

# **OFFICIAL RECORD OF PROCEEDINGS**

**Thursday, 7 April 2005**

**The Council continued to meet at  
half-past Two o'clock**

## **MEMBERS PRESENT:**

THE PRESIDENT

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

THE HONOURABLE 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.

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 CHAN YUEN-HAN, J.P.

THE HONOURABLE BERNARD CHAN, J.P.

THE HONOURABLE CHAN KAM-LAM, J.P.

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

THE HONOURABLE LEUNG YIU-CHUNG

THE HONOURABLE SIN CHUNG-KAI, J.P.

THE HONOURABLE WONG YUNG-KAN, J.P.

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

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

DR THE HONOURABLE YEUNG SUM

THE HONOURABLE LAU KONG-WAH, 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

THE HONOURABLE LI KWOK-YING, M.H.

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 MA LIK, J.P.

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

THE HONOURABLE LEUNG KWOK-HUNG

DR THE HONOURABLE KWOK KA-KI

DR THE HONOURABLE FERNANDO CHEUNG CHIU-HUNG

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

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:**

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

THE HONOURABLE CHEUNG MAN-KWONG

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

THE HONOURABLE LAU CHIN-SHEK, J.P.

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

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

**PUBLIC OFFICERS ATTENDING:**

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

DR THE HONOURABLE YORK CHOW YAT-NGOK, S.B.S., J.P.  
SECRETARY FOR HEALTH, WELFARE AND FOOD

**CLERKS IN ATTENDANCE:**

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

MRS JUSTINA LAM CHENG BO-LING, ASSISTANT SECRETARY  
GENERAL

MR RAY CHAN YUM-MOU, ASSISTANT SECRETARY GENERAL

**MEMBERS' MOTIONS**

**PRESIDENT** (in Cantonese): A quorum is not present. 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. We shall continue with the meeting.

**PRESIDENT** (in Cantonese): Members' motions. Proposed resolution under the Rules of Procedure of the Legislative Council of the Hong Kong Special Administrative Region.

**PROPOSED RESOLUTION UNDER THE RULES OF PROCEDURE OF THE LEGISLATIVE COUNCIL OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION**

**MRS SOPHIE LEUNG** (in Cantonese): Madam President, in my capacity as Chairman of the Committee on Members' Interests (the Committee), I move that Mr James TO be admonished according to Rule 85 of the Rules of Procedure (RoP) of the Legislative Council for his failure to furnish to the Clerk to the Legislative Council particulars of his registrable interests relating to the name of the company Target Link Limited (TLL) during the period from 1 July 1998 to 25 August 2004.

The Committee is a standing committee of the Legislative Council. One of the Committee's terms of reference is to consider and investigate any complaint made in relation to the registration and declaration of Members' interests or any complaint of a failure to do so; or to report to the Council and make recommendations, including a recommendation as to sanctions relating to interests under Rule 85 of the RoP.

The Committee conducted an investigation into the case of James TO's late registration of interests. A Report was submitted to the Legislative Council on

9 March. The Report enumerated the particulars and factors considered and the conclusions and suggestions of the case.

I wish to depict briefly the considerations and conclusion of the Committee first. The Committee noted that Mr James TO claimed that he had all along mistakenly believed that TLL had issued two shares only, in which he held one share which he had donated to the Democratic Party subsequently. Therefore, he held the share of TLL in the capacity of a trustee or a "nominee shareholder" only. Mr James TO said that according to the note under the item "Shareholdings" in the Registration Form, "shareholdings" was defined as personal shareholdings and did not include shareholdings held by a Member in the capacity of a nominee shareholder, he therefore believed that he was not obliged to register the particulars of such interests with the Legislative Council.

The Committee noted that James TO did register such interests with the Yau Tsim Mong District Council (YTMDC) as he was also a YTMDC member during that period. Mr James TO explained that there was such a requirement in the YTMDC Standing Orders and there was no section exempting the registration of shares held by nominee shareholders. As information on interests registered by Legislative Council Members and DC members were accessible to the public, the Committee was of the opinion that if Mr James TO deliberately omitted to register the interests with the Legislative Council so as to conceal his shareholding interests in TLL, one could infer by common sense that he should have omitted to register the interests with YTMDC as well. As Mr James TO did register the interests with the YTMDC, it was obvious that Mr James TO did not deliberately conceal such interests.

Meanwhile, the rules relating to Legislative Council Members' claims for reimbursements of expenses did not prohibit Members from submitting claims for reimbursement of rental expenses in respect of a property owned by themselves, the political party which they belonged to or the company under their control for use as their Legislative Council Members' District Offices, nor did they require Members to provide evidence showing that the rental of the offices concerned was not higher than the market rate. As such, Mr James TO has not breached any relevant rules of the Legislative Council by renting the property owned by TLL for use as his Legislative Council Member's District Office. In the circumstances, it was not necessary for Mr James TO to omit registration in order to conceal his connection with TLL.

Mr James TO claimed that since he mistakenly believed that he did not actually hold TLL, when the staff members showed him the documents, he never perused but just signed at places where they were flagged. The Committee considered that Mr TO's way of handling matters in this respect could be regarded as grossly inadequate and negligent. As a Legislative Council Member, Mr James TO had a duty to clarify and ascertain the number of shares of TLL held by him and the capacity in which he was holding such shares. The Committee considered that since Mr James TO failed to discharge such a duty in a prudent way, he had fallen short of the standards expected of a Member in handling such matters by members of the public, hence there was a need to recommend a sanction against him. The Committee recommended that a motion be moved by me that Mr James TO be admonished to that effect.

Madam President, despite Mr James TO's case was not complicated, in order to find out the details, the Committee held a total of 16 meetings to discuss all the arguments repeatedly and deliberate the wording of the Report cautiously. It shows that the Committee handled this case with extreme vigilance. However, after the Report had been made public, people started criticizing the work of the Committee. Some said the recommended sanction was too lenient; some considered we legislators were investigating our own men; and the Committee did not deal with the question of whether or not Mr TO's claims for reimbursements from the public coffers of rental expenses was at a level above the market rate. Here I wish to respond to these questions briefly.

The first question was: The Committee's recommended sanction was too lenient. According to Rule 85 of the RoP, three types of sanctions may be imposed on any Member who fails to comply with rules relating to the registration of interests: He may be admonished, reprimanded or suspended by the Council on a motion to that effect. I have to point out that the Committee had carefully considered and weighed up all relevant factors, including the specific mistake made by Mr James TO and whether he had deliberately concealed his interests before recommending the admonishment sanction against him. The Committee believed that the recommended sanction was appropriate as it was neither too severe nor lenient.

The second question was: The Committee was investigating its own men. I wish to point out that the Committee is empowered to investigate any complaint made in relation to the registration and declaration of Members' interests according to Rule 73 of the RoP, whilst all seven members of the Committee

were appointed by the President in accordance with an election procedure determined by the House Committee, for that reason, it is undeniable that we were investigating fellow legislators insofar as the design was concerned. Nevertheless, since the composition of the Committee has a broad representation of various political parties and fractions in the Legislative Council, no individual members from any political party can dominate the work of the Committee. In fact, members of the Committee had noted the possible query in this respect at the early stage; they therefore acted with additional cautiousness in order to avoid being criticized for favouritism. We reminded ourselves from time to time that we should deal with this case objectively, fairly, justly and rationally. The Committee will submit a detailed report on this case which allows all Members, members of the public and the media to inspect whether its conclusions and recommendations are impartial and reasonable.

Madam President, I wish to point out that in some regions, misconduct of legislators would be investigated by independent individuals or organizations. For example, the United Kingdom Parliament has the Parliamentary Commissioner for Standards to deal with this matter. As to which mechanism best suits Hong Kong, the Committee adopts an open attitude on the subject matter. Since this is not the subject of today's debate, I do not intend to discuss the pros and cons of different approaches. Members who have opinions on this subject may propose such opinions to the House Committee so that we can make improvement to our system.

The third question was: The Committee did not deal with the question of whether or not Mr TO's claims for reimbursements of rental expenses from the public coffers was at a level above the market rate. I wish to emphasize that the Committee could only and should only act within the purview of its terms of reference. The Committee was not empowered to deal with that. In fact, the Committee has inquired Mr TO about the issue of rental expenses, but the intent was to ascertain whether his failure to register the particulars of interests was intentional.

Madam President, this is the first time in the history of Hong Kong's legislature that the Legislative Council debates on a motion moved by the Committee to sanction a particular Member. I believe Mr TO has already learnt a profound lesson from this debate, and he will act more cautiously to register his interests in future in order not to fall short of the standards expected of a Member in handling such matters by members of the public. I hope all of



us will make concerted efforts and support the system of the register of Members' interests, with a view to upholding the credibility and reputation of the Legislative Council and providing with members of the public adequate information to judge whether we Members have been influenced by our personal interests in the course of discharging our duties.

With these remarks, I hope Members will support the motion.

**Mrs Sophie LEUNG moved the following motion:**

"RESOLVED that having considered the report of the Committee on Members' Interests made to this Council on 9 March 2005 under Rule 73(1)(e) of the Rules of Procedure of the Legislative Council of the Hong Kong Special Administrative Region, Honourable James TO Kun-sun be admonished for failing to furnish to the Clerk to the Legislative Council the particular of a registrable interest, namely the name of Target Link Limited, during the period from 1 July 1998 to 25 August 2004, contrary to Rule 83 of the aforesaid Rules."

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

**PRESIDENT** (in Cantonese): Mr LAU Kong-wah will move an amendment to this motion, as printed on the Agenda. The motion and the amendment will now be debated together in a joint debate.

I now call upon Mr LAU Kong-wah to speak and move his amendment.

**MR LAU KONG-WAH** (in Cantonese): Madam President, an uproar erupted in public opinion forums when the Committee on Members' Interests (the Committee) submitted its Report on Mr James TO's case, and people were baffled. Since all political parties and affiliations are represented in the Committee, I understand that it is rather difficult to move an amendment to the motion. Meaning no disrespect to the Committee at all, and I fully understand all the points made by the Committee's Chairman, Mrs Sophie LEUNG, I just wish to seek truth from facts by pointing out the deficiencies, basing on facts

instead of political consideration. One may say that it is based on political consideration only if I fail to raise questions in full knowledge of deficiencies and unfairness. I will absolutely not condone anything, neither can I accept the unacceptable and agree to the disagreeable, as this will fail the expectations of members of the public. I will raise some arguments later and I will modestly listen to comments to be made by Members, but please consider supporting my amendment if Members consider my arguments are well-founded. In my capacity as a member of the Public Accounts Committee (PAC), I have been dealing with the misconduct of civil servants in a fair and just way, today, I have adopted the same criteria to weigh the matter in proposing my amendment.

Madam President, the purpose of the investigation was to establish three facts: First, whether Mr TO had omitted to register his interests; second, whether there was a conflict of interests; and third, to recommend sanctions according to the gravity. With regard to the first one, there was no doubt at all. For the second one, the term "conflict of interests" was not specifically used in the Committee's Report, but paragraph 22(3) of the Report stated that in handling cases of conflict of interests, the Committee did not recommend sanctions on the basis that no conflict of interests was involved. The sanction recommended by the Committee this time around shows that this particular case did involve conflict of interests. Basically, a conflict of interests has been established. So the degree of sanction is the outstanding issue. Paragraph 13 of the Report revealed that the Committee at one point had considered asking Mr James TO questions on the rental expenses with a view to determining whether or not his late registration of interests had involved an incentive, but subsequently, the Committee did not pursue the issue further. The starting point of the Committee was inconsistent with the conclusion, so there was discrepancy. Since the fact of concealing the register of interests and a conflict of interests had both been established, the crux of the problem lay in the kind of sanction to be imposed on him. It seemed that the Committee had not discussed the degree of gravity but just adopted the admonishment sanction to dispose of the matter lightly.

One could note from the Report that Mr James TO had been paying a monthly rental of \$6,800 for the Sham Shui Po premises as at December 1999, but one month later, that is, from January 2000 onwards, the monthly rental of the same premises soared to \$13,800 for a 17-month period. What good news on earth had prompted the upsurge of property price from \$6,800 to \$13,800 in that month?

Mr James TO had played no part in the determination of the rental value concerned and had not looked into the issue, thus he knew nothing about the reason for the abrupt increase of the monthly rental. But in paragraph 17.28, he stated that if the rental had been set at a level much higher than the market rate, he would have queried about it. But why was Mr TO not aware of that and why had he not questioned the sudden increase of the monthly rental from \$6,800 to \$13,800 within a month's time? In Appendix 15, Mr TO provided a transcript of a news report of a local television broadcast, in which it was reported that the average monthly rental value of the premises was only \$4,700 according to the information provided by the Commissioner of Rating and Valuation upon the enquiry of the broadcaster, and it was \$7,000 according to the information given by a real estate agency. No matter it was \$4,700 or \$7,000, the monthly reimbursement of \$13,800 claimed by Mr TO and other District Council (DC) members of the Democratic Party far exceeded the market value. In fact, the simplest way was to enquire with the Commissioner of Rating and Valuation, but the Committee did not do so and simply accepted Mr TO's claim, that he had no knowledge of it, and then disposed of the matter lightly. It was the reason why an uproar erupted in the public.

The focus of the Committee should be the incentive in relation to the monthly rental leading to the concealment of interests, and it should be the starting point of the Committee, but why did such consideration vanish later? The fact that a Member overvalued the rental value of his office premises to offset the mortgage payment did involve a substantial motive to conceal one's interest; it was a different thing to register such interests with the DC, because the organization to which he made his claims was the Legislative Council, not the DC. It would be two different stories if the market value was \$4,700 when the claimed amount could be \$4,700 or \$13,800 for that matter. The degree of sanction should be different, too; otherwise, once such a precedent is set, then it will establish a formulistic approach such that whenever Members omit to register interests whilst a conflict of interests is involved, it will be a generalized "admonishment" regardless of the gravity of the case. Nevertheless, why does the RoP require members to consider a three-tier sanction which includes admonishment, reprimand or suspension? If we question nothing about the gravity, why should we have a three-tier system? The Report did not indicate whether or not other sanctions had been discussed, so why must it be "admonishment"? Has the Committee discussed "reprimand" or other sanctions? Why do "reprimand" or other sanctions not apply? Why are they not applicable?

Madam President, it is inappropriate to impose sanctions without considering the degree of gravity. In respect of speeding drivers, if the penalty for speeding by an excess of 10 km is the same as the penalty for speeding by an excess of 50 km, will it not turn the whole world upside down? How could fairness be upheld? Every one of us in this Council is a lawmaker; we should know only too well that we will recommend graded sanctions according to the degree of gravity whenever we scrutinize a piece of legislation. It would be astounding and unacceptable if we Members overlook this issue.

Moreover, with regard to his shares of TLL, Mr James TO claimed that he had donated his one share to Democratic Party and his recollection of the swapping of shares from one to 49 shares was very vague. Was the premises actually owned by Mr TO or the Democratic Party? This is an important question, because the gravity of the two is different. As soon as Mr TO gave his explanation, the Committee fully accepted it without further pursuing the details. Actually, the simplest way to find out was to write an enquiry to the Democratic Party, and I believe the Democratic Party would be more than happy to reply. Nevertheless, the Committee failed to do so. I am rather disappointed about it. Ms Emily LAU, a member of the Committee, has also been a member of the PAC as I do for seven years. When we come across similar matters, we would make a written enquiry to clear up all the doubts. Two simple tasks should have been done: Writing to the Commissioner of Rating and Valuation to ask for the rental value or writing to the Democratic Party to find out the ownership of the premises could be done with little effort, but the Committee did not do so. Why has Ms Emily LAU's unforgiving style when she attacked the Civil Service fiercely in the past changed into a weak, feeble or even hollow stance? In the past, a number of civil servants had been renting each other's properties in order to use public monies to pay for the mortgages, and they lost their jobs and even pensions after their cases had been exposed, ending up with empty hands and with no tears to shed even though they were in deep sorrow. Could it be possible for us to adopt double standards towards Members of the Legislative Council? This has remained a mystery even now. I wish the Democratic Party will take today's opportunity to explain whether or not it is the Democratic Party's property.

With regard to the issue of 49 shares, Mr TO said his recollection was very vague, since he "did not peruse the details of the document", this is exactly what he said, he "did not peruse the details of the document." Nevertheless, how detailed should it be? We may take a look at Appendix 9, Madam

President, this is Appendix 9, if it is a pile of documents, a momentary oversight is understandable, but the Appendix 9 is only a sheet of paper, and it could be read through in a glance. May I ask how detailed it should be? For that reason, it is obvious that Mr TO's statement was not credible, for he used such words as "did not understand why", "recollection was very vague", "it never occurred to him that he needed to" and "nor did he care at all" as an excuse to conceal his failure to register the 49 shares.

In fact, the entire case involves the concealment of omitting to register interests and conflict of interests. Moreover, anyone would consider that the admonishment sanction is too lenient a punishment despite he was claiming a monthly rental higher than the market rate to offset the mortgage payment of his own premises, and after all, it could not reflect the gravity of the matter. However, as the law enforcement agency has not come up with any result yet, thus "suspension" seems to be unlikely and "reprimand" is a more appropriate choice. When I compare my experience in the PAC, I consider that we should not adopt different treatments towards the Civil Service and legislators. I randomly pick up the P.A.C. Report No. 36 (*sic*) for reference, in which chapter 2 mentioned excavation works of the Highways Department (HyD). Ms Emily LAU and I, I am sorry, I have to mention Ms Emily LAU frequently, because we have been sitting on the PAC for seven years together, therefore I understand her way of dealing with things. We were members of the PAC at that time, as we considered that the senior management of the HyD had demonstrated "indecisiveness" and "slackness" in monitoring site inspections, thus we used the word "condemn" at that time. If we could condemn the civil servants on the ground of "indecisiveness" and "slackness", how could we lightly dispose of a legislator who "omits registration and conceals interests" and involves "conflict of interests" by merely imposing on him an admonishment sanction? I believe that in our capacity as Members of the Legislative Council, we should not be strict with others but lenient with ourselves, since the public would not accept our double standards, otherwise, our credibility would be completely ruined when we carry out monitoring on government officials in the future. For that reason, I urge Members to think twice as it is a matter of enormous import. Therefore please accept my amendment to uphold the principle of fairness, justice and consistency.

Madam President, I have urged other law enforcement agencies to conduct a thorough investigation in my original amendment, but the President overruled that part. I respect the President's decision, but it does not necessarily mean that the relevant agencies should not conduct a thorough investigation, especially

an investigation in issues relating to the transfer of benefits. Recently, I noted that the Democratic Party's internal investigation report on Mr James TO's case had been completed. Since the Democratic Party has been sparing no efforts and it will not be soft-hearted in following up government information and reports, I therefore hope the Chairman of the Democratic Party, Mr LEE Wing-tat, will follow the party's line by making public its internal report and will not fail the expectations of the people.

Madam President, I have to reiterate that the comments I have made mean no disrespect to members of the Committee at all. I only wish to point out the deficiencies, with a view to reflecting the discontent of the public. I beg Members to say "no" to the original motion and consider supporting my amendment in the interest of upholding the credibility of the Legislative Council.

I so submit. Thank you, Madam President.

**Mr LAU Kong-wah moved the following amendment:**

"To delete "admonished" after "Honourable James TO Kun-sun be" and substitute with "reprimanded"."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr LAU Kong-wah to Mrs Sophie LEUNG's motion, be passed.

**MR JAMES TO** (in Cantonese): Madam President, the Committee on Members' Interests (the Committee) has submitted a report to this Council regarding my failure to, in accordance with the requirements of this Council, furnish to the Legislative Council Secretariat the details of a registrable personal interest. I accept the Committee's report and proposed sanction.

I have previously failed to declare to this Council my shares in the Target Link Limited. Despite the fact that I have made a related declaration to the Yau Tsim Mong District Council, there are indeed negligence and inadequacies on my part in declaring interests to this Council. In this connection, I must apologize again to the public and Honourable colleagues. Because of my negligence, the Committee has to conduct an inquiry to find out the details of the

incident. Moreover, this Council has to impose a sanction on me today so that the public could have more confidence in this Council's system of monitoring Members' personal interests. Apart from expressing my deepest regret, I would like to thank the Committee for its efforts.

I will definitely draw a lesson from the incident, and I undertake to be more careful in handling the declaration of my personal interests as a Member of this Council.

**MR ALBERT CHENG** (in Cantonese): Madam President, I would like to thank Mrs Sophie LEUNG for speaking in her capacity as Chairman of the Committee. In fact, she has given a very detailed account.

After listening to Mr LAU Kong-wah speaking on the amendment which he had proposed to this motion, I have a feeling that I would agree very much to what he has said if I were not a member of the Committee. It is because his speech is very moving and it is very pleasing to the ear and it can be considered very persuasive as well. Mr LAU Kong-wah is a very senior Member of this Council. He said he had served in the Public Accounts Committee for seven years and he should know that the Committee adopts a very rigorous approach in investigating into cases.

The Committee on Members' Interests (the Committee) has held a total of 16 meetings. With respect to this point, the Chairman of the Committee has made it already. I like working with numbers, for if not, I would not have come to the conclusion that The Link REIT listing is selling public assets at dirt-cheap prices. I took out my pocket calculator and after working on it I found that we had worked for more than 500 hours, including the working hours of the Secretariat staff and the seven Council Members. This is a most conservative estimate and if we turn it into market value, it will be a six-digit number and it is very likely that it will come up to \$500,000. If this is translated into the fees charged by a senior counsel like Mr Alan LEONG, this could well be over \$1 million.

I agree completely with Mr LAU Kong-wah's remarks just now. This is because in these 16 meetings of the Committee, the seven members of the Committee from various political factions, including Mr LI Kwok-ying who is a friend of their party, had discussed every point which he had raised over and over again before this conclusion was reached.

The Legislative Council is a place where rules are upheld. That is why we have the Rules of Procedure. Certain things are expressly laid down in the Rules of Procedure while others are not and convention is the order. Those which are expressly provided include the attire of Members, their conduct in the Council, their speaking time and that they must address the President when they speak, like what I am doing now, and so on. Others which are expressly provided include the language used in this Council or respect for other Members, and so on.

As for requirements not expressly provided for, they include what was done when the meeting commenced earlier, that is, when the President noticed that a quorum was not present, she asked that the bell be rung to summon Members. Now a quorum does not exist either, but there is no express requirement on this and I am not requesting a head count. *(Laughter)* There is no express provision that a meeting can only be held when a quorum is present. It is only a convention and we must respect it.

In this Council I often ask that a head count be done and there was one occasion on which the meeting was aborted when a quorum was not present. The President expressed her profound regret for this. Honourable colleagues from the democratic camp criticized and lectured me after that event. They said that I was green and I did not see that this was only a convention and not an express requirement. I would like to take this opportunity to say it again that this is indeed a convention but the image of this Council should be upheld as well. The incident involving Mr James TO this time has indeed been damaging the image of the Council. For if not, it would be unnecessary to discuss the case and impose sanctions.

Often in this Council there is only one Member facing the Speaker in making a speech — this happens in assemblies all over the world — but that would not matter as long as no one brings it to the attention of the Speaker. Sometimes Members will ask that a head count be done. When a head count is done, there is express requirement that there be a 15-minute wait for a quorum to be formed. It is because of this reason that the Government has spent so much public money to set up Members' offices and these Members' offices are within five minutes' walk to the Chamber. That is why this 15-minute requirement is there and it is not an express requirement. Having said that, it is because of a request for a head count which I made on one occasion that a meeting was aborted and I was reprimanded for this reason.



The Legislative Council also attaches great importance to conventions. There are some committees in this Council, including the Public Accounts Committee — I have the chance of working with Mr LAU Kong-wah in this Committee. I have learned a lot from him, but I also found a lot of deficiencies in him. What he is doing today is one example of such deficiencies: He has no respect for the conventions of this Council.

The Committee is formed in accordance with an election procedure determined by the House Committee with members appointed by the Chairman of the Committee (*sic*). The Chairman of the Committee has made a brief introduction just now and she said that there are seven members altogether in the Committee. These members come from the democratic camp, independent Members like me, the Article 45 Concern Group, the DAB and the Liberal Party. In accordance with the conventions, if we want to conduct an investigation, the Committee is authorized by this Council to investigate and hold discussions and we should respect its findings and the outcome thus arrived. If this amendment moved by Mr LAU Kong-wah is passed, that would mean a vote of no confidence is cast on the Committee. Members of the Committee should therefore resign and the Committee be dissolved. Even if some Members abstain from voting, that will also show that they are casting a vote of no confidence in their fellow party members. Therefore, I call upon Members to vote against this amendment. For if not, there would be no justification for the existence of this so-called convention at all.

As for conducting investigations, I would like to spend some time to respond to what Mr LAU Kong-wah has said. This is because I am a member of this Committee and I have spent a lot of my time on it. Actually, I have some regrets for joining this Committee. This is because not only have we spent 50 hours discussing this case in the 16 meetings we have held, but also in each and every one of these meetings we would discuss the same things over and over again. Even at the stage of compiling a report, there were also repeated discussions on the appropriateness of the diction. So it was only after very meticulous deliberations that we had arrived at this unanimous decision and there were no divergent views on this whatsoever. During the investigations conducted by the Committee, a host of unfortunate events happened as some members divulged the contents of the discussions made by the Committee in the hope that the Committee would come under pressure from the public and the media. This is very unfortunate indeed.

As for the rental issue mentioned by Mr LAU Kong-wah, the Committee has also spent a lot of time discussing it. But owing to the terms of reference of the Committee, we could not investigate into the market rental value of the premises. This point has been explained in detail in our report. If Mr LAU Kong-wah has read the Report, he would know perfectly well that the issue has been accounted for. I admit that there are inadequacies in the Committee, but this is not the case with the report. We should focus our attention on the report and not on an individual. We should determine whether or not the Committee has discharged its duties faithfully and whether or not the issues are all well accounted for. In my opinion, these issues have all been well accounted for, but owing to limitations on the terms of reference, no decision can be made with respect to the rental issue. Therefore, we recommend that should Members think that there are problems with this, the duties of the Committee as laid down in the Rules of Procedure should be revised. Another alternative is to form another committee to be tasked with investigations related to conflict of interest.

The Chairman of the Committee has also mentioned a point and that is, if it is thought that the Committee or Members of the Council should not investigate into other Members of the Council, then should an independent body be responsible for such investigations? The amendment moved by Mr LAU Kong-wah today is in effect telling us that investigations into the misconduct of Members had better be conducted by all the 60 Members under the leadership of the President and using Council time. If this is the case, then the existence of this Committee is no longer justified. Is this what we want?

Madam President, I would think that if this amendment is passed today, we are bound to see that many rules and conventions not expressly laid down in this Council will be destroyed. Therefore, I call upon Members to support the decision of the Committee, they must not abstain from voting and they must oppose Mr LAU Kong-wah's amendment and work to preserve the conventions of this Council. I so submit. Thank you, Madam President.

**MR LEE WING-TAT** (in Cantonese): Madam President, the Democratic Party has always imposed rigorous requirements on the conduct and ethics of its members. A code of conduct has been formulated to govern the conduct and ethics of office-bearers in the Party. With respect to disciplinary offences committed by members, we have a mechanism in the form of a Disciplinary Committee to investigate into the offences and take follow-up actions.

With respect to the present case involving James TO, the Committee on Members' Interests of this Council has decided to sanction his conduct by admonishment. The decision is made after an in-depth and fair investigation. The Democratic Party concurs with such decision.

The omission of James TO is a reflection of the inadequacy of the Democratic Party in supervising its members. In view of this, the Democratic Party wishes to tender its apology to the public. The Democratic Party also demands James TO to learn a good lesson from the incident and, in a bid to restore public confidence, strive to avoid the occurrence of similar events in future.

With these remarks, I support the decision of the Committee.

**MR ABRAHAM SHEK:** Madam President, as a member of the Committee on Members' Interests (CMI), I speak in support of the Honourable Mrs Sophie LEUNG's resolution, and oppose the Honourable LAU Kong-wah's amendment.

Under the leadership of the Honourable Mrs Sophie LEUNG and the guidance of the Honourable Alan LEONG, the CMI has made great efforts to follow the principles of fairness and impartiality in handling the Honourable James TO's case.

The task has not been pleasant, to say the least. The issue at stake involves the honour of a fellow colleague as well as the credibility of this Council. In the deliberation process, we painfully examined every piece of relevant evidence, and engaged in lengthy, candid and thorough debates. At the same time, we also worked under a highly politicized environment, not to mention some very tight deadlines.

Notwithstanding all these difficulties, Madam President, I am proud to say that the cross-party Committee has satisfactorily completed its job. As far as I can tell, our recommendations are fair and independent. They are based on the best judgements of the CMI and are reached by the CMI's consensus. Most importantly, they are made within the CMI's jurisdiction. Therefore, I remain of the view that admonishment is the most appropriate punishment for the Honourable James TO.

In addition, the CMI was confronted with the difficult decision of choosing among three possible sanctions, namely admonition, reprimand and suspension. In deliberating, there were several key facts to understand and evidence to consider. We noted that the Honourable James TO had admitted his negligence in the handling of his interests in the Target Link. His confession indicated that he had clearly breached the registration provisions under Rule 83. Consequently, he has undoubtedly lost his voters' trust and respect, and has brought discredit to this Council. On the other hand, there has been no evidence, I repeat, no evidence to suggest that the Honourable James TO concealed his interests intentionally.

In the end, admonition was recommended primarily because it was the most appropriate punishment in relation to the nature and degree of seriousness of the Honourable James TO's conduct. It should serve as adequate reminder for all other colleagues when they handle registration matters in the future.

However, we did not select admonition because it was the most lenient form of punishment among the three choices. The fact is, the CMI felt that a reprimand would be too harsh a discipline and inappropriate for an unintentional mistake, nor are we, in the CMI looking for a pound of political flesh from the Honourable James TO. We took politics out of our decision and consideration.

I also consider it extremely important that we handle the Honourable James TO's case strictly within our jurisdiction. It was not within the CMI's terms of reference to investigate the way and attitude in which the Honourable James TO handled matters related to the Target Link — including submitting reimbursement claims for rental expenses for a property owned in part by himself or his political party. Nor do current rules require the Honourable James TO to provide evidence to show that the rental of his office was not higher than the market rate, and none of us did that too. Nevertheless, this case shows that both the registration requirements and the procedure for handling related complaints can be further improved.

I have listened to the Honourable LAU Kong-wah's speech very carefully. I must say that what he said was derived from the facts as stated in the Report but he chose to interpret them differently with no regard to the rules and terms of reference which the CMI has to adhere to. All the questions and points raised by the Honourable LAU Kong-wah had been raised and carefully and fairly attended to and answered. Like the Public Accounts Committee, the CMI must

adhere to its terms of reference. We have acted in good faith and have delivered the Report dutifully and fairly.

Thank you, Madam President.

**MR RONNY TONG** (in Cantonese): Madam President, with respect to the Report submitted by the Committee on Members' Interests (the Committee) on the cases of Mr James TO's failure to register interests with the Legislative Council Secretariat, in general I concur with the conclusion made in the Report that Mr TO omitted to register his interests in the Target Link Limited and thus Mr TO fell short of the standards expected of a Member in handling such matters of personal interests by members of the public. I also concur with the recommendation made in the Report, that Mr TO be sanctioned by admonishment on a motion to that effect as this will not only serve as a warning to Mr TO but that other Members will also be reminded that the credibility of this Council is to be maintained by prudent conduct of Members and any inadvertence or omission done on their part would result in the undermining of public confidence in Members and it would be hard for us to monitor the Government.

However, an Honourable colleague proposes that the sanction to be imposed on Mr TO be augmented from an admonishment motion to a reprimand motion. In my opinion, this would pose some difficulty because of the following two reasons: First, a motion to reprimand is a very severe sanction and it must be passed only with sufficient justifications. On the other hand, if a heavier sanction is to be imposed, there has to be a proper and lawful procedure where all the evidence and testimonies would be re-examined. However, at the moment it seems that these two requirements are not met. So I would think that this suggestion would not be fair to Mr TO and I fail to see how this suggestion would help restore the credibility of this Council.

Now I would like to talk about the sanction by reprimand. With respect to this, the Rules of Procedure of this Council has made very clear provisions. Mr LAU has also mentioned just now the three kinds of sanctions at disposal. As a newcomer I must admit that the rules do not provide any specific guidelines on what kind of sanction to be imposed on what kinds of violations and the severity of such violations involved. And so in this respect and as a newcomer, I must rely on Honourable colleagues in this Council who are more senior than me and have greater experience in such matters to make a reasonable decision in

this case. On the other hand, as seen in the Report, the Committee considers that there is no evidence which indicates that Mr James TO deliberately omitted to register his interests. In my opinion, and as a lawyer, I think Mr TO should be admonished for this omission. This is a point which I agree. But if it is said that the breach was a deliberate act by Mr TO, I would have difficulty in concurring with such a view. As Mr TO explained in his testimony, he had declared his interests in accordance with the requirements imposed on a member of the District Council. If his was a deliberate violation, then why did he declare his interest to one place but not another? Furthermore, as I recall it, Mr TO admitted his omission immediately and made amends for the mistake made. In such circumstances and with respect to this case, should we impose such a severe sanction on him?

A more important principle is the principle of propriety and lawfulness which I have mentioned. I believe all Honourable colleagues will respect the rule of law and it is a very important principle in the rule of law that there should be a due process. Such a principle will ensure the fairness and impartiality of a trial. A conclusion arrived after a due legal process must be respected and it must not be overturned because of some personal view held by an individual. This is a cardinal principle in the rule of law. If we wish to augment the penalty imposed on Mr TO, then we must conduct a new inquiry which will meet all the procedural requirements. Then new evidence must be heard or propose new methods of dealing with such new evidence that may be found.

Moreover, all penalties must be backed up by sufficient and lawful evidence. In this case, the Committee has actually deliberated on the evidence on behalf of all Members of this Council. It is on behalf of all Members of this Council that the Committee has done its self-censorship duty. The Committee is composed of members from all political parties and groups, including the DAB to which Mr LAU belongs. In my opinion, any attempt to quash a decision made by the Committee in the absence of new and pertinent evidence and advanced only because of hard personal feelings is tantamount to casting a vote of no confidence in the Committee and the entire system. It is also like casting a vote of no confidence in all the political parties and groups with members in the Committee. I think that this would constitute a very serious allegation and its impact on the system itself is far greater than that on Mr TO himself alone. I cannot see any evidence at the present moment in support of such an allegation.

In addition, Madam President, I would like to make use of this opportunity to respond to a criticism from outside this Council, that on this occasion the Council is merely investigating into its peers. I think that this accusation is far from being fair because it is part and parcel of our system that we should investigate into the wrongs of colleagues and other investigations are to be conducted by other outside bodies. Mr LAU has also mentioned that such investigations are currently underway. We must understand that our system requires us to carry out self-censorship and if we are to change this approach or emulate other foreign parliaments, then this system of ours must be modified. As long as this system is not modified, the only thing we can do is to engage in such a kind of self-censorship. But I am convinced that all Honourable colleagues have tackled this problem with the highest standards of equity and fairness. They will not do anything to cover up and justify shortcomings. As I have said, the Committee is composed of members from all political parties and groups, so even if the Democratic Party wants to protect its party member, I believe other political parties and groups will never allow it. For my part, I have total confidence in Mr Alan LEONG who represents the political party to which I belong.

As this Council is a popular institution overseeing the Government, it is natural that the public would have very high standards on Members' conduct and how they deal with the declaration of their interests. On this issue of personal interests, Members must exert their utmost to avoid arousing suspicions. The incident this time serves to remind us all that we must exercise greater prudence and care in declaring personal interests in order that there can be no suspicions aroused in the public about any transfer of benefits.

I hope the incident this time can teach each and every Member a good lesson. I also hope that similar incidents will not recur in future. With these remarks, I support the original motion and oppose the amendment. Thank you, Madam President.

**MR PATRICK LAU** (in Cantonese): Madam President, during the Legislative Council Election in 2004, some Members were alleged to have applied to the Legislative Council for reimbursement of the expenses of leasing district offices from their affiliated political parties. As a result, public concern and media attention were aroused for conflict of personal interest of Members. As these cases involve the credibility of the Legislative Council as a whole, Members are

all concerned about them and they hope that similar cases will not recur in future. In view of this, I think that we must adopt a positive mentality and we must look ahead — I repeat, we must look ahead in dealing with such matters. We must strive to perfect the existing system and make sure that similar cases will never happen again in the future.

In the Report submitted by the Committee on Members' Interests (the Committee), the decision to use "admonishment" is made after 16 meetings held by the Committee. If such wording is rejected, that would mean that the relevant decision is overturned and it would mean disrespect to the Committee, which is not desirable at all.

Madam President, the major cause of the problem could well be the fact that the previous system was not sound as appropriate penalties were not clearly specified and nothing was said on whether or not an independent committee would be formed to investigate into Members suspected of violations. For this reason, the Legislative Council Subcommittee on Members' Remuneration and Operating Expenses Reimbursement made a swift response by proposing in its meeting in November last year that the Independent Commission Against Corruption (ICAC) be invited to assist in conducting a review of the system on the reimbursement of Legislative Council Members' operating expenses with respect to their offices. Such a review is meant to help formulate a sound system on the reimbursement of operating expenses. When unambiguous requirements are in place, confusion resulting from Members' misunderstanding of the requirements or omission would be pre-empted.

The Corruption Prevention Department of the ICAC has completed a report of such a review in February 2005. Many constructive recommendations on the rules and procedures of the reimbursement of Members' operating expenses have been made. I hope the Subcommittee can formulate a set of sound procedures and related penalties in accordance with these recommendations to serve as guidelines for Members in their claims for reimbursement of operating expenses. This will enable Members to exercise greater prudence in future and ensure that they will not do anything detrimental to the credibility of this Council owing to misunderstanding or omission. Thank you, Madam President.



**MR LEUNG KWOK-HUNG** (in Cantonese): Madam President, in my opinion, given that these seven members reportedly represent different parties and factions within this Council, the Committee composed of them should be an impartial one. Mrs Sophie LEUNG has made a similar remark as well. In my opinion, we can say so; yet we can also say something to the contrary.

Actually, I have always believed that the inquiry should not be conducted by Members themselves. While the integrity of all the 60 Members in this Council should be respected, it would after all give people an excuse should a Member be investigated by other Members. An independent commission of inquiry should preferably be set up instead. Now that the Report has been completed; there is nothing we can do to avert it. I also feel that we have done a disservice to Mr James TO. The best way to restore his good reputation is to set up an independent commission of inquiry. However, I am certainly not suggesting that the integrity of these seven Members is problematic. This is the first point.

Second, the speech delivered by Mr LAU Kong-wah is not entirely groundless. As he is not a member of the Committee, he considers the punishment too mild. Actually, there is no need for Members to feel offended. It is only a personal opinion, isn't it? Seven people may come up with seven different opinions. However, even the opinion of one person has to be counted. This is the way it should be. Therefore, Members should not feel offended.

As I have stated repeatedly, there is imbalance in the votes cast in this Council. In my opinion, this Council can basically be divided into royalists and the pan-democratic camp, so to speak. It is like we can see shadows when the sun shines upon us. Actually, should this Council be divided arbitrarily into two factions for the sake of casting votes, one of them will certainly lose. This does not matter to me at all. I have known "Ah TO" for such a long time. I trust his integrity. Whatever people say about him, I trust his integrity. This is what matters most to me.

Even if no inquiry is to be conducted by an independent commission of inquiry, charges can still be laid against him. If there is sufficient evidence, go ahead charging him or reporting the case to the ICAC. This is even better because he can then prove his innocence in the Court. Of course, all lawsuits bring us headaches. I was often involved in lawsuits. Even though they were so trivial, they would give me serious headaches. If this litigation is to proceed, will the headache thus caused be even more serious? As the situation unfolds, it

has been repeatedly proved that there might be insufficient evidence, right? Therefore, Members should not feel offended. Anyhow, all of us should be ultimately responsible for our own integrity. We should know what we have done.

What I want to say is that I have recently seen a lot of arrests involving members of representative councils. Of course, they are not Members of this Council. In my opinion, institutional reform is needed. I have no idea whether the Committee has examined this aspect. I am a total stranger to this. I dislike involving myself in institutional matters. However, I find it most constructive to remove all grey areas as far as possible to stop them from creating death traps. This is like the so-called offside offence in playing soccer. All players who have gone past the line are considered offside. I think this Council is obliged to do this. I have absolutely no interest in pitying people engaged in graft. However, if there is an institutional loophole that makes people easy prey, it would be a sin if the system is not modified.

Of course, I am not blaming this incident involving "Ah TO" purely on institutional problems. I do not mean this. However, institutional reform is definitely needed. We can look at the frequent arrests involving District Council members. Perhaps we might be arrested in the future too. Why am I making such a remark? This is because a flawed system can be abused by the people in power. Let us examine how CHEN Shui-bian disposes of his political rivals. The method he uses is endless investigations. The investigations are so intensive that they can make his rivals dizzy. The same tactic, that is, repeated investigations, is adopted to treat Kuomintang dissidents. The Legislative Council should have realized this problem. It should examine how to perfect its system, how to make the system user-friendly, and how to make it easier to differentiate between what is lawful and what is not. I think this is the essence of the entire reform.

Actually, I have the feeling of sharing the same fate because I would be investigated at any time. I am the kind of persons who can easily be incriminated. Of course, I do not mind it at all. While there is nothing I can do should I be wronged arbitrarily after investigation, I cannot help if this is not done. I consider this point crucial for it would be beneficial to all of us. This is genuine respect for all parliamentary assemblies, for a parliamentary assembly is monitored by itself. Otherwise, who will be responsible for monitoring parliamentary assemblies? It is therefore necessary to carry out institutional

monitoring. Now, the incident is over. I have no idea whether there will be any institutional reform. I do hope to see changes and hope that the Government can introduce changes too. In my personal opinion, there are a lot of matters into which this Council can conduct an inquiry.

It does not matter whether "Ah TO" would be steamed, stir-fried or fried today. All this he must face. However, many cases have never been given such treatment. As the saying goes, a policy hinges on the person. Will the Cyberport project undertaken by Mr TUNG be investigated now?

**PRESIDENT** (in Cantonese): Mr LEUNG, I am sorry that I have to interrupt you. The subject matter of this debate is indeed very confined; it is about a resolution proposed with respect to the Report submitted by the Committee to admonish Mr James TO. Please speak to this subject matter and refrain from mentioning other issues.

**MR LEUNG KWOK-HUNG** (in Cantonese): I have nothing to say about the sanction to be imposed on him. Whatever sanction is to be imposed on him, I still trust his integrity. However, an inquiry should be conducted before imposing sanctions. I think this Council should do the same. Actually, there has been a verdict in the community on admonishing someone. As such, matters that have similarly attracted heated controversies should be handled strictly like this case, right? For instance, if the person involved is a Member of this Council, he or she should be monitored. However, should a Chief Executive be monitored? Should an official be monitored? This issue of admonishment must be based on facts.

I am so pleased to see that this Report is based on facts and has included every detail. However, in dealing with other matters — such as those concerning Members of this Council, government officials or persons closely associated with officials — has this Council acted in the same manner? I hope this Council can, after summing up this Report setting out the criteria for monitoring Members, thoroughly implement this point. This is because the dignity of this Council lies with its ability to, after the casting of votes by electors, perform one of its very important functions, that is, monitor the SAR Government according to the Basic Law — a copy of which I tore apart, or the one from which I tore off several provisions, yesterday. In my opinion, given that this Council can involve so many people over a mistake made by just one

Member, why does it not act in the same manner in dealing with matters basically considered by the community to have or have not existed, or matters about which there have been disputes, or other matters which have or have not been investigated before? For instance, when I chanted slogans in the Public Gallery before becoming a Member of this Council, I saw that when suspicion was raised over the matters handled by Secretary Elsie LEUNG or other people because it was considered inappropriate to do so .....

**PRESIDENT** (in Cantonese): Mr LEUNG Kwok-hung, I have to tell you once again that the subject matter of this resolution is very clear. If you hope to make any other suggestions to other Members in this Council, please wait for another turn to request for sponsoring a motion debate. You are entitled to do so.

**MR LEUNG KWOK-HUNG** (in Cantonese): I still need one more minute to finish.

**PRESIDENT** (in Cantonese): Be quick.

**MR LEUNG KWOK-HUNG** (in Cantonese): I will be direct.

**PRESIDENT** (in Cantonese): You have to get back to the subject matter though.

**MR LEUNG KWOK-HUNG** (in Cantonese): I think that this Council has done an excellent job this time. "Ah TO" deserves to be punished. Justice lies in people's heart. I do hope this Council can do even better in future by conducting thorough inquiries into other people who deserve to be punished. At the same time, such incidents as The Link REIT incident, the West Kowloon incident and the Cyberport incident should be included too. I hope this Council can raise its head and conduct thorough inquiries.

**MS MARGARET NG** (in Cantonese): Madam President, today's debate is actually immensely significant to the overall institution of the Legislative Council.

Madam President, please allow me to spend a little time saying a few words on the relevant background, that is, an ordinance with which all Members must be familiar, the Legislative Council (Powers and Privileges) Ordinance (the Ordinance). This Ordinance was tabled to this Council for passage in 1985. Once the Sino-British Joint Declaration was signed, Hong Kong would face a situation of "Hong Kong people ruling Hong Kong". Under such situation, the legislature would gain independence and autonomy. It was by virtue of this Ordinance that the Legislative Council affirmed its independence and autonomy.

Should the Legislative Council, in the future, make numerous major criticisms against the executive and upset it, would the latter do anything to fix Members of the Legislative Council? What measure would be taken to fix Members of this Council and interfere in the discharge of their constitutional responsibilities? Therefore, this Ordinance was meant to protect Members of the former Legislative Council. The term, privilege, was derived from a term used by the British parliament. It actually carries a special meaning. The term "privilege", translated as "特權" in Chinese, refers to certain authority given to Members. Why is it that Members cannot be arrested on their way to a meeting? For example, if we are heading for a meeting to decide on a matter unfavourable to the Government, the meeting would be aborted should it be possible for the Government to exercise its administrative power to arrest us on our way and we were thus unable to attend the meeting. Therefore, it is imperative for such legislation to be put in place to protect Members and give them such authority.

It was provided that the Government could not interfere with us in dealing with a number of matters. It was even proposed at that time that a provision be included to state that the dignity of Members was not to be infringed. However, this provision was not passed because Members felt that it had gone too far and was too vague. However, the Ordinance as a whole seeks to protect the independent authority of Members and the independence and autonomy of the legislature. Therefore, we do enjoy independence and autonomy. This Ordinance protects us from the threat of such actions as indiscriminate investigations, arrests, and so on, as mentioned by Mr LEUNG Kwok-hung earlier.

However, Madam President, when an agency or organization enjoys independence and autonomy and is given such a high degree of protection, it must assume a relative responsibility, that is, the responsibility of exercising

self-discipline. Let me cite the Hong Kong Bar Association as an example. Being an independent professional body, it must have a code of self-discipline. By the same token, it is imperative for this Council to set up a committee on Members' conduct and discipline as well. I deeply regret that the repeated calls by Ms Emily LAU and Mrs Miriam LAU for setting up such a committee have all been futile. Perhaps Members have already noticed that I am an old-fashioned person. In my opinion, the maintenance of balance is essential to everything. I would feel very uneasy about things that should have existed logically but do not exist in reality. But why is it impossible for such a committee to be set up? What are the difficulties? They are as follows:

First, there is the concern that this Council will be criticized for investigating its own men and therefore lacking credibility. In my opinion, this concern would not constitute a major problem because we are different from government departments. While the overall interest of government departments is cogent, Members have come from different political parties. Given that different political parties will not accommodate and defend one another, we will not expect to see the Democratic Party deliberately defending the DAB or other political parties. It can be imagined that it is precisely because of the existence of different political parties that balance will be achieved.

Second, more importantly, is the Report itself credible and can it be seen to be fair? For instance, we have recently dealt with some reports on the investigations conducted by the Government into the committees appointed by the Government itself. Why are the doubts raised by us justified? It is because the reports themselves cannot convince people that they are fair. However, if people can see that our report is fair and convincing, the problem mentioned earlier should be solved.

Yet, a more serious problem is: When there are big and small political parties, will some political parties abuse the investigation procedures, that is, the procedures of the so-called disciplinary committee, to launch a deliberate attack on their political rivals by causing them endless disturbances? Will they even exercise their supreme authority to make an elected Member lose his or her seat for no reason? This is unfair to Members of minority political parties and independent Members. Such a phenomenon, if any, will also seriously undermine the credibility of the legislature and give people an impression that political parties will use such a disciplinary committee as a tool for political

persecution. Madam President, the problem will thus turn into a very serious one.

I admit that I have carefully reflected on the issue, and yet I cannot figure out how the difficulty can be overcome. The performance of Members has indeed given people an impression that there is an absence of a higher and shared ideal in this Council. This ideal refers to the putting aside of disputes among political parties and factions and the full display of a uniform conduct expected of us by the public when we are going to deal with certain matters. The amendment proposed by Mr LAU Kong-wah today has precisely served to prove that my concern is definitely not unnecessary. Actually, this amendment, particularly the content of his speech, has made it even more difficult for the conduct and disciplinary committee to be set up, because he has proved that the danger I have been worrying about is very real.

Madam President, as I said earlier, it is most important to examine the Report itself. I have examined every single word of the Committee's Report. The first point raised by the Report is, as many other reports, the terms of reference of the Committee. This Committee does not have extensive powers to inquire into the conduct of Members. It can only investigate whether a certain Member has declared his interest in accordance with our rules. If his conduct is irrelevant to the declaration of interest, the Committee would have no right to conduct an investigation into his conduct. As the declaration of interest is now involved, we must first ask this question: Is what is involved considered an interest? As this is a fact that he has failed to declare a certain matter, does that matter involve his interest? We must first answer this question before talking about his interest. What we are going to do is to conduct an investigation into whether his conduct falls within the terms of reference of the Committee, not whether he has committed any act in conflict with his own interest to benefit himself with public money and whether this fact does exist.

There can only be two conclusions to the facts. After drawing a conclusion to the facts, punishment will be suggested. In accordance with its terms of reference, the Committee can only draw a conclusion on two facts: First, has the Member omitted declaring anything? I think it is no longer necessary to discuss this. It has already been confirmed that he has omitted to do it. Second, was it deliberate? The only purpose of the Committee to conduct all these investigations is to establish this fact: Was the act deliberate?

After a lot of investigations, the ultimate conclusion is that the act was not deliberate.

Madam President, I believe no one can cast doubt on the conclusion that the act was not deliberate because there is absolutely no doubt about it. The logic is actually very simple. If Mr James TO has declared his interest on other occasions, such as the District Council, so it is already impossible for him to hide this fact. The conclusion drawn by the Committee that his act was not deliberate is therefore absolutely tenable. As his act was not deliberate, I think the proposed punishment is perfectly right. Why is it that admonishment is not enough to punish an unintentional failure to declare an interest? I agree that Mr TO should be admonished in this incident, but I disagree that he has to be reprimanded.

The speech delivered by Mr LAU Kong-wah earlier had stretched beyond the terms of reference of the Committee. He did mention the investigations conducted by the Public Accounts Committee (PAC) into numerous government officials. Doubtless, this is within the terms of reference of the PAC. The PAC is completely different from the Committee on Members' Interests in their terms of reference. As I stated earlier, the Committee set up this time can only draw a conclusion on whether or not the relevant Member has declared his interest and whether his failure to declare his interest was a deliberate act.

Actually, Mr LAU Kong-wah cited many facts already mentioned by Mr James TO. Mr LAU also made a lot of personal comments and expressed his own view on these facts by way of insinuation to imply that the truth is different from what is stated in the Report. Worse still, he even insinuated that the Committee had failed to establish some facts that could be established very easily and thus inferred that the conclusion drawn by the Committee smacks of favouritism. Madam President, I can absolutely not agree with this. Mr LAU should have produced a clearer basis of facts should he wish to accuse the Committee of harbouring Mr James TO and deliberately failing to follow up the facts.

Furthermore, there is a DAB member in the Committee. I understand that Mr LI Kwok-ying is a DAB member. Had he have any dissenting view on the conclusion of the Report and considered it unacceptable, he should have written a dissent report — I do not know how the report should be formally called in Chinese; it is called dissent report in English — to state his



disagreement. However, I have not seen such a report submitted by Mr LI. Most importantly, Madam President, it is nothing strange that there are diverse views on what punishment should be imposed based on facts. However, anyone who disagrees with a conclusion drawn on the basis of facts would only show that he is adopting a sarcastic attitude, unless he has conducted an investigation based on facts on his own. I deeply regret such an attitude of criticizing the conclusion drawn by others after an investigation of facts for being unfair.

Madam President, we can see that the attitude adopted by the Democratic Party today is perfectly correct. Besides offering his apologies, Mr James TO has said nothing at all. Therefore, it is imperative for us — at least, I personally consider it necessary — to speak for Mr TO. He has agreed to be investigated voluntarily. Throughout the investigation, he has also said a lot in response to the questions posed to him. He has told us everything as far as he possibly can. We can see that he has acted in a very frank manner. It is a great pity that the Committee has limited authority only. As a result, it is not possible to draw a satisfactory conclusion based on facts from what Mr TO has told us and all the questions posed to him. Thus these questions have to be left dangling in the air. Anyone who has read the Report can of course think in the same way as Mr LAU Kong-wah does, though it is unfair to Mr James TO. He has not been given a chance to defend himself appropriately. He also prefers being treated like this to defending himself. I fully respect his action.

Lastly, Madam President, as this is the first time we debate an investigation of this kind, what angle should we adopt in looking at investigations of a similar nature? In my opinion, as this independent Committee was selected by us, we should accept its conclusion and recommendation with an open mind, unless its conduct in carrying out the investigation or the content of the Report is genuinely and obviously found to be improper. Should we disagree and have good justifications, we should indicate very clearly that we distrust this investigation conducted by the Committee.

Madam President, I find this Report absolutely fair, and I fully accept the recommendation made by the Committee. I will oppose Mr LAU Kong-wah's amendment. Thank you.

**MR LAU KONG-WAH** (in Cantonese): Madam President, a point of order. I have stated clearly in my speech earlier that I meant no disrespect to the

Committee. As such, I have never mentioned in my speech that the view of the Committee smacks of favouritism and deliberate harbouring. However, in her speech just now, Ms Margaret NG alleged or implied that I once used these two expressions.

**PRESIDENT** (in Cantonese): You only need to clarify that there are no such expressions in your speech.

**MR LAU KONG-WAH** (in Cantonese): Actually, this is incorrect.

**MS EMILY LAU** (in Cantonese): I support the motion moved by Mrs Sophie LEUNG and I oppose the amendment moved by Mr LAU Kong-wah.

Madam President, first of all, I wish to declare my interest. I am a member of the Committee on Members' Interests (the Committee). I am grateful to Mr LAU Kong-wah for reminding me so many times and I do not think there will be any misunderstanding anymore. Madam President, I used to be a member of the Public Accounts Committee (PAC) and I am grateful to Members for electing me as the Chairman of the Finance Committee (FC) for no particular reason. So I withdrew from the PAC. For if not, I will still be in the PAC working with Mr LAU. And I will not leave him working with so many newcomers there. Of course, Mr Abraham SHEK is still there.

Madam President, I wish to say something first. As a few Members have said, there are people both inside and outside this Council who make all sorts of innuendoes and this is pointed out by the newspapers as well, that of the members of the Committee, four are from the democratic camp, one from the Liberal Party, one from the DAB and one from The Alliance and so the democratic camp plays a leading and dominant role in the Committee. Madam President, have you heard about this? For me, I very much love to lead the Panel on Constitutional Affairs, but God knows why I am not elected as the chairman of that Panel. All through these years there have been so many people who want to be the chairman of the PAC and even the chairman there cannot play a leading role. Now things have gone wrong in the FC this time and it is precisely because of this that some people are summoned and asked questions for

three or four hours. Leaving these things aside, I am elected as the chairman, but that does not mean I can lead and direct things there.

In October, it was said that some people had deliberately let four people from the democratic camp into the Committee. At that time, we already knew that there would be investigations and Members like Miss CHAN Yuen-han and Dr Raymond HO might even be investigated as well. It looked as if a lot of people would be investigated. So some people said that was fine, for when the four of us had gone into that Committee, they would wait and see what we would do there. What they wanted was to let us into the Committee and then they would lash out attacks should anything happen.

However, as pointed out by some Members earlier, the seven of us form a nice check and balance among ourselves and we watch over each other. This applies especially to Mrs Sophie LEUNG, the Chairman. She is the kind of person who will never allow us to act rashly. That is why we had 16 meetings. We discussed many things and we could see that the terms of reference of the Committee were very confined, as Ms Margaret NG put it clearly earlier. It was to examine if anyone had omitted to declare his interests and in this case, it is the status as a shareholder of a company. These are our terms of reference and we must not do anything beyond them.

Mr LAU Kong-wah said earlier that after the Report had been released, there was an uproar in public opinion forums. I failed to see that. I had read a couple of newspapers and I found that those which are ardent lovers of the party and which are mouthpieces of the party were of course flabbergasted. Some newspapers which also love the dear party did make some comments. But I really failed to see in the newspapers that there was a public uproar. As a matter of fact, I noticed that some people were shocked before the Report was released. We discussed this for a while in the Committee and we would like to know whether or not this was meant to pressurize the Committee. There was one thing which made me furious and that is, Madam President, someone made a divulgence of the contents of the discussions held in the Committee. The person cannot be tracked down even to this day. After thinking over the matter for a long time, we decided to pass the ball to the Committee on Rules of Procedure chaired by Mr Jasper TSANG to see if the truth about the divulgence could be found. In the Committee, we talked about a lot of things very carefully. As we respect the rule of law, we cannot do anything *ultra vires*.

That was why we only looked into the incident about a Member who got some money and claimed that the money was used to rent a certain place while the premises actually belonged to his own company.

Madam President, last time, that is, on 9 March, this point was made clear when our Chairman, Mrs Sophie LEUNG, tabled the Report and spoke. She said from the beginning, and this point was made by a number of Members earlier, that the Committee was satisfied that he had not acted deliberately to conceal his interests in this particular case. We were also satisfied that when Mr TO acted in the capacity of a director of Target Link Limited, he did not play an active part in the company's affairs. However, we thought that the way in which he had handled things did constitute serious deficiencies and omission. It is due to this reason mainly that we decided to admonish him.

However, we do not think that there is sufficient evidence showing he acted deliberately to conceal his interests. Mr LAU may have not seen that Mrs Sophie LEUNG said on that meeting that we noted the rules about Members' claims for reimbursement of expenses and there were no prohibitions on Members renting properties owned by the Members themselves, their affiliated political party or a company in their control for use as district offices of Members. Such rules do not require Members to produce any evidence or information when making claims for reimbursement of rental expenses that the rental concerned is not higher than market rate. Therefore, the fact that Mr TO rented a property belonging to Target Link Limited for use as his district office and that claims for reimbursement of such rental expenses were made does not constitute a breach of any relevant rules of this Council. Therefore, it is the opinion of the Committee that there were no grounds for him to conceal the relevant interests by not registering them.

We have explained each of these points very clearly and we think that the matter is attracting public attention. We have also looked into things and found that there are no rules on that. Of course, people may ask, why does the Legislative Council not make any rules? This is also a point made by Mr Patrick LAU earlier. This is because he is the chairman of that committee which oversees the expenses of Members. I attach great importance to this matter as well. So when the Independent Commission Against Corruption (ICAC) approached the Legislative Council — actually it was the Secretary General who informed us that the ICAC wanted to come here and talk with us — of course we agreed. The ICAC came here and held a few meetings and it also offered some advice to us. The ICAC was of the view that it should not

intervene in that matter. But some Members at the meeting on that day thought it should and they requested that the matter should proceed. So what did I say? I told Members that we should be calm and I asked the clerk to jot down all the opinions clearly and send them to all the Members and political parties and groups for consideration. I also said that we did not have to follow what the ICAC had said, but if we chose not to, then we should have sufficient grounds for doing so. Madam President, this has been the course we have taken in this matter.

Having said all these, when something is still not in existence, then, first, it does not lie in our terms of reference to make any investigation; second, we do not have such rules. So if there is any accusation that we have not been doing our job well, that would be a most strange accusation. Of course, Members may ask on the other hand, "Why can there be so many loopholes? Why has the Legislative Council not done anything from the outset to plug them?" All these queries are well-founded. But they cannot be applied to the investigation we have conducted. Therefore, personally I would hope very much to explain things clearly to Members and that Members would look at the recommendation made by the ICAC. Should anyone raise any objection, sound arguments must be put forward to convince Members, the authorities and the public.

Apart from that, something must be mentioned, Ms Margaret NG has mentioned it just now, and I have said during the last term of the Council as well, that is, something must be done about it. At that time, the situation was similar and once in a while things would be leaked. Madam President, you know very well that such matters will damage our reputation. For example, when people ask how money is spent, the answer given is they do not know and they do not know what people they have employed, and so on. It is because of these things that I suggested at that time that an investigation should be conducted. The House Committee agreed and a subcommittee was formed for that purpose. The subcommittee has a very long name. It is called Subcommittee to consider a mechanism for handling complaints and allegations concerning Members' Operating Expenses Reimbursement Claims. I was the Chairman of that Subcommittee during the last term of the Council.

But so what? We made recommendations. The House Committee agreed to them. But what happened when these recommendations were presented? The reaction at that time was to forget about them and sit on them until the next term. What would happen? What was the impression it would

give to the people? The Legislative Council did not want to do anything. I recall at that time the DAB did not want to do anything about these. The Liberal Party said they wanted to wait and see. It was only us who said these should be done. In the end, the proposal to do these did not get enough votes and it was voted down. Now the recommendations are back. Madam President, now I am the Chairman of that subcommittee again. I have been made the Chairman of one of these subcommittees which are more likely to invite criticisms than praises. The case about the FC is sheer luck. I am not able to become the chairman of other committees. It can be seen that the reason I have been made the Chairman is some people wanted to engineer such things and see that they happen. Well, we must do that as soon as possible and conduct the investigations.

The Committee's Chairman, Mrs Sophie LEUNG, has also mentioned that in Britain there is a Parliamentary Commissioner for Standards. Things have improved greatly this time because many Members have joined the subcommittee. They discuss matters repeatedly, things like are they investigating their own peers or should other people be called in, and so on. Now the Secretary General is leading a small team and they are handling a lot of information. It looks likely we can hold a meeting in two weeks. I hope the debate today can give Members some incentive to support the subcommittee. However, after hearing the speech made by Ms NG, I became worried. This is because she said that this might turn out not workable as there are many factors standing in our way. But I do not think so.

No matter what factors have appeared, I still think this should be done. There is only one main reason for it and, that is, to protect the reputation of this Council. As Ms NG has mentioned, such may at times be abused, especially when there are some big political parties. For me, I always act alone. Madam President, if anyone wants to hunt me down or pin the blame on me, I would be the easiest prey. But still I am not afraid of anything. I very much support conducting an investigation, even if that means Members will investigate into their peers or we may like to follow the practice in Britain and hire some sort of a commissioner from outside to do the job. That of course would cost a lot of money. I agree to all of these options because I think this mechanism must be established.

In any case, the terms of reference are there. Therefore, with respect to the criticisms made by a few Members earlier against Mr LAU Kong-wah and his amendment, saying that there are certain things which he does not understand and has not paid any respect to, they are all justified. What actually are these things? This refers to his remark that the sanction now recommended is not appropriate and that the second-degree sanction of a reprimand should be imposed instead. But he must say such things only after investigations are conducted. As in the case of Antony LEUNG and other cases, I did not just come out and point a finger at him. I said there must first be investigations and it was only after investigations that a decision should be made on the sanctions. I also hope that the investigation is a fair one and one which every Member would think is fair. But I just do not see how he could have said this when he has taken no part in the investigations himself. I also feel baffled when a fellow party member of his, that is, Mr LI Kwok-ying, is not present today. With respect to Mr LI, I think I have to say a few words. This is because he should not have said anything about the contents of our investigations. Perhaps Mr LI has just said, "Well, will I have the support of DAB?" But he should not have done this. Madam President, when the Committee was formed, what was the consensus among Members? It was that the Committee should be composed of Members broadly representative of various groups in this Council. That is why for every Member elected into the Committee, especially those who have party affiliations, there is a reason for their election. They did not just come out and join the Committee. This is of course not the case at all.

So Members who have joined the Committee know and they know very well what their political parties would accept, what the demands are and what kind of criteria they are to go by. Even when the Report is released and when the party does not feel like it and thinks that the party representative has not done a very good job, that Member should talk about it in his party and today at least he should do some explaining here. There is no reason that he should disappear, right? Therefore, I think that if Mr LAU really does not accept this recommendation of ours, at least he should have proposed in his amendment that a new investigation be conducted. He can even tell us what his queries are. However, Madam President, I hope that those queries fall within the terms of reference of the Committee. He should know what we can do. He may think that because the Committee has not done something that should have done, so he is raising his objection. If he thinks that the Committee has done a bad job, he can even reprimand us.

As Mr LAU is not a member of the Committee, but he is saying so much here and though these may not be unfounded, this is unfair to us. This is also unfair to the colleague in his party. This will not do any good to the whole matter as it will only give an impression that the parties are at loggerheads with each other again. This may even affect our work in the future. Madam President, in the future when this mechanism with such a long name that I do not want to say it out wants to release the findings of some investigations that it has conducted, the people will think that this will simply not do. They will say that, looking at the same approach taken last time, it can be sure that it is useless and does not have any credibility. Does this mean that this should not be done? Will this do us any good if we do not do this? Will we not be condemned by people?

As a matter of fact, we can see that many countries are setting up similar bodies like the new subcommittee that we have. The life of every such subcommittee will not be very long, but every member of the assembly knows that the people are watching them closely and see how they use public money and there should be a mechanism to deal with problems when they arise. We are now taking the first step. My hope and wish is first, the committee chaired by Mr Patrick LAU, that is the committee which oversees how we use money, can list out what are the things that cannot be done and should not be done. I hope Members can reach a consensus on that soon. Second, after a consensus is forged, we need to find a committee to effect monitoring. Madam President, one thing must be put in place before any work of monitoring can start. It is a code of practice. If such a code is not in place, then what should people be required to comply? The code should specify what can be done and a committee should be set up for monitoring. Those who fail to comply will be ruled as having violated the rules. So a lot of steps will have to be taken.

As I see it, the situation is not so optimistic now. But I am undaunted. From the first time I said things must be done a few years ago, to the second time that I made the same proposal with Ms Miriam LAU, to this very day, I still think that this should be done this way. Some Honourable colleagues do not understand this mechanism of ours and so they have made those remarks. I think this is not fair. I think it is most regrettable that people can assert that such and such a sanction should be imposed even when they have not taken part in the investigations. I hope an overwhelming majority of Members would understand the work we have done and support us as well as the motion moved by Mrs Sophie LEUNG.



**MR ALAN LEONG** (in Cantonese): Madam President, as a member of the Committee on Members' Interests (the Committee), I am obliged to clarify several queries raised by Mr LAU Kong-wah just now, and I hope that I can assist Mr LAU in understanding the Report with an appropriate or better understanding of the way of thinking adopted by the Committee.

After listening to Mr LAU's speech, I began to see why he had moved such an amendment. He meant to point out that certain details should have been looked into by the Committee and that after the investigation, the Committee might find that the breach had been in fact of a more serious nature and the sanction should therefore be more than admonition.

I would like to elicit from another perspective that the Committee is very clear about its ambit. Regarding Mr LAU's question of whether the Committee has found out the actual market rental or the ownership of the property, we are of the view that such were outside the ambit of the Committee, and I will further elaborate on this point later. On the other hand, I agree with the remarks made by some Members, that is, if Mr LAU is accusing the Committee of failing to conduct certain investigations, he should, instead of moving an amendment to change "admonition" to "reprimand", reject the Report direct and conduct an investigation anew.

Let me look into the validity of Mr LAU's argument which alleged that if the Committee has not overlooked certain details, the sanction might have been more serious.

Madam President, we have to look at the terms of reference of the Committee first. They are specified in Rule 73, page 60 of the Rules of Procedure (RoP). Rule 73(1) provides clearly that this Council should set up a standing committee to be called the Committee on Members' Interests for carrying out the five responsibilities as listed in (a), (b), (c), (d) and (e). However, the Committee is neither authorized for finding out the ownership of the property declared to be rented as office rented by Members, nor for finding out whether or not the rental of the property as reported is at or above the market rate.

The most relevant part is Rule 73(1)(c) which provides "to consider and investigate any complaint made in relation to the registration and declaration of Members' interests or any complaint of a failure to do so". The focus of this subsection is on whether a Member has declared and registered the particular of

a registrable interest as he is required. In his speech, Mr LAU Kong-wah mentioned in particular paragraph 13 in page 7 of our Report. May I refer Members to paragraph 13 of the Report: "The Committee had considered whether it had been authorized to ask Hon James TO questions relating to his claims from the public coffers to reimburse his rental expenses on the property owned by TLL. The Committee concluded that it was not empowered to judge whether or not such act of Hon James TO was appropriate, or determine whether or not the rental level was above the market rate." Let me stop here for a while.

Madam President, this conclusion is in fact very clear. If we refer to Rule 73(1) of the RoP, we will also come to the same conclusion. As paragraph 13 goes on, it is said that: "However, obtaining reimbursement of expenses by Members through applications made to the LegCo might involve conflict of interests which they did not wish to disclose, thereby constituting an incentive to not register the interests in accordance with the RoP. The Committee therefore deemed it necessary to ask Hon James TO questions on the rental expenses with a view to determining whether or not his late registration of interests had involved such incentive."

Madam President, when the Committee decided on how to proceed with the case at the early stage, our prime consideration was whether Mr James TO had intended to conceal certain conflicts of interests, thus leading to his failure to declare certain particulars of a registrable interest. We must understand that there was a process for the Committee to handle the case. While we considered that we were not authorized to find out the market rate, we should also ask a question, that is, whether there was any incentive that led us to come to the conclusion that he had done it deliberately.

The Committee has held 16 meetings, with Mr James TO being invited to be present in three of them. As a matter of fact, Mr TO has been subject to the interrogations of the Committee which were similar to court proceedings on those three occasions, and the questions were rather harsh and pointed. Having completed the inquiries, when the Committee sat down to consider the Report, it came to our light that the declaration mechanism did not necessarily prohibit Members from renting properties owned by themselves or political party to which they belong to be used as their office. We also saw clearly that, the relevant provision in the declaration mechanism did not require Members to prove that the rental declared for reimbursement is at the same level as the market rate.

As we reached this stage, the Committee came to the conclusion that — I will refer to paragraph 21 of the Report later — since it is not provided in the declaration mechanism, even if Mr James TO failed to prove that the rental not being higher than the market rate nor owning the property, the Committee could not consider it as constituting an incentive. It is because such is not required in the declaration mechanism. Should any Member, not necessarily Mr James TO, claim a rental above the market rate, but as he is not required to prove that it is the case, he will not conceal the truth for this reason. As it is not a requirement of the declaration mechanism, it will not constitute an incentive.

Let me refer the President and Honourable colleagues to page 20 of the Report, in paragraph 21(3), it is said that "the Committee notes that the rules relating to LegCo Members' claims for reimbursements of expenses did not prohibit Members from submitting claims for reimbursement of rental expenses in respect of a property owned by themselves, the political party to which they belonged or the company under their control for use as their LegCo Members' District Offices, nor did they require Members to provide evidence or information showing that the rental of the offices concerned was not higher than the market rate when they submitted claims for reimbursement of rental expenses. As such, the Committee considers that Hon James TO has not breached any relevant rules of the LegCo by renting the property owned by Target Link Limited (TLL), the shares of which he believed he had held for the DP as nominee, for use as his LegCo Member's District Office, and claiming reimbursements of rental expenses thereof. The Committee considers that, in the circumstances, there should be no need for Hon James TO to omit registration in order to conceal the interests." The elaboration here is very clear.

Our conclusion uses paragraph 13 as the starting point, and ends in paragraph 21(3). After considering all circumstances, we did not consider that this constituted an incentive for Mr James TO to omit registration. As such, it was not necessary for us to rule if the rental was at market rate. Likewise, there was no need for us to explore if the property was owned by the Democratic Party or Mr James TO himself. This is the logic of thinking adopted by the Committee in the entire process of handling the case. I hope that after explanation, Mr LAU Kong-wah will understand better our line of thinking under the provision set down in Rule 73(1) of the RoP.

Madam President, finally, I wish to mention that, apart from TLL, the Report also deals with another company called Union Pace Development Limited

(UPDL), which was also omitted in Mr James TO's registration. In Chapter 4, page 23 of the Report, the Committee pointed out that the only asset held by the company was a village house and it did not actively participate in commercial activities. In respect to this omission, we only adopted the same approach as we did in the first term of the Legislative Council. As no public money was involved, we therefore did not recommend any "admonition". The different approach adopted for the cases of TLL and UPDL indicated clearly the basis of the Committee in making the recommendation of admonishing Mr James TO. If Members were to submit claims for reimbursement of rental expenses, they should be more cautious. However, we can see clearly from the conclusion in paragraph 21 of the Report that the most significant determining factor was that Mr James TO had registered at the same time his shareholding interests in TLL with the Yau Tsim Mong District Council. Besides, after repeated deliberations and three meetings with him, we accepted that Mr James TO had not participated in the daily operation of TLL and that he had believed on the very first day that he just held the property as a trustee. As such, we considered the claim that he just signed at places where the staff members had shown him was acceptable.

Madam President, I hope that after the explanation, Members can see that the Committee has drawn this conclusion on the basis of facts, and that we are clearly bound by the terms of reference of the Committee.

With these remarks, I support the motion moved by Mrs Sophie LEUNG, Chairman of the Committee, and oppose Mr LAU Kong-wah's amendment.

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

**MR HOWARD YOUNG** (in Cantonese): Madam President, today's resolution is the first in the Legislative Council for us to debate on the admonition of a Member of this Council. The main points of the investigation report and its conclusion have already been explained by the Chairman of the Committee on Members' Interests (the Committee), Mrs Sophie LEUNG, earlier, so I am not going to repeat them here. Although the Committee has not been able to establish the fact that Mr James TO has committed a serious mistake due to the restriction of its powers, we still have to seriously handle this case in which a Member has failed to report certain details, so as not to let people think that Members of the Legislative Council are harbouring or favouring one another.

In this incident of the so-called failure to report his interests, the so-called "trust letter" initially produced by Mr TO, a lawyer by profession, happened to be a photocopy of "three nos" — no stamp, no witness and no date, giving the feeling that the whole issue is trivial. Furthermore, as a legal professional and an elected Member of the Legislative Council, he even resorted to the excuse of "failing to recall" or "failing to make it clear" for not fulfilling his duty as a Member of the Legislative Council to declare his interests, or putting down his signature without having gone through the document clearly. Many comments have pointed out that he has behaved too carelessly and despised the solemnity of the system of interest declaration. The extent of his carelessness is neither believable nor responsible or rational. He has also let the people down and undermined the credibility of the Legislative Council. Many newspapers have made such comments.

Therefore, we agree to the conclusion of the Committee that there should be an open admonition so that in future, no Member will again neglect the rules. Of course, we also note that the public does not fully accept the Committee's Report; even some Members do not fully accept this Report. In particular, they queried if the Legislative Council Members are investigating their own peers, and whether the punishment of "admonition" is too light, and so on.

With regard to this allegation of peer investigation, people outside the Council are saying that this is not satisfactory. However, according to the Basic Law, if a Member has committed a mistake, the decision of whether he should be relieved of his duties should first be made by the Legislative Council. After all, the procedures and scope for investigating matters concerning the declaration of interests by Members are laid down by the Legislative Council itself.

However, the Legislative Council had not been thorough when it began to discuss the declaration of interests by Members. It had only paid attention to the declaration of interests by the Member himself and had not considered the transfer of benefits between the Member and his political party, or whether a third party should be engaged to make a fair assessment of the market value when it involved the renting of properties directly or indirectly related to the Member's interests. Members actually had not looked into this aspect in detail. In future, we may have to conduct a review afresh. However, no matter what, it is neither necessary nor possible for the Legislative Council to favour any of its Members.

The Liberal Party understands why there are reactions — some are even strong — in society considering that the punishment is too light, particularly because pecuniary benefit and public money are involved, causing the public to be gravely concerned. However, I would like to point out that the Committee is only acting in accordance with its powers; it can only investigate whether Members have declared their interests as required. Whether any Member is suspected to have defrauded public money or transferred benefits to the party to which he belongs is already outside the scope of its duties. It has virtually no power to conduct investigations or draw any conclusions. Moreover, since the Independent Commission Against Corruption has begun its investigation, we consider that the law-enforcement authority may have to brief the public on the investigation results, but this is not a duty of the Committee.

Certainly, whenever similar incidents occur, there will be calls for expanding the powers of the Committee. However, there are also worries that the power of the Committee may be excessive, or that it may be reduced to a tool for political wrestling for oppressing the others or representatives of political parties. Despite this, the Liberal Party holds an open attitude towards having a review of the Committee. We agree that the matter can be referred to the House Committee for discussion and decision.

Regarding the sanction of "admonition", the Liberal Party agrees with what the Committee mentioned in the Report, that Mr TO has made declaration on the same issue to his respective District Council and thus there is no motive or necessity for him to conceal on purpose. Confined by its powers, we believe that the Committee has done its best to arrive at this conclusion which is agreed to by all the seven members. Therefore, we will support this. Furthermore, this punishment meted out to Mr TO sets a precedent for Members to be admonished, we thus cannot say that it is too light. Today, Mr LAU Kong-wah has suggested that the punishment be upgraded to a reprimand. Since the Committee has not investigated the case in depth, we cannot therefore support Mr LAU Kong-wah's request to raise the punishment for Mr TO. In view of this, the Liberal Party will abstain from voting on the amendment.

However, there is one more point I would like to make. Last August, the Democratic Party announced that a three-member group would be set up, but SZETO Wah, a member of the group and the party whip, admitted openly that such a move was not quite appropriate and might lack credibility because they made people think that they were investigating their own numbers. Last

October, the group undertook to complete the investigation within two to three months but so far, there is nothing in front of us. This investigation is like a clay ox plunged into the sea — gone forever. The Liberal Party calls on the Democratic Party not to only chant the empty slogans of "clamp down on collusion between business and the Government" and "stamp out transfer of benefits". Apart from making a clear account to the public as soon as possible, we also hope that the investigation conducted by the Democratic Party can be one which is absolutely fair and impartial.

I so submit. Thank you, Madam President.

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

**MR CHAN KAM-LAM** (in Cantonese): Madam President, today, it is our first debate on the failure of Legislative Council Members to declare their interests. In fact, it is also a very good opportunity for the people of Hong Kong to openly monitor this legislature. To the question of whether the Legislative Council can act in a fair manner, a rather important criterion is involved.

Over the past years, we have been sparing no efforts in monitoring social affairs, and even the administration of the Government. We have been very demanding on the others. However, when it comes to monitoring ourselves, the kind of yardstick that we have to adopt is rather significant.

I do not hope the present incident will leave a kind of perception among the community, that we only deal with this incident slightly or in a low-key manner, nor do we want the community and the public to have the feeling that we, Legislative Council Members, are shielding or protecting each other, hoping that the case could be settled under false pretences, or even attempting to dilute the impact of the incident on the political party concerned. All these will create a very bad image of us, as the public always think that the Legislative Council is a very important institution which they can trust in monitoring the Government. If they also feel disappointed with the overall performance of the Legislative Council, what credibility can we speak of? How are we going to face the public in the future? To Mr James TO as the centre of the incident particularly, he is a veteran Legislative Council Member. It is not the first time or the first year that he became a Legislative Council Member. He should have rich experience in

issues like declaration of interest. Besides, being a very experienced lawyer, he should have a very high level of integrity and moral standard. Moreover, we should act discreetly. Although these are not very important issues as far as interest is concerned, as Mr Alan LEONG said, if we are so careless in the declaration of this kind of interest, how can the public trust that we will monitor the Government strictly, and how can they have faith in our dealing with some social affairs? We should be vigilant about this.

Nevertheless, in this incident, Mr James TO has repeatedly used the reason of unawareness in explaining his failure to comply with the rule of the Legislative Council to register his interest acquired from the shares of Target Link Limited on 29 May 1997. We find that this is a gross negligence. For whether his omission was deliberate or not, I believe it is very difficult for anyone to get any evidence from his mind. However, if we note his declaration of interest to the District Council, we will know that he has already possessed the shares concerned for a very long period of time. He declared this interest in 2000, 2001, 2002 and 2004 respectively. Although he failed to declare this in 2003, he still made it up in September 2004. We can see that he has been very careful and cautious in regard to the registration with the District Council. But why did he not do that with the Legislative Council? As I recall, every year, Members are reminded through a letter issued by the Legislative Council to declare interests. Not only do we have to declare interests for each term or Session, but we have to declare almost every year.

Mr James TO did not fail to declare any interest at all, but he only omitted this. Why would he omit this? Many suspect that this is because the company involved in this omission is actually the company which let out a premises for his Member's office. Besides renting a premises from this company, he was also paying a monthly rental of \$13,000 which was above the market rate. According to the records that we read in the past, from the information provided by the Rating and Valuation Department, the monthly rental of this premises only worth some \$4,000 then. And according to some property agencies, the monthly rental of this premises could only be as much as \$5,000 to \$6,000. However, we see that the monthly rental declared by Mr James TO is \$13,000, which is exorbitant indeed.

Of course, there were a lot of explanations afterwards which we also noted from the newspapers. For example, it was said that advertisement signboards



could be put up on the external walls and thus there was added value in this respect, and so on. However, given all these justifications, let us ignore for the time being how this interest is related to abusing his own power in seeking personal gain or how this interest was sought through other means, I find it very obvious that the declaration was somehow not the whole truth.

In my opinion, we have to act cautiously. Not only do we have to be careful on some matters unrelated to public money, but we also have to be exceptionally careful with matters related to public money. After this incident, we do not think that the explanations offered the persons concerned are fully justified, and even the ownership of the property concerned is very confusing.

Mr James TO said that this property had already been given to the Democratic Party. However, the persons concerned in the Democratic Party could not locate the relevant trust indenture, and even one document was found to carry no registration date at all. In view of this, we can imagine whether there are any problems. This will give rise to suspicions, and this kind of suspicions is not unfounded and fabricated by us to put him in the wrong. The fact is in front of us. Therefore, I very much hope that the Democratic Party will conduct an in-depth investigation into this incident, instead of only arranging for three persons to investigate on their own.

Recently, I have been given to understand that the Democratic Party has completed a report. We hope that they can brief the public on the report as soon as possible. We, of course, will not criticize them for investigating their own numbers, although this kind of criticisms is customarily made by them in criticizing others or the Government. We will still adopt an attitude of trust and hope that the truth can be disclosed.

Apart from the above, as far as the community is concerned, we demand that a fair investigation be conducted into the matter so that we can gain an understanding. Therefore, it has been the wish of the DAB that the government departments concerned, for example, the ICAC or other departments, can conduct an in-depth investigation into the incident. On the one hand, we demand to see the truth, and on the other, we demand that people should be vigilant and exercise a high degree of care in the usage of public money.

In this incident, we can also see whether persecution does exist among political parties. As Ms Margaret NG said, when we criticized and reprimanded those Members who had done something wrong, was it tantamount to political persecution? If it will be regarded as political persecution when we launch more severe criticisms, then we had better slap less for giving it a big help.

Today, we have a lot of barristers here to defend and explain the case. The place where we are sitting now used to be the Supreme Court. And barristers, of course, can demonstrate their expertise here. Hence, Mr James TO does gain a lot today. After their explanations, Mr James TO can almost be acquitted of the charge, rendering any other investigations unnecessary.

Thus, insofar as I can see, we do need to establish a very good system after all. Judging from the case today, the terms of reference of our committee or committee of inquiry are very limited indeed, as they could not conduct in-depth investigations into the Member's conduct. Nevertheless, we can at least see that we have several different scales of judgement and sanction on Members' conduct.

As Mr Alan LEONG said, the item that Mr James TO has omitted in his declaration was not related to public money, and we could also see that this omission was actually not a big deal. Even if he deliberately omitted to declare this interest, he might not necessarily attract the sanction of being reprimanded, and even the slightest admonishment would be unnecessary. We could simply tell him not to omit declaring interests in the future.

However, if we can raise our expectations, then such kind of omissions should also be disallowed. A year ago when we criticized Mr Antony LEUNG, if Members can recall, we would know that Mr James TO has very high expectations of others.

Other Members from the Democratic Party also have very high expectations of others. Mr CHEUNG Man-kwong once said that although Mr Antony LEUNG had unintentionally made a mistake, he still doubted the latter's ability. If he indeed was hiding the truth, Mr CHEUNG would still doubt his integrity. If we are in another man's shoes, to the so-called unintentional mistake or unawareness of Mr James TO, can we not doubt his integrity, ability

and conduct just the same? Hence, when we defend and explain for Mr James TO, we actually have to note that while we were, in the past, applying a yardstick to judge others, could we use the same yardstick to judge ourselves today?

Madam President, I am concerned all the more about the need to have a very good system. However, we should not take the shortcomings of the system as the source of the incident today. In fact, the declaration of interest by Members to the Legislative Council and the public only requires the most basic information. Members are not required to declare in detail. For instance, in the form that we have to fill, we are only asked to clarify whether we are holding any shares or private firms, which is a very low requirement. And even to the possession of property, only minimal information is required in the declaration. If we cannot even accomplish such a minimal task, how can we enhance our credibility and transparency?

Mr Alan LEONG said earlier that even if the monthly rental declared exceeds the market rate, it was still not a matter of concern. This, in fact, is sophistry. When the value that we declared exceeds the market rate by a big margin and we fail to declare, this is tantamount to concealment, or deliberate concealment of the facts. Therefore, on this incident, I hope that we can learn a lesson. Although it is said that we should forgive others whenever possible, we cannot let ourselves off easily.

**PRESIDENT** (in Cantonese): Mr CHAN, your speaking time is up.

**MR CHAN KAM-LAM** (in Cantonese): Thank you, Madam President.

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

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): Mrs Sophie LEUNG, you may now speak on Mr LAU Kong-wah's amendment.

**MRS SOPHIE LEUNG** (in Cantonese): Madam President, I speak to oppose Mr LAU Kong-wah's amendment. I very much understand his mind-set, which is how society in general thinks we should act in investigating this incident. They particularly have expectations for Members of the Legislative Council. However, Mr LAU's amendment aims at replacing the punishment of "admonition" for Mr James TO by "reprimand" which is harsher. As I mentioned in moving the motion, the Committee on Members' Interests (the Committee) has held 16 meetings, and it is after careful consideration from all angles that all members suggested that I propose this motion. Details of our considerations are contained in the Report tabled by the Committee last month.

Madam President, today, many Members of this Council have aired their own views and offered their opinions on what standard we should apply or how this standard should be followed up. Our discussion today is not only on Mr TO. It is also a big warning for all Members. I would like to point out again that the Committee has made a recommendation on the punishment of Mr James TO only on consideration of the scope of its powers, that is, Mr James TO has failed to register the details of his personal interests timely, and the Committee has not considered other factors. Let me reiterate that the Committee has adopted a careful and vigilant attitude in handling this case, maintaining as far as possible its neutrality and objectivity. It has also drawn an impartial and fair conclusion from the facts gathered and recommended an appropriate punishment.

Madam President, the Committee has considered and investigated the case whereby Mr James TO has failed to register his personal interests timely. It has made a report to the Legislative Council and recommended the sanction to be imposed. All this has been carried out in accordance with the mechanism designed by the Legislative Council. Today, we have heard a lot of Members asking whether this mechanism is proper. We can still discuss this in the future. Therefore, I hope that Members can support the work and recommendation of the Committee, and oppose the amendment.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the amendment, moved by Mr LAU Kong-wah to Mrs Sophie LEUNG'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)

Ms Emily LAU rose to claim a division.

**PRESIDENT** (in Cantonese): Ms Emily LAU has claimed a division. The division bell will ring for three minutes.

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

**PRESIDENT** (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed. Among Members returned by functional constituencies, 17 are present, two are in favour of the amendment, nine against .....

(Voting results are not yet displayed on the computer screen)

**PRESIDENT** (in Cantonese): It appears that I am faster than the computer.  
*(Laughter)*

Functional Constituencies:

Mr WONG Yung-kan and Mr WONG Ting-kwong voted for the amendment.

Dr Raymond HO, Ms Margaret NG, Mrs Sophie LEUNG, Mr SIN Chung-kai, Mr Abraham SHEK, Ms LI Fung-ying, Dr Joseph LEE, Dr Fernando CHEUNG and Miss TAM Heung-man voted against the amendment.

Mr Howard YOUNG, Ms Miriam LAU, Mr Vincent FANG, Mr WONG Kwok-hing, Mr Jeffrey LAM and Mr KWONG Chi-kin abstained.

Geographical Constituencies:

Mr CHAN Kam-lam, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr TAM Yiu-chung, Mr MA Lik and Mr CHEUNG Hok-ming voted for the amendment.

Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr LEUNG Yiu-chung, Dr YEUNG Sum, Ms Emily LAU, Mr Andrew CHENG, Mr Albert CHAN, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Mr Alan LEONG, Mr LEUNG Kwok-hung, Mr Ronny TONG and Mr Albert CHENG voted against the amendment.

Mr James TIEN, Mrs Selina CHOW and Mr LI Kwok-ying abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 17 were present, two were in favour of the amendment, nine against it and six abstained; while among the Members returned by geographical constituencies through direct elections, 26 were present, six were in favour of the amendment, 16 were against it and three 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): Mrs Sophie LEUNG, you may now reply.

**MRS SOPHIE LEUNG** (in Cantonese): Madam President, I think it is not necessary.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by Mrs Sophie LEUNG, 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)

Ms Emily LAU rose to claim a division.

**PRESIDENT** (in Cantonese): Ms Emily LAU has claimed a division. The division bell will ring for three minutes, after which the division will start.

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

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

Functional Constituencies:

Dr Raymond HO, Ms Margaret NG, Mrs Sophie LEUNG, Mr SIN Chung-kai, Mr Howard YOUNG, Ms Miriam LAU, Mr Abraham SHEK, Ms LI Fung-ying, Mr Vincent FANG, Mr WONG Kwok-hing, Dr Joseph LEE, Mr Jeffrey LAM, Dr Fernando CHEUNG, Mr KWONG Chi-kin and Miss TAM Heung-man voted for the motion.

Mr WONG Yung-kan and Mr WONG Ting-kwong voted against the motion.

Geographical Constituencies:

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

Mr CHAN Kam-lam, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr TAM Yiu-chung, Mr MA Lik and Mr CHEUNG Hok-ming 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, 17 were present, 15 were in favour of the motion and two against it; while among the Members returned by geographical constituencies through direct elections, 27 were present, 20 were in favour of the motion and six against it. Since the question was agreed by a majority of each of the two groups of Members present, she therefore declared that the motion was carried.

**PRESIDENT** (in Cantonese): Two motions with no legislative effect. I have accepted the recommendations of the House Committee on the speaking time for each Member. I only wish to remind Members that I am obliged to direct any Member speaking in excess of the specified time to discontinue.

First motion: Perfecting the policy on protection of trees.

### **PERFECTING THE POLICY ON PROTECTION OF TREES**

**MISS CHOY SO-YUK** (in Cantonese): Madam President, I move that the motion, as printed on the Agenda, be passed.

Four years ago, I also moved a motion on "Conserving valuable and old trees" in this Council to urge the Government to put forward more effective measures to protect old and valuable trees. In response, the then Secretary for the Environment and Food cited two actual examples to demonstrate how existing regulations had served their purposes and contributed towards preserving certain trees, in a bid to counter our arguments and back the claim that it was not necessary for the Government to take any measure to protect trees.

Four years later, the DAB cannot help but revisit an old subject, in order to make it clear to the Government that serving as the backdrop to the



high-profile and successful preservation of two stands of trees is the innumerable trees that have unfortunately fallen victim.

Leaving aside the Wishing Tree, which everybody is most concerned about and whose life is hanging by a thread, as well as the white jade orchid trees, Chinese banyans and candlenut trees in North Point Estate, which have been clipped beyond recognition, in last month alone, in a lot at 56 Repulse Bay, which the Lands Department had leased on a short-term tenancy, several dozen trees estimated to be several decades old and 20 m to 30 m tall were completely cleared by the tenant in a few days; when the pedestrian walkway at the Pamela Youde Nethersole Eastern Hospital was being constructed, the contractor damaged some of the tree-roots in the flower-beds, as a result, over 100 cypress trees had to be cleared; the crowns of a number of camphor trees on the slopes by Po Shan Road were sliced off when the contractor hired by the Lands Department cleared mile-a-minute weeds (*mikania micrantha*); 130 trees were disturbed or felled at a new property development, the Greenwood Place in Tuen Mun, without approval from the Lands Department; trees covering an area of more than 20 000 sq ft on a slope next to Kwu Tung Road in Yuen Long were felled illegally for no apparent reason; 20 paper-bark trees and orange jasmine (*murraya paniculata*), together with 10 azaleas on a slope near the Braemar Hill Mansion were felled illegally by the management company; at 1 Beacon Hill, Kowloon Tong, the contractor of a luxury property development felled and disturbed over 250 trees without the approval of the Lands Department.

The list of trees that have fallen victim goes on and on. It has to be pointed out that these unfortunate incidents all occurred in the past few months. One can imagine how many trees have silently fallen prey to cruel hands for various reasons, without drawing the slightest attention. Whenever I learn about such news, I feel as if it were a personal loss. However, what really hurts most is that such appalling news all failed to make the Government learn a lesson and take all possible measures to prevent a repeat of such unfortunate incidents. On the contrary, it continues to allow a large number of trees in the urban area to be subjected to torture each day and these trees are even on the brink of death. Such a sight is indeed too much to bear.

According to the information provided by the Government, in 2003 alone, the Lands Department formally approved the felling of over 12 000 trees in the urban area and it turns out that over 85% of the projects were government projects. It is found that during the same period, applications to fell trees as a

result of government projects were all approved. Taken together with trees that were relocated and those whose fate was unknown, in 2003 alone, as many as 20 000 trees were involved.

In other words, at this moment when I am speaking, one tree is being felled or relocated legally outside.

In the past few years, the DAB has repeatedly reiterated that the most thoroughgoing approach in protecting trees is none other than to enact specific legislation to protect all trees worth preserving, including trees that are exceptionally old and large, rare and valuable, of historical, cultural or memorial significance, and of special ecological or scientific research value. Unfortunately, in the face of this pressing issue and with no time to lose, the Government has maintained the same attitude and insisted that the existing measures on the protection of trees are already fairly comprehensive and there is no urgency.

In fact, after I had made it known back then that I would propose a private bill to protect old and valuable trees, the Government also took some actions and proposed some patchwork proposals. For example, at the end of 2002, the Government established the Greening Master Plan Committee to co-ordinate the work of various departments in protecting and conserving trees. In mid-2003, the Government laid down the requirement that contractors have to conduct a survey on trees and put in place protective measures before carrying out works, as well as submitting monitoring reports on the status of trees regularly. The Government has also compiled a Register of Old and Valuable Trees. Recently, the Government also declared its intention to introduce provisions to protect trees and prevent some people from destroying trees in the course of development. I believe that the Secretary will later also cite these measures and claim that they are the most effective measures.

Of course, the DAB supports the Government in making constant improvements to these administrative measures and to some extent, it does not mind that much the Government's attitude of "budging only when edged" in dealing with matters. As long as these measures can really serve their intended purpose of protecting trees effectively, I believe I will also be happy to save the substantial amount of effort and time required in drafting and proposing a private bill. Unfortunately, the facts speak for themselves. What the public has seen of late is still page after page of the miserable history of trees. Even if we look

at the figures in a detached manner and even if we are willing to believe that the Government intends to put into practice those administrative measures, we can still see that the Government is in fact not doing a proper job of gate-keeping. The reason is very simple. This is because these measures all lack bite.

Madam President, in view of the existing administrative measures, which have left the doors wide open and seem to be non-existent, may I ask the Government how our trees can be considered to be receiving full protection and how we can convince people that Hong Kong is a world city that cares about nature and respects history? What is most worrying is that if the Government really feels contented with the present system and allows the situation to continue, it is believed that the great majority of trees in the urban area will all meet the fate of the Wishing Tree one or two decades from now.

Madam President, what is baffling is that if the Government is really sincere in enhancing the protection of trees and is trying continually to perfect the existing administrative measures, then why is it so headstrong as to be unwilling to show its sincerity by introducing legislation? It has to be pointed out that even in the private bill proposed by me, the felling of trees is not banned across the board, rather, it gives the Director concerned the discretion to make the final decision. Therefore, the real aim of introducing such a piece of legislation is only to address the inadequacy in the existing system and raise the threshold of felling or relocating trees, rather than banning all urban developments that involve trees. This in fact does not differ greatly from the policy direction of the Government.

The SAR Government should be well aware that the idea of introducing legislation to protect trees is not conceived by me out of nowhere. At present, specific legislation have been put in place at a number of places in the world to protect trees, for example, in Australia, Great Britain and even Beijing, Shanghai and Taipei in our country. In fact, when drafting the contents of the private bill proposed by me, reference was made to the provisions in such legislation.

Furthermore, with the increasing importance that Hong Kong people attach to trees, to introduce legislation to protect trees is in fact the general demand of the public. According to a survey conducted by the DAB in the past two weeks, over 80%, that is, a great majority of the respondents agreed that

there was a need to formulate special legislation to protect old and valuable trees in Hong Kong.

Madam President, although the DAB is actively advocating the introduction of legislation to protect trees, it is fully aware that legislation is not a panacea to all problems. One of the thorny issues that needs to be addressed urgently is the absence of a department tasked with such a responsibility. In fact, as many as 16 government departments are responsible for managing trees and a host of problems have occurred. One of them is the poor delineation of powers and responsibilities among these departments. Take the Wishing Tree incident as an example, although the Wishing Tree is located on government land, the responsibilities of the Government in its management is inextricably entangled with those of the Rural Committee. In addition, the Government had to set up a team involving a number of departments to follow up the matter, thus leading to a waste of administrative resources and the shifting of responsibility among departments. The second problem is a lack of professional knowledge in tree management on the part of individual departments. For example, an old banyan tree over a hundred years old in Kowloon Park is in decline because of excessive trimming and 20 old trees in North Point Estate are hardly recognizable as trees because of excessive trimming. The third problem is a low awareness of the protection of trees in various departments and instances of neglect are very widespread. For example, the trunk of the pink and white shower tree at May Building is showing signs of decay due to a lack of care and a large hole, which has resulted from decay, at the base of the trunk of the highest royal palm (*roystonea regia*) in Hong Kong and located in the Hong Kong Park, has not been repaired either.

Such instances fully demonstrate that the present practice of distributing the work on the protection of trees among various departments is not reliable and the DAB suggests that the Government face the situation squarely and review the existing administrative framework as soon as possible, with a view to protecting trees and establishing a specialized department to manage trees, in particular, old and valuable trees. Since tree care involves rather specialized knowledge, the workers in the department tasked with this specific responsibility must possess professional knowledge of trees. Moreover, it has to be ensured that front-line workers must possess the skills to regularly rehabilitate trees. In addition, in order to raise the skills and safety standard of workers caring for trees, the Government should consider establishing a licensing system.

In order to identify trees that are not given adequate care and to cultivate concern among the general public and students in particular for trees, the DAB suggests that the Government mobilize and co-ordinate students throughout Hong Kong as soon as possible to set up "SOS tree first aid teams", which will be in charge of the areas in which the schools concerned are located, to conduct inspections immediately on the status of trees in their districts and make reports to the authorities in time, so that the department specifically tasked with the work can follow up and rehabilitate the trees.

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

**Miss CHOY So-yuk moved the following motion: (Translation)**

"That, as currently the Government does not have a set of effective administrative measures or legislation to protect trees, and as co-ordination is lacking because the responsibilities are scattered among various departments, which may result in trees in the territory being destroyed, damaged or removed due to urban development, negligence or other reasons, this Council urges the Government to expeditiously formulate an effective policy on protection of trees, and at the same time perfect existing relevant legislation, administrative measures as well as administrative framework, so as to effectively protect and preserve various kinds of trees, especially those that are exceptionally old and large, rare and valuable, of historical, cultural or memorial significance, and of special ecological or scientific research value."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by Miss CHOY So-yuk be passed.

**PRESIDENT** (in Cantonese): Mr Martin LEE will move an amendment to this motion, as printed on the Agenda. The motion and the amendment will now be debated together in a joint debate.

I now call upon Mr Martin LEE to speak and move his amendment.

**MR MARTIN LEE** (in Cantonese): Madam President, I move that Miss CHOY So-yuk's motion be amended, as printed on the Agenda.

The incident which occurred in February this year, in which a branch of the Wishing Tree broke off, has again aroused the concern of the public about the policy on the conservation of trees. At present, the system for protecting trees is fraught with problems. Not only is there insufficient protection in terms of legislation, there are also frequent instances of confusion in the management of trees by the relevant government departments.

At present, there are six pieces of legislation that are related to the protection of trees, namely, the Country Parks Ordinance, the Forests and Countryside Ordinance, the Crimes Ordinance, the Theft Ordinance, the Kadoorie Farm and Botanic Garden Corporation Ordinance and the Public Health and Municipal Services Ordinance. However, the relevant legislation do not offer adequate protection to trees, for example, the Forestry Regulations is concerned only with 27 rare species of trees and plants found on government land. Apart from these 27 rare species, other species of plants and trees, regardless of their age and whether they have any special cultural and historical significance or other great value, are all considered ordinary trees and there is no specific legislation to protect them.

In addition, the existing legislation cannot effectively protect trees from being felled or damaged. In the past few years, instances of trees and woods being damaged occurred most frequently outside country parks, for example, at the construction site of a residential development on Blue Pool Road in Happy Valley, all mature trees were chopped down. A wood in the urban area located in an area between Queen's Road East and Kennedy Road is also affected by development and in danger of being felled. In the past, some "champion trees" were also inadvertently damaged. An expert on trees, Prof JIM Chi-yung of the University of Hong Kong, has also pointed out a number of times that the Government is often very lax in approving excavation work at locations next to trees. When carrying out the works, workers may intentionally or inadvertently sever or damage the roots of the trees due to a failure to follow the work procedure carefully, such that the health of the trees is seriously jeopardized. However, under existing legislation, it is impossible for the Government to pursue responsibility.

On the other hand, there are in fact many inadequacies in the Register of Old and Valuable Trees compiled by the Leisure and Cultural Services Department (LCSD) with a view to protecting trees. First, this Register is not legally binding in any way and can only serve reference purpose at its best, so it does not serve much purpose in the protection of trees. Secondly, although the trees listed in the Register include those on unleased government land in areas with high building density and under the management of the LCSD, the Agriculture, Fisheries and Conservation Department (AFCD) and the Housing Department, the Register has no effect whatsoever on the many trees located on private land that also deserve protection. In addition, the Government has only compiled a Register but it has not formulated any focused protection policy in this regard at the same time. This is useless in enhancing the protection for rare trees.

The loopholes in the existing legislation that regulates tree care can also be observed in many other instances. Many contractors or management companies which are awarded outsourced work on the care of trees lack professional knowledge in tree care. As a result, the care of trees often ends up as the destruction of trees and this is particularly serious in instances involving mature trees found outside country parks and in urban areas. For example, last year, a pest plant, mile-a-minute weed (*mikania micrantha*), invaded a green belt extending from Po Shan Road to Conduit Road at the Mid-levels on Hong Kong Island and damaged the trees. Subsequently, the Lands Department launched a clearing operation. However, after the contractor hired to do the job had cleared the mile-a-minute weed, it was found that some of the trees were damaged. It was suspected that someone, for the sake of expediency, had simply sewn off the branches in one stroke. In fact, the AFCD had provided guidelines on how to care for the trees, however, it is not known if the contractor undertaking the work had supervised its workers. Apart from exposing the inadequate protection given to the woods in urban areas under existing government policy and legislation, this also shows that there is a lack of co-ordination among various departments in carrying out the work of tree protection.

In fact, many problems in the protection of mature trees outside country parks and woods in urban areas are closely related to the problems that exist in the present administrative framework. For example, at present, as many as 16 government departments are responsible for the care of trees in Hong Kong. Although under the present practice, the responsibility for the care of trees is

determined according to which party holds the title to the land on which the trees are found and the Greening Master Plan Committee has also been set up to supervise and direct the greening policy, the actual work of tree care is still carried out by different government departments. As a result, the power and responsibilities are fragmented and not clearly delineated. Among the many departments, only the AFCD and the LCSD have professional tree management teams, however, their jurisdictions are limited and they are in charge of tree care in country parks and in an area of 5 m on both sides of the road respectively. However, trees growing on other government land, such as woods in the urban areas and trees in public housing estates and hospitals, are under the charge of the other departments concerned. As I have said just now, these departments often lack professional personnel in tree care, resulting in inappropriate care of the trees. Even if members of the public make reports, these departments still cannot provide proper care in time. Take the Wishing Tree as an example, it is located on unleased government land managed by the Lands Department. However, since there is not any tree expert in the Department, it has to seek the help of the AFCD and the LCSD. In addition, since the Wishing Tree incident involved matters of rural tradition, so officers from the Home Affairs Department were also invited to follow up this matter. Such an administrative framework is cumbersome and slow in reaction, so a review is indeed called for.

In fact, under the existing policy on tree conservation, the administrative measures and legislation on the protection of mature trees outside country parks and woods in urban areas are particularly inadequate. These so-called urban woods refer to the natural green belts in developed areas. These natural green belts in urban areas serves as buffer zones and dust filters, helping to purify the air and lower the air temperature in the urban areas. Therefore, the Government should give them protection. If these woods are not properly protected, the "heat island effect" in urban areas will intensify and the ecology in urban areas will be affected. However, at present, concerning these green belts, which are classified as unleased land, it is often only possible to restrict their development but not the activities that may affect the health of the trees in these green belts. As regards private green belts and mature trees in private lots, if no clause on the conservation of trees is included in the land lease, the owners even have the right to clear the plants and cut down the trees. Even though clauses on conserving trees have been incorporated into private land leases and the Lands Department has the power to impose punitive fines on the offender, or not to issue a certificate of completion as a deterrent, should



someone breach the clauses to fell the trees, the deterrent effect of these measures is very limited to developers with financial power. They can pay the fines with ease in lieu of fulfilling their responsibility of protecting the trees. Some developers even adopt the pretext of "repairing" trees to deliberately reduce the trees that stand in the way of their projects to a height of not more than several inches, so that these trees cannot grow again and are left to die. These trees are then removed on some excuse. Thus the present practice adopted by the Government is extremely passive and defensive. For this reason, several instances of property developers taking it upon themselves to fell and disturb trees without approval have occurred in recent years.

Of course, I fully understand that it would be ideal if all plants and trees could be protected, however, I must point out that the loophole in the existing legislation and administrative measures lies in the failure to protect mature trees outside country parks and urban woods. If the policy on the conservation of trees is steered towards protecting all sorts of trees throughout Hong Kong, there will be a lack of focus in the conservation of trees, furthermore, it is possible that we will fail to see the wood for the trees. Therefore, I have proposed an amendment to urge the Government to expeditiously review and improve the existing relevant legislation, administrative measures and administrative framework to seriously protect and preserve the mature trees outside country parks and urban woods, which are being seriously overlooked by existing legislation. Thank you, Madam President.

**Mr Martin LEE moved the following amendment: (Translation)**

"To add ", poor management, vandalism" after "negligence"; to delete "various kinds of trees" after "so as to effectively protect and preserve" and substitute with "mature trees outside country parks, as well as urban woods"; and to delete "those" after "especially" and substitute with "trees"."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr Martin LEE to Miss CHOY So-yuk's motion, be passed.

**MR ALBERT CHAN** (in Cantonese): Madam President, the policy on tree protection can be described as fragmented and short of respect for trees, and one can say that the respect is even in shorter supply than that for the protection of human rights. There are no human rights in Hong Kong and trees do not even enjoy the right to survival. Regarding the trees in Hong Kong, there are three issues worthy of concern and the Government should review them thoroughly: the first one is the competition between native and non-native trees; the second one is the effect of construction works and land grants on trees and the third one is that of management.

First, I do not know if the grass over the fence is so much greener and the trees overseas are particularly magnificent, so much so that the Hong Kong Government despises and discriminates against native trees. Recently, the Government planned to plant trees extensively in the vicinity of the Disneyland and it intended to plan 2 million trees there. According to the initial decisions of the Government, all 2 million trees would be non-native ones. After we expressed our discontent, some small revisions were made last month and the plan was revised to planting 1.8 million non-native trees and planting 200 000 native trees in a nominal gesture, provided that the saplings can be found. This plan will depend on whether the saplings can be found. I have to express strong discontent with the actions and practice of the Government and I also express regret for the Government's disrespect for the right of survival of native trees.

There are many advantages in planting non-native trees on a large scale: first, it is cheap; second, it is expeditious; third, it will be quite good looking because the saplings to be planted are those that grow rapidly and can survive in extremely unfavourable conditions. However, such a practice will cause damage to native trees and their habitat will be invaded by other species, such that native trees cannot continue to survive on the same piece of land. Trees imported from overseas can lead to quite a number of problems. The pollen released by some exotic trees can cause serious harm to the respiratory system of members of the public. Exotic trees may not provide a habitat compatible with that for local birds, bees and butterflies, so it is highly likely that "plastic forests" will be created. In many instances in overseas countries, when a large number of non-native trees were planted, an expanse of greenery was established but there are no other living organisms in it. There are no birds, bees or butterflies, or any other insects or animals because these plants do not constitute a suitable habitat in which local insects and birds can breed. Therefore, if a large number of non-native trees are planted carelessly and rashly without conducting an

in-depth study, this is a practice that will jeopardize local development and the growth of native trees. This kind of situation should by no means be condoned. I have already made an appointment to meet with the Agriculture, Fisheries and Conservation Department (ACFD), some green groups and professors of the University of Hong Kong to discuss the relevant issues. The actions of the ACFD must be heavily condemned. This Sunday, I will also make an on-site visit to Lautau Island with the people concerned to examine how the Government is jeopardizing native trees.

Secondly, issues relating to construction works and land grants. Hong Kong is a place where business comes first and money stands above all else. Many conditions of grant specify that certain trees have to be protected, however, developers simply do not give it a damn and many Members have already cited some examples. I am now handling a problem relating to the Cairnhill. Some years back, when the Government granted the lot concerned, which is located in Tsuen Wan, it specified that certain trees could not be felled. Only when the developer applied for a Letter of Satisfaction did it dawn on the Government that those trees had gone. As those trees are missing, the Letter of Satisfaction cannot be issued. As a result, the aggrieved property owners cannot move in and discussion with the developer is underway. We should consider how the developer that felled the trees should be penalized. Therefore, the penalties in the present conditions of grant should be increased and it should be specified that felling one tree will incur a fine of \$10 million and we will see if the developer will fell any more trees again. This disrespect for the right of survival of trees is disregard for the survival of the natural ecology in its most extreme form and this attitude of putting money above all else must also be condemned.

The surroundings of the old Marine Police Headquarters Compound have changed beyond recognition. The trees there have been cut to the extent that nothing is left intact and everything is in pieces. Concerning the seven streets in Tsuen Wan, thanks to Mr Abraham SHEK, three of the trees there were preserved when the area was redeveloped. To this end, the Land Development Corporation spent several hundred thousand dollars, however, one of the trees has died and there are only two left. People do not know that those two trees were relocated from the seven streets in Tsuen Wan, but these two trees have managed to survive.

The third problem is that of management. I remember that a few years ago, when the subject of trees was discussed in this Chamber, I pointed out that a

very large tree at the Government Secretariat was almost smothered by creepers. Three days after I had made that remark, people were sent there to do the clearing up. Now, this tree is sprouting new leaves. Due to the fact that we had mentioned it in this Council, this tree was saved. A tree at the Government Secretariat was almost completely smothered by creepers, yet nobody was paying any attention. In many places in Hong Kong, such as on South Lantau Road and at the sides of other roads, large decades-old trees are also entangled by creepers and nobody is paying any attention. Earlier on, I lodged a complaint, saying that creepers were entangling a tree, however, the tree could not be saved. The reply I got was that I had lodged the complaint too late and the tree had been smothered to beyond rescue. At various places in Hong Kong, at both sides of major roads, trees are being entangled by creepers and nobody is paying any attention.

This is also the situation on government land. In many villages — both Mr LAU Wong-fat and Mr Daniel LAM are not here now — villagers burn the roots of trees and strip their barks in order to build small houses. Recently, I lodged a complaint, pointing out that six trees which were four or five decades old had been stripped of their bark covering the trunk and had their roots burnt. As a result, these six decades-old trees all died. I complained to the AFCD, which said they were sympathetic but could do nothing since those trees had already died. The AFCD could not find out who had done it, yet they did not refer it to the police for criminal investigation and prosecution either. These decades-old trees simply withered in this way.

Trees are an important part of Hong Kong, part of our history, and also part of the life of the people. If trees are not protected, that means Hong Kong is not being protected, our history is not being protected and the life of the people is not being protected. Therefore, I hope the Government can review its policy on the protection of trees to protect the history of Hong Kong, the traditions of Hong Kong and the life of Hong Kong people. Thank you, Madam President.

**MR WONG KWOK-HING** (in Cantonese): Madam President, I wish to express my fullest support for today's motion. For this reason, I have donned a green jacket when giving my speech.

In recent years, in order to green Hong Kong, the Government has implemented various measures, for example, to plant trees and step up education of the Hong Kong public. However, without a well-conceived policy and unified legislation, how effective will these measures of greening Hong Kong be? In order to implement its greening policy, the Government spends \$700 million a year on tree planting and care and over 16 million plants are planted every year. However, at the beginning of this year, the Department of Geography of the University of Hong Kong published the results of a survey conducted between 1993 and 2003, which showed that the greening policy of the Government is in fact just better than nothing. It failed to remove the disrepute of Hong Kong as a concrete jungle. In this survey conducted by the University of Hong Kong, they have defined 380 trees located in the bustling urban area on both sides of the Victoria Harbour as old trees according to such standards as their esthetic value and maturity. The survey found that, within a decade, one fifth of the trees had already been felled or seriously damaged. Although the Government has spent a great deal of money, without a complementary policy to protect them and a unified piece of legislation, can the environment in Hong Kong be really turned into a green one?

When the Secretary replied to my question in this Council, she said that there were four pieces of legislation on the protection of trees and 16 government departments responsible for enforcement. It seemed that the Secretary was saying in her reply that the existing arrangement was already sufficient. However, in reality, have the trees in Hong Kong received sufficient protection as a result of this arrangement? Here, I want to cite an actual example to show how government departments do not abide by the law and how they enforce the law selectively, such that trees have not received any protection. In a paper submitted by the Environment, Transport and Works Bureau to the Legislative Council in February 2005, it was pointed out that in a project, 1 200 trees had been removed and felled. Among these trees, two had been rated as valuable trees by the Government. The reason that these two "valuable trees" were felled was none other than that their locations posed an obstacle to the project, furthermore, the Government said that their rate of survival after relocation was low, so it was eventually decided that the trees should be felled. Although after the trees have been felled, over 1 300 trees will be replanted in compensation and it appears that there will be 100 trees more, will the relocated trees grow healthily in future? Moreover, to the local residents, each tree carries some memorial significance. Will the replanted trees mean the same significance to them? It is necessary for Members and government officials to ask their

conscience about this. May I ask if the effect will be the same if an original tree is replaced by another one? The answer cannot be simpler. Just like the question on whether the Wishing Tree in Lam Tsuen can be replaced by another tree, the answer must surely be in the negative. It can thus be seen from this that there must be a piece of unified legislation on the protection of trees to regulate the felling and conservation of trees. This is precisely what Hong Kong lacks. On this, our high officials have resolutely refused to change their mindset.

On the other hand, due to the lack of a specialized department that plays a central role in co-ordinating the conservation and protection of trees, the Government has all along failed to ensure that workers undertaking work on the protection of trees or private developers possess adequate professional knowledge on the protection of trees. Take applications for roadside excavations as an example, the Government is often quite lax in granting approvals and workers may damage tree roots intentionally or inadvertently, such that the health of trees is jeopardized. Another recent example is a rare yellow kapok tree located in Tai Yuen Estate, Tai Po. When the contractor was building the shopping centre, the roots of the large tree were damaged due to a lack of professional knowledge. In addition, due to a lack of proper care administered by the management company, the branches and leaves of the tree were chopped off, thus accelerating the demise of the tree. If there is a department in the SAR Government specifically tasked with co-ordinating the work on the protection and conservation of trees in Hong Kong and the health of trees is regularly inspected, this will certainly prevent the mutilation of old and valuable trees and even their demise. Meanwhile, the identification of the number of old and valuable trees in Hong Kong should be speeded up, so that more trees can receive the protection they deserve.

Although it is the duty of all of us to protect trees, the Government should put forth a definite direction and policy as well as measures in terms of legislation and enforcement and establish a specialized department for tree protection. In this way, better results can be achieved with half the effort in greening Hong Kong. Otherwise, it would be negligence of duty on the part of the Government.

Madam President, finally, I wish to cite the Taipei City Tree Protection Autonomous Regulation as an example in concluding my speech. This legislation provides that "Any tree (1) whose trunk is 0.8 metre in diameter; (2) whose trunk is 2.5 metres in circumference; (3) whose height reaches 15 metres;

(4) over 50 years old, and any tree that belongs to rare species or has ecological, biological, geographical and regional human, historical and cultural significance, is protected by law and shall not be felled, transplanted or damaged in any way and its desirable habitat should be preserved." At one time, a Taipei resident violated this law and felled some trees. As a result, he was prosecuted and fined by the local government.

If Hong Kong can follow the example of Taipei and put in place a unified piece of legislation and a centralized department to enforce the law, then the trees in Hong Kong will receive genuine and effective protection. I take this opportunity to call on senior government officials to change their rigid, outmoded and conservative ideas of greening and keep abreast of the times by boosting their concepts, policy objectives and policies on greening.

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

**PRESIDENT** (in Cantonese): Mr WONG Kwok-hing, I already noticed your green jacket yesterday. Now I realize that you have a reason for wearing it and no wonder you are wearing it again today.

**MR HOWARD YOUNG** (in Cantonese): Madam President, in recent years, we have beheld the sight of old, large and valuable trees collapsing or being seriously maimed repeatedly and this sight is indeed too much to bear. The latest incident involved the Wishing Tree in Lam Tsuen, Tai Po, which could no longer withstand the torment it was subjected to and as a result, one of its branches broke off during the Chinese New Year. It was found afterwards that the tree had been afflicted with injuries and diseases and it is still teetering on the brink of death, struggling for survival.

In fact, it is not the case that there is no law to protect trees in Hong Kong. On the contrary, there are already four pieces of legislation relating to tree protection in Hong Kong, for example, the Country Parks Ordinance and the Public Health and Municipal Services Ordinance protect trees in country parks and rest gardens respectively, whereas the Crimes Ordinance and the Forests and Countryside Ordinance prohibits causing damage to all trees on government land summarily.

As regards private land, the Government has added a clause on the conservation of trees since the '70s in land leases or land leases approved previously in respect of which application for redevelopment has been made, that is, if trees on private land have to be felled, it is necessary to make an application to the Lands Department.

In other words, there are various pieces of legislation to prevent each and every tree from being damaged and what is more, the problem is not there is a dearth of legislation but that they are duplicated and the delineation of power and duty is not clear. Generally speaking, there are three problems as follows:

First, the criteria adopted in vetting and approving applications are not clear. Although in theory, applications for felling trees have to be vetted, the vetting of applications involving government land is very lax and the criteria are not stringent. Take a development plan involving Ma Hang in Stanley some time ago as an example, it was planned that over 500 trees would be felled. Had it not been for the strong opposition from civil groups, this oasis in the urban area would have vanished.

To private developers, often, due to a lack of understanding of the relevant provisions, they either dare not undertake development lightly, or they may misunderstand the law when carrying out development, so that they end up incurring a heavy fine imposed on them. I think that it is certainly important to protect trees, however, we do not want to see the complicated, scattered and unclear provisions pose obstacles to plans of urban development.

Secondly, too many departments are involved and the legislation is confusing. A person who damages trees in country parks will be prosecuted according to the Country Parks Ordinance and another who damages trees in rest gardens will be prosecuted according to the Public Health and Municipal Services Ordinance. However, the former is liable to a maximum fine of \$5,000 or one year of imprisonment but the latter is liable to a maximum fine of \$2,000 and 14 days of imprisonment. In other words, the same act of damaging trees may attract different penalties. The reason for this is indeed incomprehensible.

In addition, the protection of trees often involves many departments. Take the Wishing Tree as an example, the conservation of the Wishing Tree alone involved five government departments, including the Food and



Environmental Hygiene Department, the Lands Department, the Home Affairs Department, the Leisure and Cultural Services Department and the Agriculture, Fisheries and Conservation Department. As a result, should anything happen, it is often impossible to delineate power and responsibilities clearly and the buck is passed from one party to another. It is also reported from time to time that particular species of trees are felled and smuggled to the Mainland.

Third, "murder" is strictly prohibited but inadvertent killing is condoned. On the one hand, the Government explicitly prohibits the "murder" of trees, however, it is usually very lax in considering excavation works that is to be carried out next to trees. Moreover, during excavations, there is a lack of appropriate protection for trees and they are intentionally or inadvertently damaged. As a result, they may wither and die, thus resulting in "inadvertent" killings.

If we make reference to legislation on the protection of trees in other cities, the criteria adopted in such legislation are much clearer. Just now, a Member cited the example of Taipei. Its relevant legislation offers protection to trees according to such criteria as the diameter and circumference of the trunk, the height and age of a tree, its cultural significance, and so on. I believe it is worthwhile for the SAR Government to borrow this approach.

Apart from staying on the defence in preventing the damage of trees, we believe the Government should be more proactive and formulate an appropriate policy on the conservation of trees. For example, it is necessary to carefully choose tree species that are suitable for planting locally, rather than splashing out money and going far afield to buy trees overseas and disdaining local suitable species such as oak trees and schimas, such that eventually, what is purchased are species that are not suitable for planting locally.

In fact, the Liberal Party very much supports the move taken by the Tourism Commission to actively develop green tourism. We believe that the protection of every single tree should not be overlooked, in particular, some of the only remaining large trees in the urban areas. At the end of the day, protecting these old and valuable trees is equal to protecting our cultural heritage. Doing a good job of it will be conducive to the development of the tourism industry in Hong Kong and avoid giving people the impression that we are living in a cold and hard concrete jungle. We hope that one day, Hong Kong can be like Nanning Municipality in Guangxi Province, which is described as having a

lot of greenery in the city and a city set in the greenery, where the utmost care is tendered to every tree.

Finally, concerning Mr Martin LEE's amendment, we believe that he is making the concept of tree protection proposed by Miss CHOY So-yuk more specific. Moreover, to identify mature trees and woods in the urban area as the subject of preservation and conservation is indeed too rigid and restrictive.

I so submit.

**MR DANIEL LAM** (in Cantonese): Madam President, the incident of a branch of the Wishing Tree in Lam Tsuen falling off and injuring visitors during the Chinese New Year did not only throw the relevant authorities into confusion. It also revealed the lack of vigilance and a sense of crisis on the part of the relevant departments. In view of these problems, Mr LAU Wong-fat who represents the District Councils has consulted all Members of the District Councils on the protection of trees. His views are actually the same as those of mine that I am going to put forth in my speech today. It reflects that the Heung Yee Kuk and the District Councils already have a consensus on the protection of trees.

As we all know, the Hong Kong Government has always claimed with pride that it attaches importance to environmental protection and also to the conservation of the natural ecology. This incident of a valuable and popular tree found to be on the verge of death due to lack of proper protection over a long time is a major irony. Indeed, had it not been this very inspirational Wishing Tree severing a branch off its trunk to sound the alarm, I think the relevant departments would continue to revel in their dream and would never wake up. What is more regrettable is that after the incident, government officials have not admitted negligence on their part, identified inadequacies and promptly adopted remedial measures. Worse still, they have even attempted to absolve themselves of the responsibility by shifting the responsibility to the Lam Tsuen Village Office.

Madam President, the Rural Committee and the Village Office are certainly very concerned about the well-being of the tree. But the Rural Committee and the Village Office have neither resources nor expertise, and what is more, they are not empowered to enforce law in respect of people's conduct in

public places. What the relevant government departments have said and done has indeed overestimated the ability of the Rural Committee and the Village Office.

Trees in Hong Kong have neither been cared for nor protected properly. Many trees in the rural areas and even in the urban areas have been felled, and this has happened frequently. I think it is fundamentally because of the Government's imbalanced protection policy and its mentality of favouring animals, particularly wild animals, to the neglect of plants. That is why the Government has always been unwilling to formulate a comprehensive policy on the protection of trees.

Madam President, apart from taking remedial measures, it is all the more necessary for the authorities to change their mind-set and review the relevant legislation and policies. Besides, I think a cost-effective way that can reap effective results expeditiously is to entrust the protection of trees to the 18 District Councils and the Rural Committees, making them responsible for protecting all kinds of trees in their districts. The District Councils and the Rural Committees of the respective districts certainly know best about and cherish a deep affection for trees in their districts. If they will oversee or manage the relevant work, twice the result can be yielded with half the effort

Madam President, if the District Councils and the Rural Committees can become the guardian angels of trees, further improvement can definitely be made to the lives of trees in Hong Kong. With these remarks, I support the motion.

**MS AUDREY EU** (in Cantonese): Madam President, a policy on the protection of trees would encompass the following two aspects: First, special protection should of course be given to trees which are old or of special ecological value; and second, which is equally important, is the protection of trees in general from works projects, land development, massive felling and other devastations.

In 2001 the Legislative Council discussed the protection of old trees. After the debate, the Government compiled the Register of Old and Valuable Trees and more than 500 trees are included in the Register. Any construction works to be carried out in the vicinity of these trees will require the prior approval of the Lands Department.

Old trees are eyewitnesses to the changes of time. They are as valuable as historical relics and old buildings. The Government may consider amending the laws to declare old trees with special value as statutory monuments so that special conservation and management can be undertaken.

As for trees in general, one focus of contention is whether or not an individual piece of legislation should be enacted to protect trees. Dr Sarah LIAO, Secretary for the Environment, Transport and Works, said in March this year to the effect that the existing policy was all trees in general shall not be felled or transplanted unless prior approval is obtained from the Lands Department. Existing laws like the Country Parks Ordinance, the Forests and Countryside Ordinance, the Town Planning Ordinance and the Environmental Impact Assessment Ordinance, and so on, all have provisions on the protection of trees.

It remains, however, that having the laws is one thing and enforcing them is another matter. The law specifies that trees of more than 95 mm on private land shall not be felled or destroyed wilfully. But how can the Government know that these trees have been felled? Often the case is that when things have happened or when after the media have made extensive coverage or when after people like Mr Albert CHAN who says in a keyed up manner that he wants to report to the police that the departments concerned will take action, but it will be too late already.

Therefore, I am open about whether or not laws should be enacted to tackle the problem. The most urgent issue is, in my opinion, not to enact some new laws but to perfect existing management and administrative measures so that more effective enforcement actions can be taken.

Many Honourable colleagues have made many suggestions earlier and I recall Miss CHOY So-yuk suggesting that SOS teams be set up and Mr Daniel LAM saying that the assistance of District Councils and the Rural Committees can be sought. Actually, there are lots of methods at our disposal and the most important one is to conduct a survey on trees and compile comprehensive records on trees growing on government and private lands. Then regular inspections can be undertaken and when accurate data are obtained, these can be used to facilitate monitoring in future.

As the Government cannot send a park warden and keep an eye on every tree round the clock and all through the year, so the public should be called in to help monitor the trees. Apart from suggestions made by Members earlier, the Environmental Protection Department may also set up some hotlines for the public to report acts of vandalism done to trees. I also hope that the Government should also take action to stop the "murder" or "inadvertent killing" of trees as Mr Howard YOUNG put it.

At the beginning of this year, the Wishing Tree in Lam Chuen, Tai Po, was found to be in a critical condition as a result of poor care given and its life expectancy is estimated to be just four years. After the event was publicized, four government departments, that is, the Home Affairs Department, the Food and Environmental Hygiene Department, the Agriculture, Fisheries and Conservation Department (AFCD), the Leisure and Cultural Services Department came to the scene. It is ridiculous to learn that four departments are involved in the conservation of a tree. The conservation of trees is a professional job and so the Government should consider tasking the AFCD to co-ordinate such efforts and other departments should then do their part. For the villagers, they should ponder over this case of the Wishing Tree falling sick. This is because the Wishing Tree is actually a money spinner for the villagers. But the hundreds of visitors who throw worship offerings on which they write their wishes to the tree every day will certainly jeopardize the health of the tree. On top of this, the authorities have done nothing to inspect the soil at the roots of the tree and so the Wishing Tree is like a clay idol, powerless to protect itself from reckless damage.

Another painful lesson comes from the illegal felling of Buddhist pines in recent years. Since these pines can fetch good prices on the Mainland, many people have poached these pines growing wild in Hong Kong and shipped them back to the Mainland for sale. I hope the departments concerned can follow the matter up and crack down on such illegal activities.

Recently, the Lantau Development Task Force headed by the Financial Secretary has suggested building a second theme park, a golf course, resort facilities and cycle tracks on the island. All these plans may cause damage to the trees and the ecological environment of Lantau Island. Should these proposals materialize, trees will have to be felled and woods cleared for

development. We hope that the Government can provide us with sufficient data on these plans and I believe Honourable colleagues in this Council will follow the matter up.

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

**MR LI KWOK-YING** (in Cantonese): Madam President, the Government spends hundreds of millions of dollars in its greening efforts every year to plant trees in Hong Kong. Unfortunately, at the same time, many trees in Hong Kong, even old and valuable trees, are relentlessly destroyed. As mentioned by Ms Audrey EU just now, a telling example is the Wishing Tree in Lam Chuen, Tai Po where I was brought up.

However, I wish to sidetrack a bit, for I wish to clarify that the villagers of Lam Chuen have not gained any profits from the Wishing Tree because the hawkers are outsiders. The villagers would want very much to protect the Wishing Tree, but the local authorities cannot drive these hawkers away.

Despite the fact that the Government has expended a lot of resources in planting trees, after looking up the data of trees felled in Hong Kong, I can conclude that it is no exaggeration to say that the Government is the greatest destroyer of trees.

Each year there are more than 10 000 applications for tree felling on government lands. In 2003, of the more than 100 applications for tree felling or transplant received by the Lands Department, no applications involving government lands were rejected. Together with applications involving private lands, the number of trees felled or removed each year would be more than 20 000. The actions taken by the Government are baffling because on the one hand it is spending a lot of public money to buy trees from abroad to beautify the environment, but on the other, it is doing nothing to stop the massive felling of trees every year. One just fails to make sense out of it.

It goes without saying that there are laws and administrative measures to protect trees, but there are still many deficiencies and so trees in Hong Kong do not get true protection. The Forests and Countryside Ordinance and the Country Parks Ordinance are meant to protect trees from unauthorized felling or damage. However, trees in Hong Kong cannot escape the misfortune of

damage even though these laws exist. This is because under the Forestry Regulations of the Forests and Countryside Ordinance, focus is merely put on the species of trees instead of the other attributes of trees such as their age and appearance. Therefore, though government departments and private owners cannot fell trees at will, they can prune trees for such special reasons as to reduce risk under strong winds, and so on.

In addition, the penalties imposed are too light and so the laws on tree protection are almost useless and there is very little deterrent effect. It is learned that some developer felled more than 300 trees without gaining approval from the authorities but only a fine was imposed. Even those who have damaged trees and committed an offence under the Forests and Countryside Ordinance are just fined. Such light penalties are condoning damages to trees by developers and owners of private properties.

It is also doubtful as to whether the private developers and even government departments have the professional knowledge in pruning trees. Now the Government has adopted a comprehensive approach in determining the tree care responsibilities, that is, the departments concerned shall take care of the trees in a certain place such as in a park, a government building or on a slope in addition to maintaining the facilities erected there. As a result of this, the number of government departments involved in the protection of trees is as large as 16. In the past, individual government departments caused trees to be in lack of care due to their lack of knowledge in tree care. An example is the cypresses in the planter located in the covered pedestrian walkway in the Eastern Hospital. These cypresses are withering because their roots have been accidentally damaged by a contractor hired by the Buildings Department for works done in 2002.

When government departments are so negligent of care for trees, the more negligent are the private developers. According to some tree pruning specialists, the time taken for pruning a tree would often be more than a day and specialists should be on the spot to oversee the work. But private developers are pruning trees on an hourly instead of a daily basis. This shows their sloppy attitude in such matters.

Apart from the lack of relevant laws and professional knowledge, the insular money-minded mentality explains why Hong Kong does not have any comprehensive laws on tree protection. For people who hold such a mentality, it is practically impossible for them to protect a tree and give up a parking space

which can reap a potential profit of hundreds of thousand dollars or even millions of dollars.

Because of such mercenary considerations, some of those so-called champion trees in Hong Kong have met tragic ends in this way. According to Prof JIM Chi-yung of the Department of Geography in the University of Hong Kong, nothing has been done for the 380 trees which have been classified as champion trees by the Urban Council over the past 10 years to compile a brief introduction of these trees to enhance public awareness; and during the same period, as many as one seventh of these trees have become weak or even died because of damage caused to their roots by road works.

In contrast, nearby countries like Singapore and Australia have long since enacted sound laws to protect their trees. In Taiwan there was a case in which a man was fined NT\$50,000 for felling trees in a wood on his property. It can be seen that despite our claims of being a world city, the work done here to protect our trees is far from being world-class.

There is a well-known old-time saying which says that it takes 10 years to grow a tree and 100 years to educate a person. Seen from the severity of the damage done to the trees in Hong Kong, it is doubtful if many people will appreciate the magnitude of the problem. For the protection of trees grown here, the Government should formulate effective administrative measures and laws to this end in order to foster a green and beautiful environment in Hong Kong.

With these remarks, Madam President, I support the original motion moved by Miss CHOY So-yuk.

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

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): Miss CHOY So-yuk, you may now speak on the amendment moved by Mr Martin LEE. You have five minutes.



**MISS CHOY SO-YUK** (in Cantonese): Madam President, on the surface, the amendment moved by Mr Martin LEE does not have anything special, but as for some of the contents, I do have great reservations. He said in the beginning of his speech that there is poor management of trees in the urban areas and trees are vandalized as well. If it is due to these reasons, then of course I would agree that such acts should be condemned and stopped. But the existing legislation on trees has already prohibited vandalism to the trees and so I have not included this point in my original motion. Any vandalism to the trees — and leaving aside vandalism for a moment — even hanging anything on the trunks of trees would be an offence in law. This is precisely where the management problem mentioned by Ms Audrey EU comes in. Therefore, I have not included this point in the original motion. But that does not matter as the law can prohibit such acts.

There is something which I have a stronger opinion and that is the part on "preserve ..... trees outside country parks" in the latter part of the amendment. It is correct to protect trees outside country parks, for all the trees inside country parks are already protected and so there would be no need to enact laws especially for their protection. There would not be any problems even if no additional measures are taken. But the problem in the amendment is with the words "mature trees". This is because if only mature trees are made targets of protection, then in other words, those other trees which are rare, valuable or having major historical or cultural significance or memorial value will not be protected if they are not mature trees. I can give an example off-hand. This is the banyan tree which grows out of rock crevices. I would think that even a small tree should be protected because it is very difficult to grow these trees. If only the mature trees are protected, then what would happen to other trees? This is why I have added the word "especially" in my original motion to include even the young trees. With respect to the above point found in the amendment, I have the greatest reservations.

As for urban woods, I do not have any opinion on that as I have not mentioned urban woods in particular. With respect to the transplanting of trees in the urban woods, this warrants serious consideration. In my opinion, the part on "preserving mature trees" in the amendment is a big problem, so the DAB will abstain from voting on the amendment. I hope Members can realize that we should protect trees of special value, though they may be small.

Thank you, Madam President.

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

(in Cantonese): Madam President, I have to thank the many Members who show their concern for trees. The Hong Kong Special Administration Region Government spares no effort in the protection of trees. Just now, many Members have made reference to various existing ordinances and administrative measures on tree protection in Hong Kong. Before explaining these measures in detail, I would like to share with Members my understanding of trees.

I am no expert like Prof C.Y. JIM. But 30 years ago, I spent two years recording the botanical names of every single tree found on the mountain tops of the territory, sample of these species can still be seen now. However, 30 years passed by, marked changes have taken place. I just want to point out that trees are also living things, and that not every tree can live a long life. Take our favourite tree, *Delonix Regia*, as an example. In my childhood, these trees were found everywhere with red blossoms. But now, many of these trees have grown old, approaching the end of their life. As *Delonix Regia* trees have a relatively short life expectancy, these trees no longer blossom these days and start withering and become feeble. However, this is not because we have not protected them properly. We must believe there is always a reason behind the ecological cycle of nature. We may not be able to protect every valuable or old tree.

Mr Albert CHAN is not here right now. Whenever we have an argument, he will refuse to listen to me. Take the many different kinds of climbers found in the woods as an example. These climbers will absorb the nutrients of the host trees gradually until the trees are twined to death. However, this is nature — Mr Albert CHAN just enters the Chamber — this is part of nature. Should we cut off these climbers to save the tree? I do have some reservations about this. Some climbers do replace an entire primeval forest, just like the ivies in Wu Kau Tang — sorry, I was wrong, it should be Lai Chi Wo — in the territory, which flourish abundantly across the entire site. Nonetheless, these ivies survive the best in that natural habitat, requiring no human attention.

Another issue that sparks off a controversy is whether native trees or foreign trees should be planted. We will find it rather strange if we look at the scene of the mountain tops in Hong Kong a hundred years ago. At that time, trees were seldom found on mountains. In most of the natural environment, only herbaceous perennials and shrubs were found, not tall trees. At that time, the mountains were barren, for many people felled trees for firewood. During

those hundred years, the British Government introduced many different species into the territory. Foreign species may not necessarily be as domineering as *Mikania Micrantha*, but they suit the local environment and thrive. Sometimes, say just after a hill fire in Lantau Island, we wish to plant more trees as soon as possible to minimize soil erosion, so tree species which grow quickly and can fulfil specific functions will be planted. *Acacia* is one of the examples, which has become a common species found everywhere in the territory. The merit of this species is that it grows very fast; it can hold the soil and bring about nitrogen fixation — sorry, I do not know the Chinese translation of this term, but I believe Members do understand what it means — providing nutrients to the soil to facilitate the growth of shrubs at lower levels. If trees are not planted expeditiously, soil erosion will become more serious and tall trees can no longer be planted in that site. In order to prevent soil erosion and landslides, human assistance is rendered in certain aspects. Actually, trees are planted not only out of aesthetic concern or for photosynthesis purpose; trees are planted to perform certain functions, say slope protection which is one of the major tasks undertaken by the Civil Engineering and Development Department.

Therefore, I hope Members will understand that we do not plant trees indiscriminately. Experts seek to enhance people's lives and facilitate the co-existence of different components of society by means of trees and plants, as each living organism performs its own function. Members' views are more than welcome, but I hope that the issue will not be politicized right away, leaving the Government being criticized for spending lavishly on trees plantation. Our colleagues have spent much effort and wits to plant a large number of trees in many country parks and slopes for the appreciation of the public, and these trees are growing healthily. As for native trees like *Cinnamomum Camphora* and *Ficus Microcarpa*, they grow slowly. After the several spates of hill fire in the past few years, it is not possible for us to plant these types of trees for slope protection, nor can we make these trees grow exponentially again. I hope Members will understand that in the process of tree plantation, most experts will consider the local circumstances before deciding which types of trees should be planted.

I would now turn to the relevant legislation. Just now, many Members have queried the effectiveness of existing legislation? It has also been mentioned that a person was arrested and punished for felling trees on private land in Taipei. Actually, the punishment here in Hong Kong is not mild.

According to the Forests and Countryside Ordinance, any person who illegally fells or damages any trees on unleased government land shall be liable to a fine of up to \$25,000 and imprisonment. In the year 2004, though we had followed up 70-odd cases related to illegal felling of trees, seven to eight prosecutions alone were successful. While it is very easy to enact legislation, there is difficulty in arresting persons violating the law. We fail to find witnesses to testify that the person concerned has felled trees illegally, a case comparable to the catching of thugs. Trees are found everywhere, how can we monitor these trees? Despite that, some people have been sentenced to imprisonment, and the punishment in some cases is quite severe, up to several months of imprisonment. Severe punishment is in place under existing legislation, but there is room for improvement in prosecution. I hope that the relevant departments will step up inspection, in particular at black spots of tree felling, and education work.

Regarding the series of administrative means which many Members have mentioned earlier, more stringent contractual terms have been introduced since last June to step up the protection of trees growing in public works sites. For instance, surveys have to be conducted by contractors before the commencement of works to ascertain the number, condition and species of existing trees at the site. Protection measures must be implemented and monitoring report on the condition of trees should be submitted to the relevant departments on a regular basis.

In response to the previous requests made by Members, the Register of Old and Valuable Trees was compiled in last September. On the monitoring of the conditions of trees listed in the Register, the relevant departments, including Leisure and Cultural Services Department and the Agricultural, Fisheries and Conservation Department, will conduct regular assessments of the health condition of trees listed in the Register.

Since the '70s, the Government has included clauses on tree protection in all land leases, and the felling of trees in private land will not be approved without sufficient justification. However, we have to appreciate that in the course of land development, the granting of approval for felling of trees is inevitable. It does not mean that the felling of trees can be precluded upon the enactment of legislation. The point is that a proper procedure should be put in place. We have to evaluate whether the trees to be felled are of good value and irreplaceable, or that they are common species that grow quickly, just like

Acacia mentioned by me earlier. In the course of construction works, trees will be replanted or added to the site.

The number of trees felled every year because of public works has reduced by almost 80%, from 15 000 in 2001 to 3 000 in 2004. In respect of private projects, the number of trees felled because of land development in the past five years has also reduced by up to 75%, from 5 290 in 2001 to 1 230.

Some Members expressed concern for the lack of co-ordination or maladministration caused by the formulation of policies on tree protection by different quarters. In fact, the "integrated management" approach is currently adopted. That is to say, every department has to shoulder its own responsibility in the management and conservation of trees. Actually, the message on greening and tree conservation can be seen filtered down to different departments. These departments have put it into practice through the daily duties discharged instead of acting to order, for they have already made this their responsibility.

Moreover, in 2002, as mentioned by Members earlier, the Government established the Steering Committee on Greening (SCG) to co-ordinate the greening efforts of various departments. We also work vigorously to enhance urban greenery, for we know the public do not want to see Hong Kong being turned into a concrete jungle. Thus, all Policy Bureaux and professional departments have participated in the Steering Committee and collaborated in greening work. In two years' time, we have added 130 hectares of artificial greening area, covering 19% of the urban area, a percentage higher than that of New York (13.5%) and Toyko (6%), but lower than Singapore (23%).

To conclude, I hope Members will understand that the Government will perfect its tree protection measures as far as possible through either administrative means or legislation. Therefore, we would like to avail ourselves of the existing legislation first, to improve enforcement and step up monitoring. Otherwise, the enactment of more legislation will only add to the problem of difficulties in enforcement. Thus, I hope Members will understand that under the existing measures, we are indeed making constant progress and the effectiveness of these measures is tangible. Thank you, Madam President.

**PRESIDENT** (in Cantonese): Members, Mr James TIEN just pressed the button indicating his wish to speak. Since this has happened in past debates which I also allowed the Members concerned to speak, I now allow him to speak. However, after Mr James TIEN has spoken, I will ask the Secretary for the Environment, Transport and Works whether she will speak again.

**MR JAMES TIEN** (in Cantonese): Madam President, Honourable colleagues, I am sorry for not being able to vote as I was not in the Chamber a while ago.

Madam President, there is a point which I would like to mention in particular and that is, if a motion debate has run overtime, normally I would not speak again. But this matter is very important to me and I must talk about it. The reason is that my wife has some special views about plants and trees and she points out to me that protecting the trees is the first task that needs to be done. Today, as I hear Members talk about not felling the trees, it occurs to me that in Repulse Bay, Sai Kung and on the Peak, creepers have done a lot of damage in the past few years. Many Members have also mentioned that *Mikania micrantha* on the Peak has almost covered the entire area. I would like the Government to give serious thoughts to this. The authorities in Shenzhen have found some new ways of eliminating creepers by poisoning and if Hong Kong will try its best to tackle the problem, then the large number of old and beautiful trees on the Peak will not be strangled to death by these creepers. This is because even when it is sunny, the trees will be covered by a carpet of creepers.

Thank you, Madam President.

**PRESIDENT** (in Cantonese): I think I am obliged to say a few words at this juncture. First, after I had given Mr James TIEN the permission to speak, two more Members requested to speak. Second, I hope Members who wish to take part in a motion debate would listen to all the speeches even while they are not in the Chamber. The Secretary has just spoken on the creeper problem and she has given an explanation on it. Dr Raymond HO.

**DR RAYMOND HO** (in Cantonese): Thank you, Madam President, for giving me this chance to speak on this motion. Just now I went with members from

my sector to meet Mr Michael SUEN, Secretary for Housing, Planning and Lands. Though I have run to come back here, I am a bit late. I am sorry about that.

**DR RAYMOND HO:** Madam President, in 2001, I raised an oral question at the Legislative Council on tree-planting in various districts. From the reply of the Secretary for the Environment and Food, I understood that the Government was promoting greening and would continue with its efforts in this area. For example, between 1999 and 2002, the Government had planted around 23.56 million trees in various districts and it had a plan of planting an average of over 10 million trees per year for the next three years. While I appreciate the Government's efforts in improving the environment of Hong Kong, I opine that the Government should take a further step in its greening policy other than simply focusing on the number of trees to be planted. The need for this is reflected by the falling of the main branch of the Wishing Tree during the Lunar New Year.

In the accident, a 62-year-old man and a four-year-old boy were injured. The accident has two implications: first, there has been a lack of protection of the Wishing Tree; second, the lack of maintenance of trees can put people's life in danger. Obviously, the Government is in no position to neglect these two implications and should take some measures to address these problems as well as to apply them to other trees in Hong Kong, especially those of historical, cultural or memorial significance.

As I said before, I raised an oral question on tree-planting in 2002 at the Legislative Council. During the meeting, it was revealed that the responsibilities for issues relating to tree-planting and maintenance were not centralized in one government department, but were held by the departments which undertook tree-planting at sites under their jurisdiction or when carrying out public works projects for which they were responsible. The policy implies that there is a lack of co-ordination in terms of tree-planting and protection, and I believe that it was part of the reason accounting for the snapping off of the main branch of the Wishing Tree. In my opinion, to ensure public safety and proper protection of old and valuable trees, the Government should conduct a review of this policy, especially with the five major departments which play an important role in greening, namely the Highways Department, the Housing Department, the Civil Engineering and Development Department, the Leisure and Cultural Services Department as well as the Agriculture, Fisheries and Conservation Department.

Greening is a popular trend in the world. Trees can improve our living environment and this in turn can attract investment and professionals to come to Hong Kong. As a result, while it is necessary for the Government to determine the number and species of trees to be planted, it is obvious that the Government also needs to ensure that the trees are well protected, otherwise, the greening efforts will become futile.

Madam President, I so submit. Thank you.

**MR LEUNG KWOK-HUNG** (in Cantonese): Madam President, on this question of trees, some Members have made some remarks about the Wishing Tree to the following effect: "How pitiful is the condition of humans as we ponder over the miserable fate of trees." I think we should change the order of the words in the remark to "How pitiful is the condition of trees as we ponder over the miserable fate of humans." Though being plants, trees can grow. Only that they cannot tell people what they feel, that they are painful or not to treat them that way. So the way in which a society treats plants and animals is indicative of how it will treat its people. We feel very sorry to see the condition of the Wishing Tree and this is in fact a result of sentimental media reports, that the Wishing Tree has been there for a long time and that it is valuable because wishes made on it will come true, and so on. Those who believe in the magic of this tree, be they religious or superstitious people, are treating it as something more than a tree. They are venerating it like a buddha.

The way in which our society treats the environment will determine the way our Government will view such matters. If it is asked whether or not the Government has done any greening work, the answer is yes. I know some people who are workers hired by the Government to plant trees on Lantau Island. They toil every day. The trees they plant are mostly at the foothills rather than on the mountains. This is because it is a chore to walk all the way up the mountain with the saplings on their backs. And their supervisors do not encourage them to do this either. So all the trees are planted at the foothills. Some problems then arise because trees are grown intensively at the foothills but there are not many trees on the mountains. These workers also tell me that they must make sure that the trees grow big and strong so that a kind of impressive effect can be produced, the kind of view one gets with lush vegetation and towering trees. They must make sure that the trees will grow fast and form a



shade. Actually, some of these trees do not grow so well in Hong Kong or some of the trees may not acclimatize to the local conditions or the cold winter here. Therefore, planting trees recklessly will only backfire, that is, while it will produce greenery it will affect our natural ecology.

Of course, I am a layman with respect to trees. When I talked with these workers, they wanted me to tell the officials what they thought when I should meet the heads of departments someday. Actually, I do not like having anything to do with the heads of departments. Therefore, I decided to make use of this debate and speak out what they think. Are there such things? I think there are. I also think many green groups in Hong Kong will say such things. If I am wrong about it, I would of course apologize. It is not difficult for me to offer my apology anyway. But it is very important that improvements can be made.

There is one more thing I wish to talk about. Whenever we see an old tree, we would think that it should be preserved. This is correct because it is very difficult to preserve an old tree. However, have we ever thought about other trees, such as the creepers which cling onto other trees that Mr James TIEN has talked about? Are creepers not plants? These creepers are plants and they can also look nice as well, but why are they not considered plants? What we are doing is imposing our value judgement onto plants and we would only regard the plants we like as plants. This is how problems come about in our society. People will not protect trees grown in public because they are not interested, unless they have a car and they can drive it to watch these trees in the countryside. Many people in fact are racking their brains on plants. The rich may develop a fancy in landscaping and they will put the plants they like in their gardens. Of course, a garden is hopelessly beyond my dreams. However, for those people with a huge home, they will think of putting plants there. They will say that they are plant-lovers and tree-lovers. But regretfully that is something not to be commended.

The Government is doing exactly the same. Ever since the reunification, the SAR has always been acting on data and nothing but data alone. For example, there are data on the number of trees planted and how they grow. But the Government does not mention the number of trees damaged. There is no detailed database on trees. Now since there are things like an electronic pricing system for roads, can we not have an electronic system for trees? That is to say, the kind of thing which will display the green areas like the colour of Mr

WONG Kwok-hing's jacket at the press of a button. But this system is not yet available. Then how are we to protect the trees? This is the first point. Now the second point. We can see that the Government has spent a lot of money to design some tourist attractions, but none of these projects attach much importance to greening. They are just concerned about fun and hope that tourists can be attracted. This is putting the cart before the horse. I think that insofar as greening is concerned, we cannot rely on data alone.

This motion mentions the protection of old trees. This point is not correct. For if other kinds of trees are not included, why should old trees be singled out and given protection? Are we going to organize an exhibition and say that we have protected a few old trees? So if the conviction that trees form an inextricable part of our environment does not find a place in the collective consciousness of the people of Hong Kong and hence we should be friendly with the trees, I will not see the point of how protecting a few old trees can make our environment any better. Such a mentality will not change the belief that spending a lot of money on landscaping, such as buying a pot of tangerine tree and place it in our home would make us think that we are patrons of plants. Thank you.

**PRESIDENT** (in Cantonese): Secretary for the Environment, Transport and Works, would you like to reply again?

**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS**  
(in Cantonese): No, thanks.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the amendment, moved by Mr Martin LEE to Miss CHOY So-yuk's motion, be passed. Will those in favour please raise their hands?

(Miss CHOY So-yuk put up her speech draft)

**PRESIDENT** (in Cantonese): Miss CHOY, what is the matter? You should rise to speak.

**MISS CHOY SO-YUK** (in Cantonese): Madam President, I have not replied yet.

**PRESIDENT** (in Cantonese): We are now voting on the amendment.

**MISS CHOY SO-YUK** (in Cantonese): The amendment? I am sorry.

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

(Members raised their hands)

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

(No hands raised)

Miss CHOY So-yuk rose to claim a division.

**PRESIDENT** (in Cantonese): Are you claiming a division? Miss CHOY So-yuk has claimed a division. The division bell will ring for three minutes, after which the division will start.

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

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

Functional Constituencies:

Mr SIN Chung-kai, Ms LI Fung-ying, Mr WONG Kwok-hing, Dr Joseph LEE, Dr Fernando CHEUNG and Mr KWONG Chi-kin voted for the amendment.

Dr Raymond HO, Dr LUI Ming-wah, Mr WONG Yung-kan, Mr Howard YOUNG, Ms Miriam LAU, Mr Timothy FOK, Mr Abraham SHEK, Mr Daniel LAM, Mr Jeffrey LAM and Mr CHIM Pui-chung abstained.

**Geographical Constituencies:**

Mr Albert HO, Mr Martin LEE, Mr Fred LI, Mr James TO, Miss CHAN Yuen-han, Dr YEUNG Sum, Mr Andrew CHENG, Ms Audrey EU, Mr LEE Wing-tat and Mr LEUNG Kwok-hung voted for the amendment.

Mr James TIEN, Mrs Selina CHOW, Mr CHAN Kam-lam, Mr Jasper TSANG, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr TAM Yiu-chung, Mr LI Kwok-ying and Mr MA Lik abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 16 were present, six were in favour of the amendment and 10 abstained; while among the Members returned by geographical constituencies through direct elections, 20 were present, 10 were in favour of the amendment and nine abstained. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negated.

**PRESIDENT** (in Cantonese): Miss CHOY So-yuk, you may now reply and you have two minutes 30 seconds.

**MISS CHOY SO-YUK** (in Cantonese): Madam President, I can hardly wait to speak because I am really quite disappointed with what the Secretary said earlier, especially as the Secretary started out as an environmentalist. The Secretary put forth many arguments earlier, saying that it is unnecessary for the Government to enact legislation or take further measures to protect trees.

I am concerned mainly about the lawful ways. Let me cite the example used by Mr Howard YOUNG, an example of passing a death sentence lawfully. The Government lawfully sentences tens of thousands of trees to death every year, and it has never ceased to pass death sentences on trees. Mr Howard YOUNG mentioned earlier that some trees were murdered but the murderers could never be arrested. Some people said that trees, like human beings, will die eventually and so, how can we ensure that they can grow healthily forever? I am not referring to these trees. What I am saying here is that the Government has officially sentenced trees to death just because the Government, for no reason at all, feels that the trees are not pleasant to the eyes, that they have occupied too much space or that it is useless to further spend money saving trees that are already unhealthy. This is why I urge the Government to look at trees that are particularly large and old.

Here, I must respond to Mr LEUNG Kwok-hung. I do not mean all the trees. I hope Mr LEUNG could read clearly the contents of my motion before he spoke. I am not talking about old and valuable trees only. But I hope the Government can specifically enact legislation on old and valuable trees. As for the other trees, we hope that the Government can preserve them by various means. More importantly, with regard to the management and protection of trees, the Government must better and improve the entire administrative framework, with a view to preserving trees that can be preserved as far as possible. As regards some special trees, I hope that they will not be felled unless in some very special circumstances. But even now, the Secretary has been saying the same things in her response. Over the past four years, the incumbent Secretary has made remarks that are entirely the same as those made by the former Secretary. I do not wish to see that our colleagues will have to propose this again for another motion debate after waiting for two or three years.

I hope the Government can make improvement.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by Miss CHOY So-yuk, as set out on the Agenda, be passed.

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

(Members raised their hands)

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

(No hands raised)

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

**PRESIDENT** (in Cantonese): Second motion: Policy on assisting women in poverty.

### **POLICY ON ASSISTING WOMEN IN POVERTY**

**MISS CHAN YUEN-HAN** (in Cantonese): Madam President, Hong Kong is often referred to as a prosperous city, an international financial centre marked by high efficiency and dynamism. However, at the same time, several hundred thousand women in this very city are unable to make ends meet, having to live under unbearable pressure every day.

Yesterday, the Hong Kong Council of Social Service and Oxfam Hong Kong released the findings of their analyses and studies on women in poverty and the employment situation of women. According to their findings, there was an increase in the number of non-skilled women workers from 390 000 in 1996 to 560 000 in 2002, representing a rise of 43%. The median income of low-skilled women workers is just \$3,700, meaning that some of these women workers earn less than \$3,700 a month, or just half of the monthly income of non-skilled male workers. This is an accurate description of the current situation in Hong Kong.

(THE PRESIDENT'S DEPUTY, MS MIRIAM LAU, took the Chair)

Honourables colleagues, I wish to tell you a story. Recently, I have been in touch with some non-profit-making organizations and they have told me the

story of a single mother. I have actually heard many similar stories, but today, I must tell this particular story to Members. This single mother has two daughters, one of whom is less than 10 and still in primary school. The other daughter is almost 20 but has not completed Secondary Five. This family of three lives in great poverty, but the mother, who is the breadwinner of the family, very much hopes to put her elder daughter through secondary school and at the same time spare more time for her nine-year-old little daughter. Therefore, she wants to apply for CSSA. So, she went to apply for CSSA with her two daughters. But the social security officer responsible for handling her application simply questioned her why she still wanted to apply for CSSA, now that her elder daughter was as old as 20 and should find a job. Many of the Members present here today are themselves parents. Given the very fierce competition in society nowadays, they will probably also want their children to receive more education, so that they can be more competitive in society. But this single mother was angered so much by such derision that she immediately left the Social Welfare Department with her two daughters. She then searched far and wide for a job, asking for her friends' referrals. In the end, she managed to find one. She is now employed by a fast food restaurant owner who still wants to take her on although he knows that she is a single mother with two daughters. She is employed as a menial and has to work roughly 16 hours a day. But she has no objection and wants to take this job because she thinks that the salary can enable her to put her elder daughter through school and maintain her little daughter. Her employer is very mean and harsh and only gives her two days off a month. And, every time she has a holiday, she must return to the restaurant very early in the morning to clean up the whole place, so that when her employer opens for business, everything can be neat and clean. In order to keep this job, this mother must work 16 hours a day, with just two days off a month, and every time she has a holiday, she must clean up the whole place beforehand. Honourable colleagues, this is how the mother in question is being treated in our advanced city, one which appears to be so full of dynamism: 16 hours a day for a salary which is just enough to feed her two daughters.

According to the survey findings released by Oxfam Hong Kong yesterday, the number of women having to work more than 60 hours a week accounts for one quarter of the total female population in Hong Kong, amounting to 340 000 in other words. The single mother I have talked about is one of them. The per capita income in Hong Kong is currently more than US\$20,000. Why does our society still tolerate such exploitation of women? This story can aptly depict the situation of these 300 000 or so Hong Kong women. The need to fend for the

family, the lack of any academic qualifications, their obsolete skills and the absence of any rightful protection have turned them into a synonym of poverty.

We often think that poverty is merely a reflection of class distinction. But little do we realize that men and women are unequal in respect of access to social resources. From the relevant literature of the United Nations, we can find the concept of "feminization of poverty". This very concept can aptly sum up the deplorable and deteriorating social environment in which women nowadays are living. "Feminization of poverty" can be seen in three aspects: First, a greater number of women than men in the impoverished population, with the former being more susceptible to falling into poverty; second, a worldwide increase in the number of households headed by women, which are generally poorer than those headed by men; third, poverty as a vicious cycle, in the sense that once women are plunged into poverty by various social factors, it will be rather difficult for them to extricate themselves from the vicious cycle. Unless a generally satisfactory social security scheme and an affirmative action plan are available to help a poor woman extricate herself from poverty, she will surely continue to be caught in poverty and not only this, her children will also remain poor due to the lack of any social support.

I have told one story, but there are some 300 000 similar ones. There are many similar stories, the protagonists of which I may or may not know personally. Given the current situation, not only these women, but also their children, will continue to suffer poverty. Women in poverty have already become the forgotten ones in our society, having no support, no way out and no assistance at all. Madam Deputy, you are a woman and so am I, but simply because of their gender, women are labelled as homemakers, having to put up with various kinds of unfair treatment in society and do jobs that offer them no protection at all. However hard they work, they can at most struggle for survival at the lower strata of society, with absolutely no chance of extricating themselves from poverty.

Why are more and more women being plunged into poverty? In a recent survey, the Hong Kong Federation of Trade Unions (FTU) has put forward several possible reasons. One of the major reasons is that Hong Kong as a society has never recognized the value of women as carers. A woman is poor for the simple reason that she is a carer. According to the survey findings of the FTU, some 60% of the women in Hong Kong have had to accept jobs with lower salaries because they have to look after their families. Owing to the social thinking that "men should work and women stay home", women must inevitably



become homemakers. They must love their families and show total and selfless dedication to their marriages. Women do not actually reject such a role, but it must be pointed out as carers, we are paid no salaries for our contribution, and we are accorded no recognition in the labour market, not to mention any retirement protection. What do women get in return for the time and hard work they dedicated to their families? The lucky ones may receive words of gratitude from other family members in return, and their children may work hard to repay them. My mother is one of those lucky ones. But many others are just not as lucky, and they do not enjoy any livelihood protection at all. If their children are poor, or if they are abandoned by their husbands, then, very honestly, they may be even more miserable than Dae Jang Geum. I can tell from the many cases I have handled that divorce will often plunge a woman into the abyss of misery. If a woman's ex-husband refuses to take any responsibility and her children also ignore her, she may even become homeless. In some cases, the husband may even abandon his children, thus making it necessary for the wife to bring along her children to seek help from my office. These women are not financially independent, so they will often face total desperation and may quickly fall into poverty as a result. A woman may now have a loving husband and a happy family, enjoying the comfort of a middle-class life, but if she is not financially independent, then the infidelity of her husband or any family disasters may well drive her into total desperation overnight. I have seen many such cases since I first became a Member 10 years ago.

However, Madam Deputy, we also notice a very interesting phenomenon in society. In our society, women are looked at in a very special way. It is generally held in society that women are dependent on men, and their incomes are just "cosmetics expenses", at best a supplement to the family income. Some even think that women who are supported by their husbands are especially choosy about their jobs. These people do not realize that a great majority of the 1 million or so manufacturing workers in Hong Kong are women. Following the northward shift of production lines, the skills possessed by these women workers have become obsolete, so they simply cannot find any jobs.

During some of the seminars we held in the 1980s and 1990s, some women said to me (I can remember that I once told of this in the Legislative Council), "There isn't anything so special about women like you, Emily LAU and Selina. You are just as old as we are." Madam Deputy, this remark really reminded me of the great challenge before me. We have never considered ourselves special in any way. We have just been trying to speak for the

different walks of life in this legislature. But we can nonetheless feel their strong discontent. All these women workers, who used to get on so well at the height of the manufacturing industries, earning as much as \$10,000 for half a pay cycle, or \$20,000 for a complete pay cycle, suddenly realize that their skills have become obsolete. Should they be blamed for not wanting to work? No, they do want to work, only that no one in society is prepared to take them on. That is why when we say that they can always depend on their husbands, they will invariably grumble. The fact is that once they encounter any misfortunes, they will be plunged right away into the abyss of absolute poverty. So when we discuss the problems faced by women nowadays, we must not always say that they can depend on their husbands, and that their incomes are just "cosmetics expenses". These perceptions are wrong, I must say. This is the situation not only in Hong Kong but also in the rest of the world. And, it is precisely because of such a situation that the United Nations Organization has been discussing the "feminization of poverty" for almost 10 years.

Madam Deputy, unequal pay for work of equal value is another reason for the poverty problem faced by women. From a report of the Census and Statistics Department, we know that in the last quarter of 2004, the median wage of men was \$11,000, while that of women was just \$7,800, meaning that there was a difference of almost 30%, or \$3,200. The difference is even greater in the case of non-skilled workers: for men, the average monthly income was \$6,800, and for women, as I mentioned earlier on, it was just \$3,700. All these are the statistics compiled by the Government, not Oxfam Hong Kong or the Hong Kong Council of Social Service. The difference was as big as 47% in the latter case. Men who have never received any education or who were just educated up to the kindergarten level could earn an average of \$6,800 a month. But how about their female counterparts? Very low indeed. Madam Deputy, these statistics can illustrate the problem of unequal pay for work of equal value encountered by women. In our society, there is the complete absence of any measures to ensure equal pay for work of equal value. There is admittedly a reference to this in the Sex Discrimination Ordinance enforced by the Equal Opportunities Commission, but are there any measures on specific enforcement? What are the specifics? There is hence a very great problem, and it is precisely the challenge the Government must face up to. If the situation continues, gender inequality will only become more serious. And, since people at the lower strata of society lack bargaining power, the exploitation of grass-roots women will only get more acute. These women do not have any academic

qualifications and they have to look after their families at the same time, so in the end they will only be left to the mercies of others.

I hope Members can realize that women's poverty is not just a personal problem. Our society is partly responsible as well. I therefore urge the Government to discharge its social obligation by showing care for the people and formulating a policy on assisting women in poverty. As for what specific policies should be put in place, I shall leave them to the other two Members belonging to the FTU, Mr WONG Kwok-hing and Mr KWONG Chi-kin.

Madam Deputy, all of us, the three Members belonging to the FTU, will support the two amendments despite the fact that one of them seeks to delete the term "feminization of poverty". I suppose this can actually illustrate the different views in society about this topic. As a matter of fact, this term has been adopted extensively by NGOs in Taiwan and other places, and the United Nations has also been using it for more than 10 years. Therefore, I hope that we can all accurately perceive this commonly-adopted terminology as the depiction of a social problem, so that the feminization of poverty can attract the concern of Members.

Finally, I wish to sum up my speech today with this remark: How can we perpetuate Hong Kong as a society when the poor are in the majority and the rich in the minority?

Thank you, Madam Deputy.

**Miss CHAN Yuen-han moved the following motion: (Translation)**

"That, as the problem of poverty among women in Hong Kong is worsening, this Council urges the Government to face up to the feminization of poverty and formulate concrete policies and measures in various policy areas to assist the women in poverty."

**DEPUTY PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by Miss CHAN Yuen-han be passed.

**DEPUTY PRESIDENT** (in Cantonese): Mr Albert HO and Mr LEE Cheuk-yan will move amendments to this motion respectively. Their amendments have been printed on the Agenda. The motion and the two amendments will now be debated together in a joint debate.

I will call upon Mr Albert HO to speak first, to be followed by Mr LEE Cheuk-yan; but no amendments are to be moved at this stage.

**MR ALBERT HO** (in Cantonese): Madam Deputy, the United Nations Committee on Economic, Social and Cultural Rights (the Committee) will consider the implementation of the International Covenant on Economic, Social and Cultural Rights (ICESCR) in Hong Kong this month. The last occasion that the Committee considered the implementation of ICESCR in Hong Kong was 2001. On that occasion, the Committee proposed a number of areas of concern in its Report and many of them are related to women's rights. Unfortunately, over the past few years, no obvious improvement has been seen insofar as these areas are concerned.

Concerning the problem of women in poverty, the Women's Commission should be one of the bodies that has the most direct and greatest bearing on it. Unfortunately, we believe that the work of the Women's Commission in this area offers little to write home about. The three priorities set by the Women's Commission are gender mainstreaming, women empowerment and public education, but the work relating to the problem of women in poverty is minimal. In addition, the idea of gender mainstreaming has not been incorporated into the agenda of helping the poor.

Even if the Women's Commission places the emphasis of its work on the problem of women in poverty, it can hardly be seen what it has achieved. As pointed out by the Committee in its Report, the Women's Commission may not have the appropriate resources and powers to ensure that a gender perspective is incorporated into the formulation of policy. Therefore, the Committee urged the SAR Government to provide the Women's Commission with sufficient powers and resources to improve the status of women in Hong Kong.

When the Government established the Women's Commission in 2001, it had little sincerity in doing so. The major reason that the Government

established the Women's Commission was probably that in 1999, the United Nations Committee for the Elimination of Discrimination Against Women recommend that a high-level central organization with appropriate powers and resources be established in Hong Kong to draft and co-ordinate a policy and long-term strategy focusing on women, so as to ensure the effective implementation of the Convention on the Elimination of All Forms of Discrimination Against Women. However, the Women's Commission is a far cry from the central organization recommended by the United Nations.

The Women's Commission does not have any real power in directing or co-ordinating various government departments. Basically, it is only an advisory body. Furthermore, the Women's Commission is subsumed under the Health, Welfare and Food Bureau instead of being under the charge of the Chief Executive or the Chief Secretary for Administration and one of its members is the Secretary for Health, Welfare and Food. Organization-wise, it is not in a position to co-ordinate other government departments. As a result, the Women's Commission can only carry out such work as consultation, liaison, education and publicity. This is a far cry from the requirement of the United Nations, which is to make it take charge of co-ordinating a policy and strategy on women.

Precisely because of a lack of an overseeing organization that co-ordinates a policy focusing on women, the Government often neglects the gender perspective. Although the Women's Commission has proposed the concept of gender mainstreaming in recent years and hopes that the gender perspective can be incorporated into the formulation of legislation, policies and measures, it has no actual power to ensure that the policies formulated by various departments must take the gender perspective into consideration. When the Government tables bills to the Legislative Council, it will assess their implications on human rights and government finance, however, no assessment on the effect of the bills on gender equality is carried out.

Take the Commission on Poverty as an example, the problem of women in poverty has all along been neglected. Even on single-parent families, the focus of concern is on how to avoid inter-generational poverty and only the problem of children in poverty was brought up for discussion, whereas the problem of poverty encountered by mothers was overlooked.

The major causes of poverty among women involve many profound social and cultural factors. Age discrimination, unequal pay for work of equal value

and the lack of recognition on the contribution made by housewives are all factors contributing to poverty among women.

In addition, age discrimination is also a problem confronting many middle-aged and low-skilled women. In the fourth quarter of last year, the overall unemployment rate of women was 5.6%, which was lower than the 7% for men. However, in the age group of 40 to 49 years, the unemployment rate of women was 6.5%, which is higher than the 6.1% for men. Age discrimination has reduced the opportunity of middle-aged women in entering the labour market. Even if they manage to find a job, many of them can only take low-pay odd jobs.

The Committee has already expressed concern for the failure of Hong Kong to legislate against age discrimination in 2001 and urged the SAR to prohibit this type of discrimination. However, the Government refused to enact legislation on the grounds that employers and members of the public considered it adequate to deal with age discrimination through education.

Another factor that affects the financial circumstances of women is unequal pay for work of equal value. Equal pay for work of equal value is different from equal pay for equal work. Equal pay for equal work means that male and female employees get the same pay if they work in the same position. Equal pay for work of equal value means that if the requirements of a job taken up by a woman are the same as another that is taken up by a man, then even if the two jobs are different, the woman should be entitled to the same salary and benefits as the man. That is to say, people doing work of equal value should get equal pay.

Since there is an established view on the role that women should play, it is very difficult for women to get many types of jobs that are dominated by men. Take jobs in the information technology industry, which are better paid, as an example, there are less women working in the industry. Social and cultural factors stream men and women to different trades. Occupations with a greater concentration of women are often poorly paid. The same situation can also be observed in Hong Kong.

The Committee urged the SAR to enact legislation on equal pay for work of equal value. However, the Government maintains that it is necessary to study carefully the effects of implementing equal pay for work of equal value on

employers. In this connection, we believe that the Government has to put this recommendation into practice as soon as possible.

In addition, we also have to mention the lack of a universal pension scheme, which is the main reason that many elderly women are now mired in poverty. Over 80% of the working population with a monthly income of less than \$4,000 are women. Together with about 760 000 housewives, whose labour in homemaking is not recognized, these women all receive no retirement protection. If no improvement is made to the existing Mandatory Provident Fund (MPF) schemes, then the problem of elderly women living in poverty will persist. Of course, there are also many shortcomings in the MPF System.

The Committee also urged the SAR to adopt a comprehensive pension system that provides adequate requirement protection to the entire population and in particular, to housewives. The response of the Government, it turned out, was that the existing MPF schemes, CSSA and Old Age Allowance had already provided adequate protection.

Madam Deputy, the problem of women in poverty is the result of many profound social, cultural or institutional factors. To make improvements to these problems involving poverty, it is inadequate to just resort to the CSSA, child care services or retraining programmes. Many measures are called for in ameliorating the problem of women in poverty. Today, Mr LEE Cheuk-yan has also proposed an amendment, which serves to enrich the motion moved by Miss CHAN Yuen-han today. What I have proposed in the amendment are measures on which a consensus has been reached in the international community and which we should all be concerned about and put into practice. In the middle of this month, a number of government officials will go to Geneva to take part in the consideration of the report on the implementation of ICESCR. It seems that the Government has failed to deliver on many of the recommendations made by the Committee several years ago. As a Hong Kong believer, I feel ashamed about this too. I hope Honourable colleagues and the Administration can seriously consider accepting the various recommendations made by the Committee and implement them fully in Hong Kong as soon as possible.

With these remarks, I seek to propose my amendment.

**MR LEE CHEUK-YAN** (in Cantonese): Madam Deputy, I am glad that Miss CHAN Yuen-han has moved the motion today. Since the Government has set up the Commission on Poverty, everybody is now watching, trying to find out what the Government is going to do. But it seems that so far, while much has been said, very little has been done, and the policy address actually accords more treatment to the eradication of inter-generational poverty than anything else. Maybe, the Government thinks that attempts to help children in poverty will be better able to please and pacify society. But I must say that instead of just trying to please society, the Government must make genuine attempts to solve problems. For this reason, we must make the Government realize that it will never work to detach children from their families, to look at them in isolation. When trying to alleviate poverty, we must never pay sole attention to children, forgetting all about their mothers. If we do so, we will never succeed in alleviating poverty. If we are to alleviate poverty, we must look at the family as an integrated whole. But since the motion today is about the feminization of poverty, I shall focus on women accordingly. In many families, the poverty problem faced by women is all the time deteriorating. But the Government has been turning a blind eye to this problem, failing to step in actively by implementing any measures. It has done absolutely nothing in this respect.

Why do I say that women's poverty is getting worse? We may look at some statistics. Let us adopt the poverty line commonly drawn in developing countries, that is, let us define a poor family as one earning a per capita household income lower than half of the overall median per capita household income. Having done so, we may conduct our analysis using the statistics from the Census and Statistics Department. We can then see that during the period from 1997 to 2003, the number of poor people in Hong Kong was around 1.2 million and 1.3 million, with the poverty rate somewhere between 18% and 20%. But it is worth noting that there was a greater proportion of women than men in the poor population, the difference being 30 000 to 40 000. And, the poverty rate of women was thus higher than that of men by 0.5%. And, if we care to put the statistics under a magnifier, we will notice that the poverty rate of middle-aged women has always been markedly higher than that of middle-aged men. For example, in the past few years, women aged between 30 and 49 years who were in poverty outnumbered their male counterparts by as many as 40 000. The poverty rate of women in this age bracket was also higher than that of men by two to three percentage points — two to three percentage points already



constitute a very substantial difference. We can thus see that women have had to face a particularly serious poverty problem because of their gender.

In addition, the number of women CSSA recipients has also shown a drastic increase in recent years, soaring from 110 000 in 1996 to 270 000 in 2003 at a rate of 150%. This shows precisely the increasing gravity of the problem of women in poverty. People may well argue that there was at the same time an overall increase in the number of CSSA recipients in Hong Kong. But it should be pointed out that the rate of increase for men was just 120%. The rate of increase for women was thus much more drastic. But why is the poverty problem particularly serious among women? Actually, to get a better idea, we should first look at the labour participation rates of Hong Kong women. The labour participation rate for women aged between 20 and 29 years is 67.3%, and that for those aged between 30 and 39 years is 65.9%. The rate for women aged 40 years or above is even as low as 37.1%. This last labour participation rate is clearly very low when compared with the rate of more than 90% for married men. The overall labour participation rate for women in Hong Kong is just 52.3%, which is far lower than the corresponding rates in many advanced countries or even those countries at a comparable stage of development as that of Hong Kong.

What do all these statistics tell us? They tell us that in Hong Kong, "men should work and women stay home" is still the dominant thinking. Given such a mentality, women often have to forego their jobs and careers in order to look after their families. This has produced two major consequences. To begin with, women often have to call a halt to their career development, and as a result, their incomes, accumulation of experience and promotion prospects are all adversely affected. Even if they work extra hard, as hard as Dae Jang Geum, persevering in spite of difficulties, they may still fail to regain the lost ground. Second, the financial independence of women will also be weakened, making it necessary for them to depend on their husbands. Apart from affecting the power relationship between the man and the woman in a family, such financial dependency will also drive a woman into helplessness and desperation when marital problems emerge. And, there is also another aspect to women's poverty, one which is not usually visible. According to some studies, the distribution of resources within a family is often unfair, and how resources are distributed is most of the time determined by the power relationship between the genders and their respective stereotyped roles. The poverty of full-time homemakers is often neglected because there is always the misconception that they are being well provided for by their husbands. But the point is that even

when they scrimp and save, their only purpose is just to save money for their families. They themselves are instead neglected. This is the invisible aspect to women's poverty.

My purpose of proposing the amendment today is to urge the Government, or the Commission on Poverty, to formulate policies that can truly solve the problem.

First, the Government must set a minimum wage level as a specific solution to women's poverty. In recent years, the number of non-skilled and low-qualification women has been constantly increasing, rising from some 390 000 in 1996 to 560 000 or so in the past few years. More and more low-skilled women workers are thus looking for jobs in society, and their wages are incessantly depressed. Without a minimum wage, the exploitation of these women will only continue. How then can we solve the problem of women in poverty?

Second, I very much hope that the Government can implement the concept of equal pay for work of equal value. I must remind the Government that it has been 10 years since the enactment of the Sex Discrimination Ordinance, but so far no framework whatsoever has been set up to put this concept into practice. What framework am I talking about? The implementation of this concept requires much more than the mere enactment of legislation. Many assessments, known in the human resources sector as job evaluations, must be conducted. It is only with such a framework that we can compare the jobs of men and women. Without this framework, no comparison will ever be possible. And, what will be the result if no comparison can be made? One thing which is very clear now is the huge wage differences between men and women. A male attendant, for example, can earn some \$8,600 a month, but what his female counterpart can each earn is 20% less, or just \$7,100. The wage of a waiter is about \$8,200, but that of a waitress is just around \$7,400. Furthermore, a male security guard can earn some \$7,300 a month, but a female one can only get \$6,600 or so. It is therefore very clear that in the case of all these occupations, the wages of women are invariably lower than those of men. As long as the concept of equal pay for work of equal value is not truly implemented, the wages of women will continue to remain low. And, despite its avowed objective of promoting the concept, the Sex Discrimination Ordinance will only remain a hollow piece of law, upholding an empty policy. We therefore very much hope that the Government can establish a framework for the implementation of equal pay for work of equal value.

Third, I wish to talk about vocational training. Since I am running out of time, I am not going to say too much. The Government has certainly made more efforts in this respect, so I have fewer criticisms to make.

The fourth point is about the development of community economy. I hope that the Government can reconsider whether it is possible to give women more room for development at the community level. For example, is it possible to offer them any rental concessions? Can the Government encourage the establishment of more employment co-operatives? Is it possible to accord priority to employment co-operatives for women in some government projects or tenders? Can any venues be reserved for the operation of employment co-operatives for women? Can there be any policy in support? Can any co-ordination framework be set up at the central level or the community level to assist women, for example?

My amendment also mentions the need to strengthen the support for single-parent families. It is obvious that the inadequacy of such support is a major reason for women's poverty. There are many things the Government can do: assisting single mothers in recovering maintenance in arrears, improving the CSSA policy and facilitating the allocation of public housing flats to them. Under the existing CSSA policy, there is a requirement that even if a newly-arrived citizen is a single mother, she must still wait seven years before she can apply for CSSA. I think the Government must review this requirement immediately.

The last point I wish to discuss is about universal retirement protection. It must be pointed out that the existing MPF schemes are totally unable to help housewives. In the case of many women, even if they do not stay home as housewives for their whole life, they will still have to do so for a considerable period sometime in their life. As a result, they will surely have very little savings when they reach old age. If MPF schemes cannot offer them any security in old age, they will have to live on CSSA and the "fruit grant" after their retirement. This will ultimately lead to the problem of impoverishment. If there are no MPFs for them, and if the Government also refuses to introduce any retirement schemes for them, it will never be possible to solve the problem of poverty faced by women in their old age.

Finally, on behalf of the Hong Kong Confederation of Trade Unions, I wish to express support for Mr Albert HO's amendment, especially the part on

age discrimination. And, I must also express out disappointment with the Women's Commission. I often wonder whether this Commission is nothing but just an embellishment. This year, the Commission will focus on women's safety, nurturing of a caring family, and gender awareness. The poverty problem, which affects women most seriously, is not included in its agenda, so there seems to be a detachment from the social reality. How can the Women's Commission completely ignore the poverty problem? The greatest problem faced by women is poverty, but the Women's Commission simply turns a blind eye to it. I can only say that this is absurd. I am also very disappointed by the Chairperson of the Women's Commission, for she even refused to accept a letter from us. Women organizations are really very disappointed to find that even the Chairperson of the Commission has refused to accept their letter. Why has she refused to do so? I hope that the Women's Commission can review this. Thank you, Madam Deputy.

**MR WONG KWOK-HING** (in Cantonese): Madam Deputy, Miss CHAN Yuen-han's original motion is the first of its kind in the Legislative Council, a motion that urges the Government to squarely address the feminization of poverty. The feminization of poverty is in fact a feature of the poverty problem in modern societies. What Miss CHAN Yuen-han has said can show that the problem of women in poverty is becoming increasingly serious, and it is especially easy for single mothers and retired women to fall into poverty. I shall concentrate on this in my speech.

According to a thematic report on the 2001 Census, the number of single mothers had increased by nearly one fold, from 23 059 in 1991 to 45 072. Besides, the sex ratio of single parents (that is, the number of single fathers as opposed to 1 000 single mothers) dropped substantially from 498 in 1991 to 297 in 2001, representing that single mothers far outnumbered their male counterparts. Single fathers generally had a higher median monthly income from all employment than single mothers. In 2001, there was a difference of 31.1% between their respective median monthly incomes. Also, nearly half (47.5%) of single mothers were engaged as service workers and shop sales persons or in non-skilled occupations which offer lower wages.

Single mothers are more likely to fall into poverty because their earning power is comparatively low. Many single mothers used to spend all their time on caring for their families after marriage; they are detached from the labour

market and thus less competitive. Owing to their lack of working experience, they encounter huge difficulties in securing any employment. Even if they are lucky, they can only work such jobs as cleaning workers or supermarket cashiers, earning comparatively low wages. It is very difficult for them to find any jobs with better wages.

Single mothers aside, women in general also face similar difficulties. Earlier on, the Women's Committee under the Hong Kong Federation of Trade Unions (FTU) conducted a survey on the living standards of Hong Kong women. According to the findings, 20% of the 1 132 working women aged 20 years or above who were covered by the survey earned less than \$5,000 a month, which is roughly 50% lower than the current median wage. Their bargaining power is low and many scrupulous employers are quick to suppress their wages, so these women often have to work long hours for very low incomes.

Apart from low incomes, the survey also discovered that 56% of the respondents were engaged as part-time, daily-rated or casual workers because they had to spend time looking after their children and families. "Men should work and women stay home" is an age-old concept held by many in society; as a result, women are naturally expected to shoulder the responsibility of looking after their families and children. If they work full-time, in which case they will have to work longer hours, they will certainly find it difficult to spare any time for their families. In the case of single mothers, this is an especially serious problem, because they have to look after their children and fend for their families all on their own. According to the relevant thematic report on the 2001 Census, most dependent children (79%) lived with their single mothers, and only 21% of them lived with their single fathers.

Since the employment relationship in the case of part-time, daily-rated and casual workers is not so stable, financial problems are more common among these women, and they are under immense pressure as a result. For fear of losing their jobs, they have to put up with various unfair treatment. Besides, even if they want to add to their value and upgrade their competitiveness, they are unable to do so due to the lack of means and time. Consequently, they are forced to make do with their meagre incomes, forever struggling for survival on the verge of poverty. As pointed out in a United Nations survey, they can never extricate themselves from the poverty cycle.

In order to alleviate women's poverty, the Government should prescribe a minimum wage and a standard number of maximum working hours, in addition

to assisting them in getting reasonable wages and spending time on looking after their families and pursuing further studies. Moreover, the Government should also provide subsidies and other forms of assistance to those women wishing to pursue further studies, so that they can add to their own value, upgrade their competitiveness and in turn improve their own lot. The Government should at the same time enhance its childminding and family services, so that women can spend time on studies without any worries.

Since under the existing labour legislation, the requirement on continuous contract (or the 4-1-18 requirement) must be fulfilled — It is a pity that the Secretary for Economic Development and Labour is not present today. I do not know whether he can hear my opinion. If he cannot, I hope that Secretary Dr York CHOW can relay my views to him — before an employee can be entitled to the protection of continuous employment contract, many women are thus denied rightful protection under the labour legislation. Seeing that many women must work part-time owing to the need for looking after their families, some unscrupulous employers will employ them for just three weeks and then dismiss them. That way, they can evade their responsibility towards their employees. The Government is currently reviewing the "4-1-18" requirement in our labour legislation. I propose the Government to consider the possibility of abolishing this requirement, so that employees can enjoy due protection.

Circumstances in modern-day societies have changed drastically, so women should be enabled to enjoy independence. The Government must seriously consider how best the problem of women in poverty can be ameliorated, so that they can genuinely stand on their own feet. With these remarks, I support the original motion and the amendments.

**MS LI FUNG-YING** (in Cantonese): Madam Deputy, the Commission on Poverty established by the Government early this year aims to assist people in poverty and alleviate the poverty problem in Hong Kong. Women's poverty must certainly be one of the main concerns of the Commission on Poverty. A look at the figures provided by the Census and Statistics Department will show us the gravity of women's poverty in Hong Kong. In the last quarter of 2004, the number of working women earning less than \$3,000 a month stood at 113 000, which was two times the figure of 57 000 for their male counterparts. I must first emphasize that assistance to poor people must be offered regardless of

gender. However, these figures do indeed highlight the fact that impoverished women is the crux of the poverty problem in Hong Kong. To alleviate poverty, we must at the same time alleviate women's poverty.

A fact sheet on the Government's measures to alleviate poverty was submitted by the Health, Welfare and Food Bureau to the Commission on Poverty in February this year, but very little mention was made of helping low-income women. The following was the only paragraph devoted to them, and I quote: "To address to the needs of the low-income women, the Women's Commission has initiated a Capacity Building Mileage Programme (CBMP) in collaboration with other organizations. CBMP seeks to encourage active learning and facilitate the enhancement of all round abilities and life skills of women as individuals so that they could be better equipped to face life's challenges and develop their potentials more fully. The CBMP promotes positive values and mindset." (End of quote) However, as pointed out by the Women's Commission in its introduction to the CBMP, "The Programme is not vocational training. It has no direct relationship with getting employment or more advanced academic learning."

The provision of assistance to low-income women involves many aspects. I dare not say that the CBMP is not helpful to low-income women, but I do believe that the upgrading of vocational skills and employment assistance should always constitute a very significant link in the assistance offered to them. But then, these are not intended to be directly related to the CBMP, so I find it very regrettable that the Health, Welfare and Food Bureau has still listed it as a measure to assist low-income women.

Women's poverty is no new problem in Hong Kong, and many reasons have been put forward in various discussions, one example being the restructuring of our economy. It is explained that at the height of the manufacturing industries in the 1970s and 1980s, large numbers of young women became manufacturing workers. But with the restructuring of the Hong Kong economy from the manufacturing industries to the services industries since the 1990s, these women workers, all reaching middle age, have been driven out of their original occupations. They contributed to the economic growth of Hong Kong but have become the very victims of economic restructuring. Another reason is connected with grass-roots women. They are always supposed to labour for their families. When their husbands can earn enough to support their families, they have to serve as homemakers without any pay. When their

husbands cannot do so, they have to supplement their family incomes by finding a job with very low wages in the labour market. Many grass-roots women are thus constantly unable to enjoy any financial independence and have to endure the pressure exerted by their families and jobs.

Madam Deputy, the needs of women in poverty are unique. For instance, they are hard-pressed by the pressure from both their families and jobs, often unable to strike a proper balance between looking after their families and earning a living. Admittedly, measures to alleviate poverty in general will still be helpful to women in poverty, but in view of the sizeable proportion of women in the poor population, the Government must inevitably introduce specific measures to assist low-income women in overcoming the difficulties they encounter in their daily life and work, even when it is prepared to alleviate poverty in Hong Kong at the macro level. These measures should aim at upgrading their vocational skills and ensuring that they are treated fairly in terms of job opportunities, working hours and pay. And, there should also be community support to help them cope with their family needs. Maybe, with all the improvement measures mentioned above, the CBMP can truly become a means enabling them to pursue a better life.

Madam Deputy, I so submit.

**DR JOSEPH LEE** (in Cantonese): Madam Deputy, the feminization of poverty is a problem of great concern in countries all over the world. The Beijing Platform for Action comprising 56 governments was formed precisely as a response to this problem. We can all see that the feminization of poverty is actually a problem of great concern to everybody.

Let us look at Hong Kong again. What are the backgrounds of most women in poverty? As in the case of other countries, single mothers constitute the first category of women in poverty. As pointed out by Mr WONG Kwok-hing just now, and as also shown by some relevant statistics, the number of single mothers in poverty has been on constant rise, showing a 35% increase since 1996. Besides, according to the statistics of the Social Welfare Department, as at February 2005, the number of single-parent families in receipt of CSSA was 5% more than that of last year. Furthermore, the survey statistics of the Government also indicate that between 1991 and 2001, there was a 10%



drop in the employment rate of single mothers. This is a sign showing that the problem of single mothers in poverty has started to deteriorate.

The second category comprises new-immigrant women, that is, women from the Mainland, and also women belonging to the ethnic minorities in Hong Kong. As indicated by the survey findings of the Home Affairs Department and Immigration Department, the proportion of women aged between 25 and 44 years in the total number of people arriving on Two-way Permit showed an increase from 37% in 2000 to 52% in 2004. Most of these women came here for family reunion. At the same time, the median income of these families showed a drop from \$7,000 in 2000 to \$6,800 in 2004. The main reason is that new-immigrant women often have to depend on the incomes of their families after arrival. This is not conducive to the alleviation of poverty.

Besides, as indicated by another survey, and as also pointed out by Mr LEE Cheuk-yan, new-immigrant women have been encountering immense difficulties in finding a job. The latest survey findings also show that the employment rate of new-immigrant women is less than 40%, and their wages, as mentioned by Miss CHAN Yuen-han, are shamefully low, as low as \$3,000 to \$4,000. These statistics all point to the fact that new-immigrant women have led to the gradual deterioration of the feminization of poverty.

The third category, one which is often forgotten by us, comprises the elderly. The population of Hong Kong is ageing, posing a big problem to us. Statistics indicate that the ratio of women to men in the age bracket of 65 years or above is roughly 1.16:1. The incomes and savings of elderly women are far less than those of elderly men in most cases. It can even be said that many elderly women are practically without any means of support, having to live on CSSA or their savings. This is another reason for the deterioration of the feminization of poverty.

What are the reasons for the impoverishment of these three categories of women? As we can all see, the most notable reason is that the education levels of most of them are very low, and they possess only very low vocational skills. According to a survey, there was a drastic increase in the number of low-skilled women from 390 000 in 1996 to 560 000 in 2004. Since the skills and education levels of these women are both very low, they can understandably earn very low incomes. Even if they can find a job, they cannot possibly make ends meet. And, let us not forget the problem of unequal pay for work of equal

value mentioned by both Mr LEE Cheuk-yan and Mr Albert HO just now. As I mentioned just now, new-immigrant women are the worst-hit among all women in poverty. Their skills and education levels are low. As shown by the latest survey findings, they often have to work as many as 60 hours a week. This is highly undesirable.

The fourth reason for women's poverty is that they are often stereotyped and labelled. Often times, single mothers, new immigrants and the elderly are portrayed very negatively. It is often said that they have to live on CSSA and depend on the assistance of society. Even when they are taken on, the wages are invariably depressed. This explains their lack of self-confidence and why they cannot stand on their own feet in society.

Madam Deputy, how can we tackle the feminization of poverty? In our opinion, it is basically meaningless to offer women mere financial assistance. We instead hope that they can be helped to become self-reliant and improve their own lot. The findings of one survey indicate that apart from financial assistance, 65% of these women also wish to have opportunities of adding to their own value, so that they can improve their own lot and care for their families. They do not want to depend on CSSA. Therefore, we think that they should be helped to upgrade their employability and vocational skills through various channels. Perhaps owing to programme scheduling problems, the Capacity Building Mileage Programme currently implemented by the Women's Commission on the radio may not have achieved the desired effect of enabling women to pursue courses of self-enhancement. And, it may not have succeeded in offering any effective assistance to these women. I hope that the authorities concerned can make appropriate use of their resources, so that these women in poverty can substantially upgrade their employability.

The second proposal is on the enhancement of community assistance. Women in poverty, especially single mothers, should be offered adequate assistance in their respective communities. If we can provide them with childminding services and thus enable them to work without any worries, they will be able to earn their own living. And, we must not forget the branding effects. To women in poverty, the satisfaction of psychological needs is as important as the satisfaction of their livelihood needs. We should therefore seek to enliven them by arranging appropriate psychological counselling and tension relief activities for them. I am very glad to see that measures are set out in the Budget to alleviate poverty and offer assistance to women. I hope that all

these schemes on creating a favourable environment for women and their empowerment can be carried out as soon as possible to assist women in poverty in resolving their problems.

Finally, I must say that poverty and health are in fact interrelated. Besides affecting the health of individuals, the poverty problem will also have a bearing on the health of society as a whole. The prompt implementation of measures to tackle the feminization of poverty will surely help improve the health of society. Madam Deputy, I have spoken in support of the original motion. Thank you.

**MRS SOPHIE LEUNG** (in Cantonese): Madam Deputy, as a metropolis, Hong Kong has made admirable achievements in its economic, trade and other developments. Besides, all in Hong Kong can enjoy many opportunities of making contribution and giving full play to their potentials regardless of gender. However, it cannot be denied that there is still much room for improvement in promoting the well-being and interests of women.

It was for this reason that the Administration established the Women's Commission (the Commission) in 2001 as a central mechanism with sole responsibility for promoting the well-being and interests of women in Hong Kong. At this juncture, I wish to make it clear that I have been working for the Commission as its Chairperson since its establishment. The mission of the Commission is to enable women to fully realize their due status, rights, and opportunities in all aspects of life. A three-pronged approach at the policy, individual and social levels is adopted to foster the development of women in respect of gender mainstreaming, empowerment and public education.

Since its inception, the Commission has been playing a strategic role in the comprehensive and systematic development of women strategies, studying the needs of women and periodically reviewing issues related to women's health, childminding, architectural facilities catering for the needs of both sexes, stalking and marital rape.

Over the past four years, the Commission has been going about its work with the utmost sincerity and seriousness, adopting a principle that emphasizes quality and flexibility rather than mere formality.

It is particularly worth mentioning that in respect of the work on gender mainstreaming mentioned in the motion, the Commission has designed a Gender Mainstreaming Checklist, which is now being applied in 14 policy areas with the support of government departments. Besides, some 70 "Gender Focal Points" have also been designated in various Policy Bureaux and government departments. The Commission will continue to promote gender mainstreaming in different policy areas. In this connection, I wish to express my gratitude to the gender mainstreaming co-ordinators in government departments, because they are all volunteers.

In regard to the social status and participation of women, the Government has also accepted the advice of the Commission, setting down an initial working target of 25% as a benchmark for the appointment of women to advisory and statutory bodies. This measure can, at a macro level, help remove the institutional hindrances to women in respect of policy formulation, the enactment of legislation and the provision of services.

It cannot be denied that many women in Hong Kong have to face poverty, so whether or not we are faced with the feminization of poverty, the problem of women in poverty should still receive the proper attention and concern of society. The most effective way to eradicate women's poverty must be the upgrading of their employability, which in turn involves upgrading the overall quality of women, enhancing their learning and job-related skills and developing their individual potentials. In this connection, for the easy reference of the public, the Commission compiled a book setting out the quality measures and service delivery models adopted by various social service agencies on women empowerment. Last year, the Commission even initiated the Capacity Building Mileage Programme (CBMP), a self-learning programme with flexible and convenient learning modules designed specifically to cater for the needs of women. As far as the CBMP is concerned, there is still much room for enhancement and improvement in many respects. The main objective should be to encourage women to upgrade their all-round ability, cultivate an active interest in learning, build up a sense of self-strengthening and self-respect and give full play to their potentials and strengths.

We can see that the work of the Commission described above has contributed positively to the eradication of women's poverty. Madam Deputy, it has just been four years since the establishment of the Commission, so we cannot expect too much. In regard to Mr Albert HO's amendment, I wish to

say that I do not expect people to be always "harsh to themselves but lenient to others". For this reason, I will look at all accusations, including criticisms, with an open mind, making amends if I have erred, or encouraging myself if I have not. However, since Mr Albert HO's opinions are clearly not consistent with the facts, I am obligated to make a clarification, so as to defend the long-standing reputation of the Commission.

I wish to point out that the promotion of the rightful status and interests of women is itself a very long process. It cannot be achieved overnight just by holding a few discussions, or by having a mere debate in this Council. Early last month, when I attended a meeting of the United Nations Commission on the Status of Women, I was able to see that although continuous efforts have been made in various parts of the world over the past few decades and some progress has indeed been achieved in the promotion of women's status and interests, there is still much to be desired in even some advanced countries. We must be steadfast in our efforts and promote co-operation among different places in the world, particularly our co-operation with the Mainland.

With a view to promoting exchanges between women in Hong Kong and those in the Mainland, the Commission and the Health, Welfare and Food Bureau, in conjunction with the All-China Women's Federation, will hold a number of activities and seminars in Beijing at the end of this month to commemorate the Fourth World Conference on Women held in Beijing in 1995 and the 10th anniversary of the Beijing Platform for Action. We expect that more than 100 representatives of women's organizations and other sectors in Hong Kong will take part in the activities in Beijing. There, they will study and discuss issues of common concern to women in both places and explore the global trends of women issues.

I wish to emphasize that we should not rely solely on the Government to promote the rightful status and interests of women. We must, more importantly, seek to change the concepts and culture of society. During the United Nations meeting mentioned by me, I talked to many delegates, particularly female delegates who were members of the representative assemblies of their countries. All of them had a common conviction: We should not focus only on fighting for men's rights or women's rights, but should instead seek to build up a society founded on mutual respect and harmony between the two sexes, with each sex giving the other sufficient room for all-round development.

This is a very long-term objective, the achievement of which will require our joint efforts and changes in society as a whole. As Legislative Council Members, we should take the lead and bring home to others the importance of this objective, instead of trying to create an atmosphere of mutual rejection and attacks. I very much hope that Members can seek to influence society gradually over time and foster the changes desired.

Madam Deputy, I so submit.

**DR KWOK KA-KI** (in Cantonese): Madam Deputy, the poverty problem of women in Hong Kong is very long-standing and established. Affected by traditional factors, it has evolved into an inter-generational problem. Poverty was passed from the last generation to this generation, and it will probably be passed from this generation to the next. Women and children will all be trapped in the unhealthy poverty cycle, and it will be passed from one generation to another like genes. Eventually, not only women are affected, but all human beings will be subject to such bad consequences.

Many Honourable colleagues who are present in this Chamber come from grass-roots families. We have all experienced various degrees of poverty in our childhood. However, we must admit that we can enjoy our present achievement simply because many women have given us support at our back in the course of our development. Without the nurturing of our mother, the selfless education from our teachers and the untiring support of our wives, we must have a lot of inadequacies in our lives, apart from the loss of support and reliance.

In terms of the relationship between the two genders or the different roles played by the two genders, we are restricted by the traditional stereotypes which are dominated by men. As we have accepted such concepts from the past to the present, very often we would overlook the equal opportunities and roles to which women are entitled. However, do not forget, we have enjoyed the cozy home comfort and warm meals provided by our mothers, the company of our caring girlfriends as well as the partnership of our wives to form our own families. Only with such great support can we actively devote ourselves to our work and lives in society.

As we take a retrospective look at our poor childhood under the Lion Rock, in which we struggled together and cared for each other, we can see that it was the women around us who had made the greatest sacrifice. They fought their way bravely amidst the adversities in the world. In their childhood, women of the last generation usually had to take care of their younger brothers and sisters. Many eldest daughters could not continue with their schooling in order to take up a job to earn money for the families. After getting married, they had to take care of their own families while at the same time, many had to continue working and to take care of their children in growth. Upon their retirement, if they were not well off, they might have to do some odd jobs such as scavenging for useful materials from heaps of discarded items for sale to junk dealers, and something like that. Many women in poverty are leading such a way of life.

Many Honourable colleagues in this Chamber now have managed to get rid of poverty. But we must remember that so many Hong Kong people can get rid of poverty simply because of the selfless sacrifice of women. Yet unfortunately, not everyone has the opportunity to get rid of poverty and proceed to seek their personal development. The mark of inter-generational poverty still exists in this generation, and many women are still bearing such marks. We can see that inter-generational poverty is still affecting many women, and most unfortunately, such inter-generational poverty will continue to pass from one generation to the next, and it will affect our next generation.

In the face of impoverishment of women or feminization of poverty, I find these problems very important, and we should attach significance to them. I do not wish to repeat the figures provided by certain sociologists or statisticians. The majority of low-income workers or those undertaking low-income work are women. Many families receiving CSSA, including those single-parent families, are headed by women. If we have high regard for the civil society of Hong Kong now, we must strive hard to prevent such poverty and prejudice against women from taking place. The emergence of impoverishment of women or feminization of poverty in a relatively affluent place like Hong Kong demonstrates that our society is still unable to solve this problem.

From a medical point of view, let us digress a bit from the poverty problem, we can see that women are affected by many problems, such as problems arising from their puberty periods, their pregnancy and post-natal conditions. When they become middle-aged, they also have to cope with the impact from both psychological and biological aspects, such as the menopause,

and so on. Some may even have to face problems from a broken marriage or their relationship with their own children. So they are under enormous psychological pressure. Prevention is better than cure. As a medical professional, I hope the Government can provide the women with adequate primary health care protection and medical services. In this way, not only can we solve the problem of feminization of poverty, but we may also assist society in alleviating the heavy burden and hidden worries with regard to the provision of welfare in future. I also hope that we can help some women in solving their problem in establishing an independent image for themselves, thus enabling them to enjoy good physical health, so that they can take care of their families and children.

Insofar as the present medical services for women are concerned, they do suffer from a lot of inadequacies in sex education, maternity leave, nursery services, medical and health care services and menopause services, and so on. As a medical doctor, I hope the Government can, while motivating or helping them to get rid of poverty, provide them with assistance in the medical or health care aspects. If we can help them to reduce their psychological and physical stress or emotional disturbances, actually we will help them a long way in coping with the stress brought about by their families and their work.

There is still a lot of work we need to do. Just now I heard Mrs Sophie LEUNG mention lots of discontent. I believe all the Honourable colleagues who are present in this Chamber should discard our differences on this issue. Regardless of our roles, including those members of the Women's Commission or other Members, we should not have too many differences on this subject. We ultimately hope that we can help these women to get rid of poverty, and we also hope that they can create a good environment, so as to open up new horizons for our next generation, thereby enabling the latter to get rid of poverty.

I support the original motion of Miss CHAN Yuen-han, and the amendments of other Honourable colleagues. I so submit. Thank you, Madam Deputy.

**MR JEFFREY LAM** (in Cantonese): Madam Deputy, there are certain things in our lives, be they the cold figures or the touching live cases, which keep



reminding us that there are really some extremely poor people badly in need of assistance in this metropolis we call Hong Kong. The commercial and industrial sectors also strongly agree that some concrete policies and measures should be formulated to help them. Of course, we must not overlook the women in poverty as mentioned in today's motion.

Unfortunately, there are still some Members who like to "do a disservice out of good intentions" by recklessly proposing to introduce many different kinds of measures to achieve the effect of alleviating poverty. They have totally disregarded whether such proposals can really work or help to solve problems.

For example, Mr LEE Cheuk-yan took the opportunity today to raise the minimum wage proposal again. I do not mind reiterating that this is indeed a dose of "sugar-coated poison", which will artificially twist the wage rates in the market, thus increasing the costs of the business sector. If the employers arrive at the conclusion that their operations are no longer viable after calculations, then they may leave Hong Kong and put their investment elsewhere. For some small and medium enterprises (SMEs), they may as a result of this encounter difficulties in operating their business, and at the end of the day, they may have to lay off workers or even close down their businesses.

Should the above scenarios emerge, I think those low-skilled persons and those with low qualifications, including the women in poverty, will find it even more difficult to find a job due to their poor competitiveness. Besides, due to market competition and the costs problems, employers may be compelled to turn "the minimum wage" into "the maximum wage". In view of all this, how can we help them to get rid of poverty?

With regard to "equal pay for work of equal value", again is it feasible? Although Article 7 of the International Covenant on Economic, Social and Cultural Rights does recognize the right of everyone to receiving an adequate wage, I would like to point out that "equal pay for work of equal value" may only be a grand ideal, the actual implementation of which may have to depend on the resolution of the following problems: What kind of criteria should employers adopt in comparing the different values of different jobs and that in doing so, will it give rise to any controversies? Should the employers or a central body be responsible for conducting objective vocational assessments? Do the SMEs which account for over 90% of the total number of enterprises in Hong Kong

have the resources to formulate and implement such arrangements? If the idea of "equal pay for work of equal value" is recklessly implemented before the above problems are solved, I think it may just create confusion in the human resources market. And it may even lead to endless lawsuits, thus disturbing the social harmony of Hong Kong.

Finally, certain Members have advocated the introduction of a pension system or a comprehensive pension scheme with a view to protecting the retirement life of women who have no income. This is another subject that will induce endless arguments. However, I would like to stress that the present Mandatory Provident Fund (MPF) System is the result achieved after years of discussion. Some wage earners are already privately disagreeing with the compulsory requirement of making contributions to MPF schemes. If the people are made to contribute more to implement a universal pension scheme, this will mean doubling the burden of taxpayers, and I think it will not be an easy task to convince them into accepting it completely. The focus of the MPF schemes is naturally on the working population. But in the context of a family, will a retired person who has previously been working in society just keep his pension to himself without sharing it with his spouse?

In fact, as the local economy is gradually picking up, the commercial and industrial sectors will certainly create new job openings if they have the needs and the capability to do so. Besides, with reference to the recent demand and supply situation in the market, certain industries have already taken the lead to introduce pay rises in order to retain their staff. I believe the only way for us to help the poor get rid of poverty is to work together to revive the economy, thereby improving both the business and employment environments.

Madam Deputy, I so submit.

**MR KWONG CHI-KIN** (in Cantonese): Madam Deputy, the Women Affairs Committee of the Hong Kong Federation of Trade Unions (FTU) met with Secretary Dr York CHOW several days ago, in which we raised the following points with regard to the protection of rights of women:

First, the Government should expedite the implementation of a universal retirement protection system. The existing Mandatory Provident Fund (MPF) System can only safeguard the retirement live of people who have been engaged

in employment, but it does not cover the retirement of housewives. All these women can do is to rely on their family members. However, when their families encounter financial difficulties, housewives who are not financially independent will easily end up in poverty. Therefore, we would like to call on the Government to reconsider "the Comprehensive Retirement Protection Proposal" put forward by the FTU as early as in 1992. The proposal mainly advocates that, on the basis of the existing MPF System, a universal social security scheme should be introduced in order to formulate a comprehensive retirement protection system, thus catching housewives in the retirement protection net.

Second, we advocate that minimum wages and maximum working hours should be fixed for certain trades and industries. Just now Mr WONG Kwok-hing has mentioned this already. We see that such jobs as cleaning workers, security guards in housing estates, workers in fast food restaurants and cashiers of supermarkets are often taken up by women — all these are relatively low-income positions. If we can accord priority to regulating the minimum wages in these trades, then we shall be able to directly help this group of women who are now suffering from working poverty. We think this is the most effective method. On the other hand, fixing the standard working hours will also help to reduce the pressure on these women who are assuming multiple roles in both family and workplace, and at the same time, ensure that they can have greater room for pursuing further studies.

Third, we propose to enact legislation to ensure equal pay for equal work between men and women. In Hong Kong, the Sex Discrimination Ordinance has been enacted, and we cannot discriminate against women. However, in reality, the phenomenon of "unequal pay for equal work between men and women" does exist extensively in different trades and industries, and the wages of women are generally lower than those of men. According to government statistics, the wages for the two genders in professional, clerical and craftsmen jobs have drawn closer in recent years. However, for non-skilled work types and certain service industries, the differences in wages between the two genders are usually quite substantial. For example, in 2003, the difference in the median wages between the two genders for non-skilled workers was \$3,100; that the difference for service and business salesperson posts was \$3,700; and that the difference for those engaged in community, social and personal services was

even as high as \$9,600. From these, we can see that the problem of "unequal pay for equal work between men and women" is really very serious.

In fact, in some advanced countries such as Britain and the United States, the Equal Pay Act has been enacted to ensure that people of either sex can enjoy the same remuneration. We hereby call on the Government to make reference to the experience of other countries and study the legislation on ensuring equal pay for equal work between men and women, so as to eliminate the unfair treatment accorded to women workers.

Fourth, we would like to call on the Government to improve the measures in the "workfare scheme", so as to help unemployed women to pursue self-reliance. We hope the Government can accept the "workfare scheme" as proposed by the FTU in order to help unemployed CSSA recipients by way of giving them support in looking for employment opportunities. At present, the Social Welfare Department has commissioned some non-governmental organizations to organize certain intensive employment assistance programmes, so as to help such recipients re-enter the labour market. With reference to the statistics provided by the Government, in recent years, women in the wholesale, retail, import and export and restaurant and hotel industries account for the largest proportion, 44.8%, among unemployed women who have previously been working in society. We hope the Government can further improve the existing employment assistance services. Apart from identifying more job vacancies suitable for low-skilled workers with low qualifications, the Government should also provide specific support to such women, such as providing them with more information on vacancies in different industries and helping them to identify their talent in other aspects, so as to enable unemployed women to find more opportunities to bring their potentials into play.

Fifth, we hope to upgrade the quality of the training to enhance the employment skills of women. We agree that the empowerment of women is one of the feasible ways of assisting them to get rid of poverty. We call on the Government to provide them with training courses on employment skills that can cater more closely to the needs of the employment market and are widely recognized in society. And, on the other hand, institutes commissioned to organize such courses should from time to time review the changes in the vocational orientation of the local employment market, so as to eliminate the occurrences of mismatches, thereby enabling women to stand greater chances of

actually securing employment after completing such courses. Meanwhile, in order to ease the worries of grass-roots women about finances, the Government may consider providing low-income women with educational allowances, which may be issued to them in the form of educational coupons, thus enabling them to enrol in different courses to upgrade their skills and subsequently enhance their competitiveness.

Sixth, we hope the authorities can enhance the quality of family care services and subsidize low-income women in using such services. Our surveys reveal that family responsibilities have restricted the modes of employment of women. As a result, some of them can only choose such unstable jobs as part-time jobs, daily-rated positions and long-term casual jobs, and so on. This has trapped women in the predicament of working poverty. According to government statistics in 2001, among the people who were engaged in economic activities, women who had to take care of over 40% of housework accounted for 42.4%, whereas men just accounted for 17.2%. From this, we can see that women's workload in taking care of the families is still very heavy. In this regard, we think that the Government must further enhance the convenience of the nursery services and the family care services, and the authorities should consider subsidizing low-income women in making use of the family care services.

Finally, we hope that the authorities can make assisting women in poverty as one of the major concerns of the Commission on Poverty.

Madam Deputy, I so submit.

**DR FERNANDO CHEUNG** (in Cantonese): Madam Deputy, whenever a discussion is conducted on poverty, it would invariably be focused on some socially disadvantaged groups who are least able to take care of themselves such as the elderly, the children and the handicapped, and so on. Yet, the poverty problem faced by women has all along been overlooked. Many do not think that there is any connection between poverty and gender because there seems to be gender equality in Hong Kong. Therefore, so long as a person is physically healthy, even a woman should be able to earn a living through work. It seems that one's gender is not the decisive factor in determining whether he or she is rich or poor, but his or her diligence or laziness is.

However, this is just a superficial phenomenon. In fact, as illustrated by statistics, we can see that gender does have a major influence on a person's financial status. If we fix the poverty line at 50% of the median wage of Hong Kong, that is, \$5,000 in 2003, then among the poor population — if we describe them as people in working poverty, then women account for over 73%, that is, the majority of this category.

The majority of the poor people are women. This is by no means coincidental, nor because they are inherently lazier than men, nor because their biological construction makes them weaker in physique or abilities. In fact, women are usually at a financially disadvantageous position because most people in society hold some prejudiced views on the roles of women, thereby hampering their development. The most obvious example is unequal pay for the same jobs for men and women. In the mind of employers, men are regarded the financial pillars of families, whereas women just work for bringing home a supplementary wage. As such, it is considered unnecessary to pay women the same rate as that of men. Therefore, in 2003, the median monthly wage for a male clerk was \$9,800, whereas that for a female clerk was just \$9,200. Likewise, for jobs in the service industry, such as a salesperson post, the median wage for men was \$10,000, whereas that for women was just \$6,300, which was 37% less than that received by men.

Besides, women are generally considered more meticulous and careful, so they are more suitable to take up jobs of a cumbersome nature. On the other hand, men are considered to possess leadership and are more suited to be assigned with management duties. Consequently, there is a division of labour between men and women in employment. In 2001, among people engaged in the management and administration field, that is, jobs with higher incomes, over 70% were men, whereas among clerical workers, over 60% were women. In recent years, with reforms induced by advances in information technology, there has been a gradually declining demand for clerical skills, resulting in a decline in wages of employees. This trend, together with downsizing exercises implemented by corporations with clerical staff as the primary lay-off target, has put women in a rather dismal situation.

Moreover, apart from working in a formal labour market, women are also expected to take care of the families. As they are restricted by their family status, women with children are more likely to be employed as part-time workers as such jobs usually offer more flexible working hours. However, wages of

part-time jobs are rather mediocre. For example, a worker in fast food shops can only get less than \$20 an hour, and worse still, they are not even protected by the labour legislation. No wonder many women eventually find themselves among the impoverished.

Therefore, the women are now trapped in predicaments not because they are short of personal abilities. Instead, it is because women are subject to inequality as a result of the prevailing social concepts and institutions. Assisting women to get rid of poverty is our primary concern. The situation cannot be reversed simply by the provision of education, training and enhancement of their competitiveness because it is by means easy for us to break such intractable social institutions through individual efforts. On the contrary, the Government should develop a barrier-free society with fair competition by formulating policies of social reforms. In recent years, some advanced countries have already put forward policies such as "the family friendly policy" or "the worklife balance policy", and so on, so as to promote equal development opportunities for both men and women.

Unfortunately, the Hong Kong Government lacks a gender perspective in administration. So it absolutely does not understand the unique social factors leading to women's poverty problem, not to mention putting forward specific policies to tackle the problem. Let us consider the example of residence requirement for application for Comprehensive Social Security Assistance (CSSA). The Government obviously knows that many Hong Kong male residents have got married in the Mainland. So among the new arrivals to Hong Kong, many of them, if not children, are women. However, the Government requires that they must have lived in Hong Kong for seven years before they are eligible for applying for CSSA, irrespective of whether they have a genuine need. If they are unemployed, then all they can do is to rely on the families. If unfortunately these women are divorced, they will be trapped in severe predicaments. Another example is our retirement protection system, in which housewives are not protected by the Mandatory Provident Fund (MPF) System, nor is their contribution to society in terms of their non-remunerative services in the families acknowledged. This is tantamount to overlooking women's role as family carers and assuming that housewives would be provided for by their husbands, thereby rendering their retirement life totally unprotected.

In the policy address of 2004, the Chief Executive had used dozens of words to describe the gender mainstreaming work. A year later, this year's policy address again played the "alleviating poverty card". However, the gender perspective was only mentioned briefly in the policy address. It has not gone through the mainstreaming process, nor has it been incorporated into the agenda of alleviating poverty. Gender mainstreaming refers to actions at all levels, including the enactment of legislation, policy formulation, as well as assessments of the impact on men and women brought about by such policies. The ultimate goal is to achieve sex equality, preventing the emergence of poverty or unequal treatment between men and women. The Government has established the Women's Commission which has included gender mainstreaming as one of its key tasks, but there has been no obvious achievement so far. As such, we hope that the Government can make further efforts in this regard.

I call on the Government to implement gender mainstreaming in administration as soon as possible, and assess the existing legislation, social security schemes, social services and retirement protection system, and so on.

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

**MR LI KWOK-YING** (in Cantonese): Madam Deputy, since the establishment of the Commission on Poverty, the poverty problem has been examined from different perspectives, such as the communities, the youngsters, the working people, and so on. Among these categories, children in poverty are the focus of the Government and various sectors in society. The Central Policy Unit (CPU) is currently conducting a research study on the poverty problem of children so as to identify various policies and measures to prevent inter-generational poverty.

Inter-generational poverty is certainly an issue that warrants concern. However, many have overlooked that a major cause of the children's poverty problem is that their parents are also poor. This is particularly true for women in single-parent families. Miss CHAN Yuen-han has just told us a live story, and I believe many of us have encountered similar stories ourselves. On the one hand, these women have to take up the responsibilities of looking after the children and the families, and on the other, they have to go out to work to earn



some meagre income to provide for the families. Therefore, in order to solve the poverty problem of the next generation, we must face squarely the poverty problem of their parents, that is, the circumstances of the present generation. In this way, we can prevent ourselves from putting the cart before the horse in dealing with this problem.

All along, society has overlooked the poverty problems caused by gender. The Commission on Poverty has not adopted such a perspective in understanding the needs of women in poverty. Yet, the phenomenon of feminization of poverty in Hong Kong has become an issue that warrants great concern. Let us take a look at the breakdown by the genders of CSSA recipients. Among the current 566 000 recipients, 255 000 are men and 310 000 are women. On the other hand, among the 100 000 recipients who have applied for single-parent CSSA, 60% of them are women. These figures reflect that women in poverty have a need for financial assistance far stronger than that of men.

However, the Government has not explored the difficulties faced by women in a focused manner. Let us take the employment support measures as an example. At present, the Government has established different employment support measures according to different age groups. For example, there are the Youth Work and Experience Training Scheme, the Youth Self-employment Support Scheme and the Re-employment Training Programme for the Middle-aged, and so on, which are all intended for assisting such types of unemployed people to re-enter the employment market. But there is no relevant measures to enhance the employment skills of working women with low qualifications.

In this connection, the Government should formulate systematic employment training schemes for women and should work with the social welfare sector and the business sector in providing suitable employment training to women of different age groups and educational backgrounds. The best approach is to make use of the existing measures to step up the provision of assistance for women.

With regard to working women, the Government should encourage the social welfare sector to seek the participation of commercial organizations in the work of helping the disadvantaged through the Partnership Fund for the Disadvantaged, so as to formulate various programmes beneficial to such women.

For example, training that enhances the employment skills of women can be provided to strengthen their competitiveness in society.

As for women from single-parent families, since there is a close relationship between family responsibility and working poverty, the Government should step up its publicity campaign for the Ending Exclusion Project established by the Social Welfare Department, so as to assist single-parent CSSA recipients with young children to achieve self-reliance and to integrate into society. On the one hand, it will make it easier for them to re-enter the employment market, and on the other, it will provide them with suitable childminding services.

On the whole, as the Commission on Poverty is the organization responsible for championing the work of alleviating poverty in Hong Kong, it should acknowledge and respond to the needs of women. In addition, it should formulate an index according to the poverty situation of women, which should enable it to better understand their needs. Efforts should also be made to review the existing policies, measures and services, so as to explore ways of making improvement with the purpose of helping the women in poverty.

In conclusion, as the Government can face squarely the problem of inter-generational poverty, why can it not face the problem of women in poverty? In order to solve the local poverty problems in a comprehensive manner, it is necessary for the Commission on Poverty to list the problem of women in poverty as one of its agenda items, so as to identify ways of genuinely solving the problem of feminization of poverty.

Madam Deputy, I so submit.

**MS AUDREY EU** (in Cantonese): Madam Deputy, from time to time, we would come across some media interviews of some so-called "successful women", in which prominent coverage would be devoted to portraying how these women managed to achieve career excellence after overcoming very difficult circumstances. If we examine such coverage in greater depth, we may find that these interviews do reveal an underlying miserable fact: In a modern cosmopolitan city like Hong Kong, it seems so unusual to see a woman having attained certain success that it deserves to be given such prominent coverage in the media. It also reflects that many women in the middle and lower strata of

society of Hong Kong are being subject to unfair treatment in such aspects as education, employment and personal development opportunities.

The Government implemented nine years of free education in 1978. But before the implementation of this policy, women usually had little chances of receiving education. Very often, women had to start working in factories since a young age in order to earn money to support the family and to enable their younger brothers to continue with their schooling. Nowadays, the educational standard of many women are still relatively low. Among women of the age group of 35 to 54 years, more than one third of them are educated only to the primary level or even lower. From this we can imagine how bad the situation is.

Women have to shoulder the responsibility of bearing children and bringing them up. Very often, they have to sacrifice their careers in order to take care of their families. Statistics show that there is a tendency that the discrepancy in income between men and women will continue to expand. The median wages in 2000 were \$11,000 for men and \$8,500 for women. With regard to the data in the fourth quarter of 2004, the median wage for men remained unchanged, whereas that for women had dropped to \$7,800. The number of women earning less than \$3,000 a month amounts to 1.13 million persons, which is twice as many as the corresponding figure for men.

These figures show that the problems faced by women were not caused by an inadequacy of their abilities. Instead, the social structure itself still has not properly addressed the restrictions and difficulties faced by women. They are forced to take up part-time and low-income jobs, and have become marginal workers.

The problems of new arrival women in particular deserve our attention. Usually they do not have any independent income, their educational levels are relatively low, they have to take care of a larger number of children, and their hometown accents make them speak in ways different from that of the local people. With all these factors working together, they seem to be living in a "pressure cooker". Among the 500 or so cases of seeking refuge in shelters of the Harmony House, new arrival women account for over 50% of the total number of cases. From this, we can see the seriousness of the problem.

Besides, the problems of single-parent families also deserve our attention. The number of single-parent families has been rising drastically. Among such families, the vast majority of them are headed by a mother struggling hard to take care of the children. On the one hand, the number of single-parent CSSA cases has increased fivefold, from 6 000 cases to nearly 38 000 cases during the last decade. Yet, on the other hand, the Social Welfare Department (SWD) has stopped financing the five single-parent centres in order to save \$8.5 million a year, and it has introduced changes subsequently to put the single-parent services under the family comprehensive services. This move is undoubtedly a step backward in terms of policy.

Several years ago, the Government established the Women's Commission (the Commission) with the aim of promoting the welfare and the rights of local women. It shoulders the strategic responsibility of advising the Government on women's issues. Unfortunately, little do the people know the work of the Commission.

It has been four years since the inception of the Commission. It has held meetings once every two months, but such meetings are not open to the public. During the first three years, only one working report was published. To my amazement, I find that a research project undertaken by the Commission in December 2003 is already its latest research project. I have read it over the Internet and found the information contained in it quite outdated.

So far, the best known project of the Commission is the Capacity Building Mileage Programme. It gives people the impression that the Commission has simplified the entire issue, and held the view that it is a problem caused by the inadequacies of individuals. It seems that as long as women in poverty can keep on learning, they can extricate themselves out of their present predicaments.

"Striving to seek self-improvement amidst adversities" is certainly an impressive slogan which deserves our support. However, can women solve their present difficulties simply by continuous learning in spite of the adversity? Has the Commission conducted some in-depth studies on the circumstances and difficulties faced by women in Hong Kong? Has the Commission reviewed the existing policies of the Government to examine if they have taken care of the needs of women?

I hope the Government can conduct a comprehensive review of the role of the Commission, and strengthen its functions, transparency and independence. Besides, more resources should be injected into the Commission so as to enable it to promote work on the affairs of women more effectively and monitor the Government's policies for improving the circumstances of women, thereby enhancing the effectiveness of its work.

Therefore, the Government should also strengthen its support for women's organizations in the local communities, so as to enable such organizations to organize more activities such as retraining classes or experience-sharing seminars, and so on, thereby arousing public concern for the circumstances of women. Besides, it is also necessary to review the existing legislation including the Sex Discrimination Ordinance, the Family Status Discrimination Ordinance, the mandatory provident fund legislation and labour legislation, and so on. The Government should also hold more consultations in order to listen to the opinions of women from different age groups or of different statuses, so as to assess whether the existing legislation can provide adequate protection to women.

Thank you, Madam Deputy.

**MR WONG YUNG-KAN** (in Cantonese): Madam Deputy, Hong Kong is a highly developed economy and comparatively affluent society. But given the continued ageing of the population and drastic economic restructuring, the problem of poverty has been worsening, and poverty among women particularly warrants concern of the community. According to the statistics of the Social Welfare Department (SWD), the increase in the number of female recipients of Comprehensive Social Security Assistance (CSSA) is more than 50% higher than that of male recipients over the past decade. As shown in research studies conducted by academics, institutional problems in modern society have caused women to become more vulnerable to poverty than men. Among the poor population, the number of women is higher than that of men. When a woman is caught in poverty, a poverty cycle will often be formed in that not only the woman alone has to suffer from poverty, even her next generation will continue to live in poverty due to a lack of social support. It is relatively difficult for women to break away from this cycle. In Hong Kong, we can also see very clearly this main characteristic of women in poverty.

The problem of women in poverty is to a very large extent caused not by personal factors. To tackle poverty caused by various social or economic factors, the Government should formulate policies to facilitate co-operation in society, with a view to assisting women to get rid of poverty.

There is no denying that gender stereotyping in society has put women in a less advantageous position in terms of financial capacity and social security. With regard to their participation in the economy, women are under greater pressure when compared to men, and age, sex and family status discrimination, unequal pay for equal work, sexual harassment, and so on, are difficulties often faced by women in employment. Very often, in order to comply with their husbands' wish or to take care of the family, married women have to give up their jobs and become full-time housewives. At present, the labour force participation rate of unmarried women in Hong Kong is 68%, whereas that of married women is only 42%. The stereotyping of social roles has caused many women to become financially dependent of their husbands. Once there are great changes in their lives, such as the death of their husbands, divorce, their husbands sustaining injuries at work, and so on, they would become more vulnerable to poverty.

Even if women wish to continue working after they have got married, drastic economic restructuring has led to serious polarization of the labour market in which wages in non-skilled and low value-added industries are very low. As evident from the statistics, women account for 58% of unskilled workers and their income is 47% lower than that of men. This shows that women are excluded from the more stable core of the labour market and earn a meagre income.

Women in non-skilled jobs are often denied labour protection to which they are entitled under the law. For example, for women who can only take up part-time jobs in order to be able to take care of their families, as it is stipulated in the labour law that labour protection is provided only to workers who work for four consecutive weeks and over eight hours per week, so when they take up such jobs as domestic helpers, salesladies in supermarkets, cleaning workers, and so on, they often do not enjoy labour protection for they do not meet the requirements in law. They are also shut out from such retirement protection as the mandatory provident fund schemes.

With regard to the Government's policy on helping the poor, the Democratic Alliance for Betterment of Hong Kong (DAB) has proposed that the Government's support services should be enhanced with the objective of helping people to help themselves. To address the problem of women in poverty, it is also necessary for the Government to enhance its support services and actively provide assistance to them in employment, with a view to encouraging women to take up employment and hence helping women obtain greater financial protection.

Firstly, the Government must enhance employment protection for grass-roots women. At present, more and more women are engaged in jobs with low wages and little protection, such as part-time jobs, casual jobs and temporary jobs. Added to this is age and sex discrimination faced by women. Women are, therefore, put in an even more disadvantageous position in the job market. So, the Government must expeditiously review the labour law, with a view to enhancing labour and retirement protection for part-time and non-permanent jobs. With regard to outsourced public services, apart from implementing the minimum wage system, the Government must also step up monitoring to pre-empt further exploitation. The DAB proposes that the Government should expeditiously implement on a trial basis the minimum wage system for nine job types, with a view to protecting the income of grass-roots workers. In respect of retirement protection, the Government should work for the early implementation of a universal retirement protection scheme with tripartite contributions from employees, employers and the Government, in order to provide necessary retirement protection to women.

Secondly, the Government must make ongoing efforts to provide more opportunities of continuing education to women and enhance after-school care services. Women yearn to have opportunities to pursue continuing education, in order to prepare themselves for rejoining the labour market. Regrettably, as women often have to perform the role of a family carer, they may not be able to persist with the furtherance of personal development when facing pressure from their families. In this connection, the various training courses targeting mainly at women should be given greater flexibility in terms of the time, venue and course contents, while efforts should be made to ensure compatibility with the vocational qualification framework, so that on the one hand, they can facilitate women's access to learning and on the other, the skills that women have learned from such courses can gain the recognition of society. In the meantime, the Government should facilitate the provision of flexible and affordable child and

elderly care services by social organizations to help alleviate the burden on women in taking care of their families.

Thirdly, in respect of social concepts, the Government should draw up a "Harmonious Family Policy" or policy on a balanced way of life between work and living to encourage both women and men to avail themselves to opportunities of holistic development. For instance, efforts should be made to encourage the provision of child services at workplaces and education institutions; holidays should be provided to family carers for them to take care of their families without having to completely give up their jobs; and paternity leave should be introduced to encourage men to share the responsibilities of family carers.

(THE PRESIDENT resumed the Chair)

It is indeed more difficult to solve the problem of women in poverty. So, the Government should be more forward-looking and more committed to tackling the problem at root, and only in this way can the threats of poverty be gradually removed. With these remarks, I support the original motion and the amendments. Thank you, Madam President.

**MR LEUNG KWOK-HUNG** (in Cantonese): Madam President, when I was having dinner just now, a woman rang me up and from what she had said on the telephone, she was feeling very unhappy. She said that I must do her justice, and she had met with me before. Why? She is a single-parent mother and although she can draw CSSA, she cannot move into a public housing unit, and she, therefore, was angry about it. Of course, I do not know much about her actual situation, but she had met with Dr York CHOW before. She said that she had met with Secretary Dr York CHOW at a press conference and Dr CHOW said that he would follow up her case. It was 15 March then, and today, which is almost a month later as 15 April is near, I hope the Secretary still remembers this Madam WONG. I will give the Secretary the telephone number of this Madam WONG and see if he can follow her case up. Yet, I personally do not agree that any person should enjoy a privilege. But since the Secretary did tell her that she could be given exemption if her case is special, I hope the Secretary can lend a hand to this Madam WONG, because when she asked me to do her justice in future, she seemed to imply that she was thinking about committing



suicide. I hope — I think she will not be watching television now — she would feel better knowing that I have mentioned her case here.

In fact, complaints similar to the case of Madam WONG are by no means rare. Of the complainants, some are single-parent mothers and some are low-income women, and I would come into contact with them every day. Members may have read two sets of statistics, which are, in fact, compiled by the Oxfam Hong Kong and the Hong Kong Council of Social Service respectively. While the statistics are tedious and one may doze off reading them, these statistics are actually filled with blood and tears.

On women in poverty in Hong Kong — Miss CHAN Yuen-han has put it as feminization of poverty. The term should actually be reversed as impoverishment of women. Anyway, we are talking about the same thing. This is not to flaunt my knowledge of terminology. It is dialectics; it is interpenetration, interaction. To protect the interest of a small group of people, expenditure has to be cut in both private and public sectors. Wages are slashed in the private sector. The same has happened in the public sector. But in the public sector, even the well-established social welfare or social services have been chopped mercilessly after Dr CHOW succeeded as the gatekeeper. As I have said here time and again, one cannot make bricks without straw. Cutting expenses here and cutting expenses there simply makes everything unsustainable. This is a very serious problem. The fact is that a worsening wealth gap in society at large has caused poverty among women to worsen.

Why does it cause the impoverishment of women to worsen? Women have always been considered secondary citizens. In the stories written by Hans Christian ANDERSEN (which were published two centuries ago and Members can buy these stories and read them), *The Little Match Girl* is a story often mentioned by people. Why is the protagonist a girl, not a boy? This actually reflects the situation at the time. In families of handicraftsmen or the poor, even women had to work to support their family. A fine-sounding way of describing it is that "women can shore up half of the sky". But in a society with social classes and a gap between the rich and the poor, this commendation is, in fact, a rip-off. Why are other people not made to shore up half of the sky?

What actually is the problem? The impoverishment of women is not just a phenomenon. It is, in fact, a symptom, an origin. What has the Government

done to address the problem? Nothing at all. The Government is just dancing to a magic staff, a magic wand or a magic flute. Its shadow, like a phantom, covers everything it befalls, particularly the low-income women, working women and old women. In a nutshell, no woman will be spared, and this is the thrust of the problem.

People always talk about alleviating poverty. Indeed, poverty alleviation is a laughable term. Where does poverty alleviation come from? It comes from our Motherland. It has been decades since the revolution took place in our Motherland, right? Since the 1949 revolution, there is still the need to alleviate poverty. Today, Hong Kong needs to alleviate poverty too. This is a sheer "rip-off". We are not assisting women in poverty. We are assisting women in poverty or women to get back what should originally belong to them. Who will perform the role of child-bearing if there is no woman in this world? Women who make the least contribution are actually women making the greatest contribution. It was my mother who brought me up. Everybody is born of a woman, and most people were brought up by women. Why does society always have to target at women when cutting wages?

Many people said that the number of working women has increased. What does such an increase mean? It means that there are now more people to be made sacrifices for exploitation. It is because jobs originally taken up by men are now taken up by women. Women will take up these jobs as long as they can manage, and their wages are the lower the better. In some extreme cases, the husband may lose his job from which he can earn \$5,000 monthly in the morning and then the wife told the husband when she came home in the afternoon that she found a job with a monthly pay of \$3,000 and that she could take up this job to help support the family. The fact is that the same family has lost an income of \$2,000 monthly. I do not make up this story. Nor is this a story of Hans Christian ANDERSEN. These are real cases. So, these cases abound, and they are too many to enumerate, for Members can find out by themselves.

I mainly consider that the Government does not have any policy on poverty alleviation. Nor does the Women's Commission. As a result, women are caught in poverty; men are caught in poverty; everybody is caught in poverty. So, I hope that colleagues will certainly pay attention to the problem of woman in poverty and also the problem of poverty.

**MISS CHOY SO-YUK** (in Cantonese): Madam President, at the end of 2000 when I put a question to the then Secretary for Housing in the Legislative Council on whether he would consider increasing the proportion of women members in the Housing Authority, he stated categorically that gender was not a factor for consideration when the Government considered its membership. At that time, many Members of this Council agreed that the reply was reasonable and sensible. Fortunately, a few years later, the Government showed, to a certain extent, to have kept abreast of the times, for it finally stated in the policy address that "in formulating and implementing our policies, we will take into account the gender perspective, and will strive to enhance the participation of women in the work of government advisory and statutory bodies."

Similarly, on the problem of poverty, many people still adopt an equity perspective, holding that women should not be given special treatment. But this mentality is actually obsolete, a far cry from the reality, because insofar as the problem of poverty is concerned, there is indeed a gender-based difference between men and women. For instance, the employment opportunities and rights of single-parent women, middle-age women, new immigrants, and so on, have actually been exploited or rejected due to restrictions imposed by the social environment and circumstances.

More often than not, my office receives many cases of middle-age women seeking assistance. Madam President, let me cite two simple examples here: In one of these cases, the woman was from a "one-woman brothel". She told me that she had to take care of her mentally-retarded son on her own, because she had divorced and she could not arrange for her son a place in a hostel for the mentally handicapped. That was why she, being a mother though, had to assume also the role of a father. She had to work in order to support the living of her son and she also had to take care of the daily life of her son. She even had to take her son to school and pick him up after school. I once asked her if she would like me to help her find another job. But she asked me instead what other job would enable her to earn enough to support her son and continuously provide education to her son since she had no job skill at all.

The woman in the other case came to me after she had been deserted by her husband. She said that although she did not have a job and was in great distress, she still wished to fight for the custody of her only son. For this reason, she had struggled for a very long time because she was worried about not having the means to support the living of her son, but she was unwilling to see

her son being labelled as living on Comprehensive Social Security Assistance (CSSA). So, she was in great distress. There are indeed many such sad cases.

Madam President, some people may say that this also happens to men. When the father in a single-parent family has to take care of his children and cannot find a job, he may face the same situation. But this is not true, because men absolutely will not give up their job because of marriage or bearing a child and so, they will not face the difficulties of not being able to find a job as a result of having not worked for a long time and hence having no working experience. Some people may say that those women can live on maintenance. In fact, as we all know, is it easy to obtain maintenance in Hong Kong? I personally did urge the Government to set up a maintenance board a few years ago in the Legislative Council, but the Government has still refused to do so.

So, the problem of women in poverty has its own characteristics and should not be mentioned in the same breath with poverty in the overall population. In order to alleviate working poverty among women, the DAB once proposed that working women with a low income should be provided with more protection, including implementing on a trial basis a minimum wage system in individual industries to help low-skilled workers fight for reasonable treatment in employment, especially for jobs mostly taken up by women, such as domestic helpers, cleaning workers, messengers, security guards and janitors. Meanwhile, in order to upgrade the job skills of women, so that they will be equipped for the ever changing working environment, we consider it necessary to co-operate with the business community and continuing education institutions in working out systematic employment training schemes for women, including deploying funds under the Partnership Fund for the Disadvantaged to provide suitable employment assistance measures to middle-aged women and women with low education attainment.

Moreover, we cannot direct our efforts only at helping women in employment to the neglect of setting up a safety net in society. The DAB urges the authorities to particularly pay attention to support for women in single-parent families when reviewing the CSSA Scheme this year, in order to help these women stand on their own by providing employment assistance and after-school child care services to them. The DAB reiterates that in order to ease the financial hardships faced by divorced women, the authorities must actively

consider the establishment of a cost-effective child support agency responsible for the collection, recovery and payment of maintenance, or a maintenance board which I just mentioned to help divorced women obtain the most basic financial support.

The DAB also urges the Commission on Poverty to identify and respond to the needs of women in poverty and set indicators for poverty among women in future to understand the needs of women in poverty and also study ways to make improvement through a review of various policies, measures and services, in order to support women in poverty. The Central Policy Unit and the Government Economist must enhance studies of the problem of women in poverty in order to obtain timely information on the living of this group of people for conducting a comprehensive assessment of their needs and formulating policies to help alleviate poverty among women accordingly. In more specific terms, the DAB considers that apart from reviewing the CSSA, the SAR Government must also conduct an assessment of the services required by three categories of people, including women in poverty, the poor elderly who live with their family but are not taken care of by their family, and children of CSSA families or families in poverty.

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

**MR FREDERICK FUNG** (in Cantonese): Madam President, on this issue, I can actually put forth many theories and talk about many policies in discussing it. But having read this motion clearly, I found that it is not so complicated. In fact, we only have to refer to the relevant information of the Census and Statistics Department (C&SD) in 2003 and 2004 and we can see the problem of women in poverty in Hong Kong. According to the information of the C&SD in 2004, there were 400 000 women with an income of less than \$5,000, and the number is nearly two times that of men. These figures have reflected that poverty among women is at least two times more serious than poverty among men. In the following, I will try to sum up these statistics, so as to provide some figures on this issue to Members, and in particular, the Secretary, under five topics. These figures have actually explained everything. Let me try to provide an analysis as follows.

### *1. Working poverty*

First, working poverty. Many grass-roots women can only take up part-time jobs with flexible working hours because of their family status. But many part-time and temporary jobs are not protected by labour laws. Another type of jobs is those with low wages and long working hours. Let us try to compare these two job types. According to a survey conducted by the Oxfam Hong Kong in 2002, we notice that among cleaning workers employed for jobs outsourced by the Government, many are married middle-aged women. Some 40% of them are new immigrants who have come to Hong Kong for less than seven years, and as many as 90% of them earn wages of below \$5,000. As contractors have obtained the contract for outsourced government work at the lowest tender price, the most direct way is to suppress the wages of front-line workers. Some unscrupulous contractors have taken advantage of the Government actually not doing adequately or properly in monitoring subcontracting and defaulted on the payment of wages to their workers by subcontracting the relevant work. Therefore, I think it is necessary to mitigate the problem of working poverty. We are not referring to lazy people or people who are unwilling to work or to find a job, but people who have a job, who are employed and who have an income, just that the income is meagre or they are owed wages. Even though they have a job, if they do not enjoy protection in terms of proper working hours and minimum wages, it would be impossible to solve the problem for these people who earn a meagre income and who can only engage in jobs with flexible and even long working hours.

### *2. Equal pay for equal work*

According to the statistics of the C&SD in 2003, the wages of women were generally lower than those of men. Although we say that there is equal pay for equal work in Hong Kong, we can see from the statistics the phenomenon of unequal pay for equal work, and this cannot be clearer. For example, for job types mainly taken up by women, such as clerks, unskilled workers and jobs in the manufacturing sector, women's wages are lower than those of men. According to the statistics of the C&SD, the situation in the "community, social and personal services" sector is the worst. Some of the figures have really shocked me. I found that in this sector, women's wages are only 35% of those of men; the median wage of women is \$6,000 whereas that of men is \$16,000, with the former being only 35% of the latter. When we compare the overall median wages of men and that of women, the latter is also \$3,000 lower than the

former. Certainly, a direct comparison of these figures may not be possible, because more men may work in sectors offering a high pay and less women may work in these sectors. In any case, the findings show a difference of \$3,000 in the median wage between women and men. We can see that many women, particularly low-income women, cannot make an income through their own effort to ease their financial hardships. We have persistently worked for equal pay for equal work, and the Government has also enacted legislation to this end. But the statistics are telling us that this is not the case. In Hong Kong, what we have seen is actually unequal pay for equal work.

### 3. *Invisible labour*

After the financial turmoil, many unemployed women have been forced to become self-employed by working at home or taking up casual jobs. According to the statistics of the C&SD for the years 2003 and 2004, the number of self-employed women has increased steadily year after year from 27 000 in 1999 to over 55 000 in the second quarter of 2004, which almost doubled. Although these grass-roots women have worked hard in order not to become unemployed or fall into the CSSA net, they do not have an employment status because they are self-employed and hence cannot enjoy the basic labour rights or welfare. In this connection, we propose that the Government should set up for these self-employed people a central compensation fund system under which applications from these workers for labour insurance will be accepted to enable them to enjoy labour protection.

### 4. *Retirement protection*

At present, there are close to 680 000 housewives in Hong Kong. According to the statistics of the C&SD in 2004, the number of women responsible for housework is far higher than that of men. Do Members know how many times higher it is than the number of men? Mr LEUNG Kwok-hung said earlier that he was brought up by his mother. There are 55 times more women doing housework than men. It means that when it comes to taking care of children, the ratio of women to men is 55 to 1, or the number of women is 55 times higher than that of men. Moreover, close to 20 000 women were not remunerated for working for their family business, or working for or providing services to their families, and the number is seven times that of the number of men. While housewives and single-parent mothers have taken up the important role of providing back-up to society, they are considered as not having a job as

they are neither remunerated nor employed and so, they do not have the protection of Mandatory Provident Fund (MPF), pension, or whatsoever. To single-parent mothers, they will have no protection for their living when they retire. Now, many elderly people are living on scavenging, and does it not reflect that we should set up a universal retirement protection scheme to protect these retired women, particularly women who are unemployed and who have no pension and no MPF payouts?

5. *Gender mainstreaming*

I remember that the former Chief Executive mentioned in the policy address that a gender mainstreaming checklist will be introduced to various policy areas, and I hope this can be truly achieved in various trades and industries. However, the Women's Commission which is responsible for women issues operates with limited powers and transparency. So, I propose that the Committee on Poverty and the Women's Commission should incorporate this issue into their scope of work. Thank you, Madam President.

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

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): Miss CHAN Yuen-han, you may now speak on the two amendments. You have up to five minutes to speak.

**MISS CHAN YUEN-HAN** (in Cantonese): Madam President, regarding the contents of the two amendments, they are very much similar to the contents of my motion, and we even share the same aspirations. This has reflected that as long as we are concerned about the problems faced by women or feminization of poverty, we will naturally bring up these issues.

Having listened to all the speeches of colleagues attentively, I found that colleagues who are dedicated to studying this issue have mostly raised the same issues and made the same analyses and proposals as those in the original motion and the amendments. I have very deep feelings about this, perhaps because we have already called for equal pay for equal work or equal pay for work of equal



value for many times, and we have stated time and again that the existence of women has other value than bearing and rearing children and that they should be provided with retirement protection, and so on. We have consistently brought up these issues. I hope the Government will pay attention to them, for they actually show that although the Government established the Women's Commission in early 2000 at the request of the United Nations, no action has really been taken to address and solve the problem.

As I said at the outset in moving the motion, Hong Kong is a cosmopolitan and an international financial centre, and we are renowned as an efficient and energetic city. That said, many colleagues have presented many groups of figures earlier on describing the situation of poverty among the grassroots in Hong Kong, with poverty among women being even more serious, for their wages are generally 20% or 30% or even 40% lower than those of men. It shows that the Government has not formulated any policy, thus resulting in continued deterioration of the problem. Although it is said that economic hardships after the reunification have caused the problem to drastically worsen, nobody would have expected that the problem will deteriorate so rapidly. The Oxfam Hong Kong and the Hong Kong Council of Social Service published some figures yesterday, pointing out that by 2033, 60% of people aged 65 years in Hong Kong will be women. Assuming that these women do not have the means to retire, how can we solve the problem? This is not just a problem besetting women, but also a problem that the entire community must face.

Madam President, generally speaking, motions and amendments proposed in the Legislative Council may not necessarily have the support of all Members. But from what I have heard today, Members from different political parties and factions all have positive views on the original motion or the amendments. As I have said, or as many colleagues have said earlier, numerous figures are already put in front of us and if the Government still said that the Women's Commission can solve all the problems, I think this can hardly hold water. I am not saying that the Women's Commission has not done anything. But obviously, there is a huge gap between what the Women's Commission has done and the problems now faced by grass-roots women.

I agree with the introduction of the Capacity Building Mileage Programme (CBMP), but there is something quite laughable about it. When lessons are given on radio under the CBMP, they are often given at a time when women are most busy, and the fees are very expensive. For instance, with regard to gender

mainstreaming as mentioned by us earlier, while we do agree with this direction, we can see from some academic studies or from the grass-roots perspective that the Government has only worked superficially to respond to the aspirations of society. This is apparently very, very different from what the grassroots have expected.

For certain job types, there can be a difference of almost 40% in the wages between men and women. This shows that poverty among women is far more serious than poverty among men. If we do not accept that women do face problems, and if we do not accept that women are affected by such concepts as "men work and women stay at home" or it is only right and proper for women to take care of their families, I believe it would be difficult to solve the problem.

I have taken part in women's movement for decades. Why has the progress of women's movement been slower than that of other movements? There are three reasons. First, the Government has turned a blind eye to the problems faced by women; second, the traditional social values have posed obstacles to us in solving the problem; and third, it is because of women themselves. Earlier on, I heard Mr LI Kwok-ying mention paternity leave for men and I suddenly realized that there are still people who care to talk about this. We have called for this for over a decade, but we would be "beaten up" whenever we proposed it. In other words, women themselves are a reason why the women's movement is making slow progress. So, I think the Government must not think that this can already solve the problem. When we see a series of figures and when this issue is still progressing at a snail's pace after it has been discussed for a long time with no solution being identified, I think this is no good. Not that you are no good, Madam President. I mean the Government is no good. Once again, I hope that the Women's Commission can truly respond to the discussion on ways to address poverty among women in the World Conference on Women held in Beijing this year. Thank you.

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, first of all, I would like to thank Miss CHAN Yuen-han for moving today's motion, as well as Mr Albert HO and Mr LEE Cheuk-yan for proposing their respective amendments, which have given us an opportunity to conduct a discussion on this special subject of women in poverty.

During the past few months, we have held several discussions on the subject of poverty. I recall that I have had the opportunity to respond to certain questions related to gender mainstreaming. Today, I hope I can put the two issues on the same level for analysis, so as to understand what kind of additional work the Government or society has to do.

I would also like to thank Miss CHAN Yuen-han for making arrangements for me to meet a group of her friends to have a discussion, which enabled me to understand some proposals put forward by the Hong Kong Federation of Trade Unions (FTU). Generally speaking, I think the Government and Honourable Members hold very similar views on this issue. Of course, we have different approaches. In terms of policy, we need to make decisions that can balance the needs of different parties.

Earlier in the debate, Honourable Members have advanced different ways of referring to the subject. Some said that the subject is the "impoverishment of women", others referred it as "feminization of poverty". I hope Members can understand that, as far as we know, the proper term should be "feminization of poverty". In this regard, it mainly refers to the discovery that, insofar as the poverty issue is concerned, in the world — not just Hong Kong, but in all the countries in the world — there is the phenomenon that women account for the majority of the population in poverty, especially among households headed by women. This is not a problem unique to Hong Kong. It also happens in many developed countries. Later on, I shall also discuss the problems faced by such countries.

Earlier, Honourable Members have presented lots of different data. I wish to point out that some of the data in Hong Kong is relatively special. If the cases of foreign domestic helpers are excluded, the median monthly wage of women in Hong Kong in 2004 was \$9,000, and that for men was \$11,000. Of course, if the wages of foreign domestic helpers are also factored into the calculation, the figure will be much lower. This is attributable to the fact that Hong Kong people have selectively chosen to employ only women as foreign domestic helpers. It is most important for us to compare the median monthly wages of women to those of men throughout the years. According to the figures in 2004, the median monthly income of women was 18.2% less than that of men. The difference in percentage terms was the same as that of 2003. As for 2001, the difference was 16.7%. The difference in 2002 was greater — 20.8%. Looking back into the past, in 1993, the median monthly incomes of

women and men were \$6,500 and \$8,000 respectively. The difference was 18.8%. Therefore, we can see that the problem has existed persistently. I cannot say the problem has deteriorated drastically. But definitely the problem still exists and it has remained unchanged.

We can also see that, among the low-income group, there are more women than men. In 2004, among those with a monthly income less than \$5,000 (that is, half of the median income), if foreign domestic helpers are excluded, women accounted for 62%, which was already a reduction from the 66% in 2001. However, I do not find this figure any reason for complacency.

In short, when the Government deals with the problem of feminization of poverty, we also note that the reasons include, first, as mentioned by Members, the division by occupations. This is because among the women working population, most of them are employed in lower-income work types. Secondly, as many women have to take care of their families, they have to assume the role of carers in society as well as to consider their own career development, so there must be an impact on their working abilities and incomes. On a larger scale, there are really a higher proportion of women taking up part-time, temporary and casual work posts. Some Members have also mentioned earlier that due to past educational development or immigration policies, women who are middle-aged or older usually have a lower educational standard or poorer working experience than that of men.

Addressing the concerns for poverty and the problems of women is an inter-departmental and cross-discipline task. Government departments involved include the Economic Development and Labour Bureau, the Labour Department, the Education and Manpower Bureau, the Financial Services and the Treasury Bureau, the Home Affairs Bureau and Home Affairs Department, and the Health, Welfare and Food Bureau and the Social Welfare Department, which are under my charge. As for other directly related organizations, we have the Women's Commission (the Commission) and the Equal Opportunities Commission, in addition to the Commission on Poverty which was established recently. I hope that under the existing framework, we can address the problems mentioned by Members as far as possible.

Perhaps I should in particular discuss the work of the Commission. The Government established the Commission in 2001 with the mission of enabling

women to fully realize their due status, rights, and opportunities in all aspects of life. The work of the Commission was commended by Mr TUNG two years ago. For next year, the Government has also provided sufficient resources (\$16.3 million) to support the various aspects of work of the Commission.

Just as some Honourable Members have said, one of our very significant tasks is definitely to promote gender mainstreaming. This policy will gradually penetrate each and every government department and policy, so that when the relevant authorities formulate policies, they will consider the impact of such policies on women, and whether it is necessary to make some special arrangements to ensure that both genders would receive equal treatment when such policies are implemented.

On the other hand, we shall also promote some activities, as some Members have suggested, in the hope of enhancing women's quality of life and abilities, such as the Capacity Building Mileage Programme, and so on. At present, there are three programmes conducted in the form of class lectures, and altogether over 3 400 women have enrolled in the courses of the Programme.

We understand that it is by no means easy for us to take forward all such work, but still we must continue working hard to achieve the goals. The Commission has adopted a three-pronged approach in implementing its strategy. First, we should foster a favourable environment to enable women to enjoy equal opportunities in bringing their potential into full play. This includes the promotion of gender mainstreaming. However, all these will not be undertaken only by the Government, but in conjunction with other organizations and on other levels as well. In the coming year, we shall introduce this concept to the District Councils. Second, we shall work through other projects to enhance the abilities of women, so as to enable them to build up their self-confidence, self-determination, self-strengthening, self-reliance and self-respect, thereby enabling them to tap their potential to the full. Third, we should promote public education to let the public better understand the needs of women and their concerns, and to change the existing concepts of stereotyped roles of the two genders.

Striving to enable women to fully realize their due status and rights is a long-term process. Therefore, we hope Honourable Members can strive together with us in achieving this goal, and we also hope that the various sectors

in society can join us in our work because this is the only way that we can make it work.

I would like to take this opportunity to respond to certain special requests made by Members insofar as policies are concerned. One of them is about the retirement scheme for women. I can recall that, when the policy on elderly services was last discussed, I stated that the Government was already studying the issue of the ageing population. Of course, we will take care of the special needs of women in this regard. At present, women in Hong Kong live almost five and a half years longer than men do. Even if we are unwilling to think about this problem, there is no way for us to avoid it. This is a point we must understand. With regard to why more and more people, particularly the elderly persons, are applying for Comprehensive Social Security Assistance (CSSA), maybe one of the reasons is that many of the applicants are women. In the traditional Chinese society, most mothers did not go out to work. They would normally stay at home to take care of the children. Very often, the children would display a great filial duty to their mothers after growing up and would give them financial support. However, in our society today, we can see that more and more elderly persons have to fend for themselves, all on their own, which is not a healthy phenomenon at all. We hope that good family connections can be maintained, and that elderly women of our society can lead a decent life without having to worry about whether they will be taken care of by their families. To me, poverty does not just refer to how much money or savings they have. To the elderly persons, the quality of their life and whether they are properly taken care of are just as important. The older one gets, the more one needs the love and care of their families.

I would also like to draw a comparison between Hong Kong and other countries in this light. In 1994, a study by Casper et al. made a comparison of eight countries, including the United States, Canada, Australia, Britain, West German, Sweden, Italy, and the Netherlands. The study came up with three major ways which it believed could reduce the ratio of poverty between men and women:

First, promoting a higher marriage rate. This method is particularly useful in countries like Italy. Perhaps it is because Italy is a Catholic country, having more children after marriage means more financial support for the parents when they grow old. Insofar as Hong Kong is concerned, the call for

giving birth to more children by the Chief Secretary for Administration earlier on might have been based on the same logic.

Second, raising the rate of employment and wages of women. Of course, different countries will have very different approaches. We hope the Government can accommodate this as far as possible, whereas the business sector should provide more employment opportunities. Given the economic conditions of Hong Kong for the current year and its forecast in the short term, I am fairly optimistic about this at the moment.

Third, increasing the amounts of government subsidies. This is exactly what the Government is doing through the provision of CSSA or subvention to the lower-income groups. Of course, we will have to study carefully the level of such subsidies and whether there are any special needs.

Members have also mentioned that there are many categories of women to whom special assistance should be offered. Although Mr LEUNG Kwok-hung has already left this Chamber, he had passed to me the name of a Ms WONG whom I had met personally before. This Ms WONG, a widow, lives by herself. She is facing many problems too, such as chronic diseases, and so on. In this particular case, her problems have to be addressed through different channels. We are aware that the lives of single-parent families, especially that of single mothers who have to take care of their children, are particularly hard. Therefore, we hope more attention can be given to childminding services in the social service policy next year. With their children being taken care of by childminding services for a sufficiently long duration, single mothers can then go on with their normal work. The present childminding services are already adequate for meeting the needs in each of the 18 districts, and it is our hope that women can keep on working as far as possible, and that they do not have to give up their jobs because of the children.

Besides, it appears that we have spoken a lot this year on helping the poor children. In fact, our service targets are family-oriented. Even the head start programme for children aged from zero to five years is not just targeted at children. In fact, the mothers of the children, the demand for family care and special family needs have all been taken into consideration. I think it is particularly important for Hong Kong to foster a healthy family environment, which will be very helpful in reducing family disputes, divorce rates and in

alleviating problems threatening the harmony of families. I think the Government needs to do all these, but we must also work together with other organizations.

In general, I do not actually hold any objection to the motion moved by Miss CHAN Yuen-han and the amendments proposed by the other two Members. However, the wordings they have used appear to be a bit too heavy, and if I have to implement all such measures immediately, it will be a bit difficult. We will certainly consider what they have raised in the motion, but some of the issues must be carefully considered before they can be implemented. If we introduce any policies without carefully analysing and balancing the pros and cons, we will only bring about new problems. I certainly do not want to see this issue lead to even bigger impact or problems to society at large.

I hope that in the future, greater efforts can be made in respect of gender mainstreaming. Hong Kong is relatively more advanced than some other countries, but when it comes to the social status of women, particularly those who are in the lower stratum of our economic framework, this is still a major issue. Looking ahead, the future is not gloomy at all. Right now, there are more and more female students studying in our tertiary institutions. In some professional faculties, there is also a fairly large intake of female students. I believe that in our next generation, it will be easier to solve the problem. There is yet another concept called de-feminization of poverty. Certain countries found that they have to tackle the issue the other way round, that is, they are starting to take care of men. It is because as women are gaining dominance, they are demanding more and more. I hope the gender problem will not evolve into a polarized problem in Hong Kong because there are already too many disputes going on and let us not add another one to worry about. I hope we all understand that we are particularly in need of a harmonious society with mutual assistance.

Madam President, I so submit. Regardless of whether Members support the motion, I hope they can continue to support the work in this regard. Thank you all.

**PRESIDENT** (in Cantonese): I now call upon Mr Albert HO to move his amendment to the motion.



**MR ALBERT HO** (in Cantonese): Madam President, I move that Miss CHAN Yuen-han's motion be amended, as printed on the Agenda.

**Mr Albert HO moved the following amendment: (Translation)**

"To add "whereas the Government has often overlooked the gender perspectives in formulating public policies and the Commission on Poverty and the Women's Commission have not shown adequate concern about gender-oriented poverty problems," after "women in Hong Kong is worsening,"; to delete "feminization" after "this Council urges the Government to face up to the" and substitute with "problem"; to delete "and" before "formulate concrete policies" and substitute with "among women,"; and to add ", and, in response to the comments and recommendations made by the United Nations Committee on Economic, Social and Cultural Rights when examining the Report of Hong Kong in 2001, adopt corresponding measures, which should include: (a) taking into account gender perspectives in the formulation of policies; (b) providing the Women's Commission with sufficient powers and resources to ensure that gender perspectives are taken into account in the policy-making process; (c) prohibiting age discrimination; (d) enacting legislation for the implementation of equal pay for work of equal value as provided for in the International Covenant on Economic, Social and Cultural Rights; and (e) introducing a comprehensive pension scheme with a view to providing adequate protection for housewives in Hong Kong" after "to assist the women in poverty"."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr Albert HO to Miss CHAN Yuen-han's motion, be passed.

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

(Members raised their hands)

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

(Members raised their hands)

Mr Albert HO rose to claim a division.

**PRESIDENT** (in Cantonese): Mr Albert HO has claimed a division. The division bell will ring for three minutes, after which the division will start.

(After the division bell had rung for three minutes, a quorum was lacking)

**PRESIDENT** (in Cantonese): The division bell has rung for three minutes but we cannot proceed to vote now, for a quorum is not present. I now ask the Clerk to sound the bell to summon Members to return to the Chamber for the meeting.

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

**PRESIDENT** (in Cantonese): A quorum is now present. Will Members please return to their seats. Dr Fernando CHEUNG, please return to your seat. Will Members please return to their seats.

(All Members returned to their seats)

**PRESIDENT** (in Cantonese): Will Members please proceed to vote. The question is: That the amendment, moved by Mr Albert HO to Miss CHAN Yuen-han's motion, be passed.

**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 WONG Yung-kan, Dr Joseph LEE, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Mr KWONG Chi-kin and Miss TAM Heung-man voted for the amendment.

Mr Bernard CHAN, Mr Howard YOUNG, Ms Miriam LAU, Mr Timothy FOK, Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Vincent FANG and Mr Jeffrey LAM voted against the amendment.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Miss CHAN Yuen-han, Mr Jasper TSANG, Dr YEUNG Sum, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr TAM Yiu-chung, Mr Albert CHAN, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Mr LI Kwok-ying and Mr Alan LEONG voted for the amendment.

Mr James TIEN and Mrs Selina CHOW voted against the amendment.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 15 were present, seven were in favour of the amendment and eight against it; while among the Members returned by geographical constituencies through direct elections, 18 were present, 15 were in favour of the amendment and two against it. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negatived.

**MS MIRIAM LAU** (in Cantonese): Madam President, I move that in the event of further divisions being claimed in respect of the motion "Policy on assisting women in poverty" or any amendment thereto, this Council do proceed to each of such divisions after the division bell has been rung for one minute.

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

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

I order that in the event of any further divisions being claimed in respect of the motion "Policy on assisting women in poverty" or any amendment thereto, the Council do proceed to each of such divisions after the division bell has been rung for one minute.

**PRESIDENT** (in Cantonese): Mr LEE Cheuk-yan, you may now move your amendment.

**MR LEE CHEUK-YAN** (in Cantonese): Madam President, I move that Miss CHAN Yuen-han's motion be amended, as printed on the Agenda.

**Mr LEE Cheuk-yan moved the following amendment: (Translation)**

"To add ", which should include: (a) enhancing women's financial independence through vocational and skills training and development of community economy; (b) prescribing a minimum wage and implementing the principle of equal pay for work of equal value to alleviate the problem of working poverty among women; (c) strengthening support for single-parent families; and (d) introducing an old age pension system to protect the retirement life of non-working women" after "to assist the women in poverty". "

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr LEE Cheuk-yan to Miss CHAN Yuen-han's motion, be passed.

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

(Members raised their hands)

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

(Members raised their hands)

Mr LEE Cheuk-yan rose to claim a division.

**PRESIDENT** (in Cantonese): Mr LEE Cheuk-yan has claimed a division. The division bell will ring for one minute, after which the division will start.

**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 WONG Yung-kan, Dr Joseph LEE, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Mr KWONG Chi-kin and Miss TAM Heung-man voted for the amendment.

Dr Raymond HO, Mr Bernard CHAN, Mr Howard YOUNG, Ms Miriam LAU, Mr Timothy FOK, Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Vincent FANG and Mr Jeffrey LAM voted against the amendment.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Miss CHAN Yuen-han, Mr Jasper TSANG, Dr YEUNG Sum, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr TAM Yiu-chung, Mr Albert CHAN, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Mr LI Kwok-ying and Mr Alan LEONG voted for the amendment.

Mr James TIEN and Mrs Selina CHOW voted against the amendment.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 16 were present, seven were in favour of the amendment and nine against it; while among the Members returned by geographical constituencies through direct elections, 18 were present, 15 were in favour of the amendment and two against it. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negated.

**PRESIDENT** (in Cantonese): Miss CHAN Yuen-han, you may now reply and you have one minute 26 seconds.

**MISS CHAN YUEN-HAN** (in Cantonese): Madam President, I hope that the Secretary was positive in his attitude towards the original motion and the amendments today when he spoke earlier on. I hope he can really consider the relevant issues in the near future, as the Secretary said earlier that he is willing to address squarely the problem of poverty among women and the Government is currently conducting a survey on the aging of the population. But I all the more hope that the Government can come up with different options of a universal retirement protection system.

Moreover, I would like to make some suggestions. In the face of the problem of the poor, we must, according to studies conducted by academics, consider two very important factors. One is their ability. The other is opportunity. In respect of ability, we can upgrade their ability through the provision of training and various opportunities. In fact, many women are very competent, only that their conditions do not allow them to upgrade their ability. The other factor is opportunity. It means the creation of more employment opportunities. This, I agree. It is, in fact, a good thing to women if more employment opportunities can be created. So, if the Secretary said that he would endeavour to do something in the short term, I hope that he can provide more opportunities to women, opportunities that will enable them to upgrade their ability. I think both areas of work are very important.

With these remarks, Madam President, I hope colleagues will support my original motion. Thank you.

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

(Members raised their hands)

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

(No hands raised)

Miss CHAN Yuen-han rose to claim a division.

**PRESIDENT** (in Cantonese): Miss CHAN Yuen-han has claimed a division.

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

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

Functional Constituencies:

Dr Raymond HO, Ms Margaret NG, Mr Bernard CHAN, Mr WONG Yung-kan, Mr Howard YOUNG, Ms Miriam LAU, Mr Timothy FOK, Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Vincent FANG, Dr Joseph LEE, Mr Jeffrey LAM, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Mr KWONG Chi-kin and Miss TAM Heung-man voted for the motion.

Geographical Constituencies:

Mr James TIEN, Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mrs Selina CHOW, Miss CHAN Yuen-han, Mr Jasper TSANG, Dr YEUNG Sum, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr TAM Yiu-chung, Mr Albert CHAN, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Mr LI Kwok-ying and Mr Alan LEONG voted for the motion.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 16 were present and 16 were in favour of the motion; while among the Members returned by geographical constituencies through direct elections, 18 were present and 17 were in favour of the motion. Since the



question was agreed by a majority of each of the two groups of Members present, she therefore declared that the motion was carried.

### **NEXT MEETING**

**PRESIDENT** (in Cantonese): I now adjourn the meeting until 11.00 am on Wednesday, 20 April 2005.

*Adjourned accordingly at seventeen minutes past Nine o'clock.*