

OFFICIAL RECORD OF PROCEEDINGS

Thursday, 10 March 2005

The Council continued to meet at Nine o'clock

MEMBERS PRESENT:

THE PRESIDENT

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

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

THE HONOURABLE ALBERT HO CHUN-YAN

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

THE HONOURABLE LEE CHEUK-YAN

THE HONOURABLE MARTIN LEE CHU-MING, S.C., 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 MARGARET NG

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

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE CHEUNG MAN-KWONG

THE HONOURABLE CHAN YUEN-HAN, J.P.

THE HONOURABLE BERNARD CHAN, 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, J.P.

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

THE HONOURABLE WONG YUNG-KAN, J.P.

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

DR THE HONOURABLE YEUNG SUM

THE HONOURABLE LAU CHIN-SHEK, J.P.

THE HONOURABLE LAU KONG-WAH, J.P.

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

THE HONOURABLE MIRIAM LAU KIN-YEE, 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 TIMOTHY FOK TSUN-TING, G.B.S., J.P.

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

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

THE HONOURABLE LI FUNG-YING, B.B.S., J.P.

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

THE HONOURABLE ALBERT CHAN WAI-YIP

THE HONOURABLE FREDERICK FUNG KIN-KEE, J.P.

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

THE HONOURABLE VINCENT FANG KANG, J.P.

THE HONOURABLE WONG KWOK-HING, M.H.

THE HONOURABLE LEE WING-TAT

DR THE HONOURABLE JOSEPH LEE KOK-LONG

THE HONOURABLE DANIEL LAM WAI-KEUNG, B.B.S., J.P.

THE HONOURABLE JEFFREY LAM KIN-FUNG, S.B.S., J.P.

THE HONOURABLE ANDREW LEUNG KWAN-YUEN, S.B.S., J.P.

THE HONOURABLE LEUNG KWOK-HUNG

DR THE HONOURABLE KWOK KA-KI

DR THE HONOURABLE FERNANDO CHEUNG CHIU-HUNG

THE HONOURABLE WONG TING-KWONG, B.B.S.

THE HONOURABLE RONNY TONG KA-WAH, S.C.

THE HONOURABLE CHIM PUI-CHUNG

THE HONOURABLE PATRICK LAU SAU-SHING, S.B.S., J.P.

THE HONOURABLE ALBERT JINGHAN CHENG

THE HONOURABLE KWONG CHI-KIN

THE HONOURABLE TAM HEUNG-MAN

MEMBERS ABSENT:

THE HONOURABLE CHAN KAM-LAM, J.P.

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

THE HONOURABLE LI KWOK-YING, M.H.

THE HONOURABLE MA LIK, J.P.

THE HONOURABLE ALAN LEONG KAH-KIT, S.C.

THE HONOURABLE CHEUNG HOK-MING, S.B.S., J.P.

PUBLIC OFFICER ATTENDING:

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 RAY CHAN YUM-MOU, ASSISTANT SECRETARY GENERAL

MEMBERS' MOTIONS**SHORTCOMINGS OF FUNCTIONAL CONSTITUENCIES****Continuation of debate on motion which was moved on 9 March 2005**

PRESIDENT (in Cantonese): Will the Clerk please ring the bell to summon Members back to the Chamber.

(After the summoning bell had been rung, a number of Members returned to the Chamber)

PRESIDENT (in Cantonese): As a quorum is present now, we will continue the debate on "Shortcomings of functional constituencies".

DR DAVID LI: Madam President, I have some sympathy for the original motion brought by the Honourable Ronny TONG.

On the face of it, the functional constituency(FC) system is incompatible with universal suffrage.

But, to support this motion, I must take one further step. I must say that an increase in the number of FC seats is incompatible with "gradual and orderly progress" toward universal suffrage under the Basic Law.

To me, that is a step too far.

In fact, to deny further development of the FC system is to ignore the very institution that will be crucial in forging "gradual and orderly progress" at the next election.

The FC system was introduced in support of the transition from a fully appointed legislature, to a legislature formed on the basis of universal suffrage.

In the years since 1997, the number of geographical constituency seats in this Council has grown steadily. Directly elected members now make up half of the Council.

Yet, over that same period, reform of the FC system has stagnated.

Therefore, the principle of "gradual and orderly progress" dictates that the time to reform the FC system has arrived.

We have the opportunity to undertake meaningful reforms; reforms that will improve our system of governance. We cannot afford to let this opportunity slip by.

First and foremost, the reforms should aim to bridge the gap between FC and directly elected members. The reforms should encourage the development of broad-based political parties that draw support from both the grassroots and the business sector.

This is the role of political parties in advanced economies and democracies. The emergence of broad-based political parties is a prerequisite for a stable, prosperous and democratic Hong Kong.

Some of our parties are already moving in this direction on their own. The Liberal Party succeeded in winning two geographical constituency seats in the last elections. The Democratic Alliance for Betterment of Hong Kong and the Hong Kong Progressive Alliance are now one, uniting the traditional pro-Beijing grassroots and business sectors for the first time.

To further assist this process, it is time to make the FCs less "functional", and more broadly representative of business and other community interests.

This could be achieved by opening up the electorates of the existing FCs, or by grouping the electorates of several FCs together.

Both of these moves would require any FC member to cultivate both his own electorate, and a broader electorate. There would be no more safe, uncontested seats. The support of a political party would help in reaching a wider electorate. In turn, FC candidates would be encouraged to take an active role in party politics and in shaping party platforms.

Within the context of such reforms, I see no reason to oppose an expansion in the number of FC seats.

However, I would set down two conditions. Corporate voting should not be permitted for any new FC seat. New seats should, as far as possible, represent the changing nature of our democratic dynamic society.

For example, sustainable development and environmental protection are of great concern to our community. A FC seat could be reserved for green and sustainable development forces.

Time and again, this Government has underlined that expansion of tertiary education is key to our future. Tertiary institutions and their students may be given a direct voice in the political process through a FC seat.

The Convention and Exhibition industry; and the Listed Companies of our stock exchanges would be leading contenders for a FC seat, provided that individuals — not corporations — working within these sectors are given the vote.

I believe there is a general consensus that political parties are the means to bring together the different interests within society, serving as the intermediary between government and the governed and a channel for expression of the popular will.

Proposals for political reform should focus on the desired end result, and not be sidelined by unimportant secondary issues such as represented by this motion. I will therefore be voting against this motion, and the amendment.

Thank you.

MS EMILY LAU (in Cantonese): Madam President, I rise to speak in support of Mr Ronny TONG's motion.

We have discussed functional constituencies (FCs) many times before. But whenever there is any opportunity, we will still try to say a few words on them. Actually, Mr TONG has expressed many opinions, all nicely put, I must also say. But I believe Members, including Mr TONG, will still remember the special meeting of the Panel on Constitutional Affairs two weeks ago, at which members of the public were invited to speak on the development of political

parties. During this meeting, Prof KUAN Hsin-chi of The Chinese University of Hong Kong spoke at quite some length, and Members also asked him many questions in return. Madam President, Prof KUAN spoke as if he was lecturing his students — probably because he had been researching this subject for many years. He told us that he had conducted not only research but also surveys on this subject, and that according to the findings of many such surveys, more than half of the respondents supported the continued existence of FCs. Therefore, he remarked, we should perhaps recognize the fact that many people might find FCs worth retaining for still some more time.

The Professor's remark makes me realize that if we want to abolish FCs, we will have to make many more efforts, because FCs are embedded in the culture of Hong Kong and the traditional mentality of its people. Many people think that a well-educated person earning a high income and enjoying a high social status must necessarily be more competent than others. It is therefore considered appropriate for society to give him one more vote in an additional representative capacity. As citizens and members of society, we will of course do our utmost, but we will also continue to tell the people (I think the Secretary should also do the same) that if a government is not returned by elections based on universal suffrage and equal participation, its legitimacy should come under doubt.

This explains why there was such a furore after the Chief Secretary for Administration and the Secretary for Constitutional Affairs had recently remarked in this Council that universal suffrage could be introduced to select the candidates nominated by FCs. I am glad to see that the authorities have submitted its report to the United Nations Commission on Human Rights (though it is a bit late). Next year, the Commission will conduct a hearing, and when the time comes, the authorities will have to offer an explanation not only to Hong Kong but also the international community. What is actually meant by "universal suffrage" in the Basic Law? Is it really true that it does not mean the equal participation of all in society but just the participation of those people who have a vote in FCs?

Recently, the Chairman of the United Nations Committee on Economic, Social and Cultural Rights was invited to visit Hong Kong. We also had a meeting with him. Although members of the Committee were here for discussions on economic, social and cultural rights, they were nonetheless also

concerned about political rights, because they knew only too well that the deprivation of political rights would surely injure economic, social and cultural rights. There will be a meeting in the United Nations next month, and unless Hong Kong is in a state of complete chaos or unless any emergencies arise, I will go there. Whether before the Committee on Economic, Social and Cultural Rights or before the Commission on Human Rights, I will explain the aspiration of Hong Kong people (or just "a small group of people like you" in the words of the Secretary for Constitutional Affairs). I will tell them that this is the aspiration of a great majority of people in Hong Kong. Even before the handover of sovereignty, the United Nations Commission on Human Rights already criticized that the FC elections in Hong Kong were in violation of the International Covenant on Civil and Political Rights. Such elections are no doubt provided for in the Basic Law, but it is also stipulated that there shall be constant evolution.

The interpretation of the Basic Law on 26 April last year has made us realize that even "gradual and orderly progress" is impossible, which is why Dr KWOK Ka-ki wishes to put forward an amendment as a challenge. I do admire Dr KWOK Ka-ki for his courage to step forward and say that the Central Government's decision is wrong. I absolutely agree that the people of Hong Kong should also show such courage. But we are also a bit worried that Dr KWOK's amendment may send a very confusing message to society because, Madam President, we are already given all sorts of confusing messages now — we cannot even verify whether Mr TUNG Chee-hwa will announce his resignation this afternoon. I have already written to Mr TUNG, asking him to make a clarification before the Legislative Council, but I guess there will not be any result at all. Madam President, this alone can already enable you and me to see how the Chief Executive and the executive authorities look upon the Legislative Council.

Let us talk about Dr KWOK's amendment again. Its message is unclear and people simply cannot see where the lack of clarity lies; for this precise reason, some fear that the amendment may involve a number of intermediate targets (though some others claim that they cannot even notice any intermediate targets). Anyway, the amendment does not contain any thorough-going proposals, so some are worried that this may result in some intermediate targets for the introduction of universal suffrage. Fortunately, however, when it comes to the interpretation of the Basic Law on 26 April last year, everybody has

expressed his or her opposition. I therefore do not think that there is any disagreement over this point.

Madam President, the Secretary for Constitutional Affairs will speak a moment later. But everybody knows only too well how much weight and credibility his remarks carry. We may look at the record of what he said in reply to my oral question in the Legislative Council on 5 May last year. At that time, in view of the widespread rumour about the Chief Executive's resignation, I asked him what would happen if a vacancy really arose in the office of the Chief Executive. He replied, "The term of office of the Chief Executive, as prescribed in the Basic Law, is five years. This provision applies to any Chief Executive. There is no exception. In the light of the above, any amendment to the Chief Executive Election Ordinance which would provide for a term of office other than that of five years is not consistent with the Basic Law." This was what he said on 5 May last year.

What is he going to say today, in March 2005? Or, will he simply refrain from saying anything at all? What we now have is just complete silence, but the rumour has been spreading for more than 10 days in Hong Kong. Madam President, I do find this very regrettable. There are only seconds to go before my speaking time runs out. I sincerely hope that the Chief Executive can halt before it is too late. I hope that he can ring up the President as soon as possible, informing her that he will after all come here to make a clarification to the Legislative Council and the people, either in this meeting or another one, because this is the only good way to round off his term of office. He is supposed to be accountable to the Legislative Council. Why does he still refuse to appear before the Council even when he is leaving? This is extremely absurd.

With these remarks, Madam President, I support Mr Ronny TONG's original motion.

DR JOSEPH LEE (in Cantonese): Madam President, since the transition of the Hong Kong Special Administrative Region (SAR) more than seven years ago, the people of Hong Kong have been fighting for democracy rationally in the hope of expeditiously realizing their democratic aspiration for full universal suffrage. Article 68 of the Basic Law has stated that the method for forming the Legislative

Council shall be specified in the light of the actual situation in the SAR and in accordance with the principle of gradual and orderly progress, with the ultimate aim of electing all the Members of the Legislative Council by universal suffrage. To achieve this, democratization should be implemented expeditiously in constitutional reform. To implement constitutional reform, the Government must not, however, increase the number of FC seats in the Legislative Council or the number of the members representing FCs in the Election Committee (EC). Instead, it should, when considering putting forward a mainstream proposal, adhere to the major principle of bringing substantial improvement to constitutional reform on the prerequisite of expediting the reform to achieve universal suffrage, actively strive for speeding up the pace of democratization and push for the implementation of dual elections by universal suffrage in 2007 and 2008.

It was said that the purpose of establishing FCs was to ensure balanced participation by various sectors and maintain social stability. However, the establishment of FCs actually represents an unfair conferment of political privileges on certain groups — people like us have actually constituted a violation of democratization spiritually or in principle. A further increase in the number of FC seats in the Legislative Council will only raise the number of participants of the small-circle election. This would pose an obstacle to universal suffrage, representing a retrogression in the development of democracy. Actually, Members returned by FCs, who can secure a seat by obtaining 10 000-odd votes, compare far less favourably than those returned by direct elections, who have to secure an average of 100 000 votes before they can get a seat, in terms of the foundation of public opinion. As such, we hope the Government can abolish FCs for the purpose of realizing the goal of gradually moving towards democracy. Before this can be done, the Government should at least reduce the number of FC seats and increase that of directly elected seats. Only in doing so can the pace of democratization be speeded up.

On the other hand, it will not be very meaningful to rely solely on increasing the number of members representing FCs in the EC because this will only mean an enlarged small-circle election. Introducing more people into the small circle as members of the EC will only expand its membership. This is not conducive to democratization and the representativeness and credibility of the elections. Instead, the Government should consider substantially broadening the electorate base of the EC by turning company and corporate votes of the FCs

into individual votes. It is hoped that every FC seat would be required in the future to be returned through "one person, one vote", instead of company and corporate votes, for the sake of enhancing the foundation of public opinion of FC Members.

Although the Central Authorities have clearly ruled out returning the next Chief Executive by universal suffrage, and the possibility of this happening is zero, the Government would be making a positive move in the direction of striving for democracy should the nomination qualification be relaxed to allow more candidates and the EC be broadened or its method of composition be revised to solicit public opinion more extensively. It is hoped that the Government can, in the course of promoting democratization, set a clear direction for the timetable for universal suffrage, specifically formulate a timetable for the ultimate achievement of universal suffrage and propose a political framework to be set up under dual elections by universal suffrage. Even if it is impossible for the dual elections to be conducted by universal suffrage in 2007 and 2008, we still hope to see a timetable for universal suffrage very soon so that the public can have an expectation and set a goal for the Government's progress towards democracy as promised.

According to a research report conducted by a public opinion website of the University of Hong Kong earlier, Hong Kong is absolutely qualified for conducting universal suffrage. This proves that Hong Kong people are able to express their aspirations in a mature manner. For this reason, I hope the Government can make it clear in the Fifth Report of the Constitutional Development Task Force that any future "mainstream proposal" will not include proposals on increasing the number of FC seats in the Legislative Council and the number of members representing FCs in the EC.

With these remarks, Madam President, I support Mr Ronny TONG's original motion.

MR WONG YUNG-KAN (in Cantonese): Madam President, before I speak any further, I would like to declare my interest. I am returned as a Member representing the Agriculture and Fisheries Constituency and I am an ex-officio member of the Election Committee (EC) by virtue of my capacity as a Member

of the Legislative Council. However, I am not sure whether or not the nature of my being a member of the EC would fall into the ranks of "members representing FCs in the EC" as described by Mr Ronny TONG.

The Agriculture and Fisheries Constituency holds the only seat in this Council representing the primary industries. The constituency was first formed at a time when the sector was facing a crisis. In the six months after the reunification in 1997 to the end of that year, two catastrophic events happened in the agriculture and fisheries sector in Hong Kong. The first was the avian flu incident which shook the world. Then there was the red tide incident which swept through almost all the mariculture zones in Hong Kong. At that time, both my opponent contenders in the election and I myself were doing our best to solicit support from the voters by working hard to tackle the problems. We were all men of action, not empty words. In May 1998, when I was lucky enough to be elected a Legislative Council Member representing the agriculture and fisheries sector, things were already at their final clearing-up stages.

It has been almost seven years since I have assumed this seat, and in each of these seven years there were one or two major incidents which I had to work day in and day out to follow up. These include a number of avian flu cases, mouth foot epidemic, ciguatera poisoning, import of live chickens and day-old chickens, meat smuggling, chilled meat quarantine, pirates and marine disasters, fishing moratorium, sales venue for flower farmers and the recent incident of the slackened sales of mandarin oranges caused by red fire ants, and so on. All of these events might happen in a remote pig farm or on one of the outlying islands. As for the parties involved in such events, apart from the SAR Government there were also government departments on the Mainland. Once I had to travel as far as to Vietnam and it was only through negotiations made between the Ministry of Foreign Affairs in China and the Vietnamese Government that the return of 11 Hong Kong fishermen stranded there as a result of distress at sea was secured. For each and every one of these events, not only was the sector very concerned but all the people of Hong Kong were likewise very concerned, for these had implications on food safety and their consumer rights. In addition, during my term of office as Member of this Council, I have done my utmost to explore opportunities for transformation and development for the sector. I have suggested to the Government and this Council many times, urging them to formulate plans for the sustainable development of the agriculture and fishing industries, develop off-shore fishing and leisure agriculture and fishing as well as

ecotourism in agriculture and fishing, and so on. Had it not been for this FC, the rights of hundreds of thousand people who live on industries related to agriculture and fisheries will certainly be overlooked and hence a lot of social problems are caused.

Such matters would have drawn little attention and not many people would propose motions on these matters in the former Legislative Council in the days of the British Hong Kong Government. That is why the agriculture and fisheries sector had an extremely difficult time then. I am not bragging when I relate all these events. I trust that any representative returned by the sector would also do his or her best. I just want the public to know that the Member returned by the agriculture and fisheries FC is not a person holding an empty office. He or she is someone who often travels, from Lok Ma Chau in the borders in the morning, to the outlying island of Cheung Chau at night and then to Guangzhou and places in China every other week. From this I am convinced that Members of this Council returned from various constituencies, be they functional or otherwise, all have a vital part to play in the socio-economic structure of Hong Kong and hence their office is justified.

Madam President, seats of the FCs in this Council do not appear all of a sudden after the establishment of the Hong Kong SAR Government. It is an institution that was designed in the days of the British Hong Kong Government and such an institution can be traced back to the well-established practice adopted by the British Hong Kong Government to select people from various sectors to join public bodies at different levels, including the former Executive Council and Legislative Council.

Articles 45 and 68 of the Basic Law prescribed the methods for selecting the Chief Executive and forming the Legislative Council respectively. The prospects of universal suffrage depicted by these two Articles are subject to the stipulations on the actual situation in the SAR Government and the principle of gradual and orderly progress. These are also principles which the DAB has been adhered to steadfastly. It is unfortunate that the pan-democratic camp has all along not been taking these two principles seriously and they are trying to make overnight changes. They hope to see the Legislative Council and the Chief Executive both returned by "one person, one vote" come tomorrow. They overlook the fact that each democratic country in the world has undergone a very long process of reform. In the case of the United States, though the

country has been founded for more than 200 years, it is only through many stages that voting restrictions on grounds of wealth, colour, sex and age are lifted. Even so and to date, the President of the United States is returned by indirect elections and there are only some 500 electors who have the final rights to cast a vote to elect the President.

The motion moved by Mr Ronny TONG states that any constitutional reform proposal which carries an increase in the numbers of functional constituency seats in the Legislative Council and of members representing FCs in the EC violates Articles 45 and 68 of the Basic Law which contain the principles of "gradual and orderly progress" and "actual situation", principles which should be followed in achieving the aim of universal suffrage. In so doing, Mr Ronny TONG is making a *de facto* interpretation of the Basic Law. Unfortunately, the right to interpret the Basic Law rests only with the Standing Committee of the National People's Congress (NPCSC). And the NPCSC has only authorized the Court of the Hong Kong SAR to interpret on its own those provisions which fall under its jurisdiction. The NPCSC has never devolved to this Council any power of interpretation.

The NPCSC made a decision on 26 April 2004, stipulating that if there are any changes to the method of forming the Legislative Council after 2007, the number of directly-elected seats from the geographical constituencies should be equal to the number of seats returned from the FCs. As the proportion should be similar to the number of Members of the Council belonging to these two major categories, there is no question of retrogression.

I hope that Members of this Council and the people of Hong Kong can be tolerant, unified and accommodating in view of the political and economic conditions which have not come by easily. They should put up their best efforts, analyse the problems found in our society for the future of Hong Kong, pool its economic strengths and make it a better place.

With these remarks, Madam President, I oppose the two motions.

MR CHIM PUI-CHUNG (in Cantonese): Madam President, Hong Kong is unique — politically, we are a special administrative region. At present, the

number of unemployed people in Hong Kong has exceeded 200 000. However, it is still smaller than the number of foreign domestic helpers employed here. At present, the income of some families receiving Comprehensive Social Security Assistance (CSSA) is even higher than that of people who are willing to go out to work because CSSA recipients are at least not required to pay transport expenses. Moreover, they can take care of their children at home. At present, Hong Kong has a workforce of more than 3.3 million. However, only 300 000-odd people, or around 10% of the workforce, are taxpayers. This shows that Hong Kong community as a whole is pretty abnormal.

I must concede that it is natural that there is inequality in the composition of the Legislative Council. The four examples cited by me just now simply represent alternative cases of inequality and abnormality. What problem is there with one more case of inequality and abnormality? We have mentioned the fact that the minority can override the majority in terms of rights, yet the 300 000-odd taxpayers have been exploited of their rights. We have to again respect that Hong Kong is a special administrative region of China, not an independent entity. We have to follow the Basic Law. However, I personally have reservations about the NPCSC prescription that the number of FC seats and that of seats returned by geographical constituencies through direct elections should maintain at a ratio of 50 to 50 because it has been provided very clearly in the Basic Law that the principle of gradual and orderly progress must be followed. Given that the ratio was 30 to 30 in 2004, there will be no orderly progress should the ratio be changed to 50 to 50 in 2008. There can be orderly progress only if the ratio changes to, for instance, 31 to 29, or 31 to 30. I have always borne in mind that it is inappropriate to do so. However, this is a fact we must accept. Such being the case, I do not fear that I might offend the NPCSC which has the power to interpret the Basic Law. Of course, the NPCSC is empowered to interpret the law. We are not independent, are we not?

I have always insisted that a revolution is required in order to come up with a solution. But who in Hong Kong would be prepared to initiate it? As the Basic Law and relevant rules are extremely clear, is there anything special about those colleagues of this Council who are attacking or belittling one another, or those who claim themselves to be "kings of votes" or "queens of votes" for having secured tens of thousands of votes? True, we are friends. We should

make concerted efforts to seriously address people's pressing needs. Only in doing so can we win the praises of the public.

Members of the so-called pan-democracy camp have already secured seven seats in this Council. They should, if they consider this system unsatisfactory, bravely requested their constituencies to give up their seats. At the same time, they should be prepared to give up theirs. I have no intention to attack them, because it is absolutely embarrassing for us to criticize one another. Now that we are sitting here, we have to bear with it, whether we are shameless or otherwise. Why must they keep on saying that they have originally had no intention to grab those seats and they were only forced to do so? I believe it is even harder for such a spirit and attitude to gain public approval and the appreciation of their constituencies.

If these seven Members can give up their seats together, I pledge that I will definitely be the eighth one to give up mine as well. I am even convinced that I can persuade my constituency to follow suit, so long as the seven Members are willing to raise this proposal. I think this is better than other pleasing but meaningless remarks. I remember a remark made a long, long time ago by Martin LEE, SC, the then leader of the Democratic Party, that Hong Kong's constitutional system had developed into such a model. If the Democratic Party is still interested in leading Hong Kong's politics, it should pay attention to the FCs. It is such a great pity that Mr Martin LEE has not been entirely successful in leading the Democratic Party, though he might be very successful in other domains. I do not mean to attack him, yet this is the fact. I would not say anything like this if he was not here in this Chamber.

Of course, I personally agree that the composition of the FCs is less rigid. It is better to encourage the participation of more people of the constituencies. However, for the sake of fairness, voters who are qualified to vote in FCs should give up their votes in geographical direct elections accordingly. In doing so, we will then be able to achieve the goal of "one person, one vote". What is it that we have to fight for? There is nothing we can achieve by continuing to fight among ourselves. I strongly believe that, after this Saturday, the Central Authorities will tighten its supervision of the territory step by step starting from next week.

Madam President, I so submit.

MR DANIEL LAM (in Cantonese): Madam President, the purpose of establishing FC seats in the Legislative Council is to manifest balanced participation by various strata and sectors of the community and reflect different voices and aspirations of the community with a view to realizing the goal of maintaining social solidarity and stability and promoting synergy in socio-political development. Unfortunately, FCs have in recent years been deliberately discredited, portrayed as being conservative and backward, and even seen as a small circle in which transfer of benefits is conducted. Not only is this contrary to the truth, this will unnecessarily impact on Hong Kong's prosperity and stability as well.

From the British Hong Kong Government to the Special Administrative Region (SAR) Government, FCs have along formed the core of Hong Kong's constitutional system. From nearly 20 years of experience in operation, FCs have fully demonstrated their crucial role in reflecting expert advice, assisting the Government in governance, effectively promoting economic development, as well as balancing extreme issues in the community. In many Western countries, such as Britain and the United States, not all parliamentary or congressional seats are returned by direct elections.

Actually, the achievements accomplished by Hong Kong today are not easy to come by. We should cherish them dearly, in particular, the signs of economic recovery are only burgeoning. Given the extremely vulnerable overall stability, society can hardly withstand the challenge of a political storm. In April last year, the NPCSC set a framework for the method of electing the third-term Legislative Council in a bid to dissolve the disputes which have lingered on for years in relation to the relevant issues so as to give various sectors of Hong Kong society more time to deliberate and, in the light of the actual need of society, design the constitutional development in a pragmatic manner.

Madam President, an illusion is now circulating in society, that only geographical direct elections are conducted through "one person, one vote", and only "one person, one vote" can be considered democratic, thus leading to the inference that FC elections are unfair. At present, a number of FCs have already adopted direct elections. Moreover, the number of people elected, the representativeness and the electoral process do not compare less favourably than other models of election. Let me cite the Heung Yee Kuk FC as an example. To start with, village representatives are returned by villagers of 707 villages

throughout the territory through direct election. After that, the village representatives are selected as Rural Committee members through a similar electoral process to enter the Heung Yee Kuk. Again, Heung Yee Kuk members will select their representatives to this Council through voting. The entire process is conducted in an open, fair, honest and transparent manner.

Actually, in accordance with the principle of population ratio adopted by geographical direct elections, representatives of the Heung Yee Kuk FC should be given more than one seat.

Madam President, there is no perfect constitutional model in the world. All models must be constantly revised and perfected in the light of progress in social development, and keep pace with the times. Moreover, their prerequisite goal must be conducive to building a harmonious and stable society, promoting a balanced economic-political development in Hong Kong and reflecting different voices of society.

Madam President, I so submit.

MR PATRICK LAU (in Cantonese): Madam President, I think it is not opportune to discuss this motion at this stage.

First of all, I have great reservations about the use of the word "shortcomings" in the motion. This is because half of the colleagues in this Chamber, including myself, are returned by FCs. Even if we have different backgrounds and political views, we are not necessarily the "shortcomings" of this Council, without any "merits" to offer. As representatives of the voices of people from various sectors in the community, why should we have to be treated as "shortcomings"? Honourable colleagues who are sitting here, especially Dr KWOK Ka-ki from the medical sector, have also joined this Council through FCs. The performance of Dr KWOK is evident, so could it be said that he is one of the "shortcomings"? Or is it because people with vested interests have to refuse listening to the voices of the late comers? I believe most FC voters find it impossible to agree with this view entirely.

Furthermore, Mr Ronny TONG has also mentioned in his original motion that Articles 45 and 68 of the Basic Law have stipulated that the principles of

"gradual and orderly progress" and "actual situation" should be followed in achieving the aim of universal suffrage. If we define the details of our future constitutional reform at this stage, we can definitely achieve the aim of "gradual and orderly progress", but how about "actual situation"? In the light of the present "actual situation", is it really necessary to increase the number of seats? I have great reservations about this indeed. At this stage, we have heard about the resignation of the Chief Executive. We have also heard of Mr CHIM Pui-chung's mention of the "kings of votes" and "queens of votes". Are they going to run in the Chief Executive election in the future? Will the accountability system be continued? Will the incumbent cabinet tender a joint resignation? I think it is impossible to resolve many of these issues for the time being. So, is it consistent with the "actual situation" for the FC issue to be discussed at this moment?

The motion has also "requested the Government to state clearly in the Fifth Report of the Constitutional Development Task Force that any so-called 'mainstream proposal' which will be put forward in the future will not include proposals to increase the numbers of functional constituency seats in the Legislative Council and of the members representing functional constituencies in the Election Committee". I hope Members can understand that, insofar as the preparation of the Fifth Report is concerned, Secretary Stephen LAM is still consulting the public. After the consultation period, the Government will definitely be able to gather a diversity of views, which are concrete public opinions. Now that the consultation is still in progress and the outcome is still not available, why can both Mr TONG and Dr KWOK accurately predict that the public opinion is inclined towards increasing the number of geographical seats in a unidirectional manner? Can the two Members disclose the relevant data and the basis of the data? As the Fifth Report will be published on the basis of extensive public opinion and the consultation period is not yet over, why is the "motion" used as a justification to impose it on "public opinion"? Why do they not first examine the public views gathered by the Report and then give the matter further consideration? Is raping public opinion by way of motions moved in this Council an act of democracy?

For these reasons, I strongly oppose Mr Ronny TONG's original motion and Dr KWOK Ka-ki's amendment.

Thank you, Madam President.

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

MR SIN CHUNG-KAI (in Cantonese): Madam President, I am also a Member returned from a FC, but I think my experience is quite unusual. It is because I have changed from taking part in a "big-circle" election to a "small-circle" election while a few Members of this Council have changed from taking part in a "small-circle" election to a "big-circle" election. Members of the latter category include Mr Martin LEE, as well as Mr James TIEN and you, Madam President, who made the move recently to change from taking part in a small-circle election to a big-circle election. But not many Members have made a reverse change.

It remains of course, that different people have their own reasons for making their choices. In 1998 when the Government changed the so-called "single seat, single vote" system to that of a "multi-seat, single vote" system, the election method was also changed. As I recall it, from 1995 to 1997 I was the chairman of the New Territories South District Council and the Kwai Tsing District Council. Then I took part in the direct elections for the New Territories South geographical constituency (GC). At that time, the vote percentage I got was not too bad, for I had about 70% to 80% of the votes. Only very few people have taken part in these two different kinds of elections, that is, direct elections and those for the FCs.

Insofar as Members returned by FCs are concerned, their work may be very much different from those Members returned by the GCs. In general, the difference lies in sector interests. Seen from another perspective, of course, I do not think that FCs are good for nothing. On the other hand, I think that Honourable colleagues from FCs have greater expertise, knowledge and experience in certain specific areas. They would be able to give valuable advice in those particular areas.

However, in any society we should not highlight certain particular functions. This is the point I wish to emphasize. The approach taken by overseas countries is the bicameral system. For example, in the United Kingdom, there are two houses in the Parliament, that is, the House of Commons and the House of Lords and they have their own functions. Recently, I think it was the British Trade Commissioner who had asked if the bicameral system would be practised in Hong Kong.

I have visited the European Union. Some parliaments in Europe have an immense organization. They also have some similar consultative bodies where people of business background are recruited to assist in policy formulation and legislation. But there is one point I wish to stress and that is, this is only applicable to the processes in which views are gauged and collected, not where policies are decided.

Even if a constitutional review is to be conducted in Hong Kong later, for all the views expressed by Members today in favour of preserving the FCs, there is one point which I think I can agree and support. Even if there will be universal suffrage in future, the Government should retain a mechanism whereby views from various social strata, especially those of the professions and the business sector, can be collected. Their views should be heard when policies are to be formulated and laws to be enacted because it is necessary to hear their professional advice. However, such work can also be done in the various consultative bodies set up by the Government and consultative frameworks in the professions.

When a society matures, as in the case of Hong Kong, we would have the necessary conditions to hold elections by universal suffrage. With respect to this point, I hope the Secretary could have the opportunities to look into international politics. According to some studies in political science, the time when universal suffrage is ripe for South Korea and Taiwan is when their annual per capita Gross Domestic Product (GDP) reaches US\$4,500. Incidentally, the watershed for South Korea was 1987. For Taiwan, the watershed was 1986 when the ban on other political parties was lifted and universal suffrage adopted ever since. At a time when universal suffrage took place in these two countries, their annual per capita GDP was just US\$4,500.

If history will repeat itself, the annual per capita GDP of our great socialist Motherland is about US\$1,100 this year and if this grows at a rate of 8% or 9% each year, using the Rule of 72, it will be about 16 years before the annual per capita GDP of China reaches US\$4,400. As it is 2005 now, 16 years from now will be 2021. By 2021 the annual per capita GDP of China may reach US\$4,400 to US\$4,500. Of course, my assumption is that all through these 16 years things will go smoothly and there is no major political turmoil.

With this in mind, does Hong Kong have the right conditions to go a step faster? I do not want very much to see our great socialist Motherland take on a faster progress towards democracy than Hong Kong.

But, Madam President, you may also have such political foresight and you may think that it will be 2020 when there will be full-scale universal suffrage, including elections for the Legislative Council. I recall you talked about when would be an appropriate time for it. I recall you said it would be either 2016 or 2020. Sorry, you do not have any chance to clarify but as I recall, this happened last summer.

Today we discuss the abolition of FCs or banning them altogether as this would make our society more harmonious. Our national leaders, Mr HU and Mr WEN, have also made it a special point of emphasis that a harmonious society should be built.

How can a harmonious society be built in Hong Kong then? The key to it is that public opinion should not be suppressed. The majority of the 6 million people in Hong Kong do not have a second vote. Of the more than 3.2 million voters, those holding two votes will only be 200 000 to 250 000. Should we therefore not make the policy formulation process fairer? This is an issue in our electoral system which must be reviewed.

Madam President, I support the motion moved by Mr Ronny TONG and oppose the amendment moved by Dr KWOK Ka-ki.

MR LEE WING-TAT (in Cantonese): Madam President, I speak in support of the motion moved by Mr Ronny TONG.

As a matter of fact, this motion is vitally important. It is because some Honourable colleagues have said that constitutional development in Hong Kong is too rapid and I have even heard views that such development is aiming at making overnight changes. I may look young but actually I am approaching 50. I am already very old. This problem was discussed more than 20 years ago. I remember the first time I was appointed a member of a consultative body together with James TIEN, perhaps it was because at that time we were still quite young, we were rather fiery-tempered. Whenever mention was made of

democracy, Mr James TIEN would say that it was a scourge. Now he is no longer saying such things. That proves that after more than 20 years, all the sharp edges have been filed smooth and even a person like Mr TIEN would agree that democracy is necessary. So when some people query whether or not constitutional development is aiming at making overnight changes and whether or not this is consistent with the principle of gradual and orderly progress, they should review the history of Hong Kong. It is because the issue has been under discussion for more than 20 years. During this period, some people have undergone tremendous changes in their appearance — their hairs have gone and they have become bald and luckily for me, mine is still there; and for some people, their beard has turned from black to white, for me, for the time being the beard I shave in the morning is still black. Some people used to run more than 10 km each time, but now they can barely run 1 km or 2 km. That is my situation. So it can be seen that this issue is not discussed for the first time now. It has been discussed for years.

Seen from another perspective, as Mr Patrick LAU asked earlier, can we bring the views from various professions into the Council if things are done the way we want? Actually, this issue has been debated for more than 20 years as well. Personally I think that we must find a way out and we can ill afford any more procrastination. The way out is when universal suffrage is adopted, the system of universal suffrage must embrace the following:

First of all, there should be broadly balanced participation. The Democratic Party once suggested to the Government that it should consider using the German system. The German model incorporates direct elections by districts and proportional representation. The system of proportional representation is practised throughout Germany. I think and as I have worked out the numbers, if this system is adopted, even if those people in the business sector who hold some nonconformist views and people of Indian and Pakistani descent can all have representatives in this Council provided that they are permanent residents of Hong Kong. In other words, this design can embody universal suffrage so that people from the business sector and the professions will stand chances of winning in the elections. There would be no need for FCs under this system. As proven in many countries, this system works. Secretary Stephen LAM is also aware of this German experience. Even when it comes to the radical Green Party there, at times they can get 3% to 5% of the seats in the Bundestag. So the argument does not stand.

If in the Legislative Council it is not possible to let all trades and industries have their own representatives — actually no parliament in this world can do this — then the only way is to rely on those institutions below the level of the parliament and other government institutions to garner views from all trades and industries. And this can be done with success.

The other point which I am most worried about at present is that the Central Government has yet to be convinced that institutions are more important than men. We can see many examples indicating that the Central Government does not regard institutions as more important than men. All along it attaches greater importance to men. That is why often times it thinks that everything will be fine if good men are found. Now there are talks about the resignation of Mr TUNG. Soon there will be an election. But why do we know so soon that who will be the next Chief Executive? The reason is that the Central Government has made its view known. So the election held by these 800 people is in a certain sense a small-circle election of the FC type. The thing which worries me most about this form of election is that it is thought that things will be fine if the right person is found.

Of course, I would not object that a person of greater abilities will do a better job communicating with the public and that his or her political acumen will be sharper, that is why in a certain sense or in the short run, it would help make society stable and government operations smooth. But if the institutions are completely overlooked, sooner or later the fundamental problems will crop up, such as queries on the origin of his mandate. When he tries to launch a major policy, why should public opinion come to his rally? Since he is returned by a small-circle election, he is linked to the so-called group in the small circle with the greatest interests. Exchanges of interests will follow. Often times the interests of the people are put aside. It is precisely because of this that the Chief Executive selected by a small circle and representatives from the functional constituencies will all have to face a problem ultimately and, that is, the conflict between the interests of the majority and those of the minority. They will find themselves standing at a crossroads.

I often hear the word "sector" mentioned by Honourable colleagues in this Council. Seen from a certain perspective, the word "sector" sounds pleasing to the ear. But looking at the word seriously, one will find that it is an ugly word.

It is because it means that representatives from the sectors will put the interests of their respective sectors over and above the interests of the millions of people in Hong Kong. I hate the way Mr Tommy CHEUNG talks about smoking. He says "my sector" all the time and that this and that should not be done. Just think it is because of the fact that this issue has been allowed to drag on for so many years and no laws are enacted that so many people have suffered. So at times when many Honourable colleagues say that they are very happy in fighting to further the interests of their sectors, I think that it is most unfortunate to talk like this because what they do is to put aside the interests of the people of Hong Kong.

Another unfortunate thing is that the small-circle election of the Chief Executive resembles the elections in the FCs. This is a progressive retrogression. We used to say this and Members may take it as a joke or black humour as they like, that is, democracy the Chinese way is to know the results first, then the system is designed to serve the results. The latter-day Chinese democracy has even thrown away elections altogether. What is done is a person is picked, then people will be informed of the choice and all they do is to clap their hands. This is how a new Chief Executive is selected.

In this way it is a retrogression rather than progress in our system. It is a step back to a point that our selection for the Chief Executive is like the FC elections. There may not be any election after all. There may not be a place for the public to make its voice known, nor for the people to state their preference. All these will have no place in the process. There is no way in which society can seek common ground and iron out its differences. Are we going to be complacent about this development or approach? Are we going to be blinded and muffled by this fleeting harmony and transient stability? For almost 20 years the Mainland has been talking about harmony and stability and for almost 30 years it has been talking about waging a war on bribery and corruption, but have we seen any progress made? No. The reason is the same. Leaders of the country do not want to face up to problems in the institutions and so the problems have remained unsolved. Thank you, Madam President.

DR FERNANDO CHEUNG (in Cantonese): Madam President, I am a Member returned to this Council through a FC. However, like Dr KWOK Ka-ki, Miss TAM Heung-man and Dr Joseph LEE, I oppose FC elections. What is wrong

with FC elections? I do not want to say too much on it on the theoretical side, I only want to recap the election in 2004 briefly.

Of the 60 seats in the Legislative Council, 11 seats were returned uncontested. These 11 seats all belonged to the FCs which include the Heung Yee Kuk, agriculture and fisheries, insurance, transport, real estate and construction, commercial (I) and (II), industrial (I) and (II), finance and import and export. Of the some 3 million voters in Hong Kong, the Heung Yee Kuk FC has 149 voters; the agriculture and fisheries FC has 162 voters; the insurance FC has 161 voters; the transport FC has 182 voters; the real estate and construction FC has 757 voters, the commercial (I) and (II) FCs have some 1 000 voters respectively; the industrial (I) FC has 804 voters; the industrial (II) FC has 499 voters; the finance FC has 154 voters; and the import and export FC has 1 385 voters. The reason why I am citing this long list of figures is that I wish to give Members a concrete picture of the state of affairs, that is, this will be the result if FC elections are held: one out of every six seats in the FCs may be returned uncontested.

Looking back at the Legislative Council Election in 2000, at that time nine seats were returned uncontested and these seats were the same ones as those that are returned uncontested in this term. It may well be said that FCs can recruit people with some expertise and they are in fact a kind of internal manipulation. I have no intention to insult or criticize representatives elected from these FCs, for they are my Honourable colleagues. What I wish to criticize is only the system. It would be easy for the system to become a small circle and this small circle can be easily manipulated. As we see just now, the number of voters is so ridiculously small. In many cases, there are only about 100 and they are mostly organizations and groups. This is how these seats are returned. In the case of a directly-elected seat, a candidate would have to get the support of at least 50 000 to 60 000 voters before he or she can be elected.

It is clear that in terms of operation, the difference between FC elections and universal suffrage is while one gives ordinary members of the public a chance to take part and choose a candidate who represents them and their interest, the other is manipulated by small circles representing only the interest of certain sectors. In some cases, these representatives do not even represent the interests of the entire sector concerned but only the interests of a very small minority in

that sector. Do these sectors, including the ones I have mentioned, have just some 100 members? No, of course not. Do those sectors that have a slightly larger number of some 1 000 voters have just that number of members? No. Then how can we put half of the seats in the Legislative Council under the control of such a system? How can we seek an interpretation of the Basic Law from the National People's Congress and rule that the proportion of FC seats and directly-elected seats will remain unchanged?

Some people may think that preserving the FCs will facilitate balanced participation. The logic behind this argument is that the rich belongs to a minority and if all the seats in this Council are returned by direct elections, this will mean candidates representing the large number of grassroots will stand a better chance of winning. If these people are returned to the Council, they may raise the taxes and give generous handouts of welfare and so the voice of the rich will not be heard in the Council anymore.

It should be noted, however, that the rich people in the business and real estate sectors are holding the greatest amount of resources in society. They have the greatest number of channels and the greatest number of positions. They have rich social resources and extensive social links. If they wish to lobby the officials and influence government policies, they can resort to many channels. Therefore, do they really need to resort to small-circle elections in the FCs? Do these business and real estate sectors have to be given tailor-made seats in this Council to further add to the magnitude of their influence? These seats are taken not as a result of balanced participation but special privileges.

Having said all these, FCs also include the labour sector, the education sector and the social welfare sector to which I belong. Therefore, the FCs are after all not monopolized by the professional bodies in the business sector. Even if this is the case, how can we manifest balanced participation? For example, should a FC be established for the ethnic minorities? Should a FC be established for those new arrivals to Hong Kong? Or a FC for the religions? As a matter of fact, if this line of argument is pursued, there will be no way this kind of small-circle elections in the FCs can promote balanced participation. The essence of democracy is all men are equal and it follows that everyone under this system should have equal opportunities and everyone should be given a vote.

The United States is a capitalist power and it has a democratic system all the same. But I fail to see any FCs in their system and I have heard nothing about capitalists in the United States not being able to make their voices heard in the assembly. If we are really to comply with the spirit of the Basic Law, we should not allow an electoral system like the FCs to continue to exist anymore.

May there be universal suffrage in Hong Kong soon. Thank you, Madam President.

MR ALBERT HO (in Cantonese): Madam President, I think the design of the FCs, the aims behind them and the results of their operation are clear to everyone. Let me talk about the design first. With respect to the delineation of FCs, there is a clearly-felt conservative and biased outlook, with the result that people in the upper strata of society with vested economic interests will be able to obtain a disproportionate and even duplicated number of seats which they can use to consolidate their political power. Dr Fernando CHEUNG mentioned in his speech again that certain FCs like the chambers of commerce and federations of industries have four seats already. On top of this, these votes are duplicated with those in the construction, real estate, textiles, finance and import and export sectors. Such a duplication and overlapping of seats has enabled those in these sectors to amass voting rights which are disproportionate to their numbers.

On the other hand, many sectors which have large numbers of members or playing important social functions are excluded. I can now see the chairman of the Women's Commission, Mrs Sophie LEUNG, here. I wish to challenge her by asking why housewives are not recognized even though they play such an important role. I do not think any explanation can be offered. It is because things are decided by whether or not you have any role to play in the economy.

Another point is that, looking from the way in which votes are cast in the FCs, such a design to exclude participation is likewise crystal clear. We can see that there are corporate votes, and some bosses of certain business groups are able to control 20% to 30% of the votes in certain FCs. Even when some FCs are designed for the sake of the labour sector, so to speak, I would challenge such a view and ask why the workers and employees are not given a direct right to vote as they are so large in numbers. On this point — I can see Mr WONG Kwok-hing now — the unionists can make eloquent speeches on issues related to

the living of the people, but when it comes to constitutional issues, I think that they are not so brilliant. I really hope that they can come forward and say something fair for the employees and workers whose political rights are so relentlessly exploited.

Madam President, the greatest problem with FCs is that they have created differential values in ballots. This is an important point. Popular elections, that is, universal suffrage, are meant to be popular and equal. The meaning of being equal is that the value which every vote carries is the same. As it is, the design we have is such that there is no equality in the votes. It is true that many voters in the geographical constituency elections have their own votes, but they can only vote in the geographical constituencies. In the FCs, special privileges are created. In addition, there are people who hold super-value votes and this kind of special privilege serves to bypass the voting right of the ordinary people. Mr WONG Yung-kan repeated the same old argument when he said that the President of the United States and the Prime Minister of Britain are all indirectly returned. But let us not forget that the United States President and the British Prime Minister both have to go through elections at the district levels which are fair and popular, then the members of the Parliament and members of the Electoral College so returned will elect their respective political leader. If this design is used, I think the debates will not be so much on the form of voting but whether or not there is genuine equality, popularity and equal value. The point which I want to stress is that this kind of equality should mean each citizen will have the same value or more or less the same value of voting right.

Madam President, the consequences of FC elections are that they lead to compartmentalization. The Legislative Council becomes compartmentalized and society becomes divided. This is because each FC will exert pressure on the person with the power to rule in order that their own interests can be advanced. The result is that the role that should otherwise be played in merging different interests in society is impeded. The normal development of the political parties and their functions are also impeded. In a normal society, political parties may play a role of merging and co-ordinating interests of various quarters, hence a few policy options which are more or less mainstream views would take shape. This diversity will be expressed in the Legislative Council by virtue of the votes cast. This is a vital point. But it is unfortunate that it is not case we have. The adoption of FCs has created some special privileges which bring about a compartmentalization of political powers. On this point,

Prof KUAN Hsin-chi puts the point very well when he says that if the merging of interests is impeded and consequently political parties cannot develop, how will our politics be characterized? It will be personalized politics. In the Hong Kong context, personalized politics is politics *a la* TUNG Chee-hwa. His brand of politics is the most personalized, for there is no overall thinking, no fully-baked concepts and no continuity. So even if the Chief Executive resigns today, it is resignation *a la* TUNG Chee-hwa — so muddle-headed and no one knows what he is thinking.

Madam President, we support Mr Ronny TONG's motion. It is because the adding of a FC seat will mean another hurdle posed in Hong Kong's progress towards democracy. The FCs might have played a part in our history when they spurred on the development towards a politicized society. But that function is long since past its service life. With this the political role that used to be held and has been played by FCs should rightfully come to an end. Thank you, Madam President.

DR LUI MING-WAH (in Cantonese): Madam President, the constitutional development of every country in the world has its own unique background and historical, cultural, economic, political and social conditions have all to be factored in. The same applies to constitutional development in Hong Kong.

The Legislative Council in Hong Kong was set up in 1843 and at that time there were four ex-officio Members including the Governor himself. In 1850, two more unofficial Members were appointed. The number of the Legislative Council Members increased thereafter, but ex-officio Members still outnumbered unofficial Members. In 1984, the Legislative Council had 29 ex-officio Members and 32 unofficial Members. At that time it was two years after Mrs THATCHER tripped on the steps to the Great Hall of the People in Beijing. And so the political balance began to tilt towards the other side. Then in 1985 there were the first Legislative Council elections ever held in Hong Kong. Members increased greatly in number, with 11 ex-officio Members and 22 appointed Members, of whom 12 were returned by FCs, one by the then Urban Council, one by the Regional Council, and 10 by members of the District Boards. In 1991, the Legislative Council of Hong Kong began to have its first directly elected Members and there were 18 of them. There were 18 appointed Members, 21 Members returned by the FCs and four ex-officio Members. The

Legislative Council election in 1995 was the last one held under British rule. Of the 60 Members returned, 30 were returned by the FCs, 20 by the geographical constituencies and 10 by the Election Committee.

After the reunification on 1 July 1997, the election for the First Legislative Council in the Hong Kong SAR was held on 24 May 1998. As provided in the Basic Law, in its first term, the Legislative Council was composed of 60 Members, of whom 20 were returned by geographical constituencies, 10 by the Election Committee and 30 by the FCs. Such a composition was broadly similar to the Legislative Council before the reunification. Then in 2000 the election for the second term of the Legislative Council was held. The number of Members returned by the Election Committee was reduced to six while that of Members returned by geographical constituencies was increased to 24. When the election for the third term of the Legislative Council was held in 2004, the number of Members returned by FCs and geographical constituencies was each 30.

From the brief account given above, it can be seen that the constitutional development of Hong Kong has been progressing all the same since the reunification towards the ultimate aim as stated in the Basic Law, that is, full-scale universal suffrage. However, in this progress toward democracy, the role played by FCs must not be overlooked and the proportion of seats taken up by FCs against the total number of seats must not be slashed all of a sudden. Constitutional development must be handled with great prudence with existing conditions taken into account, for FCs can serve to recruit people with professional knowledge and experience from all sectors into the Legislative Council and hence the spirit of balanced participation by all strata and sectors is fulfilled.

Some critics think that there are two major pitfalls with the FCs in Hong Kong. First, FCs are more capable of recruiting talents than the democratic camp. This is a comment made by a certain professor. As a result, this may affect the development of the democratic camp and the progress towards democracy. Second, Members returned by FCs are often criticized for tending to the interests of their respective sectors alone. Actually, this is a misplaced anxiety stemming from misinformation about the FCs. Take the industrial FC as an example. I am very concerned about industrial, economic and technological developments in Hong Kong and I have proposed many motions in this respect, including the ones on the development of the semiconductor

industry, applications of nano-technology, developing desalination technology and new industrialization, and so on. All these are for the overall interest of Hong Kong, the creation of more jobs and the well-being of the working class. This is fully in line with the wishes of the whole Hong Kong community. The same goes with other Members returned by FCs. They are all playing their vital part for the good of the community. It can be seen therefore that the interests of the FCs are consistent with those of the community. They are all contributing to the stability and prosperity of Hong Kong.

With the discussions in the community on constitutional development going into greater depth, the public will have a clearer and more positive perception of the value of FCs and the contribution they make. Opinion polls show that 60% to 70% of the people in Hong Kong think that FCs have an objective value for existence. Indeed, and taking into consideration the political reality and institutional framework in Hong Kong, the existence of FCs in the Legislative Council and their being maintained at a certain proportion as opposed to the overall number of seats are consistent with the long-term interest of Hong Kong. FCs can foster the building of a prosperous, stable and harmonious society, imbue the local economy with vitality and enable the people to live and work in peace. This is my heartfelt wish shared by all the people of Hong Kong.

Thank you, Madam President.

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

MS MARGARET NG (in Cantonese): Madam President, the famous essayist TUNG Chiao wrote, in the preface to his recently published work *Jia Shen Nian Ji Shi* (Events in the Year of Jia Shen), to this effect: "Writings in an age of upheavals should be marked by wrath, not rancour; melancholy, not grief. For wrath leads to resolution while rancour displays triviality; melancholy has grand dimensions while grief is restricted by its frailty. A bark loaded with grief will get lost in a sea of wandering mist in no time."

These lines from TUNG Chiao rang a bell in my mind last evening when I heard Dr KWOK Ka-ki express his profound sense of helplessness on the issue of constitutional development.

People from the democratic camp should not have felt helpless, nor should they be frustrated. We should analyse the situation with reason and come up with a right course of action and then frankly explain our choice to the people. The motion moved by Mr Ronny TONG is a step made in the right direction.

The so-called "mainstream proposal" from the Government which is about to be made public is merely an attempt to beat about the bush of FCs, adding representatives to the Election Committee based on FCs, and increasing seats returned by geographical constituencies (GCs) through direct elections and FC seats in the Legislative Council by the same number. After making a cool-headed analysis, we find that such moves will only bring harm instead of advantage to the progress towards democracy and universal suffrage. That is why we must stand firm and oppose them. We are aware of criticisms made against us, that our move will result in the constitutional system making no progress. We are not daunted by attacks. To win public support, we need to explain all these to the people, especially those who place ardent expectations on the democrats.

On the origin and shortcomings of FCs, many Members have already spoken on them with clarity and poignancy. These represent their impressions and opinions and I need not repeat them here. I would just like to point out that all these views are backed up by facts, that is, from the findings of two studies and surveys.

First, scholars from University of London and University of Hong Kong undertook a detailed study commissioned by Civic Exchange. The study compares the performance of Members returned by FCs and directly elected Members during the two terms of this Council from 1998 to 2000 and from 2000 to 2004. Areas like scopes of social policies, the overall performance of Members including in questions, motion debates, bills, votes cast and speeches are studied. It is found that whenever motion topics closely linked with sector interests appeared, they would prompt enthusiastic responses from FC Members. But for other motion topics, their responses were at best lukewarm. FC Members placed a very narrow definition on sector interests and they rarely displayed any expertise or gave any professional advice on topics not bearing any direct relationship with their respective sectors. Overall speaking, FC Members were only half as active as directly elected Members.

The study also points out the fact that FC seats are in confrontation with the seats returned by GCs through direct elections. For close to 60% of motion debates where divisions were claimed, the voting result shows such a confrontation existed between FC seats and GC seats. As many as 70% of these motions were voted down by FC Members.

The second study contained two opinion polls conducted by Dr Joseph CHAN of the University of Hong Kong in January and March 2004. A comparison of these two polls show that an overwhelming majority of members of the public have a very vague idea about FCs and their formation, and there are many misconceptions as well. But with increasing understanding of FCs, they are inclined towards reducing and abolishing FC seats.

The findings of these studies and polls show that it cannot be said that FCs contribute to the Council by making any professional expertise input. On the contrary, we can see that GC seats are filled by people with talents. In the legal profession, my seniority is far less than the three senior counsels sitting next to me. They are directly elected to this Council. Sitting opposite to me is yet another senior counsel and he is returned to this Council by direct elections. Among those directly elected Members, there are Members from the business sector, the education sector and the labour sector. On the other hand, the sectors are making increasing demands on FC Members, that they should place sector interest as their first and foremost concern and fundamental position. This results in great difficulties encountered by this Council in striking a balance between sectors across the community. Therefore, an increase in the number of FC seats will therefore spur more interest groups fighting for privileges and once these groups become holders of vested interests, they will become resistant to universal suffrage and hence making universal suffrage harder than ever to materialize. An increase in FC seats also runs counter to public opinion.

Mr Howard YOUNG said in his speech earlier that should the constitutional system in Hong Kong make no progress, the democratic camp would have to bear all the responsibilities. It is because it is stipulated in the Basic Law that there should be "gradual and orderly progress". After listening to Mr YOUNG, it has suddenly dawned on me that the decision made by the NPCSC on 26 April 2004 has contravened the Basic Law because an increase in FC seats, even if the seats returned by GCs through direct elections are increased at the same time, given that the voting system will remain unchanged, this is actually a retrogression in democracy. At best it can only be described as

marking time and no progress is made whatsoever towards full-scale universal suffrage.

Madam President, a battle of words is never profitable. Democracy has to march on no matter what, and history is so full of ups and downs and silver linings in the clouds, we need not give up the goal of our fight even though it cannot be realized for the time being. Thank you.

MR ABRAHAM SHEK: Madam President, with regard to our first duty as legislators, did we not swear to defend the Basic Law, and are we not all here elected by a system endorsed and approved by the Basic Law? Madam President, I therefore speak with pride as a legislator elected and returned without opposition and fully endorsed by the sector I represent. The sector I represent contributes in no small measure to the building of Hong Kong into a stable and prosperous city of China. Our sector has a right to speak and also a right to be heard, for we are all part of the community at large. Functional constituency (FC) representatives are often being misunderstood as caring only for our sectoral interests and not those of society. Margaret NG just spoke of her views on the FCs. Does she not represent society at large? Does she only fight for the interests of her FC? The answer is no. This is a false belief preached by those who claim themselves to be true democrats which they believe they are. The majority of the FCs are proud of their contribution in service to society and the people of Hong Kong.

There are always fierce confrontations among legislators when it comes to debates on constitutional development in this Council. It appears that only those who have demanded for an immediate implementation of universal suffrage are labelled as supporters for democracy, while those who are not in favour are considered to be pro-government conservatives and anti-democratic. But I do not agree with such a crude demarcation for democracy is not a monopoly of the 25 pan-democratic legislators and their supporters. Democracy is for everybody. I understand that the majority of Hong Kong citizens have aspirations for democracy and hope to see the implementation of universal suffrage at a date to be set as soon as possible.

Nevertheless, we should bear in mind that Hong Kong citizens have expectations for universal suffrage, but at the same time, they also hope to maintain a stable social and political environment conducive to a stable,

harmonious and economically prosperous society. I believe these are the mainstream views of the community as a whole.

Recently, the Chinese University of Hong Kong conducted a public opinion survey on universal suffrage for the elections of the Chief Executive in 2007 and the legislature in 2008. The results indicated that only 34.7% of the respondents supported the democrats' fight for universal suffrage in 2007 and 08, while 36.5% were in the opposite camp. This shows that the community is split when it comes to the immediate implementation of universal suffrage. Certainly, no one regards the respondents who are averse to universal suffrage in 2007 and 08 as blatant opponents of universal suffrage or democratic development in Hong Kong. In the aftermath of the NPCSC's decision on 26 April 2004, many people have strong reservations about whether an immediate implementation of universal suffrage at the present situation is practicable. They hope that significant improvements can be made on the basis of a step-by-step approach and equitable representation of the community's interests in the methods of electing the Legislative Council Members and the Chief Executive.

I fully respect the Honourable Ronny TONG's professional judgement and ability as a barrister. However, I am astonished when his motion says "any constitutional reform proposal which involves an increase in the numbers of FC seats in the Legislative Council and of the members representing FCs in the Election Committee violates Articles 45 and 68 of the Basic Law". I do not understand why an increase in the number of FC seats constitutes a violation of Articles 45 and 68 of the Basic Law which stipulate that the principle of "gradual and orderly progress" and "actual situation" should be followed in achieving the objective of universal suffrage.

Subject to the ratio of Members returned by FCs and geographical constituencies through direct elections remains unchanged at one to one, an increase in the number of FC seats and geographical constituency seats enables more people from different community sectors to take part in the affairs of the SAR. As such, it is a progress to democracy, taking into consideration that universal suffrage is not ready to be introduced in the current circumstances. Therefore, such an arrangement is fully compatible with the real situation in Hong Kong and is in accordance with the principle of "gradual and orderly progress". It does not constitute a violation of the relevant principles of the Basic Law.

Madam President, I think the Honourable Ronny TONG has a deep aversion to the FCs and that is why he insisted on participating in the 2004 Legislative Council Election by running for a geographical constituency seat through direct elections. I have great respect for Mr TONG's insistence. But since Mr TONG is a legal practitioner and a barrister, it is my hope that he should and must have respect for the NPCSC's decision as much as for the law. The decision of the NPCSC on issues relating to the methods for selecting the Chief Executive in 2007 and for forming the Legislative Council in 2008 clearly stipulates the ratio between Members returned by FCs and Members returned by geographical constituencies through direct elections.

Thank you, Madam President.

MR ALBERT CHAN (in Cantonese): Madam President, I speak in support of the motion moved by Mr Ronny TONG. With respect to FC elections, I oppose them in principle because they are in contravention of the principle of fairness and equity.

There have been many discussions over the past two decades in Hong Kong on issues related to constitutional review. On the constitutional review conducted two decades ago, one issue I can recall most vividly is the conduct of direct elections in 1988. The Government at that time consulted the public, but in the report of the consultation released, public opinion was greatly distorted and findings of public opinions were simply engineered by the Government. One very unusual practice was to treat a submission from tens of thousand people as one opinion. The final conclusion drawn was most people did not support direct elections in 1988. Mr Adolf HSU, the official in charge of the consultation exercise then was subsequently promoted and got rich. Now the officials are employing the same old trick. On the surface they say that they are conducting consultations and reviews, but a decision has been made already. Things like time and contents will in the end follow the instructions from the Central Authorities in Beijing and then enforced. The preference of 6.8 million people in Hong Kong is simply brushed aside. This is because even to this day our Government still refuses to say how and under what criteria conclusions are drawn. Therefore, what is being conducted is a sham consultation, where tactics and tricks are employed to manipulate public opinion.

Many Members expressed in their speeches support for FC elections. What they have said and the attitude they hold are like the way constitutional system was discussed back in the early days of the Chinese Republic. One remark which bears a striking resemblance to the present-day Members is a famous saying by YANG Du, one of the "six gentlemen" behind YUAN Shi-kai's attempt to restore monarchy. YANG said, "The nation can only be saved by a constitution and a constitution can only be established by a monarch". What they are saying now about the FC system is that they are convinced that the FC system is what underpins stability in Hong Kong and without FCs, there can be no stability in Hong Kong.

Such arguments are grossly negligent of the trend of democracy and concepts of a democratic system. They have totally failed to realize the importance of democracy in the operation of politics. The system of FCs and those Members in support of it are like the National Geographic clip I watched the other day on sea horses. The sea horses drift and flow in the sea in search of food. They anchor their tail onto some seaweed to avoid being swept away by the currents. Sea horses adrift in the vast expanse of an ocean may opt for freedom and greener pasture, but it may be due to their instincts that they have to cling onto something. This is like some Members who support the FCs, they have to cling onto the rich and the powerful. To cling onto these people would mean political privileges given in return, that their political, financial and personal gains can be furthered at the expense of the fundamental rights of 6.8 million people.

The restoration of monarchy by YUAN Shi-kai at the time resulted in the continual decline of China, making it more vulnerable to encroachments by the foreign powers. If this system which is unfair and unjust is allowed to continue, it will only result in the decline of Hong Kong. History is punctuated by many such examples. If Members should want to relive the painful lessons of history, I think individual Members will have to make themselves accountable to history.

I recall a discussion conducted more than 20 years ago on the significance and value of "one country, two systems" in the context of the reunification, and one of the arguments frequently advanced and discussed was that Hong Kong should set itself as a good example for Taiwan so that reunification of Taiwan with the Mainland would be facilitated.

At the time when we talked about "one country, two systems" and review of the constitutional system, the ban on political parties and newspapers in Taiwan was not yet lifted. It was only in the latter part of the 1980s that the ban on political parties and newspapers was lifted. The first election held after the lifted ban on political parties and newspapers was in 1989. In Hong Kong, we had District Board elections in 1982 and Legislative Council elections in 1985. The Democratic Progressive Party (DPP) in Taiwan was formed only in 1986. In the elections held in Taiwan in 1989, the DPP only won 28.2% of the votes in the Legislative Yuan elections. It was only after many elections that its share of the votes began to climb. CHEN Shui-bian of the DPP was elected as mayor of Taipei in 1994. He won the presidential elections in 2000 and was re-elected in 2004.

Taiwan is a place which is so near to us and it has also a Chinese community. Twenty years ago when we discussed the review of constitutional developments, Taiwan had not yet lifted its ban on political parties and newspapers, but now its constitutional development has made such remarkable progress. A political party founded in 1986 became the ruling party in Taiwan in 2000. But to date we are still talking about FC elections. I think this is an absurdity in history. If continued support is given to FC elections, that would be another absurdity in history. As absurdity is perpetuated, this Chamber will become a perpetuator of absurdities.

Madam President, this issue has been under discussion for 20 years. If we are not prepared to cast aside our own interests and if we continue to turn a blind eye on the onset of the sweeping tide of history as well as the myriad success examples therein, Hong Kong will only sink and decline. Thank you, Madam President.

MR FREDERICK FUNG (in Cantonese): Madam President, half of the seats of the Legislative Council, or 30 seats, are returned by the FC elections within Hong Kong's existing Legislative Council electoral system. Despite the Government's repeated emphasis that the establishment and extension of FC elections is to provide various social strata with more channels to take part in politics so as to reflect their interests and voices, the Hong Kong Association for Democracy and People's Livelihood (ADPL) and I do not consider it acceptable. FCs merely represent an electoral system that runs contrary to democracy. It is indeed imperative for the Government to review the value and significance of their existence.

First of all, both the ADPL and I share the view that FC elections run contrary to democracy. Whether democracy is seen in a narrow sense as a competition mechanism whereby representatives of the public are selected to reflect public sentiments and opinions or treated as a broad concept embracing different values of life, cultures and attitudes, democracy inevitably embodies the principles of vesting the power with the people and men are born equal. Insofar as elections are concerned, this value is manifested through a democratic system of universal suffrage founded on "one person, one vote of equal value".

However, if this principle is applied to examine Hong Kong's existing FC elections, both the ADPL and I are of the view that the existing FC electoral system is not democratic. According to the information provided by the Registration and Electoral Office, the numbers of voters of the existing 28 FCs add up to only 160 000, with millions of qualified voters in the entire territory being excluded. It is even more ridiculous that 13 000 of these FC voters are corporate voters. As a result, a minority of these voters can cast two votes. For instance, one may cast a universal suffrage vote, and another vote in FC elections. What is more, an even smaller number of people, such as those who can represent a corporate to vote, may cast three or more votes. This practice can be considered unique in the world. At the same time, this is obviously a violation of the democratic principle of "one person, one vote of equal value".

Furthermore, both the ADPL and I opine that the establishment of FCs is against human rights. As stated previously, there are only 28 FCs in the Legislative Council Election. Both the ADPL and I consider that, however the Administration defends itself and explains that the existing FCs have already covered all trades and industries in Hong Kong as far as possible, not all economic sectors are included. In particular, some non-profit-making groups have been excluded systematically. They are, for instance, school-age students, retirees, housewives, part-time workers and the peripheral and backup support personnel of registered professional bodies, and so on. As a result, the authorities' justifications for its claim that FCs can reflect different groups in society have now existed in name only. Moreover, this has indirectly highlighted the elite mentality that some jobs and professions are "superior" to others.

Furthermore, the 28 FCs have adopted a mixture of two methods, that is, corporate votes and individual votes, in casting votes. As a result, there is a

huge gap in the number of voters. For instance, the Education FC, also the biggest FC at present, has more than 62 000 voters. In contrast, the two smallest FCs at present, the Finance FC and the Heung Yee Kuk FC, have only 141 voters. Ironically, despite the 443-fold difference between the numbers of voters of these FCs, each FC can return one elect to the Legislative Council. This has fully highlighted the unfairness of the system — one vote can make a 443-fold difference in weight.

For these reasons, both the ADPL and I approve of the spirit of the original motion in calling on the Government to, in formulating the proposal for the 2008 Legislative Council Election, make it clear that, in the light of the undemocratic elements and unfairness of the existing FC elections, it will not retrogress in the democratization of the territory by increasing the number of seats in any FCs and back-pedal in the implementation of constitutional reform. We hope the Government can fully understand that it is stated clearly in the Basic Law that the future electoral system should seek to return to the goal of universal suffrage, whereas increasing the number of FC seats is an obstacle in the process to this goal. The Government must stop using balanced participation as its shield. Only an electoral system consistent with the principle of "one person, one vote of equal value" can manifest the principle of balanced participation and the spirit of democracy in the most concrete and effective manner.

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

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

MR MARTIN LEE (in Cantonese): Madam President, elections like FC elections are obviously intended by the British Hong Kong Government for transitional purposes. As far as I recall, at the time Chief Secretary Philip HADDON-CAVE stated clearly in a luncheon meeting that it was a transitional arrangement and in the end it would be replaced by the "one-person, one-vote" system. This is a sensible arrangement because prior to that, all the Members to the Legislative Council were appointed. Members were selected and appointed from all strata across the community. In those days, big companies like Jardine and the Hong Kong and Shanghai Banking Corporation would certainly have some of their people appointed. There were lots of people from

the business sector. There were engineers and lawyers, and even people from the labour sector. As all Members were appointed by the Government, we thought we might as well move a further step on the road to democracy. So the idea was to let each sector elect a representative. That would prevent all Members from being appointed by the Government. The situation was as simple as that. In those days it was already a remarkable thing.

I recall the first time I stood for the election. There was no direct election at that time. In the election for the legal FC, there was a very strong opponent and it was Henry LITTON, QC. In an election forum, a lawyer asked if I was elected into the Legislative Council, what I would do and how I would vote if I came to an issue where the interest of the profession is at odds with public interest. It was really a tough question. At that time, I said, "If I am elected, I am a spokesman for the legal profession, with respect to the issue I will speak for you all and I will say what the profession thinks, as a barrister will speak on behalf of his client. However, when it comes to voting, I will vote according to the dictates of my conscience. If you do not like the way I have voted, please do not vote for me next time." Now Members from FCs may not be able to do this.

I also recall the day I was elected was 26 September 1985. When the results were announced, the reporters asked me at once what was the first thing I planned to do now that I was elected to the Legislative Council. I said the first thing I would do was to strive for direct elections in the next term of the Legislative Council and that I hoped to be returned to the Legislative Council through direct elections. Unfortunately, I failed to secure direct elections in 1988. That is why I was returned to the Legislative Council through direct elections only in 1991. Both SZETO Wah and I wanted to see direct elections as soon as possible, more directly-elected seats and even all seats being returned through direct elections. Other people said, "What? What is wrong with FC elections? Both SZETO Wah and you are elected in this way." "Uncle Wah" and I were speechless. But as there was no other way in those early days, both of us were returned to the Legislative Council in that way.

Mr CHIM Pui-chung has urged the seven of us from the democratic camp returned to this Council through direct elections to give up our seats. But the question is, even if they all resign, there will have to be by-elections and the seven vacant seats will not be turned into directly-elected seats. Mr CHIM

always plays safe. He said if they resigned, he would do the same. He knows the seven Members will definitely not do this, for it is no use resigning and it will not help things. It would be meaningful only if after 10 Members have resigned, the 10 seats left vacant will turn into directly-elected seats.

Madam President, actually these problems were discussed when the Basic Law was being drafted. The finalized view was we had a clear goal and that was, universal suffrage. But now after all these debates, FCs will seem to stay with us forever. This is something I find very hard to accept.

Madam President, I appreciate your decision to come out and stand in the direct elections. I also appreciate friends from the business sector joining the direct elections. Actually, if Ms Miriam LAU stands in the direct elections, she will win for sure. But she is merely finding it hard to part with her FC seat and that is all. Many people in fact can come out and run in a direct election. But they choose not to. So we may never know who can win. However, there can never be sure wins in any election, unless you are talking about elections with a Chinese touch.

A friend of mine is one of those patriotic lawyers and he said something like this in a seminar: We are talking about gradual and orderly progress and so let us look at the arrangements stipulated in the Basic Law. In 1998, the first term, there are 20 directly-elected seats. In the second term in 2000 there are 24 directly-elected seats, or a one-fifth increase. In the third term in 2004 there are 30 seats. Six seats are added, that is, an increase by one quarter. In other words, there is an increase by one fifth from the first term to the second term, and an increase by one quarter from the second term to the third term. So from the third term in 2004 to the fourth term in 2008, there should be a one-third increase or 10 seats or 40 directly-elected seats in total. Then in the next term, there should be an increase by half the number to 60 seats in total. He told me afterwards that he was flayed by the leftists to his guts. What he said was really gradual and orderly progress, but I beg to differ.

It hit me as a big surprise when Mr WONG Yung-kan said that the democratic camp wanted to make overnight changes. It could be that he is not a very senior member of the DAB and so understandably he does not know that the DAB also supports the idea that all seats should be returned by universal suffrage in 2008. Does the DAB want to make overnight changes as well? Actually,

this also applies to the Liberal Party. When I was still the chairman of the Democratic Party, Mr James TIEN, Mr Jasper TSANG and I attended countless seminars and we all thought that there must be universal suffrage in 2007 and 2008. I thought the pace was too slow. But as DAB refers to Democracy According to Beijing, they will have to make another turn now. For the Liberal Party, they have made an even swifter change. They have changed their charter and that is done without even calling a general meeting of party members. And Allen LEE resigned because of that.

Madam President, this is a problem that has been discussed by all of us. Now it is like in a marathon, as runners enter the stadium in the last stretch of the gruelling race, it is found that the runner from our country is trailing behind. Bang, a shot is fired. What for? Madam President, the race has to start all over again!

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

MR ANDREW LEUNG (in Cantonese): Madam President, in April last year, the National People's Congress (NPC) endorsed a decision on the two electoral methods to be held in 2007 and 2008 and made it clear that any changes to the methods of returning the Chief Executive and the Legislative Council should be in line with the principle of co-ordinating with Hong Kong's social, economic and political development, being conducive to the balanced participation of various strata, sectors and parties of the community and the operation of executive-led system, as well as maintaining the long-term prosperity and stability of Hong Kong.

At the same time, the NPC clearly stated that the next term Legislative Council would not have all of its seats returned by direct election. Moreover, the ratio of having the same number of FC seats and geographical directly elected seats would remain unchanged.

However, it is not that there is no more scope for Hong Kong to fight for eventually achieving universal suffrage for the two elections. On the contrary, the Government and even the community have been proactively expressing views on the elections in the hope of finding an electoral method which is acceptable to all and consistent with the goal of achieving democratization in a gradual and orderly manner.

It seems that today's motion, entitled "Shortcomings of functional constituencies", has right at the beginning assumed that there are numerous problems with the FCs and the value of the existence of FCs is negated. However, is it the case that FC Members, including myself, are completely useless?

Insofar as the Legislative Council of the current term is concerned, more than 10 FC Members have proposed motions and debates in more than 10 Council meetings already held. On raising questions and supplementaries, the majority of the Members who have raised the most questions were FC Members. They are, for instance, Mr Howard YOUNG, Dr Raymond HO, and Dr KWOK Ka-ki, who is also the mover of the amendment to this motion.

At the level of panels, Members from different FCs have proactively made their voices heard and expressed in the relevant panels their views on behalf of the industries they represent. Even pan-democratic Members, such as Mr CHEUNG man-kwong, Mr SIN Chung-kai and Miss TAM Heung-man, are no exception. Meanwhile, more than half of the members of some panels, such as the Panel on Economic Services and the Panel on Financial Affairs, are returned by FCs. Out of the 10 members of the Panel on Commerce and Industry, eight are FC Members and only two are directly elected.

All this reflects that it is imperative for this Council to have representatives from different sectors and professions to work in collaboration to give advice and suggestions and provide more diversified input. In the current term, for instance, most of the 30 directly elected Members have come from the community, various tiers of assembly and the legal profession. It is evitable that they do not have an in-depth knowledge of certain commercial and industrial affairs or matters relating to individual professional domains. FC Members can precisely make up for such inadequacy and can facilitate the balanced participation of various strata and sectors.

In the Legislative Council of the current term, for instance, of the 30 directly elected seats, only seven are won by independent candidates. In contrast, half of the FC Members are independent candidates with no political background. This has precisely reflected that FCs can better enable people of insight who aspire to contribute to Hong Kong with a platform for taking part in politics so that they can make political achievements to pave the way for their future

participation in direct elections. At the same time, FCs are more capable of nurturing political successors for the territory, where there is a severe shortage of political talents. In my opinion, this is what "gradual and orderly progress" and "actual situation" really mean.

Madam President, given that FCs have value in existence and various sectors of the community do hope there can be more voices representing them, it can be logically inferred that increasing the number of FC seats and expanding the size of FC electorates are an ideal approach which is in line with the principle of "gradual and orderly progress" and "actual situation". I cannot see any reason for supporting today's motion.

Actually, it is imperative for constitutional reform to be carried out for the two elections to be held in 2007 and 2008. Members and various sectors are urgently required to stride forward in conducting constitutional reform with a positive attitude. They should stop clinging to slogans which are detached from the actual situation. Otherwise, the constitutional reform would only end up making no progress and achieving nothing. By then, it would be difficult for us to explain to ourselves and the public alike.

Madam President, I so submit.

MR TAM YIU-CHUNG (in Cantonese): Madam President, our community is composed of various trades and industries and various strata. As this Council should be our community in miniature, we should be able to discuss various social issues here. At present, Members of this Council are returned by two methods. Actually, each of them has its own merits and demerits. If only one aspect is emphasized, we might detach ourselves from the development of history. To pursue development within a specific time and space is probably a dogmatic act.

When I was a FC Member, I actively liaised with all the trade unions in the territory, reflected the views and voices of the labour sector, strove to fight for retirement protection, a matter of concern to everyone at that time, and paid attention to the interests of civil servants. All trade union representatives felt that they had their own spokesman who knew them very well and had close ties with them.

With FC seats accounting for half of the seats of this Council now, FCs are even broader in terms of representativeness and liaison. There have been views in the community in recent years that participation of the middle class in politics should be enhanced. It has also been suggested that more members of the middle class should be included in advisory frameworks and more forums be opened. I support all these suggestions for FCs are able to realize this very spirit.

FCs serve one more function of preparing talents for participation in direct elections. A number of FC Members of this Council have managed to transform successfully. They include Mr Martin LEE, Mr James TIEN, Mrs Selina CHOW and myself.

Although some FC Members of this Council have thought lightly of themselves and gone so far as to belittle themselves to prove the shortcomings of FCs, they still hold on to their seats term after term. They have given me the impression that what they say does not tally with what they think.

It is thought that the retention of FC seats is a violation of the principle that elections have to be universal and equal. I hold a different view. The purpose of establishing FC seats in this Council is to achieve the principle of balanced participation by various sectors of the community. Expanding the opportunities for various sectors and strata to take part in and discuss politics can not only enhance the representativeness of this Council, but also enable this Council to fully reflect the views of the people from various sectors and strata, including those of the business sector and professionals. In a supplementary report on Hong Kong issues submitted to the United Nations Commission on Human Rights in 1999, the British Government reiterated this principle again and made it clear that the Legislative Council elections conducted in Hong Kong had not violated any provisions of the International Covenant on Human Rights. It has also been pointed out by the European Court of Human Rights that, regarding the composition of legislatures, as the scope of legislation of various countries varies in terms of time and location, various members can have a broader scope to fulfil their obligation of implementing universal suffrage.

In submitting the Basic Law (Draft) and related documents to the National People's Congress, Mr JI Pengfei, Chairman of the Basic Law Drafting Committee, elaborated on the political structure of the Special Administrative

Region saying, "The political structure of the Hong Kong Special Administrative Region should accord with the principle of 'One Country, Two Systems' and aim to maintain stability and prosperity in Hong Kong in line with its legal status and actual situation. To this end, consideration must be given to the interests of the different sectors of society and the structure must facilitate the development of the capitalist economy in the Region. While the part of the existing political structure proven to be effective will be maintained, a democratic system that suits Hong Kong's reality should gradually be introduced." There is a full legal basis for the existence of FC seats. Moreover, over the past several years, the implementation of the Basic Law has already proved that the existence of FC seats serves as a powerful mechanism that assures effective governance of the Government and maintains social stability.

During the initial period of the establishment of the DAB, it was hoped that the goal of achieving dual elections by universal suffrage in 2007 and 2008 could be realized. Unfortunately, there was no consensus in the community. We will continue to work hard to fight for creating more favourable conditions that can enable us to realize our goal expeditiously. Implementing full universal suffrage in 2007 and 2008 in one step is no longer a realistic expectation. However, neither will it do Hong Kong any good if we stop progressing or refuse to make changes. Our future direction of constitutional development should be consistent with the requirements of the Basic Law and the decision made by the NPCSC on 26 April. I hope colleagues in this Council will not stand in the way so as to enable our constitutional system to develop in a gradual and orderly manner.

With these remarks, I oppose the original motion and the amendment. Thank you, Madam President.

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

MR ALBERT CHENG (in Cantonese): Madam President, Mr Andrew LEUNG will of course oppose the motion and the amendment. Although he expressed his disagreement in his speech, I can still understand his position. However, the comments made by Mr TAM Yiu-chung were really shocking. What is balanced participation? In the Legislative Council, there are 60 Members, and

30 of them were returned by FCs and they represent 200 000 voters. Of these Members, only three represent the labour sector and the rest of them all represent the business sector and professionals. Does Mr TAM, who is a representative of labour unions, think that this is fair? Is this balanced participation? This is a betrayal of workers' interests. What does balanced participation mean? Among these 30 Members, those affiliated to labour unions and stood for the labour sector in direct elections include Mr LEUNG Yiu-chung and Mr TAM Yiu-chung, as well as Miss CHAN Yuen-han of the Hong Kong Federation of Trade Unions. Of course, this is also the case for Mr LEE Cheuk-yan and Mr LAU Chin-shek. Insofar as those who are not representatives of labour unions are concerned, there are Mr Frederick FUNG, Dr Fernando CHEUNG, Mr Albert CHAN and even I myself and Mr LEUNG Kwok-hung. This is what balanced participation is about, since each person gets one vote and it goes without saying that those who won a seat in this Chamber are all knowledgeable and reasonable people.

What does fairness mean? When you return home this evening, or perhaps you can explain to the audience by the television set why some people have two votes whereas others have only one. Why do people in the business sector have two votes? Why do people who are barristers and solicitors have two votes, why do teachers have two votes and social workers have two votes but I have only one? Now, I have two votes because I am a Member of the Legislative Council. Originally, I only had one vote and I have never had two votes before. How can you explain what "fair is fair" means? When our kids were very small, Madam President, we told them that we had to be fair and the children of Secretary Stephen LAM must also have heard about fair is fair. Therefore, how can you explain why some people have two votes but others have only one and this is called balanced participation? What does balanced participation mean? There is no need to talk any further about this. All that talk is nonsense. Some people say that we have to seek gradual and orderly progress and everything has to be gradual and orderly. In the past, there was only monarchy and did we have democracy? However, we began to talk about direct elections in Hong Kong in 1985 and the discussion has continued up to this day. As a result, many of our senior Honourable colleagues have expended so much effort and breath that they have become exhausted and I have also spoken on this subject on the radio for 10 years. If you ask me to say something, I just do not know what else I can say. However, let me ask you a question: If we want to be fair and just and if everybody is born equal, can you please explain

why some people have two votes but others have only one? This is as simple as that.

Once upon a time, when discussion was hot about the legislation on Article 23 of the Basic Law before the mass rally on 1 July, the then Secretary for Security, Regina IP, said that shop attendants selling hamburgers, waiters in restaurants and taxi drivers did not have the time to talk about politics, therefore, it was not necessary to listen to their views. Does this mean that it is not necessary to consider giving them votes? Does it mean that there is no need for them to be represented?

What does balanced participation mean in this Council? The majority of Members represent business interests, however, there are nearly 7 million people in Hong Kong and most of them are grass-roots people. If everybody has one vote, why can they not elect people who represent them or who represent the interests of Hong Kong people? Why must these people represent sectorial interests? Is any particular sector entitled to privileges? Some people claim that people with knowledge should be given the opportunities of participation in politics. Do they mean that those standing in direct elections are ignoramuses? Do they mean that people with knowledge can only stand in FC elections? Indeed, let me tell you why. This is because these people are reluctant to condescend to make public appearances and stand in the streets, saying to every voter whom they meet, "Good morning, I am Mr Albert CHENG, number three. Please vote for me." Even the President had to do this. All of us have to strive hard for what we want and we also teach our children that we reap what we sow. Those people who were returned uncontested are now sitting here without having to do any campaigning. I have seen several friends of mine who were elected by just making several calls to ask people if they had cast their votes and when they would come out for a meal or a drink, without having to conduct any campaign. What is fairness? It would be better if people say that there is no democracy in Hong Kong and there must be FCs. If people say so, I will find it more acceptable. Do not tell me that this is for the sake of balanced participation or gradual and orderly progress. Do not tell me that FCs are democratic in nature because even people who say so do not believe in it.

Madam President, in fact, I have great sympathy for Secretary Stephen LAM. He is well educated and is certainly the cream of Hong Kong society.

He is also a graduate of Wah Yan College. How can he possibly believe in what they have said? He cannot possibly believe it. However, since he is in such a position, he has to speak that way. However, sometimes we would go to the church to make confessions. I do not know how these people would make confessions. I do not know how he can manage to tell others on going back that he has spoken a load of nonsense in the Legislative Council today. One person, one vote, and it is as simple as that. The interests of every person are represented and all sectors are represented.

Therefore, I hope that Members will show that they do have conscience by supporting this motion. Even if they support it, no consequence will follow and nothing will happen. Someone mentioned the interpretation of the Basic Law on 26 April and pointed out that the NPC said in giving an interpretation of the Basic Law that 30 seats, or half of the seats, must be returned by FCs and half by direct elections, so what is the point of arguing? Many people have asked Members of the democratic camp this question. Some 20 days or a month ago, I might still be somewhat downcast, wondering what point there was in arguing. However, since TUNG Chee-hwa will probably announce his resignation today — but I believe he will not do so today because as people put it, the way to go about this is "cash on delivery", so I believe we have to wait until Saturday — my confidence has been boosted somewhat. I thought that we still have to lobby hard because if TUNG Chee-hwa is willing to step down, what else is impossible? Therefore, we have to continue to lobby for elections by universal suffrage in 2007 and 2008. I so submit.

MR ANDREW CHENG (in Cantonese): Madam President, Mr Albert CHENG said that when he was canvassing for votes, he looked rather like a fool when saying good morning to people. I disagree somewhat on this point because canvassing for votes is a sacred task. Of course, he was only being light-hearted. We are no fools, but we are working for public interests and social progress, hoping to serve the public in the legislature.

Madam President, I wish to respond briefly to the comments made earlier on by Mr Andrew LEUNG and Mr TAM Yiu-chung. First, I hope Mr Andrew LEUNG will not get the impression that Members who proposed this motion today (such as Mr Ronny TONG and Members who support Mr Ronny TONG's original motion) consider Members returned by FCs inferior. We have never said so and we have equal respect for the ability and aspiration of each Member.

As far as FCs are concerned, it is due to their functions, which are the outcome of a historical legacy, and their method of election that we consider such an electoral arrangement not sufficiently comprehensive, making it impossible for Members to strive for public interests wholeheartedly. Why do I think that they cannot do so wholeheartedly? Madam President, in the past, on many occasions, be it in the discussions of panels or Council meetings, I felt that each Member was obviously serving the interests of their own constituents. Consequently, Members of FCs of course have the interests of their bosses foremost in their minds. I can give a very real example. In the Panel on Transport of the Legislative Council, Ms Miriam LAU — she is not in her seat now and she represents this sector — always puts great emphasis on the interests of her sector whenever she speaks. Of course, this is respectable, however, it is unfortunate that on one occasion, we had a discussion on the increasing number of accidents involving the jumping of red lights and hoped that the Government could impose heavy penalties on red-light jumping by increasing the number of points deducted from three points to five or eight points, increasing the fine, and so on. Of course, the representative of the sector, Ms Miriam LAU, raised quite a number of strong objections, obviously on behalf of the sector, to the proposal made by the Government. I think that to some extent, this contrasted greatly with her concern for road safety and the physical safety of the public.

Even though the FC to which Mr WONG Yung-kan belongs has only few representatives, I was surprised to find that there are quite a number of organizations in the fisheries and agricultural sector. Recently, in a meeting of the Panel on Food Safety and Environmental Hygiene — Mr WONG Yung-kan is now in the Chamber — I was surprised to receive a letter expressing strong objection to the continued existence of FCs. That is to say, they thought that the Member of the FC could not represent them and there was no balance of interests at all. Although there are only several hundred constituents in that FC, they found that no balanced treatment has been given to their interests.

Even in geographical constituencies, in which direct elections are held, the issues in some districts may be somewhat at variance with the overall interests of the Hong Kong public. We have heard of such instances from time to time, that is, Members representing certain districts have difficulty in deciding how to vote. However, nothing is absolute and there is no absolute fairness. We are only in quest of a more advanced society and genuine balanced participation.

Members of the FCs often say that FCs are a form of balanced participation. Mr Albert CHENG has already talked at length about this and there is no need to repeat. However, since Hong Kong is a financial centre and a highly developed society, if we compare it to places like Tokyo, New York and London, is it the case that the consortia and big businesses at these places do not enjoy balanced participation and they are not represented in their parliaments? This is just not possible. When geographical direct elections become mature and every person has one vote, there will definitely be Members like Mr James TIEN and Mrs Selina CHOW who represent the Liberal Party and they will definitely give balanced protection to the interests of the business sector. Therefore, I consider this talk about effective governance and balanced participation to be excuses for preserving FCs. They are in fact the epitome of and protective cover for the collusion between the Government and business and the transfer of benefits. Such a situation really saddens us.

Mr TAM Yiu-chung said that among Members, there are many examples of successful transformation. I wish to remind him that he has omitted me in the names he cited. Many people do not recall that in fact, Mr Andrew CHENG used to be a Member from a FC.

In 1995, I was elected to the Legislative Council through a FC, namely, the Financing Insurance, Real Estate and Business Service FC, which is a long name indeed. As far as I remember, there were 170 000 constituents then and I remember an unforgettable experience in canvassing for votes, that is, I went into the headquarters of the Bank of China to canvass for votes. The manager at that time wanted to boot me out, but I told him he could not because those cashiers were also my constituents to whom I wanted to distribute leaflets. At that time, the tellers at the counters were surprised. No one knew who Andrew CHENG was at that time but there he was, weaving his way inside the bank and the manager could not drive me out because I was a customer of the Bank of China. I approached the tellers to distribute the leaflets. They said delightfully that at last, there was someone to represent them and it would no longer be the case that only their bosses were represented. I remember that at that time, I told them that this was actually just a FC election and I hoped that in future, there would be more geographical constituency direct elections, so that they could be represented through "one person, one vote". Subsequently, I also had a transformation by standing in direct elections after the reunification. Therefore, Madam President, the experience of canvassing for votes in the Bank of China taught us that nothing is absolute in this world.

I will continue to exert my utmost for the goal of "one person, one vote". Thank you, Madam President.

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

MS AUDREY EU (in Cantonese): Madam President, Mr Abraham SHEK said that Members from the legal sector should respect the law and this in fact should include respect for the NPCSC. In fact, Madam President, we must behave respectably before others can respect us. Mr Ronny TONG said in his speech that he was feeling pensive and low in morale. Why? Mr Ronny TONG has been striving so hard and has given up, half given up or all but given up his legal practice, ceased taking up cases to make money and gone to such lengths to canvass for votes in the streets, garnering votes one by one to fight his way into this Chamber. What has he done do all these for? What he wants to do is to talk to everyone about constitutional reform. He proposed a motion to highlight the shortcomings of FCs and expound on the direction for constitutional development, however, even he himself said that he was too tired to speak any further.

Madam President, the legal sector respects principles and reasons. However, we found that our country, including Hong Kong, in fact does not respect the law, principles or reasons but resorts to sheer power. As you can see, now that the Chief Executive is about to resign, he needs not give any account. Concerning the term of office of his successor, it is written clearly in the Basic Law in black and white that it shall be five years and the SAR Government has also repeatedly and clearly said that it is five years. Now, all these people are saying instead that things are all very clear, there is not even any need for interpretation and we should know full well that what it meant is the remaining term of office. So it turns out that the law can be distorted like this and it is possible to say that black is white. What is the use of arguing so hard for the passage of legislation and motions here? It turns out that they can be interpreted beyond recognition.

Therefore, Madam President, Ms Margaret NG read out a long and elaborate passage to offer us consolation, exhorting us not to give up and that we only have to know that what we are doing is right. My level of Chinese proficiency is not as high as hers and I can only recall a remark made by the

former President of our country, Mr JIANG Zemin, who said, "Too simple, sometimes naive." I think this is a fitting description of us as a group of people from the legal sector. We thought that we could make our way into the political system and work from within, however, it turned out that our lobbying is in fact all in vain and even if we were to talk for half a day, it would all be in vain.

In fact, what the motion moved by Mr Ronny TONG today says is that we should not introduce any additional seat for any new FC because doing so will contravene the principle of gradual and orderly progress and that of keeping in view the actual situation in attaining the goal of universal suffrage. The Basic Law in fact sets universal suffrage as the goal. Mr WONG Ting-kwong said in his speech that it is not the best approach. Sorry, but this is stipulated in the Basic Law, therefore, unless you do not respect the Basic Law, otherwise, we must move towards universal suffrage and this direction has been set. Dr David LI at least agreed in his speech that doing away with the FCs is the right direction, however, he said that if the number of FC seats is not increased, then this is not gradual and orderly progress. What really is gradual and orderly progress then? He said that what moving towards universal suffrage means is to abolish the FCs. Many Members have already pointed out in their speeches that before and after the reunification, the proportion of FC seats had been decreasing until the NPCSC made its decision on 26 April last year, saying that no further progress will be allowed. Even Mr CHIM Pui-chung knew and said that the decisions made by the NPCSC were wrong and in violation of the Basic Law. This is because if no further progress is allowed, then we will just be stuck here. Mr CHIM Pui-chung really has an aptitude in making shrew calculations. He said that if the seven seats occupied by pro-democracy Members in the FCs are scrapped, then he will sacrifice the seat occupied by him in exchange, that is, seven seats will be scrapped along with the one occupied by him. However, this is not a very good deal. Why should seven seats be scrapped in exchange for one?

Mr Martin LEE took this to mean that the seven Members should resign. No, what he meant is that the seven seats have to be scrapped. However, Madam President, it is necessary for the democratic camp to get into the establishment to reform it. This is unlike the way Mr TAM Yiu-chung put it, "You want to hang on to the seats. You say that you oppose FCs, then why do you people remain in the FCs?" Here lies the crux of the problem. It is not the case that those people are hanging on to the seats but rather, they are telling you, "We want to enter the establishment because we are people who respect the

establishment, so we want to enter the establishment to tell everyone that this is not a fair system."

The problem is that such an arrangement has in fact exploited others of their rights. The motion mentions Articles 45 and 68 of the Basic Law. In fact, Article 39 is also involved because it mentions the International Covenant on Civil and Political Rights. Article 25 of the Covenant points out that every citizen shall have the right and opportunity to vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage. This is a right to which every citizen is entitled and this is the right to equal treatment. This is the first and also foremost principle in law. If you really respect this principle, then FCs are only a transitional arrangement that should be phased out. Moreover, a small-circle election is prone to manipulation. We only have to look at the number of FCs to understand why there are now frequent allegations and suspicions of collusion between the Government and business and transfer of benefits. This is because problems have occurred in our system and suspicion is easily aroused.

Do you think that the position of Hong Kong as a financial centre can be safeguarded only if Dr David LI occupies a seat? Do you think that the interests of the property sector can be protected only if Mr Abraham SHEK is here? Of course not. The problem is that on the one hand, they will easily give their support to the Government, and on the other, interests will be exchanged with the sector involved. I do not mean that other systems are problem-free, however, it is definitely possible for such situations to arise under the existing system. Moreover, the more the system remains in its present state, the less likely learned people will be encouraged to run in elections. Thank you, Madam President.

MR LEE CHEUK-YAN (in Cantonese): Madam President, the motion moved by Mr Ronny TONG today has in fact advanced the future debate on the proposal on constitutional reform. Although the Government has not yet released the Fifth Report, all of us know that the mainstream proposal in the Fifth Report — which I will call a "bogus mainstream proposal" — will definitely carry two suggestions: the first is to increase the number of seats returned by FCs and to increase that returned by direct elections at the same time, in accordance with the proportion decided by the Standing Committee of the National People's Congress (NPCSC); the other is to expand the Election Committee (EC) and the only

question is whether it will be expanded to include 1 200 or 1 600 persons. The motion moved by Mr Ronny TONG today has in fact advanced the debate on these two issues.

On these two issues, many colleagues have said that if we reject them in the future, this will make the political system in Hong Kong remain where it is. However, I think that it is necessary to clarify one thing. Is it not also the case that the bogus mainstream proposal is taking us nowhere? If the number of seats returned by FCs and that by direct elections are increased simultaneously, so that the proportion remains the same, such a situation is even worse off and is a retrogression when compared with that in the past, since if the number of seats in FCs is increased, the number of people from the privileged class and people with vested interests will increase, so it will be even more difficult to do away with them in future. Therefore, if the future direction of the constitutional proposal is to increase the number of people on both sides proportionately, this is not just stagnation but a retrogression in democracy, for this will give rise to more people with vested interests. Therefore, if we compare stagnation with retrogression, why do we not choose the former? This is anyway better than retrogression.

The Secretary may say that this is not retrogression because the number of people in the EC will be increased. Madam President, you will recall that the number of people in the EC was once increased. At the beginning, there were only 400 persons, then the number was increased to 800. It has been suggested that it will be increased to 1 200. Let us see what the difference between 400 persons and 800 persons is. Today, I have to borrow a well-known line from Mr LEUNG Yiu-chung, "foul grass out of a foul vase". The EC is the system in which only foul grass will breed. If people argue that it is not a system under which only foul grass will breed, then why has Hong Kong been reduced to such a state nowadays? I do not know if Mr TUNG will announce his resignation today or not, however, the comments made of late revealed to me this foul system which will only breed foul grass. What are those people who had a part in nominating him now saying? They are now already shining the shoes of the new Chief Executive. Concerning Mr TUNG, they are now only saying that he had worked hard and had never complained, as though they do not have to shoulder any responsibility whatsoever as members of the EC. Who selected Mr TUNG as Chief Executive? Members will remember all too clearly that in

2002, of the 800 persons in the EC, 700 of them nominated Mr TUNG as the Chief Executive. By that time, Mr TUNG had in fact been in office for five years. If members of the EC are indeed so independent and are really serving Hong Kong people instead of trying to obtain benefits, then why did they nominate Mr TUNG as the Chief Executive for a second term?

Madam President, what makes me feel most indignant is that Mr Ronnie CHAN Chi-chung, who had a part in nominating Mr TUNG as the Chief Executive for a second term, said after two years that Mr TUNG was a Chief Executive who scored zero mark in three areas, that is, zero mark in political tact, zero mark in political charisma and zero mark in political beliefs. If Mr TUNG is a Chief Executive who got zero mark in these three areas, then how many zeros should his nominators get? They will get not just get zero mark in three areas but an extra one, that is, four zeros in all: zero marks in political beliefs, zero mark in political charisma, zero mark in political tact and zero mark in political commitment. All that they wanted was just to obtain benefits.

If the number of people in such an EC is increased from 800 to 1 200, what difference will this make? Everybody is saying that Mr TUNG will announce his resignation today, yet we know nothing about it because the President did not allow us to hold a debate to demand that the Government give us an account and the Government has not given us an account up to now, so we are in the dark. However, I believe that it is only righteous for Mr TUNG to resign because in the past seven years, he has thoroughly disappointed Hong Kong people and shaken their confidence. However, I believe it is all the more necessary for the 800 members in the EC to resign, and in particular, the 700 members who nominated Mr TUNG. Why is it that they do not have to shoulder any responsibility? It looks as though they were not responsible in any way and they have even cheerily started to cosy up to the new Chief Executive anew. How can things be like this in Hong Kong? If Hong Kong leaves the decision on who will be the Chief Executive to these 800 people, will this serve the interests of the Hong Kong public? Hong Kong is now being manipulated by these 800 people, however, these 800 people are not answerable to the public at all and they are not accountable to them in any way. We now find ourselves in this system which only breeds foul grass.

Therefore, I believe that although Mr TUNG will announce his resignation today, it is not just Mr TUNG who has to step down. What matters most is that

the 800 members in the EC should step down. They are not qualified to be members of the EC. Therefore, even if the number of members is increased to 1 200, what difference will that make?

PRESIDENT (in Cantonese): Mr LEE Cheuk-yan, I have given you a great deal of leeway but today's motion is about FCs, not the EC.....

MR LEE CHEUK-YAN (in Cantonese): I do not think so. The motion comprises two parts. Mr Ronny TONG's motion mentions FCs as well as the EC.....

PRESIDENT (in Cantonese): What it refers to is the members representing FCs in the EC.

MR LEE CHEUK-YAN (in Cantonese): Yes, it refers to members representing FCs in the EC. However, the 800 persons of the EC whom I have been talking about in this foul system that breeds foul grass all belong to FCs. Most of them are this sort of people. Therefore, Madam President, I am talking about them. Madam President, I hope you can give a few extra seconds back to me.....

Madam President, many Members said in this debate that FCs is a form of balanced participation *per se*. This is also totally unacceptable. Madam President, all this talk about balanced participation is pleasing to hear. If you ask the kids in the public gallery what balanced participation is, they will say that that means everyone can take part together, that 6 million members of the public can take part together and everybody will be so happy. Everyone knows that this is balanced participation, is this not? However, this is not the kind of balanced participation that is being suggested in this Council, instead, it is talking about balanced participation by various sectors, that is, some people have privileges in participation. We have 30 Members returned by FCs here, that is, there are 30 persons from the privileged class who are participating. Is this fair? Thank you, Madam President or kids. *(Laughter)*

PRESIDENT (in Cantonese): I have to remind Members.....

(Mr LEE Cheuk-yan remained standing)

PRESIDENT (in Cantonese): You can sit down. In delivering your speech, you should address it to the President. Sometimes, when you speak, it is inevitable that you will address other Members or officials, however, you should not address the people in the public gallery.

MR LEE CHEUK-YAN (in Cantonese): Yes. Perhaps I should say, Thank you, Madam President, kids.

PRESIDENT (in Cantonese): You can do away with the last utterance. I have explained to you why you can do away with the last bit. Although everyone likes kids, you can still do away with the last bit. Does any other Member wish to speak?

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): Still, I will ask once more. Is it true that no more Member wishes to speak?

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): Mr Ronny TONG, you may now speak on Dr KWOK Ka-ki's amendment. You have up to five minutes to speak.

MR RONNY TONG (in Cantonese): Madam President, I am very pleased to find that Dr KWOK Ka-ki has returned to the Chamber. What I wish to say is that I understand the good intention of Dr KWOK. I also share his determination in furthering development of democracy. However, I wish to remind Dr KWOK that my purpose of proposing this motion today is to conduct a discussion on principle, not a discussion on a constitutional reform proposal.

In my opinion, if the principle is unclear, it would be impossible to produce a convincing proposal. From another angle, what we are discussing today is the system, not the people within it. In the debate, many colleagues said that they were returned by functional constituencies (FCs) and they have accomplished a lot. My discussion today focuses totally not on this. I fully agree that FCs can also elect talented people who are willing to plead for the masses. Actually, there is one such Member who was sitting beside me, though I have no idea where she has gone now. It would be an insult to her if it is said that Ms Margaret NG cannot bring her talent into full play as she is directly elected. This will also be an insult to Hong Kong people.

In his eloquent speech, Dr KWOK also mentioned the decision made on 26 April. A number of other colleagues have also done that. I would like to take this opportunity to state a very obvious fact. The 26 April Decision has not mentioned or requested the Special Administrative Region Government to increase the number of FC seats. It is very simple: It has only stated that the ratio between the number of FC seats and the number of directly elected seats should remain unchanged. In other words, the *status quo* should be maintained. If some Members suggest raising the number of FC seats for the sake of increasing the number of directly elected seats, I would suggest them to look at the matter from two aspects: First, even children can see that there has been no progress proportionally. Second, if implementing universal suffrage means that FCs have to be abolished, that will mean that, before the constitutional reform, one has to convince 30 FC Members that universal suffrage is necessary. After the constitutional reform, however, one will probably have to convince 35 or even 40 FC Members that universal suffrage is required. Does it represent progress?

Actually, the crucial part of Dr KWOK's amendment implies the existence of an alternative proposal other than full universal suffrage. As I stated earlier, the focus of today's discussion is on the issue of principle. I just hope to pinpoint the shortcomings of FCs and let the general public understand through a focused discussion what harmful effects FCs can cause on our constitutional system.

What we are discussing today is not an alternative proposal because various parties have yet to reach a consensus on this, despite the Government's indication in various reports of its wish to reach a consensus. Actually, from the several marches conducted on 1 July previously to the elections held on

12 September and 23 November, we know that the answer cannot be more obvious. The only proposal raised by the pan-democratic camp is universal suffrage because this is our only one. We feel that any discussion on any other proposal would go against our fundamental principle. For these reasons, I take great regrets to tell Dr KWOK that I cannot support his amendment. I also have to urge my colleagues not to do so. I hope Dr KWOK can understand that this is nothing personal. It is entirely a matter of principle. Thank you, Madam President.

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, first of all, I would like to thank Members who are sitting here for the efforts and time devoted by them last evening and this morning to fully express their views on this question. Their views are valuable reference for us.

According to Mr Ronny TONG, any proposal to increase the numbers of functional constituency (FC) seats in the Legislative Council and of the members representing FCs in the Election Committee (EC) violates the provisions of Articles 45 and 68 of the Basic Law, which stipulate that the principles of "gradual and orderly progress" and "actual situation" should be followed in achieving the goal of universal suffrage. In fact, the major direction of following the principles of "gradual and orderly progress" and "actual situation" in achieving the ultimate goal of universal suffrage is shared by all Members and colleagues who are sitting here.

However, broadly speaking, I think that Mr TONG's motion is relatively one-sided and inconsistent with the pragmatic approach required of Honourable Members. Members would give people a lop-sided impression should they, once seeing any proposal of increasing the number of FC seats, assert categorically that the proposal is bound to violate the Basic Law without carefully examining what are the newly added FCs, the number of voters represented by these FCs and the representativeness of the FCs in the community. We fully appreciate that the pan-democratic Members have reservations about the retention of FCs. In their opinion, any increase in the number of FC seats in the Legislative Council and of the members representing FCs in the EC is in conflict with the Basic Law's goal of marching towards universal suffrage. They hold that, once the number of FC seats is increased, it would be even more difficult to scrap these seats in the future.

Another consideration of the democrats is that the principle of open and fair election is violated as some FC voters can cast company votes and corporate votes. In the past one-odd year, the Constitutional Development Task Force (the Task Force) has, in various consultation sessions, listened to, taken note of and paid attention to the views on this. At the same time, however, there have been views in the community that, while raising the number of geographical constituency Members in the Legislative Council in the light of Hong Kong's actual situation, the number of FC seats in the Legislative Council and of the members representing FCs in the EC should also be raised suitably to include FCs not yet or not adequately represented with a view to broadening the participation of members of the community, thereby enhancing the representativeness of the Legislative Council and the EC and functioning as the transitional arrangement for marching towards universal suffrage and realizing the principle of "gradual and orderly progress".

Furthermore, increasing the number of seats will facilitate more members of the community to take part in politics, and enable Hong Kong to train more political talents and make further preparations for moving towards full universal suffrage in the future.

It is thus evident that there are indeed diversified views in the community on the electoral arrangements for FCs in 2007 and 2008. As a consensus has yet been reached on any mainstream proposal, Members should be more open-minded and tolerant and strive to discuss different possibilities by capitalizing on the liberal environment.

The second part of the original motion has mentioned the "mainstream proposal" to be published by the Task Force in future. The Task Force is now consulting the public on the Fourth Report. Hopefully, the community can reach a consensus by the middle of this year on the 2007 and 2008 issues. We will then publish the Fifth Report to set out our mainstream proposal to continue seeking support from everyone.

Although Hong Kong society remains divided on the ways to amend the two electoral methods, for instance, there are views for and against increasing the number of seats in the Legislative Council, we still have to study this issue carefully.

However, there is a very clear message. There are views expressing the hope that through increasing the number of members of the EC and widening the electorates of FCs and the EC, public participation in the two elections can be intensified, thereby enhancing the representativeness of the electoral systems.

In determining our mainstream proposal in future, we will definitely take full account of these aspirations and strive to, in the light of the requests of different sectors of the community, find an appropriate balance and a common point with a view to taking the two electoral systems forward.

In conclusion, Madam President, I therefore hope Members who are sitting here can wait until the Fifth Report is published before making their final judgement.

Next, Madam President, I would like to say a few words about Dr KWOK's amendment. He has proposed to, on the basis of no increase in the number of FC seats, increase the number of geographical constituency seats. However, his proposal is evidently inconsistent with the Decision made by the Standing Committee of the National People's Congress on 24 April last year. The Decision has made it clear that the ratio between directly elected seats and FC seats in the Legislative Council in 2008 should remain at the existing ratio of 1 to 1. As such, I am afraid I cannot further consider Dr KWOK's proposal.

Nevertheless, I can also see that this proposal of Dr KWOK is proactive in two aspects. First of all, he hopes to continue promoting the development of the electoral systems in accordance with the principle of "gradual and orderly progress". At the same time, I see that he takes the opinions of the people in the districts very seriously. Actually, in the past two-odd months, I have visited more than 10 District Councils. I am going to visit another District Council this afternoon too. On every occasion, I heard numerous District Council members reflect their wish to further participate in the work of the EC and of the Legislative Council. They hope they can then further reflect the views of the people in the relevant districts. I therefore see that this proposal of Dr KWOK is underlined by a proactive spirit.

I wish to further respond to the view expressed by Mr Ronny TONG. Mr TONG has spelt out that, since the reunification, the number of directly elected

seats has increased from 20 to 24, and then to 30, and he considers this a progress. Madam President, insofar as this point is concerned, Mr TONG and I at least share a common view.

Mr TONG has also indicated that he will consider that there be no progress should the ratio between the numbers of geographical seats to that of FC seats in this Council remain at 1 to 1 by 2008, as it is now. He also considers increasing the number of members representing FCs in the EC not a progress.

However, I wish to reiterate that Members should not jump to their final judgement so quickly. At present, the EC and the FCs have electorates of 160 000 and approximately 200 000 respectively. It is already considered a progress should the future mainstream proposal embrace the element of enhancing and widening the representativeness of the electorates. When we make the mainstream proposal, we may probably increase the number of directly elected seats, as well as some FC seats. As these FC seats might embrace new representativeness and new electorates, Members might as well wait until then before making their final judgement. Actually, increasing the number of seats can widen the scope for participation in politics. This is helpful to the constitutional development of Hong Kong as a whole.

Mr Ronny TONG has particularly mentioned the International Covenant on Civil and Political Rights. In his opinion, the existing electoral systems and the FC system are incompatible with the Covenant. In this connection, I have to express my disapproval. The case with respect to the FC electoral system was concluded in 1995 in the Court. It was ruled at that time that FC seats were legitimate. Mr TONG has also specially mentioned his disapproval of the arguments recently put forward by the Secretary for Justice and me on the long-term development of FC seats. However, I hope to once again correct our arguments as quoted by Mr Ronny TONG. The Hong Kong Special Administrative Region (SAR) has not set down strategies with respect to the direction of the long-term development of FCs. We have only reflected in the Fourth Report some of the views received. It is opined that we can, in the long run, consider allowing FCs to nominate candidates and then the public to elect their representatives by "one person, one vote". It is also considered that this approach probably meets the principle of popularity and equality.

Madam President, I would also like to respond to the remarks made by the Secretary for Justice and me, as quoted by Mr LEUNG Yiu-chung — it is a pity that he is not present in the Chamber now. According to Mr LEUNG, we have indicated that the retention of the existing FCs is compatible with the ultimate goal of universal suffrage. We have not said anything like this. We have all along borne in mind that the existing electoral systems need to be further developed. To date, we have still not achieved the ultimate goal of universal suffrage. Neither do we expect to do so by 2007 and 2008. I am aware that Mr LEUNG and other pan-democratic Members are holding diverse views on the retention of FC seats or the further development of FC seats. However, I hope Mr LEUNG will not distort our words. We have only reflected the views collected during the public consultation. In addition, these views have merely sought to present the possibilities of long-term development.

Universal suffrage can take the form of direct or indirect elections. When Hong Kong is ready to achieve full universal suffrage, we will definitely design a model for universal suffrage in accordance with the principle of popularity and equality. However, it is essential for us to adopt a relatively liberal attitude in discussing ways, including the pace, the process and the model, to achieve the goal of universal suffrage. Actually, during the discussions conducted last evening and today, a number of Members have mentioned the development of Hong Kong's political, constitutional and electoral systems. In the Sino-British Joint Declaration (the Joint Declaration) signed in 1984, there are two significant provisions. First, the legislature shall be constituted by elections; second, the chief executive shall be selected by election or through consultations. The Joint Declaration, when it was formulated, did not set an ultimate goal of universal suffrage for Hong Kong's long-term constitutional development. Madam President, this ultimate goal was adopted when the Basic Law was formulated. For these reasons, we have to observe the principles of the Basic Law, not the requirements of the International Covenant on Human Rights, in determining the pace, the model and the process to achieve the ultimate goal of universal suffrage. It is also in accordance with the requirement of Article 39 of the Basic Law that the International Covenant on Human Rights shall continue to be applied in Hong Kong. However, we will have to adhere to the principles and requirements of the Basic Law in moving towards achieving the ultimate goal of universal suffrage.

Madam President, last evening, Mr LEUNG Kwok-hung specially mentioned that Hong Kong seemed to have a bicameral model, that is, the

phenomenon of having FC and directly elected Members sitting in the same legislative chamber. He also specially mentioned that Beijing had two different assemblies, namely the Chinese People's Political Consultative Conference and the National People's Congress. It is a pity that Mr LEUNG has not attended this meeting this morning, but I still wish to give a brief response. May I ask whether Mr LEUNG supports a bicameral model? If the answer is affirmative, I would suggest him to read an article published by Sir David AKERS-JONES, former Chief Secretary, today, in which he presented a bicameral proposal on behalf of the Hong Kong Coalition of Professional Services. Should Mr LEUNG wish to present a bicameral proposal to the Task Force, I will be willing to listen to his view, just like we are prepared to listen to any views expressed.

Madam President, when it comes to the value of existence of FCs, I think we should look at some concrete evidence. It has been mentioned by a number of Members that a lot of talented people have come from the FCs. The same applies to directly elected Members. Mr Martin LEE mentioned that he had entered the legislature through the legal FC in 1985, the same year when Mr SZETO Wah, a former Member, joined this Council. Mr TAM Yiu-chung also joined this Council nearly 20 years ago. Coming from labour unions, he has remained in this Council for nearly two decades. Recently, Mr James TIEN and Mrs Selina CHOW shifted from the FCs to the districts to take part in direct elections. Ms Miriam LAU, Chairman of the House Committee, is a FC Member too. Various parties and factions have actually provided Hong Kong with political talents through the FCs. I am also very pleased to note that Mr Ronny TONG has also affirmed that FCs can provide Hong Kong with political talents. What he finds doubtful is the principle only, that is, whether FC Members care about territory-wide affairs. Even Mr LEE Wing-tat — he happens to be not in this Chamber at the moment — shares the view that what matters most is whether Members are able to serve all the citizens of Hong Kong. Actually, we have already had a very concrete example. As a Member of this Council as well as a District Council member participating in the regional work of District Councils, Dr KWOK Ka-ki, the mover of the amendment, does care about territory-wide affairs. His issues of concern include whether the Victoria Harbour requires reclamation, how the cluster of buildings in the Central and Western District should be dealt with, and so on. These are just some of the examples. Every Member, irrespective of their background and constituencies or functions they represent, can serve the people of Hong Kong. They are also obligated to serve the people. They made this commitment at swearing in.

This is also the very commitment they made in upholding the Basic Law. As such, we must not make sweeping generalizations by describing the FCs as totally useless. Even Mr SIN Chung-kai has agreed that the FCs are not useless.

Madam President, I would like to thank Mr Albert CHENG for being so concerned about my educational background and the schools I have attended. I know that his child used to be a student of Wah Yan College, Hong Kong, too. He asked me what attitude I would adopt in handling this relatively challenging subject. I would like to tell you, Madam President, Honourable Members, including Mr CHENG, that while we studied at Wah Yan, the liberal atmosphere and attitude in Hong Kong were taken very seriously and greatly respected. We were also reminded by our teachers that we had to develop a good sense of responsibility when we grew up. As a principal official, I find it very meaningful for us to be able to, before and after the reunification, deal with these issues of importance to Hong Kong, carry on the spirit of freedom and the rule of law in Hong Kong, promote constitutional development in the territory, and work in collaboration with Honourable Members in exploring development for Hong Kong and make an effort to see if constitutional development can be further promoted. Even if things would not be entirely straight forward and challenges may arise every day, in the long run, we can do something for Hong Kong and make some contribution so long as we can make a joint effort in reaching this consensus.

Madam President, Hong Kong is essentially a city with a conviction in progress. This conviction was held by us not only when we were a student, but also when we are representing various trades and industries now. This very mentality should also be adopted in dealing with the issue of dual elections by universal suffrage in 2007 and 2008.

It is definitely not the wish of the Task Force and the SAR Government to see Hong Kong's electoral systems to remain stagnant. The years 2007 and 2008 mark an important milestone, as well as a transfer point, for us in moving towards the ultimate goal of universal suffrage. To succeed in pushing these two electoral systems forward can provide us with a stable foundation to implement full universal suffrage in Hong Kong in future.

Of course, I know that it is not at all easy to secure support from two thirds of Members in this Council, or win 40 votes. In any case, the Task Force will

spare no effort in working hard with the Hong Kong community to capitalize on the opportunity before us to enable Hong Kong to move towards this ultimate goal of universal suffrage. We also hope that the electoral systems can better meet Hong Kong people's expectation of our constitutional development.

With these remarks, Madam President, I implore Honourable Members to oppose the original motion and the amendment.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the amendment, moved by Dr KWOK Ka-ki to Mr Ronny TONG'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)

Dr KWOK Ka-ki rose to claim a division.

PRESIDENT (in Cantonese): Dr KWOK Ka-ki has claimed a division. This Council will proceed to division immediately after the division bell has been rung 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.

PRESIDENT (in Cantonese): Excuse me, Honourable Members, the result is wrong. We have mistakenly used another system used for handling motions proposed by the Government. However, the motion we are dealing with is a

Members' motion. Therefore, we have to vote again. I am sorry. As we have made a mistake, I would like to call upon Members to vote again.

MR LAU KONG-WAH (in Cantonese): I see that Mr CHIM Pui-chung has just left this Chamber, is it necessary to get him back?

PRESIDENT (in Cantonese): Fine, will other Members please proceed to vote. I would ask the staff to look for Mr CHIM. This is a most exceptional case. Under normal circumstances, if a Member chooses to leave this Chamber, we will not get him back. Special treatment is given to this case because of the extraordinary circumstances.

(Mr CHIM Pui-chung returned to the Chamber)

PRESIDENT (in Cantonese): I am sorry, Mr CHIM Pui-chung, would you please vote again because we have just mistakenly used a wrong voting system.

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

Functional Constituencies:

Dr KWOK Ka-ki voted for the amendment.

Dr Raymond HO, Dr LUI Ming-wah, Ms Margaret NG, Mr CHEUNG Man-kwong, Mr Bernard CHAN, Mrs Sophie LEUNG, Mr SIN Chung-kai, Dr Philip WONG, Mr WONG Yung-kan, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Timothy FOK, Mr Abraham SHEK, Ms LI Fung-ying, Mr Tommy CHEUNG, Mr Vincent FANG, Mr WONG Kwok-hing, Dr Joseph LEE, Mr Daniel LAM, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Mr CHIM Pui-chung, Mr Patrick LAU and Mr KWONG Chi-kin voted against the amendment.

Geographical Constituencies:

Mr James TIEN, Mr Albert HO, Mr Martin LEE, Mr Fred LI, Mrs Selina CHOW, Mr James TO, Miss CHAN Yuen-han, Mr LEUNG Yiu-chung, Dr YEUNG Sum, Mr LAU Kong-wah, Ms Emily LAU, Miss CHOY So-yuk, Mr Andrew CHENG, Mr TAM Yiu-chung, Mr Albert CHAN, Ms Audrey EU, Mr LEE Wing-tat, Mr Ronny TONG and Mr Albert CHENG voted against the amendment.

Mr LEUNG Kwok-hung abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 27 were present, one was in favour of the amendment and 26 against it; while among the Members returned by geographical constituencies through direct elections, 21 were present, 19 were against the amendment and one abstained. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negatived.

PRESIDENT (in Cantonese): Mr Ronny TONG, you may now reply and you have two minutes 46 seconds.

MR RONNY TONG (in Cantonese): Madam President, when I proposed this motion, I was questioned if it was intended to be a surprise attack on the apologists of the establishment. Here I do not want to discuss, or even speculate, whether this should be considered a surprise attack on democratic movements should Mr TUNG really resign. Actually, we are going to face the fact that Hong Kong people are not allowed to participate in the forthcoming third Chief Executive Election. Conversely, the Election Committee, composed mostly of industry representatives, is going to select the Chief Executive of the next term. Is it the balanced participation as referred to by the Government? This is indeed a contrast expansion in a lopsided manner.

Earlier Ms Audrey EU described me as sighing helplessly yesterday. Right, I do not know how to conceal my emotions. However, I did say in my speech, and I did remind myself, that we must not be disheartened and feel depressed. There is an English saying: rise to the occasion. I hope that, after today's discussion, all people of the democratic camp will rise to the occasion. I have also listened to the speeches delivered by all Members. I find that our positions, including that of Dr KWOK Ka-ki, are consistent. Even if today's motion ends up being suppressed by the apologists of the establishment, I can assert that the aspiration for democracy is like the grass — it cannot be destroyed by a prairie fire but grows again come spring. Thank you.

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

(Members raised their hands)

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

(Members raised their hands)

Mr Ronny TONG rose to claim a division.

PRESIDENT (in Cantonese): Mr Ronny TONG has claimed a division. This Council will proceed to division immediately after the division bell has been rung 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:

Ms Margaret NG, Mr CHEUNG Man-kwong, Mr SIN Chung-kai, Dr Joseph LEE, Dr KWOK Ka-ki, Dr Fernando CHEUNG and Miss TAM Heung-man voted for the motion.

Dr Raymond HO, Dr LUI Ming-wah, Mr Bernard CHAN, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Timothy FOK, Mr Abraham SHEK, Ms LI Fung-ying, Mr Tommy CHEUNG, Mr Vincent FANG, Mr WONG Kwok-hing, Mr Daniel LAM, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Mr CHIM Pui-chung, Mr Patrick LAU and Mr KWONG Chi-kin voted against the motion.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Mr LEUNG Yiu-chung, Dr YEUNG Sum, Mr LAU Chin-shek, Ms Emily LAU, Mr Andrew CHENG, Mr Albert CHAN, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Mr LEUNG Kwok-hung, Mr Ronny TONG and Mr Albert CHENG voted for the motion.

Mr James TIEN, Mrs Selina CHOW, Miss CHAN Yuen-han, Mr LAU Kong-wah, Miss CHOY So-yuk and Mr TAM Yiu-chung voted against the motion.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 29 were present, seven were in favour of the motion and 22 against it; while among the Members returned by geographical constituencies through direct elections, 24 were present, 17 were in favour of the motion and six against it. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the motion was negatived.

MR ALBERT CHENG (in Cantonese): Madam President, in accordance with Rule 16 (2) of the Rules of Procedure, I move that this Council do now adjourn. The President has ruled twice in a row that we cannot conduct a debate on the resignation of TUNG Chee-hwa, but we are now sitting here at the bottom of the well, not knowing what is happening outside. Today, at 3 pm.....

PRESIDENT (in Cantonese): Mr Albert CHENG, will you please tell me the wording of your motion first because there is no point talking about other things.

MR ALBERT CHENG (in Cantonese): That in accordance with Rule 16 (2) of the Rules of Procedure, I move that this Council do now adjourn for the purpose of debating the following matter: The Government of the Hong Kong Special Administrative Region to give an account in regard to the resignation of the Chief Executive Mr TUNG Chee-hwa and the proposed relevant by-election arrangements as well as the corresponding measures, and that this Council requests Mr TUNG Chee-hwa to come and give an account in this Council.

PRESIDENT (in Cantonese): Mr Albert CHENG, the wording of the motion proposed by you differs from that proposed by Mr Albert HO yesterday in only two words. The wording used by Mr Albert HO in his motion contains the word "rumoured resignation" but you simply refer to it as "resignation", is that right?

MR ALBERT CHENG (in Cantonese): Yes.

PRESIDENT (in Cantonese): Very well. In that case, do you have any facts to support it?

MR ALBERT CHENG (in Cantonese): Can I have your leave to elaborate?

PRESIDENT (in Cantonese): Instead of talking about it here, it may be better if I suspend the meeting first so that you can explain to me in detail inside. Is that fine?

MR ALBERT CHENG (in Cantonese): Yes.

PRESIDENT (in Cantonese): I now suspend the meeting.

12.10 pm

Meeting suspended.

12.40 pm

Council then resumed.

PRESIDENT (in Cantonese): Will the Clerk please ring the bell to summon Members back to the Chamber?

(After the summoning bell had been rung, a number of Members returned to the Chamber)

PRESIDENT (in Cantonese): A quorum is now present. Members, Mr Albert CHENG has had a discussion with me in my office for some time. He wanted to invoke Rule 16 (2) of the Rules of Procedure to propose this motion. I have already explained to him that my principles remain the same. Therefore, I decided that it was inappropriate to move this motion.

Mr Albert CHENG now wishes to invoke Rule 16(4) of the Rules of Procedure to propose the motion instead. Rule 16(4) of the Rules of Procedure provides that at the conclusion of all the business on the Agenda of the Council a

Member may move that this Council do now adjourn, for the purpose of raising any issue concerning public interest, with a view to eliciting a reply from a designated public officer.

However, the Rules of Procedure provides that a written notice of not less than seven clear days is required, unless I exercise my discretion to waive the notice. According to the past practice of the Legislative Council, if the giving of notice is to be waived, usually the matter has to be discussed in the House Committee of the Legislative Council, which will then make a recommendation to me and I will usually accept it. However, since we are now holding a regular meeting, it is all but impossible for the House Committee to convene a meeting. Therefore, I made reference to a precedent that occurred in the meeting of 3 July 2003. During that meeting, Dr YEUNG Sum requested that this Council be adjourned according to Rule 16(4) of the Rules of Procedure. On that occasion, I requested Dr YEUNG Sum to seek support from Members. If he could secure the support of 30 or more Members for his motion of adjournment, I would then give him leave to move it. At that time, Dr YEUNG Sum managed to secure adequate support from Members. I have already explained the situation to Mr Albert CHENG and he is prepared to seek support from Members.

I wish to add one more point, that is, I have to request the Government to designate an official to attend the meeting. If a sufficient number of Members support this motion of adjournment, then I am obliged to request the Government to designate an official to give a reply.

We will now move on to the second motion: Defending sovereignty over the Diaoyutai Islands.

DEFENDING SOVEREIGNTY OVER THE DIAOYUTAI ISLANDS

MR LEE WING-TAT (in Cantonese): Madam President, I move that the motion, as printed on the Agenda, be passed.

The Japanese Government announced on 9 February this year that it would take over with immediate effect a lighthouse built on the Diaoyutai Islands by a Japanese right-wing organization, saying that Beijing had been notified. Such a

move by the Japanese Government is no doubt an announcement to the whole world that Japan has the sovereignty over the Diaoyutai Islands.

The Foreign Ministry spokesman of our country, KONG Quan, responded to the Japanese Government's announcement of the takeover of the lighthouse on the Diaoyutai Islands, stressing that any unilateral action taken by Japan in respect of the Diaoyutai Islands was unlawful and invalid.

Mr Nobutaka MACHIMURA, the Japanese Minister for Foreign Affairs, said that it was because the organization which had built the lighthouse had expressed its inability to manage the lighthouse anymore that it was handed over to the state and placed under the charge of the Japan Coast Guard, which will be responsible for its maintenance. On this, the Democratic Party expresses its strong protest and believes that this is only a pretext given by Japan for occupying the Diaoyutai Islands, which are part of our country's territory.

The lighthouse was built by the Japan Youth League, a Japanese right-wing group, on the Diaoyutai Islands in 1991 and is 5.6 m tall. It was intended to be a declaration of Japan's sovereignty over the Diaoyutai Islands. Subsequently, Japan claimed that the ownership of the lighthouse had been transferred to the fishermen of Ishigaki City in Okinawa prefecture. Now Japan has declared in high profile that the lighthouse has been transferred to the Government free of charge. This is truly an act of illegal occupation. How is it different from banditry?

Last year, when the Diaoyutai activists from our country successfully landed on one of the islands, a certain cabinet minister in Japan said that a lighthouse or a helipad should be built for the Japan Coast Guard on the Diaoyutai Islands to signify clearly that the Diaoyutai Islands belong to Japan. Japan also launched a high profile pursuit of a Chinese submarine that had entered the waters near the Diaoyutai Islands in November last year. The Japanese Chief Cabinet Secretary Hiroyuki HOSODA even said publicly after the Japanese Government had taken over the lighthouse early this year that the fact that the islands belonged to Japan was beyond any doubt and he did not see any problem at all.

The series of actions, from the construction of the lighthouse by a right-wing civil organization in Japan, through the repeated interceptions carried out by Japanese military vessels on Diaoyutai activists trying to land on the

Diaoyutai Islands and the pursuit of a Chinese submarine, to the announcement by the Japanese Government of the takeover of the lighthouse, are designs by Japan to create the *fait accompli* that the Diaoyutai Islands belong to Japan. The Government of our country must not put up with such actions by the Japanese Government anymore, lest our country may eventually really lose its sovereignty over the Diaoyutai Islands.

The Democratic Party hopes that the Government of our country, apart from issuing a stern statement, can make use of more channels, adopt various means and resolute measures and make efforts to defend the Diaoyutai Islands, which is our national territory, and uphold our national dignity and interests. Furthermore, the Democratic Party hopes that the Central Government will not suppress the activities carried out by civil groups within or outside the country with the aim of defending the Diaoyutai Islands. Doing so will only give the impression that the Central Government has given up the sovereignty over the Diaoyutai Islands. The Democratic Party hopes that the Central Government can actively offer assistance to all activities conducted by civil groups within and even outside the country to defend the Diaoyutai Islands, so as to arouse greater international concern and assistance. Finally, we hope that Chinese people worldwide will take part together in the campaign to defend the Diaoyutai Islands and the territory of our country.

I so submit.

Mr LEE Wing-tat moved the following motion: (Translation)

"That this Council strongly protests against the Japanese Government's unlawful occupation of the Diaoyutai Islands which are within the territory of our country, and urges our Government and people to defend our sovereignty over the Diaoyutai Islands."

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

MR FREDERICK FUNG (in Cantonese): Madam President, do the Diaoyutai Islands actually belong to Japan or China? In fact, this should not be an issue at all because from various viewpoints, the Diaoyutai Islands belong to China.

First, I wish to cite some examples to support this fact. From a historical viewpoint, according to Chinese empirical records, the discovery and naming of the Diaoyutai Islands can be traced back to the reign of emperor Yongle of the Ming Dynasty at the earliest, namely, in a nautical chart in *Shen Feng Xiang Song* (*Sail With Tail Wind*), a guide book for mariners written in 1402.

As regards Japan's claim of sovereignty over the Diaoyutai Islands, it was after the Sino-Japanese War in 1895, in which China was defeated, that the Treaty of Shimonoseki was signed and the Diaoyutai Islands were ceded to Japan along with Formosa. Later on, Japan incorporated the Diaoyutai Islands into its territory and used the name Senkaku Islands to refer to the Diaoyutai Islands and placed it under the jurisdiction of Ryukyu.

Before 1895, the maps published in Japan had not yet placed the Diaoyutai Islands under the jurisdiction of Ryukyu. On the contrary, in a map of Japan called "An Illustrated Manual for Touring Three Countries" published in 1785 by a Japanese, Shihei HAYASHI, the colour scheme clearly indicated that the Diaoyutai Islands belonged to China. That means China discovered the islands at least 400 years earlier than the Japanese.

The second viewpoint is that of geology. The Diaoyutai Islands are situated in the northeast of Taiwan and the southwest of Okinawa, the major island in the Ryukyu Islands and north of the Xiandao Islands. The entire archipelago is made up of Diaoyu Yu, Huangwei Yu, Chiwei Yu, Nanxiao Dao and three other small reefs nearby. The Diaoyu Yu is the largest of all the islands and the name of the Diaoyutai Islands was derived from it.

From the angle of geology, the Diaoyutai Islands are located on the Taiwan sea basin and at the edge of the East China Sea seabed, that is, at the edge of the continental shelf in the East Sea off the Fujian and Zhejiang Provinces, being the natural extension of mainland China and Taiwan in the sea. The depth of the water in the entire area is no more than 200 m. Some 10-odd nautical miles from the south of the Diaoyutai Islands, there is a drastic change in the land form and the depth of the water is over 1 000 m. In geology, this area is known as the Ryukyu sea trough and no continental shelf exists there. In view of this, the Diaoyutai Islands is not geologically linked to the Ryukyu Islands and is not a natural extension of the Ryukyu Islands, which belong to Japan.

(THE PRESIDENT'S DEPUTY, MR FRED LI, took the Chair)

It is also possible to prove that the Diaoyutai Islands belong to China through some examples in international law. Japan's claim of sovereignty over the Diaoyutai Islands is based mainly on the ground that a Japanese, Tatsushiro KOGA, discovered the islands in 1884, built a bonito processing plant on the island and collected feather and bird droppings there. Furthermore, he claimed that the waters off the islands were the fishing grounds of fishermen from the Ryukyu Islands. Such a claim was intended to mean that the Japanese were the first discoverers of the Diaoyutai Islands, who landed on, occupied and made use of the islands. If this were true, Japan would have fulfilled the condition of occupation of the islands according to international law and therefore established its sovereignty over the islands. However, in August 1970, the son of Tatsushiro KOGA denied the claim that the islands had been first discovered by his father and only admitted that his father had been there.

However, in Chinese empirical records, the earliest mention of the islands was in the *Shen Feng Xiang Song (Sail With Tail Wind)* published in 1403. That means the Chinese discovered the islands at least more than 400 years earlier than the Japanese. China has fulfilled the condition of occupation in international law and Japan must not present lame arguments to claim that it discovered the islands first.

Another viewpoint in international law is that the entity that first occupies a place must be a country or a party that has been authorized by a country. However, when Mr KOGA applied to the Minister of Interior of Japan to lease the islands, his application was rejected by the Japanese Government on the grounds that "it was not clear at the time whether the island belonged to the (Japanese) empire". Moreover, in 1941, the Taipei Prefecture in the era of Japanese occupation took legal action against the Okinawa (Ryukyu) Prefecture to protect the fishing grounds off the Diaoyutai Islands. In 1944, the Court in Tokyo of Japan even ruled and affirmed that the Diaoyutai Islands fell within the jurisdiction of Taipei.

Therefore, all these facts tell us that the Diaoyutai Islands belong to China. No matter from the viewpoint of history, geography and international law, the Diaoyutai Islands belong to China. Therefore, any action taken by any Japanese on the Diaoyutai Islands cannot negate history.

Up to now, since the Japanese have made incursions into our Diaoyutai Islands from time to time, occupied them and built a lighthouse, we believe that

as Chinese, the Chinese Government and we cannot look on passively while the Japanese are engaging in such acts. Unfortunately, so far, our Central Government has only been using the diplomatic jargon of "solemn representation" to demand that the Japanese heed our words. However, despite the repeated solemn representations, the Japanese have never heeded us even once.

Conversely, what has the Japanese Government done in its own country recently? First, it amended Article 9 of its Constitution to transform the self-defence force into an army. Its military spending is at present the second highest in the world. Such actions indicate that there is the possibility of a resurgence in militarism. As its neighbouring country, China cannot take such developments lightly. Therefore, in defending the Diaoyutai Islands, in defending Chinese territory, every person and even the Chinese Government must not let up and must not be feeble.

Therefore, the Central Government should firstly, support activities carried out by civil groups to defend the Diaoyutai Islands; secondly, dispatch engineering teams to the Diaoyutai Islands to, on the one hand, build a lighthouse that belongs to China to declare sovereignty and on the other, to assist passing vessels of various countries in nearby waters and thirdly, dispatch survey teams to the Diaoyutai Islands to study its unexplored geology and the various types of untapped natural resources on them. Thank you, Mr Deputy.

MRS SOPHIE LEUNG (in Cantonese): Mr Deputy, in fact, the Diaoyutai Islands have always been Chinese territory. However, for many years, right-wingers in Japan and the Japan Coast Guard have used the pretext of repairing the lighthouse and defending marine security to cruise in the waters off the Diaoyutai Islands and on many occasions, a number of patrol boats were deployed to drive away Chinese fishermen fishing in the waters near the Diaoyutai Islands, turning a blind eye to the historical fact that the Diaoyutai Islands are part of Chinese territory.

Last month, the Japanese Government even went further by including the Diaoyutai Islands in the territorial map of its country. We believe that this is a move that seriously infringes on Chinese territorial integrity, which is even more serious than the incursions conducted by civil groups. I believe that we can by no means take such escalating acts of provocation lightly.

As we all know, the dispute over the sovereignty of the Diaoyutai Islands is not purely a territorial dispute. Since there may be abundant oil reserves under the islands, the question of to which party do the Diaoyutai Islands and the 200-nautical-mile exclusive economic zone belong according to international law will have a direct bearing on whether half of China's oil reserve in the East Sea oilfield will be plundered by any other country.

In particular, with the rise of China in recent years and its increasing national power, coupled with the rising living standard of its people, the demand for energy resources in China is ever increasing. A stable oil supply will be crucial to China's continued economic growth and success or otherwise. In addition, with international oil prices repeatedly hitting new highs recently, the tangible benefits derived from oil resources will inevitably make some people palpitate with avarice and harbour improper thoughts.

In 2009, the Commission of the Limits of the Continental Shelf of the United Nations will negotiate the redrawing of sea boundaries. It is necessary for us to closely monitor the recent series of actions and developments on the part of Japan to see if it intends to look for opportunities to foment incidents and create the so-called *fait accompli*, so as to give people the impression that the Diaoyutai Islands are already bagged by the Japanese and win recognition from the international community.

Therefore, the Liberal Party considers it necessary for the Central Government to level strong condemnation at Japan and make solemn representations with the Japanese Government. Regarding the diplomatic negotiations between the two countries, it should not be subjected to the influence of a third party, so that China and Japan can resolve this territorial dispute through peaceful channels.

Mr Deputy, we Chinese have been to many places since a long time ago and have left many historical traces behind. For example, it has been found only recently that untold centuries ago, there were already overseas Chinese living in Brunei and historical artefacts from the Yuan and Song Dynasties were unearthed there. Therefore, this is yet another proof to back our present claim that the Diaoyutai Islands were discovered by us.

In the past, the Chinese Foreign Ministry has condemned such acts of incursion many times. Last Sunday, the Chinese Foreign Minister, LI

Zhaoxing, reiterated that the Diaoyutai Islands and its appertaining islands were Chinese territory since ancient times and China had incontrovertible historical proof and legal backing, that any glib talk and unilateral action by any foreign country would not alter this fundamental fact.

Therefore, we are of the view that any attempt to win recognition from the international community through a series of actions such as the renewal of the lease of the Diaoyutai Islands by the so-called owner of the islands, allowing Japanese right-wingers to build a lighthouse on the island, expelling Chinese vessels, including the Diaoyutai Islands in the map of Japan, or even incorporating the islands into its territory, in the belief that it can create a *fait accompli* and win the recognition of the international community, are all futile.

We agree that the Central Government should continue to deal with this matter through diplomatic channels. As the Foreign Minister, LI Zhaoxing, said, "We propose that a solution be sought through negotiations, on the basis that the facts should be respected.". At the same time, the Liberal Party is of the view that the Central Government should assert even more clearly the fact that it holds sovereignty over the Diaoyutai Islands. However, we also believe that any tactic using force or military threat to declare sovereignty can easily lead to unexpected turn of events and must be avoided by all means, so as to avoid reigniting the bitterness of the last generation in the younger generation.

Mr Deputy, to uphold the integrity of national territory and ensure that it is not infringed upon is the responsibility of every Chinese citizen. We understand the sentiments of every person who wants to defend our national territory. However, we also hope that as we take actions to defend the Diaoyutai Islands, we can bear in mind how far we can go and must not act on the spur of the moment, leading to any unexpected incidents. Therefore, we support the motion moved by Mr LEE Wing-tat, but we hope even more that the territorial dispute over the Diaoyutai Islands can be resolved through diplomatic means peacefully at an early date.

With these remarks, I support the motion.

MR WONG KWOK-HING (in Cantonese): Mr Deputy, at the beginning of last month, the Japanese Government announced the takeover of a lighthouse on the

Diaoyutai Islands in an attempt to create the *fait accompli* that the Diaoyutai Islands belong to Japan. The FTU expresses strong resentment and protest against this act of incursion by the Japanese Government. We demand that the Japanese immediately demolish all illegal structures and facilities on the island and halt all activities that infringe upon Chinese sovereignty. The issue of the Diaoyutai Islands is not simply an issue of sovereignty over the islands, but is actually an issue involving the ascendancy of right-wing influence in Japan, as well as the attempt to revive Japanese militarism, which threatens China, Asia and world peace.

Mr Deputy, this year is the 60th anniversary of our victory in the war of resistance against Japanese aggression. However, the defeated Japanese Government has never been sincerely repentant, nor has it ever sincerely apologized or reflected on its own deeds, pondered over its history seriously and shouldered responsibility courageously for waging its war of aggression. On the contrary, in order to cover up its wartime atrocities, not only has it denied the occurrence of the massacre in Nanking, it even distorted historical facts in its history textbooks. The Japanese Prime Minister continued to pay tribute at the Yasukuni Shrine, which housed the memorial tablets of class A war criminals, despite opposition from various countries, and he also tried to distort the truth on who waged the war of aggression. What is more, the Japanese actions even get from bad to worse as the ambition of outward expansion is fuelled by its rising economic power. It is using its military might in an infatuated attempt to pocket the Diaoyutai Islands as its possession. Such acts of aggression are indeed totally unacceptable.

Mr Deputy, if we trace the origins, we can find that it was from the '70s onwards that the ambition of the Japanese Government on the Diaoyutai Islands of our country grew and it has been going to all lengths to gradually encroach on the islands. The Japanese Government has given its rightist groups a free hand in building a lighthouse on the island. It then used its military vessels to harass Chinese vessels and boorishly prevented our citizens from visiting the Diaoyutai Islands freely, thus infringing on the rights of our people. Recently, the Japanese went even further. On the one hand, it took over the lighthouse on the Diaoyutai Islands and made it the possession of the Japanese Government, and on the other, it included the islands in its sphere of naval defence in order to back its actions with military might, in an attempt to create the *fait accompli* of occupation and annex the Diaoyutai Islands. This move by the Japanese Government not only reveals its disregard for the opposition of Chinese

worldwide and blatant disregard for the sovereignty of neighbouring countries, it also reflects the aggressive ambition of Japanese militarism.

According to the provisions of international law, the people who first discovered, named and used an uninhabited island are entitled to the natural ownership of the island. There is no doubt that the sovereignty of our country over the Diaoyutai Islands is completely consistent with international law. In empirical records, there were references to the Diaoyutai Islands as early as the Ming Dynasty and they were confirmed to be Chinese territory. Japan's claim of sovereignty over the Diaoyutai Islands is completely founded on flimsy grounds and cannot hold water at all. In fact, even some Japanese scholars such as Kiyoshi INOUE and Tadayoshi MURATA also noted these objective facts in history and pointed out clearly in their works that the Diaoyutai Islands belong to China.

In addition, the United Nations also stipulate in Article 2 of the Convention on the Continental Shelf of 1958 that the coastal States can exercise over the continental shelf sovereign rights for the purpose of exploring it and exploiting its natural resources. Since in terms of geography, the Diaoyutai Islands are located on the continental shelf of the East China Sea, our country of course has jurisdiction over the islands and the right to develop them. This is also the legal basis on which our country claims possession of the Diaoyutai Islands. In view of all this, the wrongdoings of the Japanese Government in encroaching on the Diaoyutai Islands are a blatant disregard of historical facts and a violation of the provisions of international law.

Mr Deputy, the most practical and desirable course of action in involving Hong Kong in the defence of our sovereignty over the Diaoyutai Islands is to enhance the patriotism of the Hong Kong public and heighten our vigilance over the resurgence of militarism in Japan, as well as staying on the alert for the designs of Japanese militarism to vanquish us.

In view of this, I wish to make four public appeals:

- (1) since this year is the 60th anniversary of the victory in the war of resistance against Japan aggression, various sectors in society should organize various types of activities and do their utmost to publicize the crimes of aggression propagated by Japanese militarism, with a view to heightening the alertness of the Hong Kong public for the resurgence of Japanese militarism;

- (2) the SAR Government should establish a museum of history to commemorate the war of resistance against Japanese invasion and the resistance against Japanese occupation of Hong Kong for three years and eight months, so as to advocate the national spirit of defending our homeland;
- (3) the SAR Government should take the lead in implementing the practice of hoisting the national flag daily at each government building and government school, as well as encouraging other subsidized schools to do so, so as to reinforce the national identity of the Hong Kong public; and
- (4) the SAR Government, various sectors in society and all Members should work in concert, put aside their differences, seek common ground and jointly develop Hong Kong, so that Hong Kong can be more prosperous, harmonious and stable, instead of creating additional trouble and chaos for the Central Government. In this way, our country will be in a better position to devote its energy to construction, further boost national power and defend its sovereignty, and Hong Kong people will be able to make their due share of contribution.

With these remarks, I support the motion.

DR RAYMOND HO (in Cantonese): Mr Deputy, between China and the United States, there is the problem of Taiwan, and between China and Japan, the wrangle over the sovereignty over the Diaoyutai Islands has persisted for many years. Although China's economy has taken off in recent years, it has made little headway in its territorial disputes. I am of the view that no matter from the national or political viewpoint, it is necessary for the State to adopt a more proactive attitude and solve the existing problems in relation to territorial sovereignty.

The Diaoyutai Islands are made up of five islets and three reefs. From the mid-16th century onwards, they were already our country's territory and this can be gathered in historical documents. For example, during the reign of Emperor Jiajing of the Ming Dynasty, these islands were formally given names such as Diaoyu Island and Huangwei Yu. In addition, fishermen from such

places as Taiwan and Fujian Province had all along engaged in activities like fishing and herb gathering at that location. In fact, the Diaoyutai Islands were discovered and named by China several centuries before Tatsushiro KOGA from the Ryukyu Islands discovered it in 1884, as Japan claims.

Given that the Diaoyutai Islands are the territory of our country, as descendants of the Chinese race and from the national viewpoint, it is the responsibility of the State and the people to preserve the territorial integrity of our country.

From the political viewpoint, it is all the more necessary for our country to defend its sovereignty over the Diaoyutai Islands in order to uphold national dignity and accomplish the major undertaking of reunification in future.

In 1895, after the end of the Sino-Japanese War, China and Japan signed the Treaty of Shimonoseki and the Island of Formosa, together with all islands appertaining or belonging to the said Island of Formosa and the Pescadores (the Penghu Islands) were ceded to Japan. After the Second World War, a defeated Japan accepted the clause in the Cairo Declaration that all the territories Japan had stolen from the Chinese, such as Manchuria, Formosa, and the Pescadores (the Penghu Islands), shall be restored to the Republic of China. According to this clause, Japan should return the Diaoyutai Islands to China along with Taiwan. However, this was not what actually transpired. The Diaoyutai Islands were mistakenly included in the Ryukyu Islands jurisdiction under the mandate to the United States. In 1971, Japan and the United States signed the Okinawa Reversion Treaty whereby Japan took over control of the Diaoyutai Islands from the United States. Since then, Japan has continuously taken actions that violated our country's sovereignty over the Diaoyutai Islands.

In 1979, Japan built a temporary helipad on the Diaoyutai Islands. In 1981, the government of the Okinawa Prefecture conducted fishery surveys on the Diaoyutai Islands. In 1990, a right-wing Japanese group, the Japan Youth League, built a lighthouse on the Diaoyutai Islands. In 2003, the Japanese Government signed a lease with a national who had the so-called "ownership" of the Diaoyutai Islands and leased three of the islands of the Diaoyutai Islands. In February this year, the Japanese Government further announced that it had taken over the lighthouse built by a Japanese right-wing group on the Diaoyutai Islands and formally added it to its newly published nautical charts. All of these actions have seriously violated and held in contempt the territorial integrity of our

country. Although the Central Government has protested against such actions, it is highly necessary for the State and our people to step up its actions to defend the Diaoyutai Islands in order to uphold our territorial integrity and national dignity.

On 19 February this year, Japan and the United States made Taiwan a Common Strategic Goal and included Taiwan as a possible target for deployment according to the U.S.-Japan Mutual Defense Assistance Agreement. If Japan further asserts its so-called "sovereignty" over the Diaoyutai Islands, should a conflict occur in the Taiwan Strait, they will have the pretext to take action to intervene in the internal affairs of our country, which is a legacy of history. In that event, the major undertaking of the reunification of China will be thwarted. No matter from the national viewpoint or the political viewpoint, this is not acceptable.

This issue of sovereignty over the Diaoyutai Islands has troubled our country for long. I have the utmost respect and admiration for people who risked their lives to take part in actions defending the Diaoyutai Islands, in particular, those who sacrificed their lives in the defence of the Diaoyutai Islands. I also support my compatriots who are going to make an effort to defend the sovereignty of the Diaoyutai Islands in future. I long to see our country attain the goal of achieving territorial integrity at the same time as the national economy races ahead. In this, I have high expectations on the State and my Chinese compatriots.

Mr Deputy, I so submit.

MR ALBERT CHENG (in Cantonese): Mr Deputy, a quorum is not present.

DEPUTY PRESIDENT (in Cantonese): Since a quorum is not present, the bell will now be rung to summon Members back to the Chamber.

(While the summoning bell was ringing, the President resumed the Chair)

NEXT MEETING

(After the summoning bell had been rung for 15 minutes)

PRESIDENT (in Cantonese): Members, since the summoning bell has been rung for 15 minutes but a quorum is still not present, I can only adjourn the meeting. We will continue to deal with the unfinished business on the Agenda at 2.30 pm on Wednesday, 16 March 2005.

Adjourned accordingly at half-past One o'clock.