion was passed some three years ago.

However, after the passage of the motion, the TUNG Chee-hwa regime has done nothing. I remember that Mr TUNG Chee-hwa would usually mention political reforms in the last part of his policy addresses, but this time (the policy address in January), this issue was not mentioned at all. It was obviously a regression. Mention was only made in the policy agenda (as mentioned by me in this motion) in which the Secretary promised to begin to make suitable preparations for the review of constitutional developments after 2007. Nothing was mentioned on the issue in the policy address, but the policy agenda did say something about what the Government would do in the next 18 months. In the debate on the policy address held on 17 January this year, the Secretary did a brief explanation because many Members had asked him to clarify what the suitable preparations were. The Secretary said that they included such issues as the consideration of the timetable and the procedure of consultation, and internal deliberations by the Administration. The Secretary also told us at that time that there were three areas of concern in handling the review of the constitutional development for the year 2007. Firstly, it has to be proceeded according to the provisions of the Basic Law; secondly, sufficient time should be reserved for conducting public consultations; and thirdly, sufficient

time should be reserved for addressing problems that may arise in the local legislation.

Madam President, what we are discussing is the review of the post-2007 constitutional development. Of course, I have my personal views. The Frontier and the democratic camp would like to conduct the constitutional reforms as soon as possible. Some people may ask when the reforms should take place. We think they should have taken place yesterday. However, if we say that an open public consultation is necessary, then we shall not act like the executive authorities — to have predetermined everything — just like the recent farce on Article 23 of the Basic Law. We are not advocating anything like that. Although I wish to see the constitutional reforms implemented as soon as possible, to see that the people can become masters of their own house and choose their own government, I am not totally unable to hear and see that there are different opinions in society, especially people in the business sector or the professionals or even some of the grass roots who have some worries. Therefore, I think the right approach to handling this issue is to conduct a real public consultation which can facilitate the orderly expression of opinions by people from all walks of life and different sectors of society. After that, the Government should consolidate all such opinions before ultimately arriving at a consensus.

I have said this many times before, and every time I always make the same point: I wish to have a starting point. Some people may say that, if my prerequisite is, once the process has been started, a full direct election should follow immediately, then they will surely oppose my proposal. I have moved such motions before. However, today's motion requests everyone to join in the discussion because I understand that different people will have different opinions. We want to have discussions because it is clearly stipulated in the Basic Law that a review has to be conducted in 2007. The Secretary also said explicitly in the last policy debate that he was aware of this timetable, so he would make some preparations.

Madam President, what is stipulated in the Basic Law actually? We all remember that Article 45 of the Basic Law mentions the method for selecting the Chief Executive as, "specified in the light of the actual situation in the Hong Kong Special Administrative Region and in accordance with the principle of gradual and orderly progress. The ultimate aim is the selection of the Chief

Executive by universal suffrage upon nomination by a broadly representative nominating committee in accordance with democratic procedures." Annex I to the Basic Law also mentions that, "If there is a need to amend the method for selecting the Chief Executives for the terms subsequent to the year 2007, such amendments must be made with the endorsement of a two-thirds majority of all the members of the Legislative Council and the consent of the Chief Executive, and they shall be reported to the Standing Committee of the National People's Congress for approval." These provisions are on the selection of the Chief Executive. Madam President, as for the Legislative Council election, the relevant method is stipulated in Article 68, "The method for forming the Legislative Council shall be specified in the light of the actual situation in the Hong Kong Special Administrative Region and in accordance with the principle of gradual and orderly progress. The ultimate aim is the election of all the members of the Legislative Council by universal suffrage." Annex II to the Basic Law also points out that, "With regard to the method for forming the Legislative Council of the Hong Kong Special Administrative Region and its procedures for voting on bills and motions after 2007, if there is a need to amend the provisions of this Annex, such amendments must be made with the endorsement of a two-thirds majority of all the members of the Council and the consent of the Chief Executive, and they shall be reported to the Standing Committee of the National People's Congress for the record."

Madam President, all of these are written very clearly in the Basic Law. If we should conduct a consultation in 2007 in accordance with the Basic Law — sorry, Madam President, it should be a review in 2007 — we must do something before a review could be conducted then. I believe the Secretary had not said the review would not be conducted, and he had said that sufficient time would be reserved. But the question is: What is sufficient time? When we debated on the motion which was passed on 12 January 2000, some Honourable colleagues said it was too early. But now, more than three years have lapsed, I think we can request the executive authorities to expedite the review. But today, after more than three years, it turns out that even this mild motion may still not be passed. We can see the trend from the following observation: The Chief Executive did mention something about the constitutional reforms in his previous policy addresses, but it was not mentioned at all in this year's policy address. If this is true, I believe the message conveyed to the Hong Kong people is crystal clear: That the SAR is retrogressing. Not just in 1997, even January 2000 and even now, Hong Kong is moving backwards all the time. If this is true, what can Hong Kong people hope for?

However, I fully understand that, Madam President, as I have said many times before, democracy, human rights, freedom and the rule of law are not godsend. History tells us that we must fight hard for all of them. However, as I am a legislator, and as there is the channel, I will of course hope to see what Honourable colleagues think in this Chamber. It is just out of my expectation that, after more than three years, the situation has been regressing. What we are talking about is just conducting some public consultations to facilitate the expression of different opinions by all walks of life before consolidating them in an orderly manner, or to call a constitutional convention or something like that to let everyone vote on the issue. What we do not want to see is deceiving the people. Do not treat it like the enactment of laws on Article 23 of the Basic Law, saying that the work has to be completed in 10 months' time, from consultation to enactment. I believe we are not calling for anything like that.

Madam President, if we look back and do some calculations, we would find that we really do not have too much time left. I remember, in the past debates, even the executive authorities did not raise any disagreement with us. They did not argue with us and insisted that it would not be necessary to amend the Basic Law if the electoral system had to be changed in 2007. This was because the Basic Law has provided for a 10-year period of stability, that is, from 1997 to 2007. Since the Basic Law mentions clearly about "after 2007", that means inclusive of the year 2007. Therefore, if a consensus can be reached in society, the real change could take place from 2007. Some people may say that this is just our wishful thinking. But sometimes we should not be over-pessimistic. All we have to do is to try our best to achieve as much as possible.

Some people may say that we should proceed with this in a gradual and orderly manner. Recently, I met a friend from the business sector. He used to be a strong opponent of democratic reforms in the '80s. At the recent meeting with him, naturally, I asked him of his views now in a joking manner. He said the reforms should be implemented as a matter of course. I asked him why, because he was once a strong opponent of the reforms. He said it was natural for him to oppose the reforms because in the '80s he thought the reforms would take place in two to three years' time. So he naturally opposed the reforms. But now, it has been nearly 20 years, but nothing has been implemented. He said he did not know what we were waiting for. Maybe after listening to the debate tonight, he will be able to find out what most Honourable Members in this Council are actually waiting for.

Madam President, there is not much time left. The previous motion was on the Budget. I do not believe that the Budget could make the people restore confidence. When the Chief Executive came to this Council, I had already told him that if the Government wished to make the people restore confidence, it must let them know what the future held for them. They had to know that they could become masters of their own, they had to know that Hong Kong was not to be governed by a group of incompetent people without public credibility and acceptability. Madam President, I really hope that all Honourable colleagues could adopt an open mind, and give Hong Kong people an opportunity. However, even if today's motion is passed by us, the Chief Executive may not be willing to act on it. The Chief Executive has turned down the requests of the Legislative Council time and again. Such behaviour is very frustrating indeed. However, at least the Legislative Council can convey a message, that is, we request the executive authorities to conduct consultations on such an important issue as soon as possible or immediately.

With these remarks, I beg to move.

**Ms Emily LAU moved the following motion: (Translation)**

"That, as the executive authorities have undertaken in the policy agenda to begin to make suitable preparations for the review of constitutional developments after 2007, this Council urges the Administration to conduct as soon as possible a public consultation on constitutional reforms."

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

**PRESIDENT** (in Cantonese): Dr Philip WONG will move an amendment to this motion. Mr LAU Ping-cheung will move an amendment to Dr Philip WONG's amendment. The two amendments have been printed on the Agenda. The motion, the amendment, and the amendment to amendment will now be debated together in a joint debate.

I will first call upon Dr Philip WONG to speak and move his amendment to the motion.

**DR PHILIP WONG** (in Cantonese): Madam President, I move that Ms Emily LAU's motion be amended, as print on the Agenda.

Madam President, the present consensus in the community of Hong Kong is to drum up the strongest resolve to revive the economy, to solve the fiscal deficit and to promote the integration with the Pearl River Delta (PRD) Region. As for the public consultation on the constitutional development after 2007, it is not the most urgent task for us at the moment. May I stress this: I am not saying that constitutional development is unimportant. I am just saying that, when we do our tasks, we should consider our priorities.

Firstly, I would like to discuss the issue of importance. As we all know, Hong Kong lacks natural resources. The most important lifeline of the 6 million Hong Kong people is the financial and trade activities. In this commercial city of ours with the financial, trade, logistics and tourist industries as the major economic pillars, the officials and the ordinary people alike will find such issues as promoting economic growth, attracting inward investments, creating wealth for society, increasing job opportunities and repositioning our social development subjects of the greatest and most pressing concern that call for study. As a Chinese idiom says, "The skin does not exist anymore, where can the hair grow?" It is a most suitable description of the relationship between economics and politics. Some people have told me, "If we cannot make a living, there is no need to discuss any other issues." I can say this is an enlightening remark that clearly tells us that, between economic affairs and political affairs, which are more important and which are less important. In other words, under the present critical economic situation, it is most important for us to create an atmosphere of unity in society, and we should put the emphasis on improving our economic situation, while we should keep our politics as low-profile as possible. At a time when we are endeavouring to tackle such urgent tasks as opening up new sources of income and cutting back on expenses, attracting foreign investments and resolving the fiscal deficit, if we still initiate major political arguments, it will just make the people puzzled and worried and deter foreign investors from coming to Hong Kong.

If we analyse the situation from this perspective, it will become crystal clear whether we should conduct a public consultation on constitutional reforms now. In a society, if an atmosphere of political discord, disharmony and instability forms, it will become its "economic laxative". Nowadays, Hong

Kong is too weak to take such blows. Should this happen, it will be like rubbing salt into the wound. Therefore, I worry that different voices of political discord could be provoked by the public consultation on constitutional development. This will not just deter foreign investors from coming to Hong Kong, it will even make investors who have already committed capitals here reduce their investment, transfer their investment elsewhere or even withdraw their investment from Hong Kong. Such a situation will neither help to revive the economy, nor resolve the fiscal deficit and facilitate integration with the PRD. It will even bring about a negative impact.

Secondly, I would like to discuss the issue of urgency. Ms Emily LAU calls for the Government to conduct "as soon as possible" a public consultation on "constitutional reforms" in her motion. Obviously, it carries the meaning that the consultation should be conducted immediately, promptly and the sooner the better. I think this is not in harmony with the present situation of Hong Kong. Maybe she is under the false impression that if the public consultation is conducted earlier, the universal suffrage can be implemented earlier as well. I support democratic elections, but I cannot agree with her viewpoints. I said several days ago that the constitutional development of Hong Kong should proceed according to the principle of gradual and orderly progress and even participation so as to balance the interest of different strata. Meanwhile, on the minds of some people, constitutional development carries the extreme sense of constitutional revolution, that is, scrapping the present political system. Is this not better for constitutional reforms to embody the spirit of gradual and orderly progress and improve the existing system by eliminating the problem areas?

In my opinion, if a review of the constitutional development is to be conducted, the Government should not just listen to the views of Members. Instead, the views of the people and different functional constituencies, including those views presented by the industrial and business sectors, should also be carefully considered. As far as I know, the industrial and business sectors are very concerned about whether the seats returned by functional constituencies can be retained. In recent years, many people from the industrial and business sectors have conveyed their views on this issue to me. Their common views are, that it is necessary to keep the functional constituencies and that the Legislative Council should carry the voices from different trades and professions. If the functional constituencies were abolished, Hong Kong would be in "great trouble", and investors would flee one after the other. Their worries are not without

justifications. In recent years, some people "oppose whatever from China" and "oppose whatever put forward by the Government". They will oppose the proposals or measures, be they right or otherwise. This has indeed made others feel miserable, upset and disheartened. How can the people accept the political stands of such people? How can people from the industrial and business sectors make investments and formulate long-term development plans with an eased mind? As a member of the business sector, I think, at the moment and in the foreseeable future, it is a must for the Legislative Council to retain the functional constituencies. In this connection, I hope Ms Emily LAU can tell us whether she agrees with my view.

In view of such serious problems as the fiscal deficit faced by Hong Kong, and also taking into account the tolerance of Hong Kong society, I believe it is really not the best time to conduct the public consultation on constitutional reforms now. I think we had better start discussing the issue of constitutional development only after the economic and fiscal deficit problems have been ameliorated, and when the people begin to have the mood and energy to do so. This will help society arrive at a consensus on the major direction of constitutional development.

Madam President, I do not agree that the public consultation on constitutional reforms should be conducted as soon as possible. But this does not mean that the Government may refrain from doing anything now. In fact, my amendment suggests that the Government should conduct research concerning constitutional developments as soon as possible and thereafter commence public consultation at an appropriate time. In other words, there are two steps. As the first step, the Government has to study such issues as whether functional constituencies should be retained, the proportion between the seats returned by functional constituencies and geographical constituencies, the demarcation of the geographical constituencies, the "bicameral" operation, the relationship between the executive authorities and the legislature, the timetable for constitutional development, the procedure of future public consultations and the impact on the economy of Hong Kong. After this, the second step should be adopted at an appropriate time, that is, the outcome of the research conducted by the Government should be presented for extensive public consultation, so as to give the people opportunities to conduct pragmatic discussions and to make rational choices in a fully informed manner.

Besides, I would like to raise one point, that is, while the Government conducts some internal research, the democratic camp may make use of the time to review their attitudes and styles in their participation of political affairs, and explore how they can prescribe the right medicines to help Hong Kong undergo the economic restructuring. This will make the people think that their performance is more reasonable and rational, and they can better understand the predicaments faced by Hong Kong people. I sincerely suggest Members belonging to the democratic camp to consider the motion of Ms Emily LAU carefully to see if it will be judged by the people as "too earnest to achieve quick results" and too eager to put their own political objectives before developing the economy and relieving the people of their difficulties. Lest they are actually doing bad things with a good intention.

One additional point, "on discussing politics, one week is already a very long period of time." Different parties and Members should adjust their positions according to the latest situation so as to keep abreast of the changes and make an objective analysis. This should be a complete departure from their past subjective aspirations, and suitable adjustments should be made. Only this is the real strength of a responsible politician. From this, "making an about-turn" does not mean that there are errors in our past judgement. It just reflects that we have been able to keep abreast of the time. When I was studying in the United States, a law professor once told me, "Law must be stable, but it cannot stand still." This is applicable to laws, is it not true that the same should also be applicable to one's political stand?

Madam President, Mr LAU Ping-cheung suggests in his amendment that, in his opinion, the suitable time for conducting the public consultation would be September 2004. I agree to this point. In order to save time on the debate, I shall leave his justifications to himself. I hope his suggestion would also have the support from Honourable Members and be passed. However, in case his suggestion were not passed, I still hope that Members supporting him could support my amendment.

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

**Dr Philip WONG moved the following amendment: (Translation)**

"To delete "a" after "this Council urges the Administration to conduct as soon as possible" and substitute with "research concerning constitutional

developments and thereafter to commence"; and to delete "on constitutional reforms" after "public consultation" and substitute with "at an appropriate time"."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Dr Philip WONG to Ms Emily LAU's motion, be passed.

**PRESIDENT** (in Cantonese): I now call upon Mr LAU Ping-cheung to speak and move his amendment to Dr Philip WONG's amendment.

**MR LAU PING-CHEUNG** (in Cantonese): Madam President, I move that Dr Philip WONG's amendment be further amended, as print on the Agenda.

The year 2004 will be a significant milestone in the constitutional development of Hong Kong. This is because the election of the third term Legislative Council will be held in 2004 in accordance with the provisions of the Basic Law, and then there will be greater room to amend the election methods for subsequent elections of the third term Chief Executive and of the fourth term Legislative Council. In the debate on the motion of "the election of the second term Chief Executive" moved by Ms Emily LAU last year, I clearly pointed out that, if we want to amend the election methods for the third term Chief Executive and for the fourth term Legislative Council, all we have to do is to make amendments according to the relevant provisions in Annexes I and II to the Basic Law, and constitutionally it is not necessary to amend the Basic Law, so it is a summary process procedurally.

Madam President, the year 2007 will be another significant milestone in the constitutional development of Hong Kong. The election of the third term Chief Executive shall be held in 2007. As I have just said, the electoral arrangements and provisions can be discussed by the people of Hong Kong, and the Hong Kong Special Administrative Region Government has the responsibility to present different feasible options for public consultation. And then the people can choose the most suitable one from the various options. I said so because it is stipulated in Article 45 para 2 of the Basic Law that, "The method

for selecting the Chief Executive shall be specified in the light of the actual situation in the Hong Kong Special Administrative Region and in accordance with the principle of gradual and orderly progress. The ultimate aim is the selection of the Chief Executive by universal suffrage upon nomination by a broadly representative nominating committee in accordance with democratic procedures." The selection of the Chief Executive by universal suffrage will be the ultimate aim, but there has to be a certain process before this is achieved. Of course, we may say we want to achieve this aim immediately. But what should be done if this cannot be achieved? Maybe there is an increasingly strong voice for gradual and orderly development, so the process of reforms should be implemented "in the light of the actual situation in the Hong Kong Special Administrative Region and in accordance with the principle of gradual and orderly progress."

Dr Philip WONG's amendment proposes "to conduct research concerning constitutional developments and thereafter to commence public consultation at an appropriate time." I very much agree with the major direction of Dr WONG's amendment, and my further amendment stresses that the timing of "after the 2004 Legislative Council elections" is suitable for conducting the consultation.

On consultations conducted by the Government on significant issues, the people would expect the Government to proceed with or abandon the issues according to the outcomes of such consultations, regardless of whether the Government has predetermined stands on issues under consultation. Take the election of the Chief Executive as an example, certainly it has to be conducted in 2007 to return the new Chief Executive in accordance with the law. Making reference to the experience gained in the election of the second term Chief Executive, the relevant electoral laws have to be enacted in the Legislative Session of 2005-06, so as to facilitate the Chief Executive election to be held by the end of 2006. Even if the consultation is held early, the relevant decisions will still ultimately be discussed by the Legislative Council returned by the election held in 2004 before the enactment of law can proceed. There are now still some 18 months to go before the formation of the third term Legislative Council. For this reason, I think during the interim before the 2004 elections, the Government should conduct all sorts of studies on the various electoral arrangements, so as to facilitate the free discussion and presentation of opinions by the public. However, the consultation should be held only after the third term Legislative Council is returned by elections in 2004.

We all know that there will be major changes to the election method for the third term Legislative Council, and the number of seats returned by the geographical constituencies through direct elections will be increased. Therefore, it is difficult to predict, nor to draw any conclusion on the election method for the third term Chief Executive before the formation of the third term Legislative Council.

As a common saying goes, "Even if a man does not have any remote problems, he may have some immediate worries." Nowadays, Hong Kong is really beset by many problems pending solution. As reflected in many opinion polls, unemployment, deflation and fiscal deficit are problems which the people are most concerned about. Therefore, I think we should concentrate our energy and intelligence on identifying ways of reversing the economic situation of Hong Kong. Take my field, the construction industry, as an example, we should think of ways to promote more public works projects to create the greatest number of local job opportunities, even under the current contracted government expenditure. For example, we are still calling on the Government to abandon the "design and build" tender method in the construction of the Government Headquarters at the Tamar site. This will prevent the tenderers from suppressing creativity in consideration of the tender price. We also suggest that the Government should divide the project into many smaller projects so as to enable more local construction companies to share the economic benefits from the projects. Moreover, we shall also negotiate with the relevant authorities to allow local professionals to practise in mainland cities such as Shanghai and Guangzhou. This will expand our market in the Mainland. In comparison, the election of the third term Chief Executive in 2007 is still a long time from now. There is indeed no need for us to hold any concrete or complicated discussion on it. Otherwise, it is a sheer waste of time and energy.

Madam President, I so submit.

**Mr LAU Ping-cheung moved the following amendment to Dr Philip WONG's amendment: (Translation)**

"To delete "commerce" after "this Council urges the Administration to conduct as soon as possible research concerning constitutional developments and thereafter to" and substitute with "conduct"; and to

delete "at an appropriate time" after "public consultation" and substitute with "after the 2004 Legislative Council elections".

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr LAU Ping-cheung to Dr Philip WONG's amendment, be passed.

**MR LAU CHIN-SHEK** (in Cantonese): Madam President, just now Ms Emily LAU said in moving her motion that people might feel bored as she had raised this type of motion many times already. However, I consider that it is not a matter of boredom. Instead, it is most ironic that the focus of today's motion debate has shifted from "how and to what extent should the constitutional system of Hong Kong be developed and when Hong Kong should have total democracy", to "what is the appropriate time to conduct a public consultation on constitutional reform".

Madam President, no matter the Government conducts the public consultation on constitutional reform this year, next year, or even defers it until after the next Legislative Council election, I believe the question of "when should the consultation be conducted" is not the only concern of the people of Hong Kong, as they are also concerned about "when Hong Kong will have universal suffrage" and "when Hong Kong people will actually be masters of their own house".

With regard to constitutional reform, I have lost count of the times that the issue has been a subject of consultation in the past two decades or more. However, there is no conclusion so far as to the key question of "when we should have universal suffrage". Eventually, the issue has been delayed again and again for more than two decades. Just now, Ms Emily LAU said that she had heard people from the business sector said that they had been waiting for the reform for more than 20 years, it has been so long that their "eyebrows have really grown longer than a pigtail". So far, we still have no idea when a democratic political system would be implemented on a comprehensive scale.

Madam President, I certainly support expediting the public consultation exercise, but I believe the public will ask these questions. What criteria will the

Government adopt to assess the opinions gathered during the consultation period? What criteria will it adopt to determine whether the public supports or opposes universal suffrage? What criteria will it adopt to determine the suitable time to introduce direct election of the Chief Executive? How public opinion will be evaluated? Will a 6:4 ratio be considered decisive, or will a 7:3 ratio more decisive?

Madam President, I consider that if the Government cannot explain the criteria to be adopted for assessment of public opinions before the conduct of a public consultation, the result will only be just as many past consultations — the Government would use "divergent views" as the reason for further delaying the introduction of full direct elections.

Nowadays, very few people would speak out publicly that they "totally oppose democracy". I believe even the Members who have proposed amendments to the motion would state that they support democracy. However, they would add a proviso of gradual and orderly progress. But I do not know when we should start to proceed in a gradual and orderly manner. However, what is the point if one says that he supports democracy on the one hand, but tries to avoid specifying the time he considers appropriate to implement full democratization on the other?

Madam President, I believe it is imperative for Mr TUNG Chee-hwa, the Chief Executive of a responsible government, to tell the public his views about this issue and to explain to the people of Hong Kong the timing he considers appropriate to implement universal suffrage. Should we wait for five years, 10 years, 20 years or 50 years more?

Mr TUNG Chee-hwa did not openly state in his platforms in the past two elections the suitable timing for constitutional reform. In the past six policy addresses, he was evasive on the major issues related to constitutional reform. In his latest policy address delivered last month, just as Ms Emily LAU said earlier, he did not even breathe a word about constitutional reform. I consider that Mr TUNG, being a political figure and the head of the Government, should not keep his views and stance to himself. Regardless whether Mr TUNG considers that 2007 is the appropriate time to elect the next Chief Executive by universal suffrage, or that we should wait for one, two, three, four, five or even six more terms, I believe he should have a clear timetable and stance.

Madam President, similarly, all political parties, including Honourable colleagues in this Chamber, are duty-bound to let the people of Hong Kong know what their views are and to propose an appropriate timetable for the implementation of universal suffrage. We should not say we support democracy on the one hand, but fail to propose any timetable on the other.

Madam President, recently, there are banners everywhere in the streets of mainland cities stating that "Renmin Daibiao Remin Xuan (people's representatives are elected by the people)". I believe the meaning of "Renmin Daibiao Remin Xuan" is that the people should elect by their own hands representatives who would represent the general public, instead of allowing a handful of people, who lack a mandate, to elect the "people's representatives" on their behalf, making it "people's representatives are elected by representatives who carry no popular mandate".

Madam President, I consider the fundamental prerequisite is that, in order to expedite full democratization, the Government should manifest the basic human rights on the one hand, and consolidate its acceptability on the other, so that the political and social stability can be sustained. Particularly in the midst of economic doldrums and social predicament, the Government should carry adequate representativeness and acceptability in order to lead all walks of life to tide over the difficulties. The reason why the South Korean Government has managed to recover from the Asian financial turmoil can be attributed to the fact that their president was elected by "one person, one vote". Their experience should merit deep thinking by the leaders of Hong Kong and all politicians.

Madam President, I so submit.

**DR LUI MING-WAH** (in Cantonese): Madam President, the realistic historical, economic and political conditions of a territory determine the establishment and reform of its constitutional system. The constitutional institutions of Hong Kong after the reunification, such as the formation of the Legislative Council and the election of its Members, were determined through negotiations between the Chinese and British Governments before the reunification, and the details are spelt out in the Basic Law. At that time, officials responsible for negotiations were very clever in foreseeing possible the political circumstances that might arise after the reunification and decided that half of the seats in the Legislative Council (that is 30 seats) should be returned by functional constituency elections,

whereas the number of seats returned by geographical constituency elections would increase from 20 during the first term to 24 in the second term (held in the year 2000), and further to 30 in the third term (held in the year 2004). The number of seats returned by the Election Committee was 10 in the first term, and they would be completely phased out in the third term. The election method for Members of the Legislative Council in the fourth and subsequent terms shall be determined by the people of Hong Kong, as explicitly stipulated in the Basic Law.

For years, there have been repeated calls in society to urge the Government to abolish the seats returned by functional constituency elections, and implement full direct elections for all the 60 seats. However, judging from the perspective of the political and objective circumstances in Hong Kong, it is not suitable to implement full direct elections for the Legislative Council in the short term. Instead, the progress towards full direct elections should be gradual and orderly to ensure social stability. My reasons are as follows:

Firstly, among the three powers in the governing framework of the Hong Kong Government, the Legislative Council is an important component. The functions of the Legislative Council are to enact laws, to monitor the operation of the Government and to approve funding allocations. Under the reality that there is no "government party" in the Legislative Council, the Government must ensure that the Council will not become an "opposition party", otherwise, the administration of the Government cannot be exercised effectively. Should that happen, Hong Kong would surely face a major disaster.

Secondly, after more than a hundred years of colonial rule, the people of Hong Kong have been accustomed to living in an environment with limited democracy and a high degree of freedom. Their civic awareness is weak and they are not keen on politics. If the seats returned by functional constituency elections are abolished in the near future, I would doubt whether the business community would have the interest in participating in direct elections. If the Legislative Council does not have sufficient representation from the industrial and commercial sectors, it will be a loss to the Council and the Government.

Thirdly, the functional constituency election system is the most effective way of facilitating participation in the political affairs by people from all walks of life and different trades and professions. It provides the best channels for both

communication with the Government and expression of opinions, so that we can all contribute to the good governance of Hong Kong. Being a commercial city, Hong Kong has made great economic achievements in the past. The contribution made by the functional constituencies cannot be ignored. Therefore, the constitutional development should ensure the continual participation of the functional constituencies.

Fourthly, there is a concept in society that election by "one person, one vote" is the manifestation of democracy. In fact, the real meaning of democracy is the provision of opportunities of participation in political and social affairs by people from all walks of life and different sectors of society. In this way, different voices in society can be effectively echoed and the interests of all parties balanced, thereby making the governance of the Government more effective and better meet the needs of society as a whole. Therefore, the implementation and introduction of any constitutional reforms should be directed towards this ultimate goal.

Madam President, after the reunification, the principles of "one country, two systems" and "a high degree of autonomy" have been successfully implemented in Hong Kong, and the process of democratization has been initiated. We should explore the right pace of democratic constitutional development suitable for Hong Kong with reference to the realistic situation and needs as well as our experience and practicalities. We should not rush for the implementation of any reforms, otherwise it will just bring about bad consequences in detriment to Hong Kong.

More importantly, Hong Kong people have been suffering from the hardships brought about by the economic downturn during the past five years since the reunification. At the moment, the most pressing need is to promote social cohesion to unify the strengthens and the hearts of the people. With joint efforts, we should try to identify the policies and measures that can help us to ride out the economic difficulties. Any unnecessary political arguments would only undermine the confidence of the people and cause the economy to collapse. Politicians should give serious consideration to these points. Thank you.

**MS CYD HO** (in Cantonese): Madam President, the original intention of today's motion is to remind the Government of honouring an overdue promise, and to

reiterate a consensus reached in the Legislative Council in January 2000. However, out of our expectations, the motion today has multiplied into three, thanks to the two amendments moved to it. This is really unexpected to us. I wish to point out that, if any of the amendments whose wordings are retrogressive were passed, or in case that all the three (the original motion and the two amendments) were not passed, then the people would feel that the Legislative Council has not acted strongly enough in respect of urging the Government to implement constitutional reforms, and they would think that we have not discharged our duties properly.

Madam President, when the democratic reform proposal was mooted for discussion in 1994, I was a member of the United Ants. When we were making an all-out effort to lobby Members for their support for full direct elections, we knew it was a mission impossible, yet we had tried our best. The late Dr Samuel WONG, a Member returned by a functional constituency, told us, "You ask me to support full direct elections by 'one person, one vote', you are asking me to commit political suicide." He made this remark to the people at the entrance through a loudspeaker. It was so true, because the vocation of Members returned by functional constituency elections is to protect the extra power of their constituents. If we ask Members from functional constituencies to relinquish the privileges of their constituents and share them with all the ordinary people, this is certainly equivalent to committing political suicide, and it is difficult for them to agree to such a proposal. Therefore, we democrats who have joined the establishment have actually made too many concessions when we are here talking about democratic constitutional reforms to Members from functional constituencies, who do not subscribe to direct elections. Yet, we still hope for a peaceful evolution. Why? For we still hope that, by way of rational discussion, we can gradually persuade each other in an interactive manner and bring about fully democratic constitutional reforms by peaceful methods. Therefore, we have still moved such a motion for discussion. However, may I caution the Government: Autocratic power cannot last forever. This is particularly so when the people have so many grievances now. If the Government insists on blocking the people from participating in the local political affairs in a fair way, then I am afraid the anger of the people will erupt eventually, and by then the situation could get out of hand.

Earlier on, Dr Philip WONG has mentioned that we are facing an economic crisis. Therefore, the issue of constitutional reforms is not the most pressing and most significant issue before us. However, I wish to point out that,

the case is just the contrary. There are so many grievances among the people, and more than 30 Members have spoken on ways of resolving the problem of fiscal deficit. In fact, the greatest problem we have is the failure of our leaders to unite the people and to win their acceptance. As a result, it has met great difficulties in implementing its policies, no matter what proposals it wishes to introduce. However, if we have a fair and transparent mechanism in place, a mechanism that can make the people feel that they have a part to play in the formulation of policies, they would be willing to share the responsibility together. In this way, everyone would join force with a united heart in overcoming the crisis. Otherwise, whatever proposals for resolving the fiscal deficit put forward by the Government would still make the people resent that, "I have to pay the bill for the banquet hosted by someone else." Then it would be very difficult for the Government to motivate the people into making concerted efforts to solve the problems.

Regarding the amendment moved by Mr LAU Ping-cheung, there is one puzzle I could not solve. Why does the public consultation have to be conducted after the 2004 Legislative Council Election? What actually are we waiting for? In fact, we are not trying to change the electoral system of the Legislative Council Election in 2004. We are just requesting that public consultations be held as soon as possible. This is not in violation of the Basic Law. So why should we delay conducting the consultation? Suppose we say that we need time to enable the people to become familiar with the election method. But many different election methods were employed in the preceding period of more than a decade. In 1991, the double-seat, double-vote system was used; in 1995, the single-seat, single-vote electoral system was adopted; 1997 was a special year in which the Provisional Legislative Council adopted the appointment system (but I hope we shall not become accustomed to this system); and between 1998 and 2000, the so-called proportional representation system was adopted. But in essence, the last case was actually a list voting system. The system witnessed the change from "combining different election lists into one" to "splitting up an election list into separate lists"; the voting method changed from putting ticks by hand to stamping cross chops on the voting sheets. The voting practice also changed from "a voter putting his vote on the list he prefers" to "members of a family voting on different candidates". The demarcation of geographical constituencies has changed many times and the people have adapted to such changes very well, and they can cope with different election methods. On the polling day of the election held in 1998, the Hong Kong Observatory issued a Black Rainstorm Warning, but there was still a 54%

turnout rate. So, what should we wait for? If the reason for our wait is to see the results of the 2004 Legislative Council Election, and to see who are elected before making the decisions, then it is really putting the cart before the horse insofar as the progress of our democratic reform is concerned. This is because the establishment of a system always comes first and then the people will adapt to it. It is certainly not right to make the system adapt to elects. If we really have the candidates first before formulating the system, we are really reversing the natural sequences of events, which is entirely not conducive to our constitutional development.

Obviously, the Government has double standards for different motions. The Government achieved speedy progress in conducting consultations, drafting of provisions and the compilation of public opinions in relation to the enactment of laws on Article 23 of the Basic Law. Recently, the Government Information Services released an audio API, which said that in order to protect the safety of workers, we must take out labour insurance; in order to protect the safety of motor cars, we must take out motor car insurance; in order to protect the safety of the household, we must take out household insurance; and in order to protect national security, there must be national insurance, that is, to protect the security of the nation by way of the enactment of laws. However, throughout this recording, there is no mention of the insurance for the safety of the people. Does this Government have any concept of the safety of the people? In fact, the democratic mechanism is the best insurance for the safety of the people, for it can prevent the Government from abusing its powers. This is especially true now when the Government is seeking to vest in itself so many emergency powers from the anti-terrorist legislation to enactment of laws on Article 23 of the Basic Law. If we still do not have any mechanism of checks and balances to check the executive authorities, then the safety of the people will enjoy no protection at all. If we rely only on stipulations in the Basic Law, that provisions of international human rights conventions shall be implemented through the laws of the SAR, and yet our laws are so stringent, then I can say that such an insurance for the safety of the people is just a bag that leaks.

In the course of debates on the democratization agenda, we have many different phrases for a number of times. But I feel that some phrases have been misunderstood and should be clarified. Let us take the phrase of "gradual and orderly progress" as an example. We have been saying "gradual and orderly progress" since 1984 when we first had the district board elections. It has been nearly 20 years, and even now, we still have to mention "gradual and orderly

progress". There is an English saying, "Justice delayed is justice denied". Explaining this in Chinese, it means that delaying justice means there is no justice. We have been delaying this for 20 years, and we have not had democracy for 20 years. Therefore, I hope Honourable colleagues who say we should proceed in accordance with the principle of "gradual and orderly progress" could think about this: We have been delaying the issue for too long. Today is time we took actions.

**MR ABRAHAM SHEK:** Madam President, the Honourable Emily LAU's annual romantic sojourn, down the river of democracy, on the subject of constitutional reforms has become a yearly Council ritual. Her motion's intent is good, its aim focused and, above all, it reminds us that the progress towards democracy for universal suffrage in Hong Kong is the ultimate goal, as guaranteed under the Basic Law.

Like in a good movie, Ms LAU casts herself in this scene as the heroine and rightly, she deserves it because she is my heroine. And those characters who vote against her are automatically the antagonists or villains. But the truth is, like Ms LAU, we are all passionate about democracy, we all support universal suffrage, and we all want to give what is the best for all Hong Kong people. But the world is never as ideal with the reality that we live in.

I sometimes envy Ms LAU because she always gets to play the role of a do-gooder. And rightly so, she is a good person. On the other hand, I, together with many of my colleagues, are here today to play another part, not necessarily the bad guys though. What we choose to play are the less glamorous parts of responsible people, balancing idealism and pragmatism in the setting of real socio-economic and political contexts. As in a real-life family drama, the wise parents cannot raise their children by continually spoiling them beyond the parent's means and responsibilities, thus indirectly leading them to an uncertain future. Rather, the household should guide and teach them to work within a challenging environment to become good and responsible citizens.

The truth is that we are all on the same side, even if we play different roles. Ultimately, we all want to be there at the film's happy ending as universal suffrage as guaranteed by the Basic Law becomes a happy reality. All we need to do is to have patience and wait.

I applaud Ms Emily LAU's efforts over the years to promote democratic development. However, for political practicality, I feel that constitutional developments in Hong Kong should progress orderly and in accordance with the Basic Law. As we gradually and ultimately move towards a full democratic government with universal suffrage, the Government needs to listen to the wide spectrum of opinions from the community over an extended period of time, and we need to give it time.

Nevertheless, constitutional reform is unique from other types of reforms because it is so fundamentally tied to the political, economic and social stability and development of Hong Kong. The effects of any political change to the community will last for years and even decades. As a result, this kind of change cannot be rushed. The Government should have ample time for preparation work such as conducting various studies and plans, consultations and surveys. Any hasty introduction of constitutional reform proposals will not only confuse the public, but will also undermine Hong Kong's international status, business environment and foreign investors' confidence. Reform should be implemented in a step-by-step approach. Especially now in the face of economic downturn, the Government should pay special attention in handling such policy changes.

In response to public demand, reviving our economy has become the Government's most urgent task. Still, the Chief Executive's 2003 Policy Agenda stipulated that the Government would move towards preparing and reviewing constitutional developments after 2007. I feel that the Government is on the right track with this target. At this moment, it is unnecessary to push them towards speedier reform proposals. Putting too much pressure onto them may yield opposite results and will not be beneficial for the development of democracy.

The main objective of the Basic Law stipulation on the 2007 constitutional review is to maintain Hong Kong's political stability in its reunification with the Mainland. The Basic Law provides that constitutional developments shall be conducted with regard to the actual political status here and to the principle of gradual and orderly progress. Since reunification, constitutional developments in Hong Kong have moved in an orderly pace and in accordance with the Basic Law. What this has prevented is the political instability that may sometimes result from too rapid constitutional reforms. Luckily, in the last five years, what we have is political stability. A good example of the steady approach is

the expansion of the Chief Executive Election Committee. The 400-member committee that initially elected the Chief Executive has grown to an Election Committee of 800 members in his second-term election. Moreover, the Legislative Council Election will gradually phase out the seats elected by the Election Committee, and will proportionately increase geographical seats through direct elections.

It is crucial that constitutional developments in Hong Kong continue in this gradual and orderly process. Hong Kong is an international city, recognized as one of the world's freest economies. Our continued economic growth relies on continued foreign and local investments. Hastily changing the established constitutional system will not only result in a loss of our competitive edge, increased chaos and likely social instability, but investors may lose confidence and pull their investments away from Hong Kong. That will not be good news for our economic revival.

The fact is, the freedoms enjoyed by Hong Kong people are no worse than those of most democratic states in the world. Over the past few decades, Hong Kong has established itself as a free, just and honest society. We enjoy various kinds of freedoms protected by law. Moreover, there are a number of channels for the general public to redress grievances against the Government and participate in government policy affairs.

Madam President, the Basic Law stipulates that Hong Kong can change the existing election methods for the Chief Executive and Legislative Council Members after 2007, if the proposed changes are approved by a two-third majority of all Legislative Council Members, the Chief Executive and the General Committee of National People's Congress. Taking into account the overall interests of Hong Kong, our constitutional system should allow for continued participation by various sectors of society. A balanced functional and geographical representation in this Council must be preserved and perpetuated into the future, so that Hong Kong's stability and prosperity are guaranteed.

**PRESIDENT** (in Cantonese): Mr SHEK, your time is up.

**MS AUDREY EU** (in Cantonese): Madam President, today Ms Emily LAU has moved a motion which is incompatible with her character, which is extremely

mild. She has only requested that a public consultation be conducted. Therefore, I really do not understand why Dr Philip WONG would say that a consultation alone would scare away businessmen. Madam President, in the '80s of the last century, some people in fact put forward the proposal of implementing a full direct election for the Legislative Council in 1988, and there was popular support for it in society at that time. Now, after 20 years, this issue is still under discussion. Even a request for a public consultation is described as capable of frightening the wits out of people. Moreover, many people are saying that Hong Kong is not yet ready for full direct elections. After so many changes have taken place throughout these years, Hong Kong people have not become masters of their own house. This is really the sorrow of Hong Kong.

Recently, from the consultation on the enactment of laws to implement Article 23 of the Basic Law, we can see that the Government has ignored the aspiration of the majority of the people for a White Bill, and introduced the National Security (Legislative Provisions) Bill to the Legislative Council. The Government insists that, "blue" is equal to "white", and they have no difference. Either the Government or Members may propose amendments to them. Although the Consultation Document did not invite the people to express opinions on the issue of whether or not the consultation should be conducted by way of a White Bill or a Blue Bill, many people had still indicated that they hoped the Government would release a White Bill. This point was evident in the public discussion sections of the newspapers. I think one of the reasons is they have no confidence in the Legislative Council which is elected through the present electoral system. The Government frequently says that Hong Kong is a metropolis, even once saying that it can be compared to Manhattan, and it can surpass the United States and the United Kingdom. However, the electoral systems, be they for the Chief Executive or the Legislative Council, are all abnormal and unfair. In this aspect, Hong Kong is not qualified to claim to have risen to the international standards.

The Secretary for Education and Manpower, Prof Arthur LI, pointed out earlier in a meeting of the Panel on Education that the Legislative Council enjoyed a reputation as low as that of the Government. Regarding this point, Madam President, I do not wish to refute. However, I wish to point out that, that the Legislative Council fails to win the recognition of the people is not because of the reasons suggested by Dr Philip WONG such as the irrationality of

Members in opposing whatever proposed or done by the Government. On the contrary, the low reputation was due to the lack of insistence and righteousness of some Members — they would criticize the Government on less important issues, but at critical moments, they would promptly return to the pro-Government side.

There were numerous such cases: the reinstatement of appointed seats in the District Councils, the motion of no confidence in the Secretary for Justice, Ms Elsie LEUNG, arising from the AW Sian Incident, the "scrapping" of the Municipal Councils, the ordinance on the election of the Chief Executive, the Accountability System for Principal Officials, the legislation on the pay cut of the Civil Service and even the anti-terrorist bill. In each of such controversies, the pro-Government Members would vote in favour of the Government, no matter how many questions or criticisms they had raised previously.

From the many previous opinion polls, we can see that the reputation of the Chief Executive and most of the accountability officials has been plummeting. It is indeed hopeless for such a government to request the people to ride out the storm with it. Ultimately, if a government wishes to be accepted by the people, it must strive hard to protect the interests of the people. And only by way of direct elections can we ensure that the Chief Executive or Members would place the interests of the people above all else, and that the administration by the Government would look after the interests of the people first. Presently, the system of Hong Kong is one of internal attrition. The governance of Hong Kong is based on confrontation. The Government would usually enlist the support of one camp to fight against the other. It would rely on the business sector in its attempt to suppress the civil servants; it would call for the support of the middle class in order to deal a blow to the recipients of Comprehensive Social Security Assistance. In short, this will develop into a vicious circle and lead to the polarization of the different sectors of society. In the end, everyone will be the loser. I worry that, if such a trend is allowed to continue, the consequences will be too horrible to imagine. I hope the Government can conduct the consultation as soon as possible, and sort out how full direct elections can be implemented.

Madam President, I would next speak in English because I wish to respond to the earlier speech made by Mr Abraham SHEK.

**MS AUDREY EU:** Madam President, the Honourable Abraham SHEK wants to portray the Honourable Emily LAU as a romantic heroine, but actually I think the truth is that it is the Honourable Abraham SHEK who is the romantic type, because he wants to portray himself as responsible father for all the children who are being spoilt, who are asking for democracy. In fact, Madam President, I neither feel romantic nor spoilt, but frustrated by hypocrisy. Although for the past 20 years in Hong Kong, they have been saying that Hong Kong is not ready even though they support democracy, yet in the same breath, they have no difficulty in saying that Hong Kong is a first-class international city.

**MS AUDREY EU** (in Cantonese): Madam President, I support the motion of Ms Emily LAU and oppose the other two amendments.

Thank you, Madam President.

**DR RAYMOND HO:** Madam President, according to the Basic Law, the Chief Executive and Legislative Council Members are to be elected by universal suffrage in the future. Under these circumstances, a constitutional framework that can put this clause into practice is needed, and hence a constitutional reform is necessary. To carry out a constitutional reform, we in the first place need to review our constitutional developments. Theoretically, the sooner we review our constitutional developments, the better we will be able to draw a constitutional framework that is suitable for Hong Kong. Unfortunately, Hong Kong's current situation does not appear to give us the best timing to do so.

While I am glad to learn that the executive authorities have undertaken in the Policy Agenda to begin to make suitable preparations for the review of constitutional developments after 2007, I am worried that if the commitment were put into practice now, Hong Kong would need to face more problems which would hinder its economic recovery.

Hong Kong is now being obsessed with political, social and economic problems. Politically, the accountability system and Article 23 of the Basic Law are issues of controversy. Although the accountability system has been implemented for a period of time, many Hong Kong people still doubt its effectiveness. And in fact, it has been criticized by the public for not being able to increase people's confidence in the Government since its implementation. As

for Article 23 of the Basic Law, public opinions are still very divisive, although the Basic Law does require the Government of the Hong Kong Special Administrative Region to legislate on this Article. Socially, the unemployment rate in Hong Kong is still standing high. Many citizens are complaining about the inability of the Government to address the problem. Worse still, while many Hong Kong people are unemployed, import of labour as well as professionals is allowed and encouraged to increase Hong Kong's competitive advantage. Economically, Hong Kong is suffering from a negative growth rate. The Government's deficit together with the salary reduction and layoffs becoming a frequent phenomenon in the private sector, have made people urge the Government to reduce the salaries of civil servants. A law was therefore enacted last year to make the pay reduction feasible, but at the same time, it adversely dampened the morale of civil servants. Currently, another pay reduction is being discussed between the Government and the civil servants. If the pay reduction is implemented, civil servants' morale would further go downhill.

The problems that I have just mentioned and are on the agenda of people's mind are highly controversial in Hong Kong. More importantly, they have made people continue losing their confidence in the Government.

What the Government should do now is to improve people's confidence by helping the economy of Hong Kong to recover as soon as possible. Implementation of political reforms that will incur more controversy is undesirable at this stage. Controversy will make us unable to achieve a more harmonious social atmosphere which is essential for economic recovery. This differs significantly from the situation three years ago. People's sentiments likewise change with time.

Madam President, I so submit. Thank you.

**MR LEUNG YIU-CHUNG** (in Cantonese): Madam President, every year, there are bound to be some routine motion debates in the Legislative Council. For example, on or around 4 June every year, Mr SZETO Wah will certainly sponsor a motion on the 4 June Incident for debate. Besides, Ms Emily LAU will also propose some routine motions which certainly involve constitutional reform. However, the situation this year is a bit different. It is because the routine motions proposed by Ms LAU before were all very "forceful". For

example, she would surely go for a discussion on the election of the Chief Executive by universal suffrage of "one person, one vote", or criticize the election of the Chief Executive as a coterie election. As Ms Audrey EU has said, Ms Emily LAU is really different this time around, for she is much milder than before. I believe this change is due to her wish to see consultation on the electoral system in 2007 to be conducted as soon as possible. This change of hers is indeed well-intentioned. But much to our regret, this is, after all, her sole wish and many colleagues do not subscribe to it. They will propose amendments to the motion so long as the motion does not tally with their wishes. Then what are the contents of their amendments? They simply serve to stall the consultation on constitutional reforms again and again, without telling when such stalling will cease.

Madam President, recently, I watched the movie, the "Infernal Affairs", and I think many colleagues must have also watched it. I think what Anthony LEUNG, an actor cast in this film, had said applies most aptly to the present situation. He said, "Three years after three years, and another three years after three years, now that it has been almost 10 years". Indeed, this very much reflects the situation of our discussion on constitutional reforms. There is no denying that we already made a late start, and I have no idea for how long it has been stalled. But I really wish to ask our officials and colleagues this question. For how much longer does it have to be stalled before it would be considered an appropriate time? Dr Philip WONG's amendment proposes that consultation be conducted at an appropriate time and that research must be conducted beforehand. May I ask Dr WONG this: When will be the appropriate time? I remember that Ms Emily LAU proposed a similar motion in 2001, but some Members said at the time, "We have reunited with the Motherland for less than two years only, why do we have to discuss these issues in a rush?" They added that as our position was not yet secure, it was therefore not an appropriate time then.

Madam President, today, six years have lapsed after the reunification. I wish to ask: Is it an appropriate time now? Is it that we cannot even conduct a consultation? But some Members said that there is another problem now, that is, we must revive the economy first and we should focus on improving the economy and so, this issue of constitutional reforms should be put off, once again. Dr Philip WONG said in an article written by him in a newspaper days ago that in the next couple of years, we should speed up the pace of economic development, boost confidence and work for social cohesion and consensus, rather than engaging in unnecessary political disputes. Should Dr WONG

genuinely go by this logic, I think he should be the first to stand out to oppose the enactment of laws to implement Article 23 of the Basic Law, for it is evident that legislation on Article 23 will precisely shatter social cohesion and lead to unnecessary political disputes, so to speak. While consultation on constitutional reforms might lead to disputes, I think these disputes are absolutely not unnecessary, because the Basic Law is silent on the electoral system after 2007. So, a consensus on constitutional developments must be reached in the community of Hong Kong before 2007. If discussions are postponed continuously, I am worried that divergence of opinions on these issues would gradually erode away the cohesion of society. Then we would be repeating the mistake we made in respect of Article 23. If the time for consultation and discussion is insufficient, the conclusions so drawn ultimately would only be a mess.

Furthermore, Dr WONG considers that efforts must be concentrated on reinvigorating the economy and so, it is inappropriate to induce disputes in this regard. But I must point out that if consultation is not conducted early, and if this issue is stalled indefinitely, it would only lead to more uncertainties about the future of Hong Kong. In that case, big bosses and ordinary citizens alike would not be able to build up their confidence, thus leading to social instability. I think we should not act like an ostrich by brushing aside and neglecting this issue.

Moreover, Dr WONG proposes in the amendment that the Government should conduct research before proceeding to consultation. In fact, Hong Kong people have been fighting for democracy for some 20 to 30 years. This can be a long time, or a short time. If the Government intends to conduct research on public opinions, it should have abundant information, and also plenty of topics and public opinions in hand, and it will not be difficult for the Government to conduct in-depth studies. In fact, it will be very easy to conduct these studies and they will not take a long time. The only question is whether or not the Government is willing to do so. I remember that in 2000, the then Secretary for Constitutional Affairs, Mr Michael SUEN, said that he would first study the constitutional systems of countries worldwide in order to form a so-called mature view for Hong Kong. It was 2000 then, and it is now 2003. If the Government has really conducted this study, it should have studied this issue for a couple of years. But now, we are again asking the Government to continue to conduct studies. Obviously, Dr Philip WONG is taking Mr Michael SUEN to

task for not doing his homework in the last couple of years. If the Government has done its homework, then will it please show us the findings of the studies.

Regarding Mr LAU Ping-cheung's further amendment, although it is expressly stated that consultation should be conducted after the 2004 Legislative Council elections, we still have to ask: Why can it not be conducted now? According to some general estimates, the consultation will take two years and if it commences now, it will complete within six months after the Legislative Council elections next year. So, all political forces can profess to the public their stance on constitutional reforms in the two elections to be held in the interim, and the public can also express their views on the future constitutional system through their votes. This is by far the fairest and the most open mechanism for public consultation. I trust Mr James TIEN also shares this view, for he also expressed similar views in 2000.

Another option is that we can consider incorporating arrangements for universal suffrage in the Legislative Council elections, so that apart from electing Members of the Legislative Council by "one person, one vote", voters can also vote on constitutional reforms by "one person, one vote". This can achieve savings in expenditure and at the same time gain a clear understanding of public opinions.

In fact, other than the timing for consultation, the method of consultation is also very important. The review of developments in representative government in 1988 and the recent consultation on the enactment of laws to implement Article 23 of the Basic Law serve as a reminder that an objective and neutral system for consultation is very important.

Madam President, for these reasons, I hope that consultation will be conducted as soon as possible. I so submit.

**MR NG LEUNG-SING** (in Cantonese): Madam President, constitutional reform is a very important issue. But I also agree that the importance of this issue will change with time. Many Members said earlier that Ms LAU's motion this year is moderate, and this can be considered a right thing to do in relation to the times. In the present social and economic environment, constitutional reform has become an issue of little urgency. No doubt the public is now most concerned about such issues as economic recovery, improvement of the people's livelihood

and the elimination of the fiscal deficit. Therefore, the prime tasks of Hong Kong now are to find ways of formulating a suitable development strategy to complement the economic restructuring and our country's accession to the World Trade Organization and also of enhancing the economic integration between Guangdong and Hong Kong to develop business opportunities. On the other hand, we all know that the Basic Law has provided for the constitutional arrangements for the Hong Kong Special Administrative Region (SAR) before 2007, including the specific methods for the election of the Chief Executive and Members of the Legislative Council. After the Government and the Legislative Council have finished handling matters pertaining to the Legislative Council elections in 2004, there will still be ample time for studies and discussions to be conducted on matters relating to post-2007 constitutional developments, and the public consultation can then commence. The best way to handle this important and yet not urgent issue is to proceed step by step, rather than rushing it through.

In any case, all sectors of the community certainly can explore and study the issue of future constitutional developments on their own initiative. Government arrangements may not be entirely necessary. They can explore and study the issue in a highly open manner, analysing all possible arrangements for constitutional development in the future without taking any predetermined position. It is provided in the Basic Law that the method for forming the Legislative Council shall proceed in the light of the actual situation in the SAR and in accordance with the principle of gradual and orderly progress, and the ultimate aim is the election of all Members by universal suffrage. Obviously, the Basic Law does not envisage the implementation of universal suffrage in one step. Rather, it should be a gradual and orderly process formulated in the light of the actual needs, having regard for such factors as the views of all quarters of the community, whether their interests can be better reflected through the new constitutional arrangement, whether the legislature can operate more effectively to meet the needs of this business-oriented community of Hong Kong, whether the executive and the legislature can further enhance co-operation in their efforts to serve the overall interest of the community, and so on.

Looking back on past experiences, I think the functional constituency electoral system has for a long time played a unique and positive role in the constitutional development of Hong Kong, enabling the voices of different strata of the community, different industries and different sectors to be duly represented in the Legislative Council. In the existing environment, Hong

Kong is facing challenges as a result of economic restructuring. Some new industries have emerged, such as the logistics industry, high technology industries and the Chinese medicine industry of which the status has been established by statute recently, while some traditional industries have been given new definitions and functions. Therefore, the formulation of public policies must be in keeping with the times. It must fully complement these changes in society and absorb input from talents in the relevant industries through their participation in politics, in order to better map out the future direction of Hong Kong and facilitate the development of various industries and also the people's lot. In discussing the future constitutional development, we must take into account the actual needs socially, culturally, economically and also in respect of the people's livelihood, and we must draw on the valuable experience and effectiveness of the existing system. Only in this way can the discussions provide a comprehensive vision and practical reference value.

Madam President, I so submit.

**DR YEUNG SUM** (in Cantonese): Madam President, before the Legislative Council elections in 2000, the Government had undertaken to conduct a constitutional review and public consultation after the elections. At that time, the Democratic Party already stated that the constitutional review must be conducted as soon as possible, so as to facilitate the early implementation of universal suffrage for the election of the Chief Executive and the Legislative Council. Regrettably, after the Legislative Council elections in 2000, the Government had gone back on its words. In fact, over the last couple of years, public opinion has become very clear. According to an opinion poll conducted by the Hong Kong Institute of Asia-Pacific Studies of The Chinese University of Hong Kong in 2001, as many as 70% of the respondents agreed that all Members of the Legislative Council and the Chief Executive should be returned by direct elections as soon as possible. Obviously, their aspiration for democratic direct elections was very clear indeed. But now, in 2003, the Government is still dragging its feet.

The day before yesterday, the Secretary for Constitutional Affairs, Mr Stephen LAM, told us that the Government had neither a timetable nor a proposal for the constitutional review. As a result, we had to spend 45 minutes discussing this issue at the meeting of the Panel on Constitutional Affairs, for we

did not know what to discuss. Madam President, this is downright ridiculous. I do not understand why the Secretary for Constitutional Affairs did not provide us with any information for discussion. The Secretary stated that he was heavily engaged in preparations for the District Council elections and the Legislative Council elections, and that he would not be able to come up with a detailed timetable at the meeting of the Panel on Constitutional Affairs next month. Has the Government been frightened by public opinion that it dares not conduct a consultation? The issue of the Government enacting laws on Article 23 of the Basic Law has made a vast majority of the people realize that without a Chief Executive returned by the people's mandate, the Government can act in its own way and turn a blind eye to public opinions. No matter how strongly the public is opposed to legislation, the Government is still hell-bent on its own way. If the people can elect their own Chief Executive, I believe the result would certainly be different. The existing political system is fraught with problems. The people are dissatisfied with the administration of the Government, and government policies do not allow the stepping down of the Government through elections. I believe public opinion today is much clearer than it was some two years ago when the issue of constitutional review was discussed in this Council. The only reason for the Government refusing to conduct public consultation now is that it fears the people will demand for the adoption of universal suffrage for the election of the next term of the Legislative Council.

I still remember that on 14 June 2000, when the issue of constitutional review was discussed in this Council, Chairman of the Liberal Party James TIEN said that it was not an appropriate time for constitutional review and consultation, and that 2003 would be appropriate because no election would be held in 2003 and so, society would have sufficient room for a large-scale consultation. He added that by 2003, when the SAR had been established for five years, it would be an appropriate time for constitutional review. Is it not that appropriate time now? Today, if the Liberal Party no longer holds that 2003 is an appropriate time for the review, I think it has nothing to do with changes in social circumstances. Rather, it is because Mr James TIEN is now a Member of the Executive Council and so, he would consider it appropriate only if the Government says it is appropriate. This precisely explains why we have to call for a constitutional review as soon as possible, so that the Legislative Council will be fully elected by universal suffrage. So long as the Legislative Council is dominated by pro-government parties rather than representatives of public opinion, public opinion would not be fully reflected and respected.

The Secretary for Constitutional Affairs said the day before yesterday that the Government was studying the scope of the constitutional review. The Democratic Party considers that the scope of the review should not only cover the elections of the Chief Executive and the Legislative Council after 2000. It should also cover the propriety of maintaining the village representative elections and the appointed seats in District Council elections, as well as the powers of the Legislative Council and the District Councils, particularly the separate voting arrangement and the limitations on Members in proposing bills as stipulated in the Basic Law. The last area mentioned by me involves amendment of the Basic Law, the procedures of which are not only complicated, but also time-consuming. Under Article 159 of the Basic Law, amendment bills from the SAR shall be submitted to the National People's Congress (NPC) after obtaining the consent of two thirds of the deputies of the SAR to the NPC, two thirds of all the Members of the Legislative Council of the SAR and the Chief Executive of the SAR. In the paper provided by the Government to the Panel on Constitutional Affairs, it is pointed out that for matters entirely within the ambit of the SAR, the steps and procedures involved will take about 15 to 22 months according to the Government's estimation. That is quite a long time. Therefore, the Democratic Party considers that the Government should conduct the constitutional review as soon as possible. So, we will support Ms Emily LAU's motion and oppose Dr Philip WONG's amendment and also Mr LAU Ping-cheung's amendment to Dr Philip WONG's amendment.

Madam President, earlier on Dr Philip WONG emphasized repeatedly that the public is most concerned about the economy and so, we should not discuss politics for the time being. But he appears to have forgotten one thing and that is, politics and the economy are actually inseparable. If we take a look at the deposits in banks, we will find that they have increased in multiples of the figure in 1997. Basically, it is not the case that Hong Kong people have no money. Only that they do not wish to make investment, for they basically have no confidence in the wavering policies and administration of the Government. If the people are given an opportunity to elect the best Chief Executive in their view, I trust it can rally support from the people on the one hand and boost public confidence in the Government on the other. I think this is basically very important. If we fail to resolve the political problems, the economy may sometimes be hindered as well.

Madam President, I also wish to mention Prof LEE Ming-kwan from the Department of Applied Social Sciences of The Hong Kong Polytechnic University. His political views are in fact very conservative. But in 1998, he wrote an article about the Government and political groups. I mentioned this article in particular because some of my students had made reference to that article. In his article, he said that the existing political system in Hong Kong is inefficient indeed, because the Government has no government party and so, it has to "bargain" every time, for it does not know whether its proposal stands any chance of passage. While the directly-elected Members of the Legislative Council are representative of the people, they do not have the powers and so, more often than not, they can only criticize the Government without being able to play a part in policy formulation. Therefore, he considered that such a political system is entirely inefficient. Despite his conservatism, Prof LEE has suggested the public or the Government to go for the election of the Chief Executive by universal suffrage and the amendment of the Chief Executive Election Ordinance as soon as possible. In that case, whoever is elected as the Chief Executive will have the support from political parties, because Prof LEE is of the view that political parties are actually indispensable to the operation of the constitutional system in a civilized society. All in all, I think the Government should make more reference to the findings of opinion polls and the views of various sectors, with a view to conducting the constitutional review as soon as possible. Ms Emily LAU is only reminding Members to urge the Government to conduct consultation and draw up a timetable. She is not asking for universal suffrage right in 2007. I must tell Secretary Stephen LAM that these are the unshirkable duties of the Government.

Thank you, Madam President.

**MR ALBERT CHAN** (in Cantonese): Madam President, the Basic Law provides that the methods for the selection of the Chief Executive and the formation of the Legislative Council must be reviewed and that the relevant progress must be mapped out. But over the years and to date, the Government has adopted a policy of procrastination, which is supported by some Members. Regarding Article 23 of the Basic Law, the implementation of this provision is also stipulated in the Basic Law. But on this issue, the Government cannot wait to take actions, and some Members have also urged the Government time and again to act as soon as possible. These two tasks are clearly provided for in the Basic Law but obviously, the Government has a preconceived view on their

priorities. Now, legislation on Article 23 of the Basic Law is looming, as the Bill has already been gazetted. But insofar as the constitutional review is concerned, actions are long overdue because up till now, not even a specific timetable has been drawn up. Some Members are nevertheless saying that the review should be conducted after the elections in 2004. These views are indicative of their oblivion to the sentiments of Hong Kong people and their failure to perform the duties required of them. They may even have flouted the importance of the work as stipulated in the Basic Law.

In the last debate on the policy address in this Chamber, I criticized the political system of Hong Kong of being autocratic and feudalistic. The Secretary indignantly refuted my remarks at the time, alleging that I was a Member departed the farthest from truth. Madam President, when I studied in university, I got my first degree in political philosophy. On the question of what system is considered feudalistic, undemocratic and autocratic, the textbooks on political studies for the first year of the undergraduate programme offer many yardsticks. I hope the Secretary can be more objective, and I will also try my best to keep calm in analysing why I would say that the political system of Hong Kong is feudalistic and autocratic. Let us see whether the Secretary can respond to his allegation against me from a theoretical perspective.

Our Chief Executive is not returned by a direct election. Rather, he is returned by an election in which several hundred people take part to select a Chief Executive to represent all the people of Hong Kong. What can it be if this is not autocratic and feudalistic? Let us take an overview of advanced societies and the so-called democratic societies worldwide. What place in the world is like Hong Kong where the leader is returned by way of "calling a stag a horse"? If the Secretary considers that this is democratic, then I think his definition of democracy may not find acceptance even in MAO Zedong's concept of neo-democracy. Moreover, half of the Members of the Legislative Council are not returned by direct elections. If he said that the functional constituency election is democratic, I do not know what kind of democracy it is. Furthermore, the three Secretaries of Departments and 11 Directors of Bureaux are all appointed by the Chief Executive, not being subject to selection and confirmation by organizations comprising representatives of public opinions. So, this is also autocratic and feudalistic.

In the 21st century, which advanced society in the world will operate in such a feudalistic and autocratic manner? I think this can be found only in Hong

Kong. So, seeing such sluggish democratic development of the constitutional system in Hong Kong, I, being a member of the Hong Kong community, feel that this is not only a disgrace to Hong Kong people, but also a disgrace to the Chinese nation. If we look at the development in mainland China, the electoral systems in some places are even more democratic and advanced than that in Hong Kong. Certainly, there are still some places where elections are held with nominations by the Communist Party of China. But the elections are still a more popular form of universal suffrage, rather than being conducted internally by several hundred people. So, in terms of the pace of democratization, the progress in Hong Kong is even slower than that in some places on the Mainland.

Madam President, this motion of Ms Emily LAU today is very moderate indeed, but it surprises me that there are still two amendments. I oppose both amendments in principle. But I call on Members, particularly supporters of Dr Philip WONG's amendment, to "lie down" (an idiomatic Cantonese expression meaning to pledge oneself to do something at all cost) to support Dr Philip WONG, just as Dr Philip WONG "lying down" to support the policy address of the Chief Executive. If Members do "lie down" to support him, then will Members please do so now and get some sleep. If Members do not fall asleep now, then it means they are not genuine supporters of Dr Philip WONG's amendment. So, in the vote to be taken later, Members who support Dr Philip WONG's amendment should not be casting their votes, for they would have fallen asleep. If they do not fall asleep, then it means that they do not genuinely support Dr Philip WONG's amendment. If Dr Philip WONG does not call on Members to go to sleep, that means he was actually talking nonsense on the last occasion when he said he supported the Chief Executive's policy address and so, he might not be a true supporter of TUNG Chee-hwa. So, I urge Members who will "lie down" to support Dr Philip WONG's amendment to go to sleep.

Thank you, Madam President.

**MR ALBERT HO** (in Cantonese): Madam President, it can be said that Ms Emily LAU has swallowed a greater part of her pride this time in proposing this mild motion. She sincerely believes that if she proposes a motion as mild as such in this very conservative Chamber, asking for nothing but just consultation in order to have more time for preparation, the motion should stand a good chance of passage. Unfortunately, she has still underestimated the degree of conservativeness of this Council. In fact, as we all know, how many people

who have been enjoying political privileges will be genuinely willing to give up those privileges? They do not even wish to discuss this. That is why we always say that people who are accustomed to enjoying free political lunches will never ever be willing to pay. So, I am greatly disappointed that even such a moderate motion which merely asks for consultation to be conducted as soon as possible is resisted by a number of Members of this Council.

As Mr Abraham SHEK said earlier, constitutional reforms will have extensive and far-reaching impact on each and every stratum of society and so, they could not proceed in haste. This is precisely the reason why we must strive ever harder for more time so as to make preparations well in advance. We all know that the Basic Law has expressly provided that the election of the Chief Executive and the formation of the Legislative Council will develop towards the ultimate goal of universal suffrage. There are clear provisions on the constitutional developments in the first 10 years after the reunification, and it is also stipulated that by 2007, there will be further reforms which may even be wholesale reforms, in order to achieve the ultimate goal of democracy for which we have championed. Given the importance of this matter, we cannot start making preparations only in 2004 or 2005, for the time left will be too short. Let us take a look at this: To make preparations for constitutional reforms which have such far-reaching impact, we certainly must conduct a very extensive consultation exercise. We must also conduct studies and discussions, forge consensus in society, and set the legislative mechanism in motion before reforms can be implemented. All these are necessary particularly because our goal is to move towards democracy and so, the process must be democratic. In order to press ahead towards the ultimate goal of democracy as specified in the Basic Law, the relevant procedures and approaches cannot go against the requirements of democracy. Under such circumstances, it only stands to reason that we hope to make the preparations properly.

Madam President, a number of colleagues, including Dr Philip WONG, said earlier that it is now imperative to revive the economy. This, I certainly agree. But as we said earlier in the debate on the first motion, in order to improve the economy, facilitate an economic recovery, forge a consensus in society, restore confidence and overcome difficulties, one of the most important and viable strategies is to demand our Government to summon up sufficient moral forces and political acceptability for it to lead this society, promote reforms and facilitate economic development, so that the people will accept the various measures proposed by the Government to ride out the storm together.

However, these are precisely lacking in the Government. In this connection, constitutional reforms can be helpful. If Mr TUNG Chee-hwa is willing to treat this matter with a liberal mind and live up to democracy in his words and deeds, I believe this can increase his acceptability in society. Certainly, we understand that he will have many limitations as he is, after all, returned by a small circle election. But if he can demonstrate this very mindset, I believe his popularity will at least cease to remain low.

Madam President, earlier on, Dr LUI Ming-wah and Dr Philip WONG said time and again that we must proceed in a gradual and orderly manner. Just as many colleagues have said, we have been proceeding in a gradual and orderly manner for 20 years. This phrase of "a gradual and orderly manner" resulted in a veto of direct elections in 1988 and the veto of the OMELCO consensus which had been endorsed by the Legislative Council. All we could do was to proceed at a very slow pace, moving on slowly both before and after the promulgation of the Basic Law and all the way till today. Today, we are still saying the same thing. Does this aim to resist the realization of democracy and continue delaying consultation on constitutional reforms? This, I think is downright shameless.

Some colleagues said earlier in the debate that the business sector is not interested in participating in direct elections. They appeared to be suggesting the need to retain the functional constituency election as a form of special protection for the industrial and commercial sectors. I hope colleagues will not detach themselves from the times any more. They must not always pander to the obsolete mentality of feudalistic colonies and must not underestimate the political awareness of many members of the business community. Democracy has been fully put in place in many Southeast Asian countries, such as South Korea, the Philippines and Indonesia, not to mention the many advanced civilized countries. All in all, election by "one person, one vote" may not necessarily be equivalent to democracy, as Dr LUI Ming-wah has said. But I wish to tell Members explicitly that without a popular electoral system founded on "one person, one vote", it would definitely be undemocratic and anti-democracy.

Madam President, here, I wish to call on Members again to support this motion of Ms Emily LAU and oppose the two amendments, for the amendments will only drag our feet in our strive for more time to make the best possible preparations for constitutional reforms in 2007. Thank you, Madam President.

**MR FREDERICK FUNG** (in Cantonese): Madam President, the motion of Ms Emily LAU today is the same in terms of its underlying principle as the one she moved last year on the selection of the second Chief Executive. Both motions urge the authorities to launch a consultation on our political reforms as soon as possible. The only difference is that while the focus of discussions on the last occasion was the method of selecting the Chief Executive, the scope of discussions this time around is much wider. For this reason, the Hong Kong Association for Democracy and People's Livelihood (ADPL) and I will stick to our stance last year and support Ms Emily LAU's motion today.

To begin with, in the narrow sense, most countries in the world today are democracies, meaning that their citizens can, of their own free will, directly or indirectly elect their heads of administration on the basis of "one person, one equal vote". Besides, on the same democratic credo, the people of these countries can also elect representative assemblies at different levels to monitor and check the work of the executive authorities. According to an economic study of the World Bank in 2001, 33, or as much as 80%, of the 40 countries or places with the highest per capita income (of which Hong Kong is one) are democracies. But Hong Kong is not one of these 33 democracies, evident that it is running counter to the world trend.

The current political system of Hong Kong is mainly featured by the Chief Executive election, held every five years, and the Legislative Council elections and District Councils elections, held every four years. If the concepts, principles and values of democracy are applied to examine these three electoral systems, it can be noted that there is a fundamental shortage of democratic elements in the political system of Hong Kong. The people's opinions and voices are never given any genuine reflection or respect in the system, and worse still, they may simply be distorted.

In the second Chief Executive Election last year, for example, only the 800 members of the Election Committee were qualified to make nominations and vote. The authorities concerned may claim that these 800 people could broadly represent the 7 million people in Hong Kong, but as long as the Chief Executive is not elected by all the 7 million people, this claim is no more than just a make-believe defence, one which cannot convince the 7 million people that these 800 people can really represent them. A "coterie election", as how we commonly call such an electoral system, totally violates the fundamental principle of "one person, one equal vote". And, there were some things even

more puzzling about the election concerned. There were just 794 Election Committee members and only one candidate; nomination lists had to be made public, so nominations were strangely turned into an open ballot. Since nominations had to be made public, individual members might be prevented from voting freely. The ADPL and I maintain that this disguised form of open ballot is a violation of the principle of allowing electors to vote in free will in democratic elections.

What is more, the methods of forming the two-tiers of representative assemblies can by no means be considered "democratic". In the case of the Legislative Council, for example, although Election Committee seats will be abolished next year to raise the number of directly elected seats to 30, the functional sector seats, totalling 30 and returned by "coterie" elections, will remain. This again is not in compliance with the principle of "one person, one equal vote". Such non-compliance is in itself an anomaly, because functional sector elections allow members of some professions or representatives of related organizations to have one more vote than the ordinary people. The mentality that some professions in society are superior violates the universal belief of democracy that "all men are born equal". What is even more regrettable is the system of separate voting of the Legislative Council, almost only of its kind in the world. Under this system, the outcome of voting is distorted, to the extent that the functional constituency Members of the Legislative Council, whose popular mandate is very flimsy, can become a tool of suppressing public opinions. Very often, they become the best convoy of the government cause. Regarding the 18 District Councils, direct elections were actually implemented before 1997, very much in accordance with principles of democracy. But in 1999, the Government restored the system of appointed membership, thus pulling the cart of democracy backward. The restoration of appointed membership is a blot on representative democracy, something which pulls back our most democratic institution, the District Councils, along the path of democratization.

The ADPL and I maintain that since the relevant policy agenda of the executive authorities this year states that preparations for the political system after 2007 will be made in good time, now is actually the most appropriate time for the authorities to launch full-scale discussions and serious and extensive consultations on the advantages and disadvantages of Hong Kong's political system, on its electoral systems, on the development of political parties and on the formation of its representative assemblies. That way, public interest in the issue can be aroused to build up a community consensus.

As regards the amendments of Dr Philip WONG and Mr LAU Ping-cheung, the ADPL and I do have some reservations about the expression "research concerning constitutional developments". Articles 45 and 68 of the Basic Law already provide that the ultimate goal with respect to the selection of the Chief Executive and the formation of the Legislative Council shall be "universal suffrage". That is why there is simply no need for any studies. The conduct of any further studies is nothing but a breach of the Basic Law, and such studies may even delay the implementation of the Basic Law. Therefore, the authorities simply should not conduct any further studies. They need only to introduce universal suffrage and adhere to the Basic Law. I maintain that now is the most appropriate time to launch discussions and consultations.

With these remarks, I support the motion and oppose the two amendments.

**MR IP KWOK-HIM** (in Cantonese): Madam President, the Basic Law Drafting Committee (BLDC) started to draft the Basic Law in 1985, and the final draft was passed by the National People's Congress in 1990. Throughout the entire drafting process, the BLDC listened extensively to the views and suggestions of Hong Kong people, and it was only after thorough consultations and discussions that it drew up the Basic Law of the Hong Kong Special Administrative Region (SAR) as we know it now. Therefore, we can say that the Basic Law provisions on our political system, including the method for the selection of the Chief Executive, the apportioning of Legislative Council seats among geographical constituencies and functional constituencies and even the reference to orderly and gradual progress of constitutional reforms, are all the outcomes of adequate discussions and negotiations in the entire community. They can balance the views and interests of all and command the wide support and acceptance of Hong Kong people.

The DAB maintains that political stability is the prerequisite for any discussions on constitutional development. The reason is that constitutional development is a highly contentious issue, and so, sensible discussions can be possible only under a harmonious and calm atmosphere. If one looks at the existing situation, one will see that there is now an atmosphere of keen competition because the SAR Government will conduct two major elections in 2003 and 2004, and so, it is simply impossible for society as a whole to conduct calm, rational and sensible discussions on constitutional development, not to mention put forward any sensible suggestions that are in compliance with the

Basic Law. Therefore, it is not appropriate to conduct any large-scale consultation at this stage. If we do so, social stability may be adversely affected.

What is more, the DAB is of the view that the outcomes of the District Council elections in 2003 and the Legislative Council elections in 2004 will necessarily influence the future development of our political system. For this reason, the DAB maintains that the Government should wait until the completion of the Legislative Council elections in 2004 and then proceed quickly to assess the advantages and disadvantages of the electoral systems. This will facilitate community discussions on the development of our political system after 2007.

For the above reasons, the DAB considers that extensive and in-depth public consultations should be conducted only after the completion of the Legislative Council elections in 2004. It is reasonable to adopt a timeframe of three years for building up a social consensus, brewing a scheme of review, enacting the legislation required and completing the entire review in a gradual and orderly manner. Therefore, the DAB supports the amendment proposed by Mr LAU Ping-cheung. As for the one moved by Dr Philip WONG, provided that its reference to "an appropriate time" is the same in meaning to that made in Mr LAU's amendment, the DAB will also support it. Regarding Ms Emily LAU's motion, it urges the SAR Government to conduct a public consultation as soon as possible. Since what Ms LAU means by "as soon as possible" is that the SAR Government should launch the consultation concerned immediately (I heard her say so very clearly just now), the DAB will not support her motion, because we think that it is not the appropriate time, as I said a moment ago, to conduct any consultation now.

Madam President, I so submit.

**MR MICHAEL MAK** (in Cantonese): Madam President, originally, I had prepared a script for my speech today and I thought I would be reading it out. However, having listened to the speeches of other Members, I threw away that script and I am not going to read it out; and having been lectured by Ms Emily LAU, I now choose to express my brilliant views — I hope they are brilliant — impromptu. I do hope that the relevant officials and persons will listen to my views.

First of all, many people have said that this motion proposed by Ms Emily LAU is rather conservative. Indeed, I also considered it conservative when I first received this motion. But then, I had some extravagant hopes, thinking that it might be able to command support from different parties and factions in the Council. Earlier on, I heard Dr Philip WONG say that he was in support of democracy but ..... Then he had gone farther and farther away from it. The Liberal Party's position can be barely justified. But for the DAB, or the Democratic Alliance for Betterment of Hong Kong in full, they have no reason not to support democracy. However, the DAB does not even support such a simple motion of Ms Emily LAU, which proposes that consultations be conducted as soon as possible. Although I hold Ms Emily LAU in high repute, I had thought about proposing an amendment to her motion. I had even thought about fixing a date to blatantly "set them up", so that they will be reviled by the future generations. Yet, I must show respect to Ms Emily LAU. After discussions on our "intentions" at a regular meeting, I decided not to propose an amendment out of respect for Ms LAU. However, if she proposes such a simple and conservative motion again, I will definitely propose an amendment, so that the descendants of these Members or so-called supporters of democracy, and also the voters will see whether there is a devil or angel under their skin.

Moreover, some people (I dare not say that they are Members, for I did not catch them very clearly earlier) said that in an environment where the economy is not at all stable, a constitutional review should not be conducted. Mr IP Kwok-him also made the same point earlier in the debate. I think this is sheer gibberish. Since the economy is in such a bad shape, why does the Government still introduce a bill on Article 23 of the Basic Law and make legislation so forcibly and adamantly? Precisely because this Council and the entire Government are not returned by universal suffrage, many problems have, therefore, arisen, resulting in undesirable political consequences, for example, the policy of building "85 000 housing units" which had been withdrawn all of a sudden, legislation on the civil service pay cut, the arbitrary and unreasonable legislation on Article 23 of the Basic Law, and so on. These policies have completely dashed the confidence of foreign investors, and that domestically. Many friends in overseas countries have written to me asking me why Hong Kong would come to such a state. They stated that they are not interested in returning to Hong Kong or coming back for investment. These are what they have really said to me. Other colleagues may have heard some other voices, but I have heard these voices. They considered that the many political problems

have led the Hong Kong economy downhill. I think if our Government and representative assemblies are returned by universal suffrage, this will definitely boost the confidence of foreigners and duly answer the aspirations of the people in this regard.

The popularity of the Chief Executive and some officials has continued to fall. I do not quite remember the popularity rating of Secretary Stephen LAM, but it appears to be not on the high side. Why? The home truth is that the Government is not returned by democratic elections. If it is returned by democratic elections, the people would support the Government, come what may; and its popularity would not have fallen to such a low point, particularly the popularity of the Chief Executive, and the Secretary's seems to be not as bad as his. This motion about public consultations on constitutional reforms is trivial indeed. I do not understand why Members cannot give it substantive support.

Many people have asked me why I, being an elected Member, would be so stupid as to support the direct election of representative assemblies and the Chief Executive by universal suffrage, for I already have vested interests. I tell them that first, it is clearly written in my election platform that I support the election of representative assemblies and the Chief Executive by universal suffrage and so, I am not worried that voters who support me will refrain from supporting me. I have many "ironclad" votes; I can say that they are in quite a large number. Those who do not support me in the first place will definitely not support me. So, I am very firm on this and I hold that the review should be conducted as soon as possible. On one occasion I had challenged Secretary Stephen LAM, asking him to tell me a timetable for discussion only. I asked him to name a date. It would be fine even if he said that direct elections would be held only in 2050. He can say so if he is bold enough. The Chief Executive can also say so if he is similarly bold enough, so that we can put it on the deck and show people where their hearts have gone. Is it that they are only wearing the face of supporters of democracy, but think the otherwise deep down in their hearts? Will the aspirations of the democrats and the general public be eventually realized?

I hope that Members can act out of their conscience. Otherwise, will they please just go away, and to quote what other people have said, they may "go to bed early", for it is indeed very late at night. It is nearly twelve o'clock now. I hope Members will support Ms Emily LAU's motion. Thank you.

**MR JAMES TIEN** (in Cantonese): Madam President, the topic of this motion debate is "Public Consultation on Constitutional Reforms". The positions of the original motion and the two amendments are neutral, for they deal only with public consultation. But today, some Members have questioned whether all the functional constituency seats should be abolished and even demanded the introduction of universal suffrage.

On the same occasion on 12 January 2000, the Liberal Party said, "The Liberal Party is of the view that we should conduct an extensive consultation at an appropriate time, but we do not think that this stage — the year 2000 or the end of this year after the Legislative Council Election — is the right time." I then went on to say, "I think that it will be more appropriate to conduct a comprehensive and extensive consultation in 2003 so that Members who intend to run for the seats of the Legislative Council 2004 will have a clearer stance and know what they will support. They will know if they will support a full direct election in 2008 or if they have any views on a certain functional constituency."

Madam President, 2000 was three years back. The Liberal Party already started to consult the constituents of our respective functional sectors last year on the question of whether or not we should stop running in functional constituency elections should we decide to stand in the election of 2004. The consultation is still in progress. Therefore, when Ms Emily LAU first sought my views on the original motion, on its request for public consultation as soon as possible, I thought, "The Liberal Party has already started the relevant work, so why does the Government not do that also?"

The motion subsequently aroused the concern of the Government. Some Members think that since I have joined the Executive Council, the Liberal Party will definitely support the Government. I do not think this way. On 1 July last year, the Government launched the Accountability System for Principal Officials. In 2000, the System was not yet implemented. Under the Accountability System, if the Principal Official concerned thinks that sufficient preparations cannot be made for the prompt conduct of public consultation on constitutional reforms this year, and if he thinks that studies should be conducted before the launching of public consultation, the Liberal Party will be caught in a rather difficult situation. The Liberal Party itself is conducting a public consultation now, but because of many other more pressing problems, such as the recession, unemployment, the fiscal deficit and our integration with the Pearl River Delta — problems also mentioned by many Members just now, the

Government thinks that there is a shortage of both time and resources, and so, no public consultation should be conducted for the time being. I cannot subscribe to such a view entirely.

Since the Liberal Party is constrained by a shortage of resources, we can only consult the sectors to which its Legislative Council Members belong. The Government possesses more resources, with different Bureau Directors sharing the responsibilities for different policy areas. Secretary Stephen LAM is responsible for constitutional affairs; his main job is not connected with improving the economy and the employment situation. These jobs belong to Secretary Stephen IP and Secretary Frederick MA. But this motion topic after all falls within the portfolio of Secretary Stephen LAM. Since he thinks that he cannot make it, the Liberal Party must consider his views in the interest of supporting the Accountability System.

Just now, many Members said specifically that Members returned by functional constituencies lacked representativeness or were not very representative. They therefore argued that all functional constituency seats should be abolished. I believe that given the current recession, if the 6 million people in Hong Kong were asked whether they would support the introduction of full direct elections, they would probably answer in the affirmative. But on the other hand, if they were also asked whether the existing functional constituency Members were entirely unable to make any contribution to Hong Kong, both in regard to improving the economy and the employment situation, I feel they may not necessarily think that all the functional constituency Members are entirely useless. That is why I think that an extensive consultation should be conducted. We also think that it is more appropriate to start the relevant studies now and then launch a public consultation some time before the Legislative Council elections next year, for this can enable Members who intend to run in the elections to tell their constituents exactly what they support.

For the reasons stated above, the Liberal Party has eventually decided to oppose Mr LAU Ping-cheung's amendment. We initially supported Dr Philip WONG's amendment. But then he said that he would rather have us support Mr LAU Ping-cheung's amendment. This made things very difficult for us. Therefore, we decided to abstain from voting on Dr Philip WONG's amendment. In regard to Ms Emily LAU's motion, as I mentioned just now, we have to respect the view of the principal official concerned, and so, the Liberal Party will abstain from voting on the motion.

**MR AMBROSE LAU** (in Cantonese): Madam President, Articles 46 and 68 of the Basic Law provide that the methods for selecting the Chief Executive and forming the Legislative Council after 2007 shall be specified "in the light of the actual situation in the Hong Kong Special Administrative Region and in accordance with the principle of gradual and orderly progress." Unfortunately, some people have focused on the expression "ultimate aim" only. The references to "the actual situation" and "the principle of gradual and orderly progress" have not been given due attention. Therefore, whether we are going to launch a public consultation on constitutional reforms after 2007 as soon as possible, or whether we are going to make preparations for a political review first, we must adhere to "the principle of gradual and orderly progress".

Madam President, "the actual situation" is the key expression. Its definition has long since been explained clearly by Mr JI Peng-fei in *Notes on the Basic Law*. First, any electoral system must take account of the interests of all sectors of society — balanced participation, in other words. Second, any electoral system must retain the time-tested components of the previous political system. Precisely because of the concern over the "actual situation" in Hong Kong, the Basic Law has not preset any schedule on the implementation of universal suffrage in Hong Kong. Nor has it "provided" that constitutional reforms must be introduced after 2007.

Madam President, the expression used in the Basic Law is "if there is a need to amend.....". Such a need will in turn depend primarily on "the actual situation". Functional constituency elections in Hong Kong can be dated back to 1985, and the functional sectors include the industrial and commercial sector, the financial sector, the medical sector, the legal sector, the engineering sector, the architectural sector, the social work sector, trade unions and religious bodies. Since these functional sectors are crucial to the economic development of Hong Kong and they are also the time-tested components of the previous political system, their abolition or otherwise should be determined by "the actual situation". Actually, the division of Legislative Council seats into directly elected seats and functional constituency seats is to a certain extent similar to the bicameral systems adopted in Western countries — the Senate and House of Representatives in the United States and the House of Lords and House of Commons in the United Kingdom, for example. These Western countries have managed to keep their bicameral systems, and, similarly, Hong Kong can, over a certain period of time, maintain functional constituency elections and direct

elections in geographical constituencies, so as to realize the principle of balanced participation.

Madam President, the second aspect to "the actual situation" in Hong Kong is the acute recession now. Our huge fiscal deficit has affected our ratings by the international financial sector. Deflation has continued for 51 months, seriously eroding the confidence of local investors and consumers. The bursting of the bubble economy has led to plummeting property prices and the shrinking of people's wealth. Wage reductions and layoffs are rampant, plunging people into livelihood difficulties. And, globalization has also resulted in increasingly fierce competition. Under such circumstances, our pressing task should be to revitalize the economy and improve people's livelihood. The prompt launch of a public consultation on constitutional reforms after 2007 may shift the focus of society and deplete its energy for revitalizing the economy. Therefore, the Hong Kong Progressive Alliance is of the view that to conduct a public consultation on constitutional reforms in the near future is not appropriate at all.

Madam President, I so submit.

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

**MR ANDREW WONG** (in Cantonese): Madam President, on Monday, the Panel on Constitutional Affairs convened a meeting. At the meeting, we had to work out the agenda for the meeting on 17 March. Ms Emily LAU asked whether the Government could provide a timetable for the agenda item on political development at the meeting on 17 March. At that time, the Government replied that there was no timetable yet, as studies were still ongoing. The Government then said that if Members did not wish to discuss the matter among themselves or if the Panel was the only one wishing to discuss the matter, the Government would eventually provide a paper, in which a timetable would be found. And, Members could discuss the matter when they received the paper. We were also told that we might of course decide to discuss the matter among ourselves before we received the paper from the Government. In the end, most Members voted that no discussions should be held in the absence of a paper from the Government. The voting result at the meeting shows that it looks likely that even this mild motion put forward by Ms Emily LAU today (which surprises even Mr NG Leung-sing) may not stand any chance of passage.

I would say that the motions moved by Ms Emily LAU on constitutional reforms (I would say constitutional development) have always been very moderate. If not, I would not render my support, because I think we should look at the whole issue rationally. I hope I can make a choice among the original motion and the two amendments, which are equally moderate. My analysis is very simple. Ms Emily LAU's motion urges on the expenditures implementation of constitutional reforms, and it does not specify how soon. Dr Philip WONG's amendment aims to slow down the pace in contrast to Ms Emily LAU's motion. He advises against haste, but his advocacy is very clear. He already made it very clear in the policy debate that the pressing task now should be to attend to our economic ills, and that constitutional reforms were not a matter of priority. This is identical to the point I made in the policy debate. Dr Philip WONG and I met with the Chief Executive during the same meeting, and we raised this point. The Chief Executive replied that everybody agreed that priority should be given to economic issues, and that constitutional reforms should not take precedence over them.

I talked all the time about constitutional reforms during the interview. In the policy debate I also explained clearly Samuel HUNTINGTON's theory. The theory deals with the three stages to political disorder. When social mobility outpaces economic development, there will be frustrations in society. When the resultant social frustrations outpace social mobility, political participation will emerge; people will want to take part in politics to get a "say". If the extent of political participation outgrows the institutionalization of policies, that is, if the institutions fail to accommodate participation, political instability will result. This means that in times of recession, that is, under the current circumstances, we have all the more reason to discuss constitutional reforms. We are talking about constitutional reforms after 2007. I think it is too late because much more work should have been done before that. But I think it is wrong for us not to first discuss what reforms should be introduced after 2007.

Just now, I went all around, searching for the relevant literature in the past. Madam President, I managed to find some really interesting documents. I found not only my speech during the policy debate on 17 January, but also the submission regarding the OMELCO consensus in 1989 mentioned by Mr Albert HO. This submission also covered the OMELCO's views on the draft Basic Law. In October 1989, the OMELCO published a submission on the draft Basic Law. This submission, which contained the views of the In-House Meeting (not the House Committee) formed by all the Unofficial Members of the

Executive Council and Legislative Council at that time, had been mailed to all Basic Law drafters in July 1989. There was a Standing Panel on Constitutional Development under the In-House Meeting formed by the two Councils.

In 1985, as soon as I first joined the then Legislative Council, I became a member of the Standing Panel. I was the convenor of the Panel starting from 1986, and save for three years when I withdrew from the Panel (in one year I was the Chairman of the Finance Committee and in the rest of the two, I was the President of the then Legislative Council), I have since been serving as a member of the Panel on Constitutional Affairs of the former and present Legislative Councils, or have served as the Chairman of the Panel. In 1987, we published a report, and in 1988 we published another one on the solicitation of opinions. The report published in 1989 was on the draft Basic Law. It can be noted that there was already an OMELCO consensus at that time. It was mentioned in paragraph 6.8 of the report that Members of the two Councils would like to see the implementation of political development as soon as possible, so that the population of Hong Kong could have a say in ruling Hong Kong through their elected representatives. Paragraph 6.9 therefore stated that members of the two Councils recommended the adoption of the schedule appended, so that all Legislative Council Members, with effect from 2003, could be returned by direct elections based on universal suffrage. There was another table, in which it was stated that there should be 20 directly elected seats, 20 functional constituency seats and 20 appointed or official Members in the Legislative Council by 1991. The ratio was 20:20:20. By 1995, it was suggested, there should be 30 directly elected seats and 30 functional constituency seats, without any appointed or official Members. By 1999, there should be 60 seats and 30 seats, meaning an increase to 90 seats in total. By 2003, all the 90 seats should be directly elected.

Mr James TIEN said that the motion today was neutral in position. I do not think so. Articles 45 and 60 of the Basic Law already provide that universal suffrage is the ultimate aim. Though it is stated that amendments can be made if there is a need, any such need will have to be defined within the context of the Basic Law itself. Then, how we are to introduce changes is precisely the problem we need to study now. Therefore, our urgent task now should be to conduct the studies concerned. For these reasons, I cannot accept the two amendments. This is not so much because of their wording. I firmly believe that even if Ms Emily LAU's motion is passed, the outcome will just be the same as that desired by the two Members who have moved the amendments.

**PRESIDENT** (in Cantonese): Mr WONG, your time is up. Please sit down.

**MR ANDREW WONG** (in Cantonese): Thank you, Madam President.

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

**MR MARTIN LEE** (in Cantonese): Madam President, Dr Philip WONG's amendment refers to "an appropriate time". I suppose he actually means that the appropriate time will come after the economy has recovered. I just wish to ask him, "What are we going to do if the economy does not recover?" Actually, there is no connection between democratization and the economic conditions. Members may recall a question I often ask, "Which countries among the poorest of the world will fare better — those with democracy or those without?" In a country where there is no democracy, its president will definitely be corrupt; he will either keep all the money for himself or may give some to his generals who will help him suppress the people. In one with democracy, the president will not dare to do so, because he fears that the people will not vote for him in the next election.

Mr LAU Ping-cheung moves that public consultation be conducted "after the 2004 Legislative Council elections". He does not specify before what time. The whole thing may well be deferred until after the Chief Executive election in 2002, or even until the Legislative Council elections in 2004. But in any case, it will not be as late as 2050 as mentioned by Mr Michael MAK, for "one country, two systems" will come to an end in 2047. Why have the two Members sought to move their respective amendments? I suppose the first amendment, moved by Dr Philip WONG, will please the Secretary; he will say that the amendment is "superb" because with it, he will not have to follow up the matter — having to work is the last thing he wants. I suppose it was because the Chief Executive still found the amendment inadequate that Mr LAU Ping-cheung was subsequently asked to move another amendment with reference to 2004. Mr Ambrose LAU talked about the notes of Ji Pengfei, but he has not studied the notes closely at all. The notes of Ji Pengfei in fact set down a very clear timeframe for democratic reforms. Ji was actually talking about reforms within 10 years, both for the Chief Executive election and the Legislative Council elections. Then, some Members expressed the wish of retaining the functional

constituencies; Dr Philip WONG also said something similar. But such a wish is against the Basic Law. We are not supposed to retain the functional constituencies forever, because Article 68 of the Basic Law provides that the ultimate aim is to select the Chief Executive by "one person, one vote". A retention of the functional constituencies will be tantamount to gradual and orderly "regression". People simply should not make such a point just because QIAN Qichen once mentioned it. This is a violation of the Basic Law. QIAN Qichen himself violated the Basic Law when he made that remark. His words are totally absurd.

Then, Honourable colleagues belonging to the DAB also stressed the need for a consensus. This is in fact their cleverest strategy, because they must voice opposition; when there is opposition, there will be no consensus and hence no need for any progress. Madam President, several years ago, DAB Chairman Jasper TSANG, Liberal Party Chairman James TIEN and I attended numerous open debates held by foreign TV stations and by local TV or radio stations. We discussed this topic many many times, and every time, they invariably said that the Basic Law should not be amended. But they still agreed that the Chief Executive should be returned by a direct election in 2007, and that the entire Legislative Council should also be returned by direct elections in 2008. If Mr Jasper TSANG thinks that I am wrong, please correct me. If Mr James TIEN also thinks that I am wrong, please stand up and correct me.

Why do people want to take regressive steps now? Members of the industrial and commercial sector can also run in direct elections. Just do not think that they can never be successful. Mr Allen LEE won in a direct election. Dr David CHU is planning to "parachute" onto New Territories East. I congratulate him on that though I at the same time hope that he will not hurt his legs on impact. I wish to say this to my honourable friend James TIEN: Stagnancy will result in regression.

Madam President, the whole world is moving towards democratization. Do Honourable Members really wish to keep delaying the matter until the day when the State ranks last and Hong Kong the second last, or the other way round, in terms of democratization, freedom and the rule of law? Am I correct in saying that they will not be satisfied until then? Do they think that they will thus be able to tell their children very happily that thanks to their fathers' efforts of delaying the democratic development of Hong Kong, Hong Kong can rank last in the world? Do they think that this is prestigious? Mr Abraham SHEK is

not in the Chamber now. If his daughter is listening to all these speeches now, she should be very sad. I wish to mention another Member who is in this Chamber right now. It is perhaps not very appropriate to name him. His son has recently told Members belonging to the Democratic Party that he is for democracy and does not approve of his father's deeds. I wish to ask these Honourable Members how they are going to face their children, not to mention their grandchildren. Their children may wish to stand in a Chief Executive election, or a Legislative Council election. Why do they want to stand in their children's way? Running in an election is a civil right.

Madam President, we often talk about our integration with the Pearl River Delta (PRD) these days. You know, the slogan has somehow changed from "When the State fares well, Hong Kong fares well" to "When the State fares well, Hong Kong may not be too bad". Having failed to cling to the State, Hong Kong now has to cling to the PRD. In no time, I suppose Hong Kong will even have to cling to Macao. Honestly, it may not be that bad to cling to Macao in this process of democratization. If the Hong Kong Special Administrative Region and the Macao Special Administrative Region are merged and then a direct election for selecting the Chief Executive is held, Edmund HO will surely be elected. But with such an integration, we will have direct elections immediately. The problem now is about the failure of Hong Kong itself. There have been so many hindrances which prevent the realization of this aim. The holding of direct elections must require the Chief Executive and the principal official concerned to put forward a proposal on amending the electoral laws, because under Article 74 of the Basic Law, the Legislative Council cannot do so. So, if the Chief Executive refuses to act, and if his most competent assistant (the Secretary) also refuses to act (inaction is the greatest strength of this Secretary), then nothing can be done. Then, how can we amend the Chief Executive Election Ordinance and the Legislative Council Election Ordinance? As long as the Chief Executive does not make a proposal, nothing can be done. Hence, in terms of democratization, Hong Kong will rank last or the second last. This is a shame on Legislative Council Members. I have recently said that having listened to the address by Mr Alan LEONG, Chairman of the Hong Kong Bar Association at the commencement of the new legal year, I told my wife the following day that I was proud of being a barrister. Unfortunately, Madam President, I have never been proud of being a Legislative Council Member, because many people in the Legislative Council want to obstruct the development of democracy. There is obviously a very nice path for Hong Kong, for the State and for the reunification of Taiwan with the Mainland, but these people simply

ignore the path. They have instead chosen to obstruct the development of democracy. I am ashamed of them.

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

(No Member responded)

**PRESIDENT** (in Cantonese): Ms Emily LAU, you may now speak on the two amendments.

**MS EMILY LAU** (in Cantonese): Madam President, some Honourable colleagues have said that the motion moved by me is very moderate. In fact, a similar motion was passed by the Council three years ago. I have a good reason for moving this motion, but it still leads to two amendments. I must of course say that this is not unexpected at all. But this moderate motion can also show that I am prepared to compromise too, if so doing can further the some cause. This explains precisely why I supported the eight-party motions on air pollution and the economy some years ago. The eight political parties are now requested to hold a meeting on the salary reduction of civil servants. We all know that if only the Legislative Council can unite, it will be able to get things done.

I still wish to comment on Dr Philip WONG's remarks. According to him, when the economy is in poor shape, we should not discuss this issue. But then, when the economy is in good shape, people are not allowed to discuss the topic. Does this mean that we can discuss the matter only when the economy is gone? He really beats me. We can recall that our economic conditions were all the time very good 20 years ago, but many reasons for not discussing constitutional reforms were advanced. Now, the economy is in a poor state, but then people still insist that there should be no discussions. Some say that further discussions will drive investors away. Well, in this connection, I am sure Members will agree that the main reason for no inward investment in Hong Kong is the incompetence of the TUNG Chee-hwa regime. Thanks to this, many Hong Kong people fail to see any prospects and hope for Hong Kong. I have been to Mauritius recently. There I met a Hong Kong resident who had

arrived only three months ago. He saw no hope for Hong Kong, so he moved to this remote place for prospects, just like the Chinese a century ago.

Some Members criticize me for having moved this kind of motions time and again. I may be masochistic, Madam President (*laughter*), for I have repeatedly moved motions of this kind. To be masochistic is naturally very unpleasant, but then I can let the people of Hong Kong see once again the true faces of Members. Some Members supported me perhaps three years and one month ago, but now they have all sorts of reason to oppose my motion. Anyway, there is still something good about these Members. Perhaps they do not want me to read aloud their remarks some years ago, so they simply read out their own remarks and advanced their reasons for opposing my motion.

Madam President, all of us are involved in politics. Why are some of us described by people as unscrupulous politicians? Well, there is nothing on earth which really forbids one to change one's position. But the important point is whether such a change is based on sound principles and reasons acceptable to the public. It has been a wonderful evening, for everybody can explain their reasons very frankly. We can know what some said years ago, and we can decide for ourselves whether the reasons for their change of position should be accepted.

Mr LAU Ping-cheung and Dr Philip WONG both maintain that since our prime concern now should be the economy, we must first attend to the economic issues. We may perhaps look at the findings of telephone polls released by the Home Affairs Bureau last month (the Bureau conducts five to six such opinion polls a year). Labour problems are, as expected, the great concern of Hong Kong people, as confirmed by 51% of the respondents. Economic issues come next, as confirmed by 40% of the respondents. What is the third greatest concern? I wonder whether the President knows the answer. It is the problem of governance, which draws the attention of 11% of the respondents. One year ago, the relevant percentage was just 2%. After governance are other important issues like education, housing and social welfare, but all these do not draw as much concern as governance. Therefore, I believe that no matter how much we try to pull wool over the eyes of Hong Kong people, they will still become increasingly shrewd in realizing what kind of situation they are in. And, the predicament they see is definitely connected with governance. All is so

simple. If we cannot bring about any peace evolution, people will take to the streets instead. On that day, I saw people leaving the Legislative Council right after speaking. Mr James TIEN asked me why they had behaved like that. I told him it was because these people no longer saw any point in speaking in the Council. So, others will take to the streets. I am convinced, and I note from history, that in most cases, people have to take to the streets to fight for democracy. Dr Philip WONG is perhaps right in saying that all this must be fought for in the battlefield, with lots of bloodshed.

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam President, I have listened very carefully to the speeches delivered by Honourable Members on when public consultation on constitutional reforms should be undertaken by the SAR Government. Honourable Members do not share the same views on this issue.

Ms Emily LAU who suggested that public consultation should be undertaken as soon as possible is of the view that the issue of constitutional developments is complicated. Other Honourable Members pointed out that ample time should be given to the public for discussion with a view to arriving at a consensus.

Some Honourable Members are of the view that if the future constitutional blueprint is made definite as soon as possible, it will not only be beneficial to the future development of Hong Kong, but it will also give ample time for various groups and organizations representing different interests in society to make preparations and planning early, so that they can continue to promote fair and open competition while taking part in electoral affairs in a balanced manner.

Moreover, quite a number of Honourable Members also pointed out that priorities should be set and the most pressing task for Hong Kong at present is to revitalize the economy and tackle the deficit problem. Under the present acute economic circumstances, the whole community is spending much time and efforts in thinking of solutions to these thorny problems.

If on top of these problems we have to occupy ourselves with the issue of conducting a review of the constitutional developments, some particular Members are afraid that this may be too much for the community to handle and

in the end a sound solution may not be found for the issue. Some Members even fear that this may ward off international investors.

Ms LAU also mentioned that the Chief Executive has not referred in his policy address this year to the review of constitutional developments after 2007. She questioned whether or not there had been any change in the policy objective as well as in the policy direction. Madam President, I can state categorically that we will adhere steadfastly to the policy objective and direction on the review of constitutional developments after 2007.

Ms Emily LAU urges the Government to conduct public consultation as soon as possible. With respect to the specific timetable for public consultation, Ms LAU, apart from the progress of the research being made, a more important determinant is the overall agenda of the Government and the priorities of administration. The Chief Executive has set out in his policy address clear work objectives for Hong Kong in the coming year. These include the economic integration with the Pearl River Delta, revitalizing the economy and resolving the fiscal deficit. The Hong Kong society is generally in agreement with these major directions and it is the view of the public that priority should be accorded to solving the economic problems.

Although objectives are set, there are inherent complexities in these problems that cannot be expected to be solved in a short span of time, nor can a consensus be reached so easily. In such circumstances, it would only exert more pressure on the community and cause dissension if we act in disregard of the tolerance of the community and propose a direction for a review of the constitutional developments.

From this perspective, we think that the amendment proposed by Dr Philip WONG would be more in tune with our current thinking. What we should do is to concentrate on our research into the issue and to conduct a public consultation in due course on the review of constitutional developments after 2007.

As to what is the appropriate time, since there is a diversity of opinions in society, including this Council, the SAR Government will address the matter very seriously and act cautiously. After studying into the issue, we will proceed with the matter step by step and consider what kind of a timetable should be devised for public consultation.

Mr LAU Ping-cheung is of the view that public consultation should be conducted after the Legislative Council elections in 2004 and some Honourable Members in this Council appear to be in favour of such a view. We would consider this idea, for at the present stage we would not rule out any possibility.

Madam President, Annexes I and II to the Basic Law clearly provide for the mechanism for amendments in the method for the selection of the Chief Executive and the method for the formation of the Legislative Council after 2007. In conducting a review of the constitutional developments after 2007, we would follow the following three principles. First, we would conduct the review according to the Basic Law. The Basic Law provides that the electoral arrangements "shall be specified in the light of the actual situation in the Hong Kong Special Administrative Region and in accordance with the principle of gradual and orderly progress". The Basic Law also stipulates that the ultimate aim is universal suffrage. Second, we will ensure that there will be sufficient time to conduct an extensive public consultation. Third, we will reserve sufficient time to activate the mechanism specified in the Basic Law and to handle any necessary work of local legislation.

As to the question of when a review of the constitutional developments should be carried out, Madam President, for the time being I do not have any specific timetable in mind. However, I can share with Honourable Members my preliminary thoughts on the subject. The second term of the SAR Government will expire come end June 2007. But we will not leave the review of constitutional developments to 2007. I think in 2006 we need to undertake the relevant work of local legislation. With this objective in mind, I would think it is likely that the relevant work of public consultation would be carried out in 2004 or 2005.

In 2003, as undertaken in the policy agenda, we will make suitable preparations and conduct research on the review of constitutional developments after 2007. The scope of our research covers the specific procedures of review, the steps of the public consultation exercise and the time required for the entire process.

Madam President, many Honourable Members have mentioned the work of the Constitutional Affairs Bureau today, so I would like to make some

response now. Since I assumed the present office in July last year, both my colleagues in the Bureau and I have concentrated our efforts on matters related to the District Council elections in 2003 and the Legislative Council elections in 2004.

In a number of areas we have responded to the views presented by parties from the democratic camp and other parties. For example, we have added the number of seats to be returned by direct elections in the District Council elections in 2003 and we have proposed a plan of four to eight seats in five geographical constituencies for the Legislative Council elections in 2004. If the proposal of retaining the existing five constituencies is accepted by the Electoral Affairs Commission, I believe it would be useful to those political parties, political groups and independent candidates who would like to stand in the elections. It is because this would allow them to retain their existing ties with their voters and this would help their work in the respective constituencies.

In addition, we also suggest that some kind of financial assistance be given to candidates in the Legislative Council elections in 2004. Therefore, Madam President, I can say that provided that it is within our means to do so, we would be glad to respond positively to suggestions made by Honourable Members irrespective of their political affiliations.

Dr YEUNG Sum made reference to the discussions we had in the meeting of the Panel on Constitutional Affairs this Monday. I have three comments to make. First, with respect to the elections in 2003 and 2004, some progress has been made over the past few months as a result of labour by my colleagues in the Bureau and members of the Panel. Second, we have held discussions on a number of aspects of the Accountability System for Principal Officials and I think Members have given very valuable opinions on them. Third, on the timetable for the review of constitutional developments after 2007, I understand that Members may of course make suggestions and requests on the issue, but as a principal official, I am also obliged to respond on behalf of the Government. Though we may not be able to accede to all of your requests, that does not mean that we refuse without reasons.

Mr Albert CHAN has rekindled an old issue again, but never mind, I would make two comments in response to his remarks. First, I think most of

the people in Hong Kong accept the reunification, the Basic Law and "one country, two systems", that includes the electoral systems of Hong Kong. Second, we have implemented the Accountability System for Principal Officials. Officials under the Accountability System, Mr CHAN and Honourable Members are all players on this political stage. Members are returned every four years and officials serve a five-year term. We all have to face the public, face the media, and subject ourselves to public scrutiny. So under such a system, it is not possible for autocratic policies to emerge in Hong Kong, for any proposal, bill or budget introduced by the SAR Government must be agreed and endorsed by the Legislative Council before it can be implemented. How can any autocracy be possible under such a system?

I am very grateful to Mr Michael MAK for his concern about the popularity of the SAR Government. As we are all public figures, and as Prof Arthur LI put it two days ago, we ought to be always mindful of that.

Madam President, although the focus of the motion and amendments today is on the timetable and public consultation for the review of constitutional developments, many Honourable Members have advanced views on the pace of democratization after 2007. Now I would like to make some comments on this.

Ms Emily LAU and other Members have referred many times to developments over the last 20 years. During the past 20 years, there has indeed been gradual and orderly progress in the constitutional development of Hong Kong. Beginning with 1985, there were indirect elections and functional constituency elections. From 1991 onwards, there are direct elections and from 1995, all members of the Legislative Council are returned by elections and the appointment system is no longer in existence.

The Basic Law stipulates that there will be a gradual increase in the number of members returned by direct election during the first three terms of the Legislative Council after the reunification. The number of such seats would increase from 20 in the first term of the Council in 1998 to 30 seats in the third term in 2004. All these changes show that the constitutional system of Hong Kong has been progressing during the past 20 years.

I have a few words from the bottom of my heart that I would like to share with Ms LAU, and I hope she would listen to them. First, I appreciate and

respect very much her enthusiasm in the constitutional developments of Hong Kong. Many Honourable Members, like Ms LAU, make it a duty of themselves to hold the Government accountable, and they have made it their vocation to protect democracy and human rights. However, I believe Ms LAU will agree that promoting democracy and human rights and protecting freedom and the rule of law are not the peculiar privilege of any person, Member or political party. I hope Ms LAU — or she may like to respect other Honourable colleagues of this Council — will see that despite our difference in political opinions, we are all working for the good of Hong Kong to the best of our ability. With this in mind, I think we can have a better chance to work out a consensus.

Ms LAU and some other Members have pointed out that as the Legislative Council and the Chief Executive are not returned entirely by universal suffrage, the representativeness of the legislature and the SAR Government is therefore doubtful. Views as these can certainly be raised, but I think that it is unnecessary to make such remarks to belittle and denigrate the worth of Hong Kong.

Notwithstanding the fact that Hong Kong does not return the Chief Executive or the legislature by "one person, one vote", but we have a government which is accountable to the public. Through open and fair elections, we form a representative legislature. We also have a sound system of rule of law, free and open media and a clean and loyal Civil Service.

The executive authorities and the legislature both act on the Basic Law to exercise checks and balances and their efforts are complementary to each other. Proposals raised by the Government must be endorsed by the Legislative Council before they can be implemented. All these are the conditions upon which the success of Hong Kong is built. On the one hand, these conditions encompass essential elements from other democratic systems, while on the other, they serve to safeguard the freedom, democracy and lifestyle of Hong Kong. We must treasure what we possess, thus I do not think that anyone should come to a rash conclusion that Hong Kong as it is has no democracy or that its system is not sound.

Like Honourable Members, I hope very much that progress will continue to be made in the constitutional system of Hong Kong after 2007. I believe firmly that if only we can give full play to the idea of "one country, two systems

and Hong Kong people ruling Hong Kong", then the review of constitutional developments in Hong Kong after 2007 will lead to advances in our democratization agenda.

Madam President, I so submit.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the amendment moved by Mr LAU Ping-cheung to Dr Philip WONG's amendment, 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)

Ms Emily LAU rose to claim a division.

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

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

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

Functional Constituencies:

Dr Raymond HO, Dr LUI Ming-wah, Mr HUI Cheung-ching, Mr CHAN Kwok-keung, Mr Bernard CHAN, Dr Philip WONG, Mr WONG Yung-kan, Ms LI Fung-ying, Mr Henry WU, Mr LEUNG Fu-wah, Dr LO Wing-lok, Mr IP Kwok-him and Mr LAU Ping-cheung voted for the amendment.

Mr Kenneth TING, Mr James TIEN, Mrs Selina CHOW, Mr CHEUNG Man-kwong, Mrs Sophie LEUNG, Mr SIN Chung-kai, Mr Howard YOUNG, Ms Miriam LAU, Dr LAW Chi-kwong, Mr Tommy CHEUNG and Mr Michael MAK voted against the amendment.

Geographical Constituencies and Election Committee:

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 for the amendment.

Ms Cyd HO, Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Mr LEUNG Yiu-chung, Mr Andrew WONG, Dr YEUNG Sum, Mr LAU Chin-shek, Ms Emily LAU, Mr Andrew CHENG, Mr SZETO Wah, Mr Albert CHAN, Mr WONG Sing-chi, Mr Frederick FUNG and Ms Audrey EU 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, 24 were present, 13 were in favour of the amendment and 11 against it; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 29 were present, 11 were in favour of the amendment and 17 against it. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negatived.

**MRS SELINA CHOW** (in Cantonese): Madam President, in accordance with Rule 49(4) of the Rules of Procedure, I move that in the event of divisions being claimed in respect of the motion on "Public Consultation on Constitutional Reforms", or any amendments thereto, this Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by Mrs Selina CHOW be passed. Does any Member wish to speak?

(No Member responded)

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

(Members raised their hands)

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

(No hands raised)

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

I order that in the event of divisions being claimed in respect of the motion on "Public Consultation on Constitutional Reforms", or any amendments thereto, this Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the amendment, moved by Dr Philip WONG to Ms Emily LAU's motion, be passed. Will those in favour please raise their hands?

**DR PHILIP WONG** (in Cantonese): Madam President, have we not voted on Ms Emily LAU's motion already?

**PRESIDENT** (in Cantonese): We may have become a bit tired after such long proceedings. *(Laughter)*

**PRESIDENT** (in Cantonese): The question now put is: That the amendment, moved by Dr Philip WONG to Ms Emily LAU'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 LAU Chin-shek rose to claim a division.

**PRESIDENT** (in Cantonese): Mr LAU Chin-shek has claimed a division. The division bell will ring for one minute.

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

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

Functional Constituencies:

Dr Raymond HO, Dr LUI Ming-wah, Mr HUI Cheung-ching, Mr CHAN Kwok-keung, Mr Bernard CHAN, Dr Philip WONG, Mr WONG Yung-kan, Ms LI Fung-ying, Mr Henry WU, Mr LEUNG Fu-wah, Dr LO Wing-lok, Mr IP Kwok-him and Mr LAU Ping-cheung voted for the amendment.

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

Mr Kenneth TING, Mr James TIEN, Mrs Selina CHOW, Mrs Sophie LEUNG, Mr Howard YOUNG, Ms Miriam LAU and Mr Tommy CHEUNG abstained.

Geographical Constituencies and Election Committee:

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 for the amendment.

Ms Cyd HO, Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Mr LEUNG Yiu-chung, Mr Andrew WONG, Dr YEUNG Sum, Mr LAU Chin-shek, Ms Emily LAU, Mr Andrew CHENG, Mr SZETO Wah, Mr Albert CHAN, Mr WONG Sing-chi, Mr Frederick FUNG and Ms Audrey EU 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, 24 were present, 13 were in favour of the amendment, four against it and seven abstained; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 29 were present, 11 were in favour of the amendment and 17 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): Ms Emily LAU, you may now reply. You have up to three minutes four seconds.

**MS EMILY LAU** (in Cantonese): Madam President, it has been a really strange week. Two Secretaries said that they wished to tell me what they really thought. (*Laughter*) Secretary Stephen LAM said that just now. Prof Arthur LI also said that on Monday. But at that time, he was not telling me what he really thought; he was just stating his personal opinions. His words startled me, and even Dr YEUNG Sum had to calm me down, because I was about to ask the Secretary why he wished to voice his personal opinions.

I suppose both of these two Secretaries were persuading me to support the Government. I will do so for sure if it is really worth supporting. The Secretaries also said that we had to respect our colleagues, for that would facilitate co-operation. Madam President, you must also have heard this saying: "Respect yourself as you would like others to respect you." I have been working with quite a number of colleagues in this Council for many years, and we understand one another quite well. We all know very well what we should do to earn others' respect.

I asked a question just now: Why is that one can now oppose what one supported in January 2001? At that time, the Liberal Party said that 2003 was the best and most appropriate time to launch constitutional reforms. Garry CHENG, on behalf of the DAB, said that they were open and positive towards a review on constitutional development. However, he never mentioned what Mr IP Kwok-him said in this debate — that discussions should be held only when there is stability. The lesson here to be learnt by them is that one should always tell the complete story. At that time, Dr Raymond HO also expressed his support, but earlier in the debate, he said that he wished to change his position. Why? It is because there are arguments now, and arguments will affect economic development. But why, I must ask, he did not say so years ago. I may not always analyse things thoroughly enough. The lesson here is that we must be careful with our words. This is especially true for Legislative Council Members whose remarks will all be recorded in writing, and so people will remember their words. Now, several years later, when these Members refute what they said in the past, can they still command the respect of their colleagues and the people?

The Secretary confirmed that a review would definitely be conducted in 2007, but that in the long interim, no follow-up work would be done. Members immediately whispered among themselves at hearing this because they knew that they would have no chance to voice their views. On behalf of the Frontier, let me ask the Government to suspend the office of the Secretary and keep paying

him ..... no payment of salaries for the time being but keeping him in office. Sorry, it is past midnight now. I mean, the Secretary may not have too much work to do in the meantime. Actually, at the meeting of the Panel on Constitutional Affairs on Monday, Members argued for nearly an hour on putting this issue on the agenda of the meeting to be held on 17 March. In the end, we lost, with three votes to four. This is certainly a bad omen. Madam President, I think this is a bad omen for Hong Kong. I grumbled to Members at that time that there could be room for discussion only when the Secretary was willing to furnish us with a paper, but if he is unwilling, there will be no room for discussions. This shows how true Mr Albert CHAN was when he said the Government was autocratic. And, let us not forget that so many people are trying to support the autocratic cause. To sum up, this is really an autocratic government.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by Ms Emily LAU, as printed on the Agenda, be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Ms Emily LAU rose to claim a division.

**PRESIDENT** (in Cantonese): Ms Emily LAU has claimed a division. The division bell will ring for one minute.

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

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

Functional Constituencies:

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

Dr Raymond HO, Dr LUI Ming-wah, Dr Philip WONG, Mr Henry WU, Mr LEUNG Fu-wah, Dr LO Wing-lok and Mr LAU Ping-cheung voted against the motion.

Mr Kenneth TING, Mr James TIEN, Mrs Selina CHOW, Mr HUI Cheung-ching, Mr CHAN Kwok-keung, Mrs Sophie LEUNG, Mr WONG Yung-kan, Mr Howard YOUNG, Ms Miriam LAU, Ms LI Fung-ying, Mr Tommy CHEUNG and Mr IP Kwok-him abstained.

Geographical Constituencies and Election Committee:

Ms Cyd HO, Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Mr LEUNG Yiu-chung, Mr Andrew WONG, Dr YEUNG Sum, Mr LAU Chin-shek, Ms 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.

Mr NG Leung-sing voted against the motion.

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 YEUNG Yiu-chung and Mr Ambrose LAU abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 23 were present, four were in favour of the motion, seven against

it and 12 abstained; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 28 were present, 17 were in favour of the motion, one against it and nine abstained. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the motion was negatived.

## **NEXT MEETING**

**PRESIDENT** (in Cantonese): Good morning, Honourable Members. I now adjourn the meeting until 2.30 pm on Wednesday, 26 February 2003.

*Adjourned accordingly at ten minutes past Twelve o'clock in the morning.*

EDUCATION REORGANIZATION (MISCELLANEOUS  
AMENDMENT) BILL 2002**COMMITTEE STAGE**Amendments to be moved by the Secretary for Education and ManpowerClauseAmendment Proposed

- 1           (a) In the heading, by deleting "**and commencement**".
- (b) By deleting subclause (2).
- 43           By deleting subclauses (5) and (6).

## Appendix I

## WRITTEN ANSWER

**Written answer by the Secretary for the Environment, Transport and Works to Mr YEUNG Yiu-chung's supplementary question to Question 1**

During the meeting, the Honourable YEUNG Yiu-chung enquired about the number of pedestrian accidents occurred at/near pedestrian refuges in 2002 and the major contributory factors for the accidents. The Secretary for the Environment, Transport and Works responded that 33 pedestrian accidents occurred at/near pedestrian refuges in 2002 and undertook to provide details on the major contributory factors for those accidents after the meeting. Please find attached at Annex the supplementary information required for Members' reference.

Annex

Major Contributory Factors for the Pedestrian Accidents  
occurred at/near Pedestrian Refuges in 2002

	<i>Major Contributory Factors</i>	<i>No. of Accidents</i>
	<i>Pedestrian Factors</i>	
1	Crossing road heedless of traffic	18
2	Inattentive	4
3	With defective vision	1
4	Jay walking	1
	<i>Driver/Vehicle Factors</i>	
5	Disobeying traffic signal	2
6	Driving too fast for other road users	1
7	Driving too close to kerb	1
8	Overtaking on nearside negligently	1
9	Turning left negligently	1
10	Starting negligently	1
11	Losing control	1
12	Other driver factor	1
13	Vehicle factor	1
	*Total	34

Note: The total number exceeds 33 because an accident may involve more than one contributory factors.

**Appendix II****WRITTEN ANSWER****Written answer by the Secretary for Health, Welfare and Food to Mr Michael MAK's supplementary question to Question 6**

The Hospital Authority has not conducted analysis on the background of patients who applied for fee waiver. However, according to the experience of front-line social workers, most of the applicants are chronic patients or from the low-income group.

## Appendix III

## WRITTEN ANSWER

**Written answer by the Secretary for Health, Welfare and Food to Dr LO Wing-lok's supplementary question to Question 6**

The number of accident and emergency (A&E) related complaints received by the Hospital Authority in the four-month period before and after the introduction of A&E charge is as follows:

	<i>No. of complaints</i>
<i>Before the charge</i>	
August 2002	28
September 2002	16
October 2002	30
November 2002	21
Average	24
<i>After the charge</i>	
December 2002	28
January 2003	26
February 2003	27
March 2003	24
Average	26

From the above figures, the number of A&E related complaints before and after the introduction of A&E charge are similar.

**Appendix IV****WRITTEN ANSWER****Written answer by the Secretary for Health, Welfare and Food to Mr Michael MAK's supplementary question to Question 6**

The Hospital Authority has advised that according to the experience of the front-line social workers, most unsuccessful applications were rejected on the ground that the applicant concerned has failed to meet the financial criteria.