

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 11 January 2006

The Council met at Eleven o'clock

MEMBERS PRESENT:

THE PRESIDENT

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

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

THE HONOURABLE ALBERT HO CHUN-YAN

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

THE HONOURABLE LEE CHEUK-YAN

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

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

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

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

THE HONOURABLE MARGARET NG

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

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE CHEUNG MAN-KWONG

THE HONOURABLE CHAN YUEN-HAN, J.P.

THE HONOURABLE BERNARD CHAN, J.P.

THE HONOURABLE CHAN KAM-LAM, S.B.S., J.P.

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

THE HONOURABLE LEUNG YIU-CHUNG

THE HONOURABLE SIN CHUNG-KAI, J.P.

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

THE HONOURABLE WONG YUNG-KAN, J.P.

THE HONOURABLE 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 CHIN-SHEK, J.P.

THE HONOURABLE LAU KONG-WAH, J.P.

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

THE HONOURABLE MIRIAM LAU KIN-YEE, G.B.S., J.P.

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

THE HONOURABLE CHOY SO-YUK, J.P.

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

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

MEMBER ABSENT:

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

PUBLIC OFFICERS ATTENDING:

THE HONOURABLE MICHAEL SUEN MING-YEUNG, G.B.S., J.P.
SECRETARY FOR HOUSING, PLANNING AND LANDS

THE HONOURABLE STEPHEN IP SHU-KWAN, G.B.S., J.P.
SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR

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

THE HONOURABLE FREDERICK MA SI-HANG, J.P.
SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY

THE HONOURABLE JOHN TSANG CHUN-WAH, J.P.
SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY

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

MS PAULINE NG MAN-WAH, ASSISTANT SECRETARY GENERAL

MR RAY CHAN YUM-MOU, ASSISTANT SECRETARY GENERAL

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

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

PRESIDENT (in Cantonese): A quorum is present now, we shall commence the meeting. This is the first meeting in 2006, I wish Members a year of smooth work and happiness in 2006.

TABLING OF PAPERS

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

| Subsidiary Legislation/Instruments | <i>L.N. No.</i> |
|--|-----------------|
| Antiquities and Monuments (Declaration of Historical Building) Notice 2005 | 236/2005 |
| Tax Reserve Certificates (Rate of Interest) (No. 10) Notice 2005 | 237/2005 |
| Business Registration (Fee Reduction) Regulation 2006 | 1/2006 |
| Dutiable Commodities (Fee Revision) Regulation 2006 | 2/2006 |
| Inland Revenue Ordinance (Amendment of Schedules 5 and 11 — Fee Revision) Order 2006 | 3/2006 |
| Import and Export (General) Regulations (Amendment of Fourth and Fifth Schedules) Order 2006 | 4/2006 |
| Statutes of the Chinese University of Hong Kong (Amendment) Statutes 2005 | 5/2006 |

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| Statutes of the Chinese University of Hong Kong (Amendment) (No. 2) Statute 2005 | 6/2006 |
| Evidence (Miscellaneous Amendments) Ordinance 2003 (Commencement) Notice 2006 | 7/2006 |

Other Papers

No. 55 — Legal Aid Services Council
Annual Report 2004-2005

Report of the Bills Committee on Civil Aviation (Amendment) Bill 2005

ORAL ANSWERS TO QUESTIONS

PRESIDENT (in Cantonese): Questions. First question.

Fees and Charges of MPF

1. **MR SIN CHUNG-KAI** (in Cantonese): *President, I also wish you good health. Regarding the fees and charges of the Mandatory Provident Fund (MPF), will the Government inform this Council whether:*

- (a) *it will consider making public, in the Code on Disclosure for MPF Investment Funds (the Code), the fees and charges of funds of similar nature managed by trustees of MPF funds, so as to facilitate comparison by MPF scheme members;*
- (b) *it has compared the cost structures of MPF funds, including the costs of management, administration and other services, with the relevant aspects of non-MPF funds; if it has, of the comparison results; and*
- (c) *it will take measures to encourage trustees of MPF funds to scale down their management costs so as to lower the fees and charges; if it will, of the details; if not, the reasons for that?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, I also wish to take this opportunity to wish Members good health and smooth work.

- (a) In June 2004, the Mandatory Provident Fund Schemes Authority (MPFA) issued the Code to improve the disclosure of fees and charges of MPF funds offered.

The Code has set out a number of initiatives for implementation in phases. By the end of 2005, approved trustees have already been required to disclose fees and charges in a consistent manner by the use of a standardized fee table. With better disclosure, we hope that MPF scheme members can make more informed investment decisions.

In tandem with the implementation of these disclosure initiatives, the MPFA will also explore the development of a comparative platform for a common facility that will allow MPF scheme members to compare the fees and charges of MPF funds.

- (b) The MPFA has made a preliminary comparison of the cost structures of these funds and the result indicates that they are generally similar. The MPFA notes that in both cases there are usually annual or monthly fees payable to the operator(s) of the fund (the manager and/or trustee) and other service providers such as investment managers. In addition, there is a range of smaller fees/costs such as custodian, auditor, establishment and legal fees. All funds also incur transaction costs associated with investment acquisition and disposal. Many non-MPF funds also charge members an initial up-front fee but generally such fee is waived or not charged by MPF funds at present.
- (c) The MPF System in Hong Kong is a privately managed retirement protection system. The approach adopted is principally to rely on market forces to set the price (which equates with the fees and charges) of MPF funds. The implementation of the MPFA's Code seeks to improve transparency of fees and charges so as to allow

market forces to work more efficiently. The Government and the MPFA will continue to review the disclosure requirements, in the light of the market development, to enable MPF scheme members to have better knowledge about the fees and charges when they make their investment decisions.

MR SIN CHUNG-KAI (in Cantonese): *President, I wish to follow up the last paragraph of part (a) of the main reply. It is mentioned by the Secretary in the main reply that the development of a comparative platform is being explored. What specific areas are being studied? When will the studies be completed? Will the studies achieve the effect of lowering the fees and charges of MPF funds?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, the supplementary question asked by Mr SIN Chung-kai just now should consist of two parts actually. He asked whether there would be any possibility of lowering the fees and charges. This question actually implies that when more information is available, the fees and charges can be lowered. The aim of this project is to bring forth a high degree of transparency, so that members of the public may have access to more information. Currently, there are some 300 MPF schemes. Although services are provided by only 19 financial institutions, market competition is still our main emphasis. When transparency increases, there will be more competition in the market. In this way, the fees and charges can be lowered. I must make this very clear in the first place.

Besides, as I have just explained, the MPFA has been working on information disclosure since June 2004. They will continue to make improvements with a view to disclosing more information to MPF scheme members. Members must realize that we are talking about several hundred MPF schemes, so it will not be easy to make any comparison. The MPFA has already made the first step, in the hope of making continuous efforts to perfect the project on developing a comparative platform. As for the question of timeframe, I believe the Management Board of the MPFA (Some Members present here are also Directors of the Management Board) will exercise close supervision and ensure that the project can proceed expeditiously.

MR SIN CHUNG-KAI (in Cantonese): *How about the areas of studies?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, all areas of studies will certainly focus on this objective, that is, the objective of enabling members of the MPFA to have access to more information (Appendix 1). Therefore, I think that the scope of studies will be very extensive. If Members have any opinions on this, they are welcome to raise them with the Management Board of the MPFA.

MR JAMES TO (in Cantonese): *President, it is pointed out in part (b) of the main reply that the cost structures of MPF funds and non-MPF funds are generally similar. If this is really the case, why are the fees and charges of MPF funds generally higher, much higher, than those of non-MPF funds? May I ask the Government what structural factors caused this phenomenon? Can the market forces mentioned in part (c) of the main reply really rectify the situation and enable consumers — especially "wage earners" who are compelled to take part — to eventually enjoy fair fees and charges?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, many thanks to Mr James TO for his question. I do not quite know where Mr James TO has obtained all those statistics which indicate that the fees and charges of MPF funds are higher than those of other funds. President, may I ask Mr James TO to offer an explanation first?

PRESIDENT (in Cantonese): Mr TO, it seems that the Secretary cannot quite understand your supplementary question.

MR JAMES TO (in Cantonese): *President, we have received many complaints about this, but I do not have the information to hand. I can provide the Government with such information later.*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Fine. President, as I have just mentioned, there are several hundred MPF funds, so we should not make any sweeping generalizations. We understand that in the case of non-MPF funds, there is often a one-off fee, that is, a fee which a scheme member must pay upon participation. As mentioned in my main reply, such a fee is not charged by MPF funds. For these reasons, I do not think we should make any sweeping generation that the fees and charges of MPF funds are higher than those of non-MPF funds.

The MPFA has conducted some relevant studies and obtained some information from the Securities and Futures Commission. The findings of our studies indicate that in general, the situation described by Mr James TO should not exist. However, if Mr James TO has really received any complaints, he is welcome to relay the complaints to the MPFA. Actually, it will be very difficult for us compare the fees and charges in detail, which is why I have pointed out in the main reply that there is not much difference between the cost structures of both. There may be some differences in the case of individual funds, but comparison may not be easy either. Therefore, if Mr James TO happens to have any relevant information, I think he should inform the MPFA.

MR CHAN KAM-LAM (in Cantonese): *President, in the last paragraph of part (a) of the main reply, the Secretary expresses the hope of establishing a comparative platform for information disclosure. As Members all know, when there is comparison, members of the public will be able to know which funds charge more and which funds charge less. However, is the Secretary aware that members of MPF schemes are offered no options at all? They simply cannot rely on market forces as a means of choosing a fund operator offering economical or cost-effective services. The Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) has always advocated a "red booklet" system. With such a system, members of the public will be able to make their own choices on the basis of scheme efficiency, charges and services. But they are currently unable to do so. At present, they must accept the schemes offered by the banks chosen by their employers. Therefore, may I ask the Secretary whether he will consider the "red booklet" system advocated by the DAB.*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, first, there are 19 financial institutions participating in

this scheme. I have personally studied the backgrounds of these participating financial institutions to ascertain whether the market is dominated by any single company. My conclusion is that the situation is not like this. There is market competition. I hope that investors can seek to understand the various investment products and choose wisely among the financial institutions operating MPF schemes. This is very important. From media reports, I learn that since only five years have passed since the implementation of MPF schemes, scheme members still do not have any deep understanding of which products they should invest in or which financial institutions they should select. I hope that the question asked by Mr SIN Chung-kai can induce people to pay more attention to their MPF schemes.

As for the "red booklet" system advocated by the DAB, Mr CHAN Kam-lam has actually made a proposal to me before and I have relayed his opinion to the Management Board of the MPFA. Once there are any findings, we shall report to Members accordingly. As a matter of fact, we did consider many factors when designing the present system. The present system also has some advantages but I am not going to dwell on them now. As far as I know, when an employee resigns, he can withdraw the money and transfer it to another scheme. I very much welcome Mr CHAN Kam-lam's proposal and I have already relayed it to the Management Board of the MPFA for in-depth studies.

MR WONG KWOK-HING (in Cantonese): *President, I also wish to follow up the last paragraph of part (a) of the Secretary's main reply: "The MPFA will also explore the development of a comparative platform". President, may I ask the Secretary when the studies will be completed? Is there any timeframe? We also wish to know the roadmap.*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, the studies are underway. Members must realize that we have to compare several hundred funds with different fees and charges. They must also realize that the comparison must be fair lest other problems may arise. Staffs of the MPFA are working very hard on this. For the time being, we are still unable to say when the studies can be completed because difficulties may arise in the course of comparison. Consequently, the fixing of a completion date at this stage may not be the most desirable course of action. I

believe that after learning of Members' concern about this issue, staff of the MPFA will definitely do their utmost and seek to complete the studies as quickly as possible. As a Director of the Management Board, I shall relay the views expressed by Members today to the Management Board. I am sure we will proceed as quickly as possible.

MR LEE WING-TAT (in Cantonese): *President, I hope the Secretary can realize that the MPF system is compulsory in nature, and that people do not have any choices. When these schemes were first introduced, financial institutions were chosen by employers and employees could only select the funds. In the past few years, the average rates of return for MPF funds were relatively low, so people tended to compare the fees and charges. If there is a return rate of 10% to 20%, no one will ever raise this problem. What measures have the Bureau put in place to enable employees — not employers — to have the greatest scope of choices? If people have choices, then they will not complain regardless what the returns are.*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, since Mr LEE Wing-tat has mentioned investment returns, I may take the opportunity to say a few words. In the early days of the MPFA, owing to the poor performance of the financial market, the rates of return were not so satisfactory. However, the performance of the financial market has improved a great deal over the past two years, yielding a return rate of higher than 4%, which is not bad already. Actually, it is always difficult to foretell whether the return rate will be good or bad. Much has to depend on the types of products chosen by a scheme member. If a scheme member chooses capital preservation funds, the return will naturally be smaller. I can remember that several years ago, people said that stock investment funds must be chosen. At the very beginning, the performance of these funds was not so satisfactory. But the situation has improved recently. Therefore, the rate of return will always depend on the scheme member's choices.

Currently, MPF schemes in the market all offer at least two types of funds. In most cases, scheme members are allowed to choose among four or five types of funds. In other words, people can actually choose the types of funds they prefer according to their investment inclinations. For example, since I am

rather old already, I have chosen some capital preservation funds and others that are more secured in terms of returns.

MR LEE WING-TAT (in Cantonese): *My supplementary question is very simple. At the very beginning, employers could make their choices and employees could only do so after that. My question is very simple. Has the Government ever explored any ways of giving employees more choices in the course of selection, so that they will not complain against the Government or the MPFA because of poor performance? The Secretary has only talked about the present system in his reply. May I ask the Secretary whether any studies have been conducted to offer more choices to employees?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, it is actually a question of mutual responsibility. In other words, employees themselves must also deepen their understanding of MPF schemes, so that they can make wise choices. We are right now making efforts to improve the disclosure of information, in the hope that with more transparency, scheme members can know what they can choose. But they must at the same time make their own efforts to prepare for their life after retirement.

PRESIDENT (in Cantonese): We have spent more than 17 minutes on this question. Last supplementary question.

DR FERNANDO CHEUNG (in Cantonese): *At the end of part (a) of the Secretary's main reply, it is pointed out that a so-called platform for comparison and disclosure will be explored. I cannot quite understand this. As "wage earners", we actually have a very simple demand. Generally speaking, we now know how much has been deducted from our salaries as contributions and how much our employers have contributed. However, when it comes to investments, the authorities have so far failed to offer any concrete statistics to "wage earners", so that they can know how much they have lost or gained and how much has been charged as administrative fees. President, I cannot quite understand why the authorities have even failed to disclose such simple statistics to members of the public.*

PRESIDENT (in Cantonese): Do you want the Secretary to offer an explanation?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, Dr Fernando CHEUNG must realize that we are offering many choices to "wage earners", and that when there are so many choices, it will be very difficult to make any comparison. For example, in some cases, the funds concerned are mainly bank deposits, so transaction fees will naturally be lower. But in the case of those funds involving stock transactions, as I have mentioned in the main reply, transactions fees will have to be charged. In that case, a simple comparison may indicate that the fees of a certain fund is higher than those of another. Therefore, in developing a comparative platform, we must make lots of preparations, or else some financial institutions may complain that it is unfair of us to say that they charge higher fees. Therefore, when going about this task, we must pay heed to both information disclosure and whether or not financial institutions will regard the platform as a reasonable, fair and transparent one.

I wish to tell Members that staff of the MPFA are well aware of this point. Actually, as soon as the Consumer Council released its relevant report in 2003, they already started working. That was why in 2004, they could issue the Code mentioned by me earlier. At present, they are still working actively on the establishment of such a comparative platform. However, before the launch of this platform, we must make sure that the information provided to investors and MPF scheme members is accurate, and that financial institutions are also satisfied with the accuracy of such information. Consequently, we do need some time because this task cannot possibly be completed overnight. If the opposite had been the case, a comparative platform would have been launched already.

DR FERNANDO CHEUNG (in Cantonese): *I am actually talking about the amounts of fees and charges. This is in fact very simple and the Secretary has already given an answer. All is just simple addition and subtraction. Why has the whole thing been made so very complicated?*

PRESIDENT (in Cantonese): Are you asking the Secretary why he cannot provide any clear statistics on the amounts of administrative fees?

DR FERNANDO CHEUNG (in Cantonese): *Yes. Simple statistics that can enable scheme members to know the whole picture clearly.*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, I have already spent a lot of time explaining. Many details are involved, so if Dr Fernando CHEUNG wishes to know why there are so many types of fees and charges, I am prepared to arrange a meeting for staff of the MPFA to give him a detailed explanation. If any other Members are interested, I am also prepared to make arrangements for them.

PRESIDENT (in Cantonese): Second question.

Obstetric Services of Tuen Mun Hospital

2. **MR TAM YIU-CHUNG** (in Cantonese): *President, it has been reported that the obstetric services provided by Tuen Mun Hospital (TMH) have failed to meet the demand. As a result, some women have to go to public hospitals in other districts for delivery. In this connection, will the Government inform this Council:*

- (a) *of the number of delivery cases handled by the Department of Obstetrics of TMH in each of the past three years, and among those women giving birth, the number and percentage of those who are non-Hong Kong residents;*
- (b) *of the anticipated number of delivery cases which can be handled by TMH in each of the next three years; and*
- (c) *whether it plans to increase the medical and nursing manpower and resources of the Department of Obstetrics of TMH so as to satisfy the service demand of Tuen Mun District; if so, of the details; if not, the reasons for that?*

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

- (a) In the past three years, the number of delivery cases handled by TMH are as follows:
- 5 420 delivery cases in 2003, of which 1 215 cases (or 22.4%) were by Non-eligible Persons (NEPs);
 - 5 701 delivery cases in 2004, of which 1 699 cases (or 29.8%) were by NEPs; and
 - 6 043 delivery cases in 2005, of which 2 066 cases (or 34.2%) were by NEPs.
- (b) The Hospital Authority (HA) estimates that TMH should be able to handle around 6 000 delivery cases per year in the next three years.
- (c) To meet the demand for obstetrics services in New Territories West, the HA is considering the temporary redeployment of staff from other hospital clusters to TMH as a contingency measure for alleviating the pressure faced by the hospital's Obstetrics Department. In addition, the HA will provide additional manpower resources for the Obstetrics Department of TMH, which include a plan to recruit additional doctors and midwives for the Department in July this year.

At present, the overall supply of medical personnel in obstetrics is relatively tight. The HA has already adopted a more flexible mode of employment, so as to engage some obstetrics specialists in private practice to provide service in public hospitals on a part-time basis and contribute to the training of young doctors.

The HA will continue to monitor the use of its obstetrics services very closely and will deploy resources appropriately and flexibly to meet service demand. If and when necessary, the HA will increase

the number of specialist training places in obstetrics and strengthen training in midwifery.

MR TAM YIU-CHUNG (in Cantonese): *President, according to the existing operational practice of the HA, when a hospital cannot reserve beds for pregnant women in the relevant district, the pregnant women will be referred to other hospitals. I would like to ask the Secretary this: Is there a set of criteria for such referrals to stipulate, for instance, the distance away from the hospital to which the women will be referred? In a case that I have handled, the woman concerned said that she had been referred to Kwong Wah Hospital in Mong Kok or Prince of Wales Hospital (PWH) in Sha Tin because no bed was available in TMH. As these hospitals are too far away, will it be unfair to the pregnant women or will it cause safety problems?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, I have explored this issue with the HA for quite a long time, and I also think that the question of obstetrics services in a district should be resolved in the district concerned as far as possible.

I think the HA should use this as a principle in considering resource deployment or in planning facilities. But as far as I know, a reduction in manpower suddenly occurred in TMH in the past few months because some doctors had left the hospital. That is why it is necessary to take short-term measures to refer patients to other clinics where prenatal services are provided, and the choice of clinic mainly depends on the availability of hospital beds in the clinic, and a choice will then be made for the pregnant women.

We certainly hope that pregnant women, especially women seeking admission to hospital for delivery in a short time, can be admitted to a hospital in the vicinity of her residence. Generally speaking, for women who have given birth to one child or more, the process of delivery of her second or third child will take a shorter time. I believe colleagues in the Obstetrics Department will give advice in this regard for the expecting mothers to make a choice. That said, I have discussed this issue with the HA and I hope that this problem can be solved as soon as possible.

PRESIDENT (in Cantonese): Members, a total of 11 Members are waiting to ask supplementaries on this question. I hope that Members who have a chance of asking their question can be as precise as possible.

MR JASPER TSANG (in Cantonese): *President, in the main reply the Secretary pointed out that in fact, not only in TMH, the overall supply of medical personnel in obstetrics is also relatively tight at present. The Chief Executive, Mr Donald TSANG, has said time and again that the birth rate in Hong Kong is the lowest in the world and that he is worried about this. Such being the case, is the shortage of obstetrics service a reason why young couples are unwilling to give birth to children?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, it is a difficult question to answer. What we must take into consideration first is the overall trend of fertility in the community of Hong Kong, which has been dropping over the past couple of years, particularly as there are less local women giving birth to children. However, there was a breakthrough in 2005. In 2004, pregnant women who are Hong Kong residents gave birth to 26 552 babies in total, and in 2005, the number increased from 26 552 to 27 342. Although it is difficult for us to explain why more people were willing to give birth, I personally think that when the economy is better, the public will be more willing to give birth. We, therefore, hope that there will be a stable or upward trend in this respect.

As a matter of fact, the overall obstetrics services in Hong Kong have shrunk consistently over the past five to six years. But as the local birth rate, which had declined to the lowest level, has gradually rebounded, coupled with an increasing number of pregnant women from other places — Members also mentioned earlier that the percentage of pregnant women from other places has increased — at present, an average of 34% of pregnant women come from the Mainland, which means that one third of the women giving birth are mainland women or spouses of local residents in the Mainland. In this connection, I believe we must consider the overall demand for obstetrics services before deciding whether or not to provide more manpower or facilities.

I personally think that these statistics cannot be obtained easily, because whether or not pregnant women from places outside Hong Kong will choose to come here is entirely out of our control.

MR CHEUNG HOK-MING (in Cantonese): *President, according to the Secretary's main reply earlier, the number of cases handled by TMH in the past three years has increased gradually. May I ask what the reasons are? Besides, is there something to do with the nearby districts, such as the redevelopment of Pok Oi Hospital in Yuen Long, which have rendered the services affected and subsequently made a large number of residents in Tin Shui Wai in need of medical services to turn to TMH?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, I have analysed the statistics for the past four years and found that from 1995 to 2003, the fertility figures in Hong Kong had dropped consistently, and it was only in 2004 and 2005 that the figures had increased slightly. There was a rather big increase in 2005 and in most cases, the women came from the Mainland.

With regard to the overall number of deliveries, there were 37 668 deliveries in 2004, and in 2005, the figure rose to 41 259, representing an increase of 9.5%. Insofar as this increase is concerned, most cases were handled by Kwong Wah Hospital and PWH, not by TMH, and some of them were handled by United Christian Hospital. As hospitals in Kowloon and the New Territories are nearer to the border or located in places where more young families can be found, the number of cases handled by these hospitals is, therefore, higher. But insofar as Tuen Mun is concerned, the increase is, in fact, not too big, and if I am not wrong, it was only about 6%, which is lower than that in other hospitals. But as I mentioned earlier, given that some doctors have just left TMH, it is therefore necessary to take short-term measures accordingly.

MRS SELINA CHOW (in Cantonese): *The Secretary said earlier that the number of delivery cases handled by TMH had increased by 6%, but according to the figures provided in the main reply, a total of 6 043 cases were handled in that hospital in 2005, and it is estimated that only 6 000 cases can be handled in 2006, which is even less than the number in 2005.*

Will the Secretary be worried about the services not being able to cope with the natural increase despite the measures mentioned in part (c) of the main

reply, such as engaging doctors in private practice to provide service on a part-time basis? Moreover, as the differences in seasonal needs will also have a bearing on service provision in districts, are these measures adequate to meet the demand? If not, what does the Secretary plan to do?

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese):

Madam President, when we said that 6 000 cases would be handled, we certainly do not mean that we will refuse the admission of the pregnant woman in the 6 001st case. This is just an approximate number. Insofar as many hospitals are concerned, it is generally acceptable if the actual number is 10% higher or lower than the estimate. This is only a target. If we find a significant increase in the number of cases in any district or hospital, flexible deployment will be made internally by the HA, so that manpower resources can be transferred to other hospital clusters or hospitals for service delivery. Insofar as hardware is concerned, I believe there is still room for manoeuvre in respect of the Delivery Suite or other supporting facilities in many hospitals.

DR JOSEPH LEE (in Cantonese): *President, there is currently a shortage of manpower in obstetrics, and since the introduction of package fees by the HA last year, that is, package fees for NEPs, we can see that the number of admission has nevertheless increased. I would like to ask the Secretary this: Is there any specific measure to ensure that sufficient beds are provided to local women giving birth, so that they can deliver their babies in their own district without being referred to hospitals away from their district?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese):

Madam President, first of all, I must correct the comment that the increase in fees has led to an increase in the number of admission. From the figures provided to me by the HA, it seems that the number of admission has not increased, just that the revenue has increased, and so has the percentage of successful recovery of payment in arrears. Before August 2005, there were an average of 1 732 cases of delivery by non-Hong Kong citizens per month, and in the past few months, the average number was only some 1 100, which has dropped about 15%. So, I think the number is declining instead. But following the fee increase, the revenue has increased substantially. Moreover,

given this fee, expecting mothers will generally undertake prenatal examination in hospitals at an earlier time. I think this will help improve the overall quality of obstetrics services.

DR JOSEPH LEE (in Cantonese): *President, the Secretary has not answered my supplementary question: How can the Government ensure that local women giving birth will not be referred to other districts for delivery?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, apart from the fees charged for the service, we do not have measures to differentiate local, mainland or overseas women giving birth. In our view, it is most important that women coming to Hong Kong to give birth can be provided with services of a certain standard. As I also said earlier, I hope that services can be provided to them in their district as far as possible, but when necessary, we will also consider their biological needs or history of delivery in order to make arrangements for them to give birth at a suitable place.

MR LI KWOK-YING (in Cantonese): *President, in part (b) of his main reply the Secretary said that TMH should be able to handle 6 000 cases per year, but in part (a) of the main reply, he pointed out that a total of 6 043 cases were handled in 2005. Although the excess is not great, I remember that we have discussed in the Legislative Council that the percentage of NEPs defaulting payment for their deliveries is very high, and this has constituted a very substantial burden on the HA. Just now Dr Joseph LEE already raised the question of how local pregnant women can be protected, and I do not wish to repeat this point here. I would like to ask the Secretary this: Has the percentage of bad debt increased or decreased since the introduction of the new package fees?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, we certainly cannot recover the bad debts so quickly, because the HA is still working to recover debts. But judging from the current figures, before August 2005 (that is, before the fees were adjusted), the percentage of default payment was about 25%, which means that the chance of collecting

payment was 75%. But after the introduction of the new fee-charging measure in August 2005, payment could be collected successfully in 81% of the cases. Certainly, we still need to recover the arrears in 19% of the cases. On the one hand, we will urge the HA to advise pregnant women to reserve money for their deliveries as early as possible and on the other, we hope that they can continue to recover the payment in arrears.

MR ALBERT HO (in Cantonese): *President, although the Secretary has answered many questions, he still has not given us a clear undertaking or said something that is close to giving us an undertaking. The HA should have sufficient manpower in principle and it is unnecessary to refer expecting mothers to hospitals outside their own district for delivery. I would like to ask the Secretary this: Can he give us this undertaking in principle? Moreover, over the past two or three years or at least during the past year, how many pregnant women were referred against their wish to a hospital away from the district where they live?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, first of all, when I took up this issue with the HA, I stressed that insofar as the policy on obstetrics was concerned, we would hope to provide services to women giving birth in their own district as far as possible. Certainly, it will take some time to provide the necessary support before we can achieve this objective.

As for how many pregnant women have to go to hospitals in other districts for delivery or the relevant services, we all know that Hong Kong is a place of great freedom, and people can choose to receive services in other districts. But according to our records, there were 51 cases in which women expecting a child were referred to other hospitals for delivery because no bed was available in TMH. These cases were all in the Tuen Mun District, and there is not this problem in other districts.

MR ALBERT HO (in Cantonese): *My question to the Secretary earlier is that the Government seems to be unable to reduce this number; nor has it undertaken to do so. Is it that the Government is at its wits' end on this issue?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, at present, as TMH still has problems, I believe there will still be cases of patients or pregnant women being referred to other districts for the services they require. But as I said clearly earlier on, I have taken up this issue with the HA and I hope that they can solve this problem as soon as possible, so that patients or pregnant women do not have to accept referrals to other districts unwillingly.

PRESIDENT (in Cantonese): We have spent over 19 minutes on this question. Third question now.

Sanitary Fitments in Public Places

3. **MR ALAN LEONG** (in Cantonese): *President, in May last year, the Buildings Department (BD) issued a Practice Note to the architectural sector on the provision of sanitary fitments in male toilets and female toilets in shopping arcades and department stores, places of public entertainment and cinemas. The Practice Note proposed to change the ratio of the number of urinals and water closets in male toilets to that of water closets in female toilets from 1:1 to 1:1.25 and to change the number of sanitary fitments listed in the relevant tables of the Building (Standards of Sanitary Fitments, Plumbing, Drainage Works and Latrines) Regulations (the Regulations), in order to alleviate the inadequacy of female toilets in the premises concerned. The BD had also indicated that it would propose to incorporate the above ratio into the Regulations after consulting the relevant sectors. In this connection, will the Government inform this Council:*

- (a) *of the rationale and criteria on which the ratios of 1:1 and 1:1.25 were based;*
- (b) *whether it has conducted any consultation on the ratio of 1:1.25, if it has, of the persons or groups consulted and details of the consultation; if not, the reasons for that; and whether it has drawn up any action plan and timetable in relation to amending the Regulations; if it has, of the details; and*

- (c) *whether it has conducted any survey on and assessment of implementing the ratio of 1:1.25; if it has, of the details of the survey and assessment; and the number of persons-in-charge of shopping arcades and department stores, places of public entertainment and cinemas who have already provided the relevant sanitary fitments in their premises according to the ratio?*

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

- (a) Firstly, I need to explain the reference to the 1:1 and the 1:1.25 ratios as pointed out by Mr Alan LEONG in his question. These ratios are used for assessing the proportion of the number of male and female patronizing the shopping arcades, cinemas and places of public entertainment (PPE), and are not the ratios of the number of urinals and water closets that have to be provided in male lavatories to the number of water closets that have to be provided in female lavatories.

The BD commissioned a consultancy study in 2001 to carry out a comprehensive review of the Regulations. In the course of the review, we continuously received the public's concerns over the inadequate provision of sanitary fitments in female lavatories in these premises. In view of this, the BD plans to carry out extensive consultation this year on the proposed amendments arising from the comprehensive review of the Regulations, including consultation with the Legislative Council Panel on Planning, Lands and Works and the industry. The proposed amendments will include the new requirements on the provision of sanitary fitments in shopping arcades, cinemas and PPE. We intend to submit the proposed amendments to the relevant building regulations to the Legislative Council after the consultation is completed. In response to the public's concerns over the inadequate provision of sanitary fitments in the relevant premises, the BD issued a new Practice Note in May 2005 stipulating mainly two guidelines for improvement in sanitary fitments in the relevant premises.

The first guideline is to revise the ratio for assessing the number of male to female in these premises from 1:1 to 1:1.25. The second guideline is to revise the standard of the provision of sanitary fitments for male and female. The relevant "Practice Note for Authorized Persons and Registered Structural Engineers" is an advisory document. Generally speaking, Authorized Persons (AP) should follow the new guidelines in the submission of plans. However, if the AP cannot follow the new guidelines due to certain reasons, the BD will still approve the plan concerned as long as the submission complies with the requirements under the existing legislation.

As regards how the guidelines set out in the new Practice Note increase the number of water closets in female lavatories, Members of the Legislative Council are requested to refer to the Appendix to the main reply. The Appendix clearly sets out the increased number and percentage of water closets in female lavatories in shopping arcades, cinemas and PPE in relation to different sizes and assessed capacities. Taking a shopping arcade with a floor area of 6 000 sq m as an example, 13 female lavatories have to be provided under the new Practice Note, representing an increase of four over the original nine. Generally speaking, the numbers of water closets and urinals to be provided in male lavatories are not much different from those before the issue of the new Practice Note.

The male to female ratios and standards of provision set out in the new Practice Note is based on a patronage survey conducted by the consultants on the usage of sanitary fitments and satisfaction level in certain shopping arcades, cinemas and PPE in Hong Kong. Reference to relevant standards in overseas countries has also been made.

- (b) The BD has consulted some relevant organizations and bodies on the standards of sanitary fitments before the issue of the new Practice Note, including:
 - (i) Women's Commission
 - (ii) Hong Kong Institute of Architects

- (iii) Hong Kong Institution of Engineers
 - (iv) Hong Kong Institute of Surveyors
 - (v) Real Estate Developers Association of Hong Kong
 - (vi) Authorized Persons & Registered Structural Engineers Committee
 - (vii) Building Subcommittee of Land and Building Advisory Committee.
- (c) The BD will review the effectiveness of the implementation of the new Practice Note before finalizing the proposed amendments to the relevant building regulations. During the few months since promulgation of the Practice Note in May 2005, the Building Authority has approved building plans of two new shopping arcades and alterations to two existing shopping arcades in which the guidelines under the new Practice Note have been adopted.

Appendix

Changes in the number of fitments in male and female lavatories before and after the issue of the new Practice Note

A. Shopping Arcades

Female Lavatories

| <i>Area (sq m)</i> | <i>Before issue of Practice Note</i> | | <i>After issue of Practice Note</i> | | <i>Percentage increase in the no. of water closets</i> |
|------------------------|--|---------------------------------|---|---------------------------------|--|
| | <i>No. of female</i> | <i>No. of water closets</i> | <i>No. of female¹</i> | <i>No. of water closets</i> | |
| 100 | 4 | 1 | 19 | 1 | 0 |
| 200 | 7 | 1 | 37 | 2 | 100% |
| 300 | 10 | 1 | 56 | 3 | 200% |
| 1 500 | 50 | 3 | 278 | 5 | 67% |
| 6 000 | 200 | 9 | 1 111 | 13 | 44% |
| 10 500 | 350 | 15 | 1 944 | 21 | 40% |
| 12 000 | 400 | 17 | 2 222 | 24 | 41% |

Male lavatories

| <i>Area (sq m)</i> | <i>Before issue of Practice Note</i> | | | <i>After issue of Practice Note</i> | | | <i>Percentage increase/decrease in the no. of water closets and urinals</i> |
|------------------------|--|-------------------------------------|---------------------------|---|-------------------------------------|---------------------------|---|
| | <i>No. of male</i> | <i>No. of water closets</i> | <i>No. of urinals</i> | <i>No. of male¹</i> | <i>No. of water closets</i> | <i>No. of urinals</i> | |
| 100 | 4 | 1 | 1 | 15 | 1 | 1 | 0 |
| 200 | 7 | 1 | 1 | 30 | 1 | 1 | 0 |
| 300 | 10 | 1 | 1 | 44 | 1 | 1 | 0 |
| 1500 | 50 | 2 | 1 | 222 | 2 | 1 | 0 |
| 6 000 | 200 | 6 | 4 | 889 | 6 | 4 | 0 |
| 10 500 | 350 | 9 | 7 | 1 556 | 9 | 7 | 0 |
| 12 000 | 400 | 10 | 8 | 1 778 | 10 | 8 | 0 |

B. Places of Public Entertainment*Female Lavatories*

| <i>Seating Capacity</i> | <i>Before issue of Practice Note</i> | | <i>After issue of Practice Note</i> | | <i>Percentage increase in the no. of water closets</i> |
|-----------------------------|--|---------------------------------|---|---------------------------------|--|
| | <i>No. of female</i> | <i>No. of water closets</i> | <i>No. of female²</i> | <i>No. of water closets</i> | |
| 200 | 100 | 2 | 111 | 6 | 200% |
| 400 | 200 | 4 | 222 | 9 | 125% |
| 600 | 300 | 5 | 333 | 11 | 120% |
| 3 000 | 1 500 | 17 | 1 667 | 38 | 124% |
| 12 000 | 6 000 | 62 | 6 667 | 138 | 123% |

Male Lavatories

| <i>Seating Capacity</i> | <i>Before issue of Practice Note</i> | | | <i>After issue of Practice Note</i> | | | <i>Percentage increase/decrease in the no. of water closets and urinals</i> |
|-----------------------------|--|-------------------------------------|---------------------------|---|-------------------------------------|---------------------------|---|
| | <i>No. of male</i> | <i>No. of water closets</i> | <i>No. of urinals</i> | <i>No. of male²</i> | <i>No. of water closets</i> | <i>No. of urinals</i> | |
| 200 | 100 | 1 | 2 | 89 | 1 | 2 | 0 |
| 400 | 200 | 2 | 4 | 178 | 2 | 4 | 0 |
| 600 | 300 | 3 | 6 | 267 | 3 | 6 | 0 |
| 3 000 | 1 500 | 9 | 30 | 1 333 | 8 | 27 | -11% and -10% |
| 12 000 | 6 000 | 27 | 120 | 5 333 | 24 | 107 | -11% and -11% |

C. Cinemas

Female Lavatories

| <i>Seating Capacity</i> | <i>Before issue of Practice Note</i> | | <i>After issue of Practice Note</i> | | <i>Percentage increase in the no. of water closets</i> |
|-------------------------|--------------------------------------|-----------------------------|-------------------------------------|-----------------------------|--|
| | <i>No. of female</i> | <i>No. of water closets</i> | <i>No. of female²</i> | <i>No. of water closets</i> | |
| 50 | 25 | 1 | 28 | 1 | 0 |
| 100 | 50 | 1 | 56 | 2 | 100% |
| 200 | 100 | 1 | 111 | 3 | 200% |
| 300 | 150 | 2 | 167 | 4 | 100% |
| 500 | 250 | 2 | 278 | 5 | 150% |
| 1 000 | 500 | 3 | 556 | 9 | 200% |

Male Lavatories

| <i>Seating Capacity</i> | <i>Before issue of Practice Note</i> | | | <i>After issue of Practice Note</i> | | | <i>Percentage increase/decrease in the no. of water closets and urinals</i> |
|-------------------------|--------------------------------------|-----------------------------|-----------------------|-------------------------------------|-----------------------------|-----------------------|---|
| | <i>No. of male</i> | <i>No. of water closets</i> | <i>No. of urinals</i> | <i>No. of male²</i> | <i>No. of water closets</i> | <i>No. of urinals</i> | |
| 50 | 25 | 1 | 1 | 22 | 1 | 1 | 0 |
| 100 | 50 | 1 | 1 | 44 | 1 | 1 | 0 |
| 200 | 100 | 1 | 1 | 89 | 1 | 1 | 0 |
| 300 | 150 | 1 | 2 | 133 | 1 | 2 | 0 |
| 500 | 250 | 2 | 3 | 222 | 2 | 3 | 0 |
| 1 000 | 500 | 2 | 5 | 444 | 2 | 5 | 0 |

Note1: The number of male and female has increased after the issue of the new Practice Note for two reasons. First, before the issue of the new Practice Note, the assessment of the number of people only includes those employed in the shopping arcades. However, the new Practice Note specifies that patrons in the shopping arcades should be included as well. This new guideline accounts for the increases in the number of both male and female. Second, the change in the assumed ratio of male and female from 1:1 to 1:1.25 also accounts for the corresponding increases in the number of female.

Note2: After the issue of the new Practice Note, the number of male has decreased and the number of female has increased. This is due to the change in the assumed ratio of male to female from 1:1 to 1:1.25.

MR ALAN LEONG (in Cantonese): *President, it seems that the Secretary has not replied to part (a) of the main question. My question is: Based on what rationale and criteria were the ratios of 1:1 and 1:1.25 determined and why is it not 1:1.5 or 1:2 but 1:1.25? On what rationale and criteria is it based? I hope the Secretary can clarify further.*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): President, I have said that the BD commissioned a consultancy to conduct a survey on the usage of sanitary fitments and the satisfaction level in some shopping arcades, cinemas and PPEs in Hong Kong. The aforementioned ratio is determined according to the results of this survey. Our main consideration is the number of people using shopping arcades in Hong Kong and the volume of customers and the results can be found in the survey conducted by the consultancy.

We can note from the Appendix to the main reply that according to the survey, there are approximately a certain number of people per square metre and the number of people at a place with a certain area can then be derived. An estimate is first made on the total number of people, then the numbers of males and females are calculated. Concerning the ratio between males and females, according to the results of the survey, usually, the ratio is that for every male who visits such places, 1.25 female will do so. These are the estimates on the number of people. As regards the number of water closets, reference was made to how long the queues of users are and their level of satisfaction. We then drew inferences from the actual situation and referred to the situation overseas. In the main reply, I have also mentioned making reference to the situation overseas. When making reference to the situation overseas and to overseas experience, we looked at several places, namely, the United States, the United Kingdom, Singapore, Australia and the Mainland. We have referred to their standards. The standards established by us lie somewhere in the middle of the foregoing places. The ratios for the number of fitments in the United States and in the United Kingdom are higher and our present proposal lies somewhere in the middle of the spectrum among these five places.

MR ALAN LEONG (in Cantonese): *President, what I wish to ask is: What factors has the relevant policy taken into account? I wonder if the Secretary will provide more information. For example, can he provide to us the study report mentioned by him? This is a special request, that is.....*

PRESIDENT (in Cantonese): Mr LEONG, this is not part of the supplementary you put earlier. Please sit down first. If you want to ask another supplementary, you can press the button and wait for your turn. Although the Secretary has been listening to your question, I am not going to call on him to reply. Later, when the Secretary answers other supplementaries, he can decide if he will reply to it or not.

MR MA LIK (in Cantonese): *President, in the toilets of these PPEs or cinemas, women have to wait for a long time. May I ask if, apart from calculating the ratios between different groups of people, the time that each woman uses the toilet will also be taken into consideration? Has this factor been taken into consideration?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): President, in fact, this is one of the major factors considered. As I have said, when we conducted the survey, the waiting time and level of satisfaction of the respondents were also surveyed. Therefore, I have also said just now that apart from making changes to the ratio between different groups of people, the ratio for the provision of water closets has also been raised. In the new Practice Note, the number of water closets for women to be provided in premises of a certain area is greater than before. As I said in the main reply, to use an area of 6 000 sq m as an example, the number of water closets will increase from nine to 14. (Appendix 2)

MR JAMES TIEN (in Cantonese): *President, concerning the ratio of 1:1 or 1:1.25, I think the Government should not say in such a general way that the ratios for shopping arcades, cinemas and PPEs are all the same. Everyone can see that in shopping arcades, there are more women than men but the ratio between men and women may not be like this in cinemas. May I ask the Government if it is necessary to set the ratio rigidly at 1:1.25? I think that the 6 000 sq m mentioned in the main reply may give rise to problems. The Government is often afraid of being taken advantage of by property developers, so I wish to ask the Government if it will consider adopting the ratio of 1:1.25 as the minimum standard. If property developers are willing to build more water closets, the Government should simply allow them to do so. Only that theses water closets should not be included in calculating the gross floor area. Of course, it is still necessary for the Government to impose a ceiling but everything*

will be fine so long as property developers are not permitted to build toilets with a floor area of 10 000 sq ft. I believe this will be conducive to solving the problem.

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): President, of course, our existing standard is the minimum standard and if property developers consider it necessary to provide more water closets, they are more than welcome to do so.

MR JAMES TIEN (in Cantonese): *President, the Secretary has not answered my supplementary. What I am asking is: If the Government allows property developers to provide more water closets, is it possible not to include them in the calculation of the gross floor area or the GFA? If they are included, there will be less space for other uses.*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): President, I believe this is another issue, so it has to be considered separately. This factor is somewhat different from the subject matter of the main question. I hope Members will allow us to explore this issue on other occasions.

MR LEUNG KWOK-HUNG (in Cantonese): *President, in fact, I feel sorry for Secretary Michael SUEN because had the Municipal Councils not been scrapped, this question would not have been discussed here. What I wish to ask Secretary Michael SUEN through the President is that, in part (b) of the main reply, he mentioned that the BD had consulted many groups, however, only one of them has to do with women and that is the Women's Commission, while the rest are related to architecture and engineering. Given that the Government conducted the consultation in this way, the answer is of course very clear to me, that is, the Government only wanted to consult the sectors but not women. In fact, the cause of this problem is that many women have to queue up in order to use the toilet. I have also noticed this. If the consultation is limited only to the sectors, how can the needs of women be catered to? According to the main reply, there were six representations from the sectors and I will read them out. They are from the Hong Kong Institute of Architects, the Hong Kong Institution of Engineers.....*

PRESIDENT (in Cantonese): Mr LEUNG Kwok-hung, I am sorry but I have to interrupt you, since a lot of Members are still waiting to ask supplementaries. I think all of us know which groups they are.

MR LEUNG KWOK-HUNG (in Cantonese): *All right. Thank you.*

PRESIDENT (in Cantonese): Have you finished asking your question? All right. Secretary, please reply.

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): President, we should not say arbitrarily that other professional institutes do not care about the needs of women in this regard. In fact, we have attached a great deal of weight to the views of the Women's Commission. As we all know, the Women's Commission is in charge of co-ordinating woman affairs on many fronts in Hong Kong, so on this issue, we had discussions with the Commission first of all and it offered a lot of valuable input to us.

As regards why we had to discuss with the Hong Kong Institute of Architects, this is because it was not merely the number of closets but also the position and the layout of water pipes that had to be discussed. There are also similar considerations in respect of engineering, therefore, we have to consult various parties on various matters. As regards women, I can assure Members that we have fully taken their needs into account.

PRESIDENT (in Cantonese): Miss TAM Heung-man.

MISS TAM HEUNG-MAN (in Cantonese): *President, concerning this ratio, I would like to ask the authorities if, apart from shopping arcades, department stores, PPEs and cinemas, they have also considered applying a similar ratio to other buildings? If they have, what are the details? If not, will this be considered?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): President, I believe "other buildings" refers to private dwellings, since all places that a lot of people will visit are already covered.

Other examples that have not been mentioned include government buildings. In fact, we have applied the same standards to the relevant government buildings in determining the need in this regard. Therefore, we have taken into consideration various aspects of this issue.

PRESIDENT (in Cantonese): We have spent 17 minutes on this question. This will be the last supplementary. Mr Alan LEONG.

MR ALAN LEONG (in Cantonese): *President, what I wish to ask the Secretary is: He said that he intended to table the proposed amendments to the Regulations to the Legislative Council after the consultation had been completed, so what sort of timetable does the Secretary have in mind?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): *President, in fact, we completed the survey several years ago. In view of some of the recommendations in it, we gave priority to implementing the Practice Notes in May last year. We hope that other relevant groups can be consulted on this report this year and if all parties can reach a consensus, then after the law drafting procedure, it is hoped that the results of the consultation exercise can be seen later this year or early next year. On the amendments to the law, we will table an amendment bill to the Legislative Council for Members' scrutiny.*

MR ALAN LEONG (in Cantonese): *President, does the Secretary mean that this task may not be completed in this legislative year?*

PRESIDENT (in Cantonese): This is not part of the supplementary that you have asked. You only asked him when the relevant amendments would be tabled. Let me see if the Secretary has anything to add.

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): President, we also hope to make it in time.

PRESIDENT (in Cantonese): Fourth question.

New Water Supply Agreement

4. **MR FRED LI** (in Cantonese): *President, the Government is discussing with the Guangdong provincial authorities the drawing up of a new water supply agreement. In this connection, will the Government inform this Council:*

- (a) *whether Guangdong and Hong Kong authorities have reached a preliminary agreement; if so, of the details of the progress and course of discussions, as well as the contents of the agreement; if not, when an agreement is expected to be reached;*
- (b) *whether it will consult this Council prior to the signing of the new water supply agreement, and whether the new agreement necessitates legislation and seeking funding approval from the Finance Committee of this Council; and*
- (c) *given that the Songhua River and the Beijiang in Guangdong Province have recently been polluted by chemical compounds and the Pearl River Delta Region has also seen serious salty tides, whether it has held discussions with the Guangdong provincial authorities the formulation of contingency measures to cope with emergencies where the water supply to Hong Kong is affected by various kinds of pollution to Dongjiang, as well as stipulating relevant provisions in the new water supply agreement; if such discussions have been held, of the details of the relevant measures; if not, the reasons for that?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): President,

- (a) Water resources have a direct and significant bearing on human survival. For many years, the world has been faced with the

problem of decreasing water resources, with demand exceeding supply. With industrial and economic development, water consumption has increased, while clean and potable water has kept decreasing due to the pollution of rivers. The Hong Kong Government has secured long-term water supply from the Guangdong provincial authorities since the '60s and has been holding regular discussions on water supply arrangements and entering into relevant agreements with the Guangdong side on issues like water price, supply quantity and quality control on a need basis. According to the current agreements¹ between the Hong Kong Government and the Guangdong provincial authorities, the long-term supply of Dongjiang water has been guaranteed. Nevertheless, both sides have to work out a mutually acceptable water price and supply quantity through regular consultations. Both sides are seeking to finalize the specific details on the new water supply arrangements in a short time.

- (b) We can only report the details concerned to the Legislative Council after reaching agreement with the Guangdong side. As I stated earlier, we are holding discussions on the water supply arrangements and the relevant agreements with the Guangdong side in respect of water price, supply quantity and quality control without involving legislative issues. The expenditure for the purchase of Dongjiang water falls under the recurrent expenditure of the Water Supplies Department (WSD) and is set out in the Budget endorsed by the Legislative Council annually.
- (c) Since the commissioning of the Dongshen closed aqueduct in June 2003, there has been remarkable improvement in the quality of Dongjiang water supplied to Hong Kong in every respect. To strengthen co-operation and co-ordination, we and the Guangdong provincial authorities have agreed to set up an emergency notification system, under which we will inform each other of any major incidents likely to affect the quality of Dongjiang water, by phone or by fax, as soon as possible. Appropriate control measures and corresponding actions can then be taken immediately to ensure the safety of our water supply.

¹ The current agreements comprise the 1989 Water Supply Agreement and the 1998 Loan Agreement.

In addition, the WSD has drawn up a series of contingency measures to cope with the situation where the quality of Dongjiang water has deteriorated. Major measures include:

- (i) Promptly enhancing the various measures for monitoring water quality if the quality of Dongjiang water received at Muk Wu Pumping Station is found to have deteriorated.
- (ii) Discharging at Muk Wu Pumping Station the Dongjiang water received, if necessary.
- (iii) Liasing with the Guangdong side to reduce or suspend the supply of Dongjiang water to Hong Kong and requesting detailed information from the Guangdong side about the deterioration in water quality so that further contingency measures can be formulated.
- (iv) Replacing raw water supplied to water treatment works in the territory with local water sources.

MR FRED LI (in Cantonese): *President, the Dongjiang water supply agreement signed between Hong Kong and Guangdong expired more than a year ago. As far as I understand it, fresh water worth approximately \$300 million was discharged into the sea last year due to overflowing of reservoirs. As the agreement is extremely important, will the Secretary inform this Council of the reasons and difficulties encountered, resulting in the agreement being unable to be reached to date? I am referring to the agreement which has been discussed for more than a year.*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): President, first to all, I wish to explain that the water supply agreement is a long-term one. It is only that the agreement is subject to a review every several years. If the review concludes that everything should remain unchanged, water supply will continue as usual. According to Mr Fred LI, surplus water was discharged into the sea due to overflowing of reservoirs. However, this has absolutely nothing to do with water supply. It is because many reservoirs have catchment areas larger than their capacity. After a heavy rain, reservoirs with a comparatively large catchment area will overflow.

However, the discharged water is not directly from the purchased water. It is unfair to calculate the loss to be \$300 million in this way.

Starting from last year, we have adopted a flexible water supply arrangement because we do not need to consume a large quantity of Dongjiang water when our rainfall is relatively abundant. Actually, we did not exhaust our quota in 2004 as a result of water conservation. Members should also be aware that, even in 2004 when there was the most serious drought in five decades, our water supply was still guaranteed. In all water supply agreements, wherever they were signed, a minimum charge would definitely be imposed. One party cannot say that it does not purchase water because of its own abundant water supply or request that the water be returned to the other party. And, in times of drought, it compels the other party to supply an adequate quantity of water because of its actual need or when its own reservoirs are empty. I hope Mr Fred LI can understand that there is very keen competition for water rights overseas. A minimum charge is therefore imposed in all water supply agreements.

We have been adhering to this principle in maintaining such an agreement with the Guangdong side. According to our current practice, however, we will definitely not pump surplus water into the sea, because this will lead to wastage of potable water as well as electricity since water pumps are powered by electricity. We have therefore made it very clear in the agreement reached with Guangdong Province that our water transfer capacity will be reduced when our reservoirs overflow or when we find it unnecessary to import excessive water.

DR RAYMOND HO (in Cantonese): *President, in answering the main question asked by Mr Fred LI earlier, the Secretary has probably not considered in detail the more serious water resources problem experienced by China, compared with overseas countries. In part (a) of the main reply, the Secretary mentioned that, in accordance with the agreement signed with the Mainland, the Government will regularly review the water supply situation and arrangement, include supply quantity, water quality, water price, and so on. May I ask the Secretary how regular the review will be conducted? Moreover, how flexible is the arrangement and in what aspects can flexibility be exercised? When the rainfall is more abundant and hence we do not want an over-supply of Dongjiang water, in what aspects can flexibility be exercised so that the quantity of imported water can be reduced, thereby minimizing wastage?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): President, I fully understand that the Mainland is facing a tight situation because of a lack of water resources. This explains why I have, right at the beginning, stated that water resources are very important. For this reason, we will hold a monthly meeting with the Guangdong side on Dongjiang water to review the water transfer situation, including such issues as whether the water quality meets the standard, whether the supply quantity should be increased or reduced in rainy or drought seasons, and the like. For instance, we have not requested importation of Dongjiang water because of the occurrence of salty tides recently. We have also taken this opportunity to cleanse our reservoirs. Despite our monthly review, I must emphasize that it is most vital that the water supply agreement must ensure stability. While we want stability, others want the same too. Nothing can be done unilaterally. Regarding the purchase of potable water, Hong Kong has actually gained an advantage because we are guaranteed a long-term supply of water. Therefore, as I stated earlier, under the framework of a minimum charge, we may increase the supply of water. However, if we lower the purchase — sorry — no money will be refunded from the minimum charge. Many agreements have to be made like this, and so are water supply agreements.

MR ALBERT CHAN (in Cantonese): *President, I believe Hong Kong people in future can no longer say that they grow up drinking Hong Kong water. Instead, they should say they grow up drinking mainland water.*

President, I would like to raise a question on water quality and financial arrangements because many worry that Hong Kong people will be forced to drink substandard potable water because of the deteriorating quality of Dongjiang water. In the agreement, is the water quality linked to the payment arrangement? For instance, when the water quality falls below a certain level, we will not be required to make any payment. What is more, we might even request a punitive financial arrangement so that the amount of the original payment can be reduced. This is because Hong Kong people or the water supply authorities will have to pay more if the water quality is substandard. Is there any such arrangement in the agreement?

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): President, insofar as water quality and quantity are concerned, co-operation from both sides is required in monitoring water quality. We have

been carrying out long-term monitoring at Muk Wu Pumping Station and, so far, the water quality there has not been found to be below the established standard. As regards the water supply agreement, the consent of both parties is definitely required. Moreover, both parties have sought to achieve the goal through co-operation, not by punitive means.

Management of water resources is very important too. Our work is more than inspecting the quality of water from the lower reach to ascertain whether it meets our quality standard. Over the past couple of years, we have, in collaboration with the Guangdong side, invested in the overall Dongjiang water catchment area at the upper reach. The Guangdong side has made use of our water price investment to protect the water resources in the area. Furthermore, we have continuously collaborated with some organizations in monitoring and protecting these water resources. Therefore, we need not worry about the quality of Dongjiang water.

MR ALBERT CHAN (in Cantonese): *President, the question I asked earlier was: If the potable water supplied to Hong Kong is found to have failed to meet our requirement and standard, will the Government receive at least a discount in water price when making payment? In my opinion, even if no punishment is imposed, the water price should at least be lowered on the ground that the potable water supplied by the Guangdong side to the territory is substandard. President, the Secretary has not answered this point.*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): President, actually, I have already answered it. The agreement required the consent of both parties. If we impose punishment indiscriminately, the other party may refuse to supply water to us. Therefore, the agreement is maintained in a "friendly management" manner.

MR HOWARD YOUNG (in Cantonese): *President, in part (c) of the main question, it was mentioned that concerns had been raised following the pollution in the Songhua River and the Beijiang in Guangdong Province. May I ask the Secretary this question: Despite frequent discussions on the agreement, they are mostly related to water price and supply quantity. In the light of pollution incidents, have the authorities stepped up contingency measures to immediately*

resolve pollution problems when, for instance, pollution occurred at different intake points?

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): President, as I said in the main reply earlier, our frequent discussions with the Guangdong side are not confined to water price only. Instead, the discussions are more about water quality. The issues of water quality and supply quantity are discussed monthly. In addition to our regular contact and co-operation, a notification system has also been set up. As I pointed out in the main reply, we and the Water Resources Department of Guangdong Province have entered into an agreement whereby the Guangdong side will immediately report to us any incidents that will affect Dongjiang water by phone or by fax and expeditiously inform us of the control measures to be adopted by Guangdong Province. As for us, the pumping of water at Muk Wu Pumping Station can be discontinued immediately. The supply of water from Muk Wu Pumping Station can be immediately halted, and water can be discharged at Muk Wu too. At the same time, raw water supplied to water treatment works throughout the territory can be replaced with local water sources. Meanwhile, the authorities concerned will strive to resolve the pollution problem during this period.

MISS CHOY SO-YUK (in Cantonese): *President, the present arrangement of making payment as previously agreed but supplying potable water according to the need is, after all, a good compromise, for at least water resources will not be wasted.*

May I ask the Secretary, given the lengthy discussion on water price, when a new water price can be set in the agreement? Can the Secretary provide us with the timetable for reaching the agreement?

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): President, as I stated earlier, we have yet to fully agree on a number of specific details in respect of water price and supply quantity. It is therefore inconvenient for us to make any announcement in the Legislative Council meeting today. Once an agreement is reached, we will definitely report all relevant details to the Legislative Council.

MISS CHOY SO-YUK (in Cantonese): *President, my question was actually about the approximate schedule. Can we have a timetable? This was the question I raised earlier.*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): President, the timetable requires the consent of both parties. There is no deadline for our discussions. As the water supply agreement is an ongoing one, no deadline is required for any alteration of the content of the agreement. The supply of water will not be discontinued because an agreement cannot be reached before the deadline. However, we still hope that Guangdong Province can reach an agreement with us expeditiously. However, besides the Water Resources Department of Guangdong Province, the Ministry of Water Resources of the Central Government is also involved. What is more, the final approval of the State Council is required as well.

MS EMILY LAU (in Cantonese): *President, the Secretary pointed out in the main reply that water quality had seen remarkable improvement since the commissioning of the closed aqueduct. Will the Secretary inform this Council of the number of accidents occurred last year, as indicated by the number of notifications of emergencies by phone or by fax, and the number of times discharge at the Muk Wu Pumping Station had been halted? Furthermore, it was pointed out in the last part of the main reply that raw water supplied to water treatment works was from local water sources. Does this imply that Dongjiang water now transported to Hong Kong is not very safe and water treatment works in the territory therefore have to use local water sources?*

PRESIDENT (in Cantonese): Ms Emily LAU, you have raised a total of three supplementary questions.

MS EMILY LAU (in Cantonese): *President, they are all related to water quality.*

PRESIDENT (in Cantonese): I think the first and second supplementary questions are similar, but the third one is different. Which supplementary question do you wish the Secretary to answer?

MS EMILY LAU (in Cantonese): *President, they are all related to water quality. However, if it is not possible for the Secretary to answer all of the questions, I would like her to answer the last one, though it is related to water quality too.*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): President, the emergency contingency mechanism has never been activated. Regarding Ms LAU's earlier remark about using local water resources, what I actually said in the main reply was that local water sources would be used, as part of our emergency measures, should pollution really occur. However, local water sources have not been used in this manner so far. We have been maintaining telephone contact with the Guangdong side. For instance, when Guangdong Province was hit by salty tides, we asked the Guangdong side over the telephone whether the salty tides would affect Dongjiang water, our water quality, and so on. Conversely, our colleagues also asked whether we could offer assistance because a large quantity of clean water was required to counteract the salty tides. However, as the salty tides occurred on the other side of Beijiang, there was not much Dongjiang water could do. Discharging at the Muk Wu Pumping Station will be halted during our annual cleansing of reservoirs. As the amount of Dongjiang water supplied to Hong Kong will vary from time to time, some operational adjustment at the Muk Wu Pumping Station will be required by probably activating or ceasing operation. However, the emergency contingency mechanism has never been activated.

PRESIDENT (in Cantonese): We have spent more than 18 minutes on this question. Last supplementary question.

MR LAU KONG-WAH (in Cantonese): *President, the Secretary mentioned in the last sentence of part (c) of the main reply that both sides were seeking to finalize the relevant details in a short time. The expression "in a short time", seldom used by the Government, means very soon according to my own interpretation. However, the Secretary was not too willing to say so earlier. May I ask the Secretary if it is the Government's current thinking that the water price has room for reduction? Will there be a mechanism that allows for both upward and downward adjustments in future?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): President, I said "in a short time" because our discussions had almost come to an end. I hope that the water price can be calculated on a yearly basis starting from next year, for this is more reasonable. However, as I said earlier, the agreement has to overcome several hurdles before it can be endorsed on the Mainland, and this is out of our control. It is for this reason that I cannot provide Members with a timetable.

MR LAU KONG-WAH (in Cantonese): *President, my question was mainly about the possibility of reduction.*

PRESIDENT (in Cantonese): Mr LAU, please sit down.

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): President, I can talk about the principle only as it is inconvenient for us to disclose the water price at the moment. I once said that a minimum charge would apply in principle. What I mean is, the WSD will calculate the approximate quantity of water required by the territory over the next several years and, under the agreement reached with Guangdong Province, it will provide us with at least the same quantity of water. In times of drought, however, when water in Hong Kong reservoirs does not reach the expected volume, it might be necessary for us to pay more than the minimum charge in order to be supplied with extra potable water. Guangdong Province is also required to undertake that extra water will be supplied to us. We are roughly working under a framework like this.

PRESIDENT (in Cantonese): Fifth question.

Control of Indecent Articles

5. **MR WONG TING-KWONG** (in Cantonese): *President, before I ask my question, I would like to show Members the front covers of two leisure and*

entertainment magazines which were published recently. How do Members and officials present feel about them?

PRESIDENT (in Cantonese): Mr WONG, please put down the magazines, and ask your main question.

MR WONG TING-KWONG (in Cantonese): *Yes, President. I have received complaints that nude photographs of women have been published on the front covers of certain leisure and entertainment magazines. Since these magazines have not been classified as indecent articles by the Obscene Articles Tribunal (OAT), they are not required to be sealed with wrappers and to display warning notices on their front and back covers. In this connection, will the Government inform this Council:*

- (a) whether the Television and Entertainment Licensing Authority (TELA) is aware of the above problem; if so, of the follow-up actions taken;*
- (b) of the number of inspections of newspaper stands and retail shops conducted by the staff of the TELA in the last financial year, and the current establishment and strength of the staff deployed for such duties; and*
- (c) of the number of publications that the TELA referred to the OAT for classification in the last financial year and, among them, the respective numbers of those which were classified as indecent and obscene, as well as the average time taken to classify a publication?*

SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY (in Cantonese): Madam President, with regard to the three parts of the question raised by Mr WONG Ting-kwong, I am providing replies as follows:

- (a) There is no censorship of newspapers and magazines prior to publication in Hong Kong. If officers of the TELA find any

articles suspected to be in contravention of the Control of Obscene and Indecent Articles Ordinance (COIAO) during inspection of newspaper stalls and other retail outlets, they will refer them to the OAT for classification. The TELA will prosecute those responsible for articles classified as obscene or indecent accordingly.

- (b) In 2004-05, officers of the TELA conducted a total of 74 865 inspections of newspaper stalls and other retail outlets.

Both of the current establishment and strength in the TELA for discharging the inspection duties and enforcing the COIAO are eight Overseers and 13 Senior Foremen. In addition to those on the establishment, there are 22 Inspection Assistants assisting in the enforcement work.

- (c) In 2004-05, the TELA referred 1 750 articles suspected to be in contravention of the COIAO to the OAT for classification, of which 1 240 articles were classified as obscene and 453 articles indecent. Generally speaking, the OAT can make a classification within two days upon receipt of an article.

MR WONG TING-KWONG (in Cantonese): *President, I would like to ask a follow-up question. Will the Government amend the legislation to increase penalties stipulated in the relevant Ordinance, so as to achieve deterrent effect? If so, what are the details? If not, what are the reasons?*

SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY (in Cantonese): Madam President, the present maximum penalties are by no means light, and the maximum penalties for repeated convictions are also heavier than those of first convictions. Maybe I can elaborate them here. According to the Ordinance, a person who is convicted of the offence of publishing an indecent article is liable to a maximum fine of \$400,000 and to imprisonment for 12 months on his first conviction, and he shall be liable to a maximum fine of \$800,000 and to imprisonment for 12 months on a second or subsequent conviction. And if a person is convicted of the offence of publishing an obscene

article, he is liable to a maximum fine of \$1 million and to imprisonment for three years.

MR PATRICK LAU (in Cantonese): *President, part (c) of the main reply pointed out that many publications had been classified as obscene and indecent articles. As such, may I ask the Secretary how many such publications have already ceased publishing? Have the authorities required them to seal such publications with wrappers when they are being sold?*

SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY (in Cantonese): Madam President, as I have said in the main reply, all the newspapers and magazines published in Hong Kong are not subject to any censorship, that is, they can be sold. However, if we have any suspicion during inspections, we will refer such publications to the OAT for classification. After classification, if we still are of the opinion that certain publications are obscene or indecent, we will take their cases to Court to initiate prosecution actions. If they are convicted, the Court will impose a fine on them. The publications mentioned by Mr WONG Ting-kwong just now are weeklies. So, very often, after the above process has been completed, such weeklies (Appendix 3) are no longer on sale. Therefore, there may be some difficulty if we require them to be sealed beforehand in wrappers or we want to implement other procedures.

DR YEUNG SUM (in Cantonese): *Madam President, I have received complaints from some clinical psychologists, who pointed out that, with the exception of newspaper stalls and convenience stores, basically teenagers can buy such obscene or indecent publications very easily. As the Secretary has said just now, most of such cases involve the weeklies. May I know if the Government can step up inspections and require the publications to be sealed in wrappers?*

SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY (in Cantonese): We will examine the existing mechanism and enforcement in this regard, so as to examine whether there are any areas that can be improved.

Besides, we will also examine whether we can lay down more guidelines in respect of classification so as to facilitate classification decisions. In terms of enforcement, the inspections we conduct now are already quite frequent, or maybe we can do more and pass articles which are suspected of contravening the provisions to the OAT as soon as possible. In terms of penalty, we may also discuss with the Department of Justice to see, on the premise of not affecting judicial independence, whether the penalties in this regard should be increased, if necessary.

DR KWOK KA-KI (in Cantonese): *Madam President, after listening to the Secretary's reply, I know that the Government absolutely does not have any solution to the problem. Obviously, the present policy cannot ensure that these weeklies are sold in the market without violating the law. As this is related to policy issues, may I ask the Secretary whether the Government would review the relevant policy? If yes, when will the review be conducted?*

SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY (in Cantonese): Madam President, our policy is very explicit, that is, newspapers and magazines are not censored prior to publication. Regarding these indecent newspapers and magazines, we have to strike a suitable balance between freedom of speech and social acceptability. Insofar as these two aspects are concerned, I think our present policy is appropriate.

DR KWOK KA-KI (in Cantonese): *I would like to get a clearer answer from the Secretary. Does he mean to say that there will not be any policy review?*

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

SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY (in Cantonese): Madam President, we would review our policy from time to time to see whether there are any inadequacies. As I said just now in my reply to Dr YEUNG Sum's supplementary question, we do review different aspects from time to time.

DR LUI MING-WAH (in Cantonese): *President, if a publisher is found to have repeatedly published such obscene or indecent publications, will he be subject to heavier penalties, or will it be the same, meaning that the penalties are just imposed arbitrarily? What is the actual situation insofar as the penalties are concerned?*

SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY (in Cantonese): Madam President, the penalties will become heavier. As I have said before, a person who is convicted of the offence of publishing indecent articles is liable to a maximum fine of \$400,000 and to imprisonment for 12 months on his first conviction, and he will be liable to a fine of \$800,000 and to imprisonment for 12 months on a second conviction. These are the maximum punitive measures. As for the offence of publishing obscene articles, it is a fine of \$1 million and imprisonment for three years.

MR JAMES TO (in Cantonese): *President, in fact, many Members have also received similar complaints. But the questions we want to ask are on the standards or on the issues of enforcement. In short, the front covers of such magazines — let me show you one as an example — such as this one featuring a woman in complete nudity. With the exception of the nipples which are not clearly visible, all the other parts of her body can be seen clearly. To people aged under 18, is it an appropriate standard to let them buy such publications freely? In our consideration, we must realize that these are not medical, scientific or arts journals. Can the Secretary tell us whether this standard is the ultimate ruling of the OAT? Is this broadly in line with the standards of society? If not, how can we convince the OAT into accepting the standards of society? Is it necessary for the Government to amend this, or how this should be handled?*

SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY (in Cantonese): Madam President, according to the relevant ordinance, the OAT should consider the five following factors in determining whether the article in question is obscene or indecent: First, standards of morality, decency and propriety that are generally accepted by members of society. This is most significant; second, the prominent effect of the article as a whole; third, the persons to whom the article is published; fourth, the location where the article is

displayed and the persons likely to view the article; and fifth, the purpose of publishing the article. At present, the OAT comprises a presiding magistrate and two adjudicators selected from members of the public. Appointing members of the public as adjudicators can assist us (Appendix 4) in reflecting the prevailing public morality standards in society. We mainly adopt the viewpoints of the average members of the public as the standards, upon which the decisions are made.

MR JAMES TO (in Cantonese): *The Secretary has not answered my supplementary question. In theory, having come across so many cases, the Secretary should know it. Take the magazine I shown you as an example. For such magazines of a general nature, instead of being specialized journals on science or medicine, any ordinary people can buy them. And each week, several hundreds thousand copies of such magazines could have been sold. For a magazine with such a photograph on its front cover, is it considered an indecent magazine among so many cases, or is it considered less severe, as a magazine suitable for reading by all, from the young children to the elderly? Can the Secretary give us a general idea by telling us what the generalized situation is regarding such cases?*

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

SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY (in Cantonese): Madam President, I have no idea of the situation of the case of that magazine. As far as I know, although many magazines of that category may have already been sold in the market, we would still take prosecution actions, and many of them have already been classified as indecent or obscene articles, and subsequent to our prosecution actions, the Court has already passed the verdicts.

MR MA LIK (in Cantonese): *President, in part (c) of the main reply, the Secretary said that 1 240 articles had been classified as indecent articles. May I ask the Secretary how many such articles have been successfully prosecuted by the authorities?*

SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY (in Cantonese): Madam President, in 2005, we had made 206 prosecutions.

MR FRED LI (in Cantonese): *President, clinical psychologists are very concerned that youngsters may come across such leisure and entertainment magazines when they walk past newspaper stalls. Recently, several magazines have been making use of nude photographs of women as their selling points in each of their past few issues. Has the Secretary noticed this trend? Is it because we have some loopholes or grey areas in this aspect such problems have arisen? Have the authorities conducted any studies on this trend which has emerged only recently?*

SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY (in Cantonese): We have not conducted any studies specifically on any trend about the front covers of magazines. Let me come back to the discussion on how we classify these articles. When we classify these articles, we mainly employ the moral standards generally acceptable to average members of the public as our standards, that is, we are using society's acceptability of certain things as our standards in making the classification.

MISS CHOY SO-YUK (in Cantonese): *President, I would like to ask the Secretary: Up till now, what is the total number of cases in which the maximum penalties have been imposed? Besides, if a publisher has contravened the legislation repeatedly, will the Government require him to seal the magazine with a wrapper on a compulsory basis, thus reinforcing the limitations?*

SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY (in Cantonese): Madam President, during the past three years, the penalties imposed by the Court on publishers who had published obscene or indecent articles ranged from \$100 to \$100,000, and the terms of imprisonment ranged from six days to 14 months. If a certain magazine has already been classified as indecent or obscene (Appendix 5), but its publisher still insists on putting it on the market, then it must be sealed with wrappers. However, very often, such magazines are

weeklies. It would definitely take longer than one week for us to go through the judicial procedures. Upon the completion of such procedures, the weekly concerned will definitely no longer be on sale in the market.

PRESIDENT (in Cantonese): Miss CHOY So-yuk, has your supplementary question not been answered?

MISS CHOY SO-YUK (in Cantonese): *President, the Secretary still has not answered my supplementary question. Actually, if a certain weekly has repeatedly contravened the law, does it have to be sealed with wrappers from then on?*

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

SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY (in Cantonese): Madam President, we never know what the magazine in question will feature on its front cover in the next issue.

MR SIN CHUNG-KAI (in Cantonese): *From the perspective of enforcement — let me pick up the microphone first — From the perspective of enforcement, will the Government enforce the legislation with reference to the popularity of the magazines concerned? Simply put, for those magazines with a large readership, will the Government or the TELA enforce inspections with reference to their levels of popularity? In more concrete terms, will the authorities target their actions specifically at publications that are particularly popular, thereby enforcing the law on them in a more stringent manner?*

SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY (in Cantonese): Madam President, I think we cannot pick some particularly popular publications for more stringent law enforcement. We shall act with fairness to all the publications.

MR SIN CHUNG-KAI (in Cantonese): *President, I would like to stress that, the yardstick of course must be the same — I believe the yardstick is the same, that is, what kinds of publications would be classified as Category II or Category III. However, will the authorities omit anything due to inspections that are not frequent enough? I am not saying that different yardsticks should be adopted for magazines with different levels of popularity. The yardstick is the same. However, for those popular magazines, do the authorities inspect each and every issue of them?*

SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY (in Cantonese): Madam President, for all the publications, we do inspect each and every issue of them.

PRESIDENT (in Cantonese): This Council has spent 18 minutes on this question. Although there are still Members waiting for their turns to ask questions, I think we should stop here with this question. Members may continue following up this issue through other channels.

PRESIDENT (in Cantonese): Last oral question.

Waste Recovery and Recycling Programmes

6. **DR RAYMOND HO** (in Cantonese): *President, the objectives of the waste recovery and recycling programmes implemented by the Environmental Protection Department are to enhance waste recovery and recycling, and minimize waste which requires disposal. In this connection, will the Government inform this Council:*

- (a) *of the percentage of recyclable waste in the total amount of waste recovered in the past three years;*
- (b) *as the waste recovery and recycling programmes include domestic waste recovery programmes, commercial and industrial (C&I) waste*

recovery programmes and pilot product responsibility programmes, of the most effective type of programmes in the past three years and the supporting data for that; and

- (c) *of the overseas experience in implementing the domestic waste recovery programmes and C&I waste recovery programmes and the supporting data for that?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): President,

- (a) In 2002-04, the recovery rate of locally generated municipal solid waste (MSW) ranges from 36% to 41% with an average of 39%. The recovered materials were either recycled locally (about 9%) or exported for recycling (91%). The quantities recovered by material types and the corresponding recovery rates are attached in the table. Summing up, the recovered rate in metals is more than 90%, which is the highest one; 70% in electrical and electronic equipment; and 50% in paper and rubber tyres. We have submitted a detailed table in the main reply for Members' reference.

| <i>Waste Type</i> | <i>Total quantity of recovered recyclable materials (thousand tonnes) in 2002-04</i> | | | <i>Recovery Rate (%)</i> |
|-------------------------------------|--|------------------------------|---|--------------------------|
| | <i>Exported for Recycling (i)</i> | <i>Recycled Locally (ii)</i> | <i>Total recovered for recycling (i) + (ii)</i> | |
| Ferrous metals | 3 017 | 0.0 | 3 017.0 | 93% |
| Non ferrous metals | 212 | 20.0 | 232.0 | 79% |
| Paper | 1 957 | 471.0 | 2 428.0 | 52% |
| Plastics | 602 | 36.0 | 638.0 | 28% |
| Rubber Tyres | 0 | 53.5 | 53.5 | 57% |
| Textiles | 52 | 10.0 | 62.0 | 23% |
| Wood | 61 | 4.0 | 65.0 | 15% |
| Electrical and Electronic Equipment | 121 | 18.0 | 139.0 | 69% |
| Glass | 0 | 5.5 | 5.5 | 2% |
| Total | 6 022 | 618.0 | 6 640.0 | 39% |

With the measures set out in the Policy Framework for the Management of Municipal Solid Waste in Hong Kong issued in December 2005, we aim to increase the MSW recovery rate to 45% by 2009 and 50% by 2014.

- (b) In 2002-04, the overall average recovery rate for domestic waste was 14% and that for C&I waste was around 59%.

The Government has been testing out various forms of domestic waste separation and recovery in recent years with a view to identifying the modes that are most convenient to residents, cost-effective and best suit local needs. The Government is now actively promoting the territory-wide programme on source separation of domestic waste, which is a major domestic waste reduction initiative launched in 2005. The implementation of the source separation programme aims to increase the domestic waste recovery rate from the present 14% to 20% by 2007 and 26% by 2012 with the help of other measures such as MSW charging and mandatory producer responsibility schemes being in place.

The recovery rate for C&I waste is relatively high because the recyclables from C&I sources are generally more uniform and less contaminated than domestic waste. Although the C&I sector in Hong Kong is already doing quite well in waste recovery and recycling, the Government will continue to encourage the business sector through measures like the Wastewi\$e Scheme to promote waste reduction and recycling of C&I waste.

Producer responsibility schemes (PRSs) work by assigning responsibilities to appropriate parties to collect, recycle and properly dispose of used products that do not have a ready market. A voluntary producer responsibility scheme for recovering rechargeable batteries was initiated in April 2005. Based on overseas experience, it would take time for similar programmes to fully develop their effectiveness. Legislation will be introduced into the Legislative Council in 2006 to provide the framework for PRSs, with product-specific measures introduced through subsidiary legislation subsequently.

- (c) In other countries, the waste recovery rate of the C&I sector is also generally higher than that of the domestic sector like that in Hong Kong. For the domestic sector, many countries have implemented various household waste recovery programmes which include door-to-door collection of recyclables, setting up of waste separation facilities in public places as well as introduction of domestic waste charging through use of pre-paid refuse bags, and so on. Some examples are given in Table 1 in the Annex.

In simple terms, the recovery rate for domestic waste in Taipei is 27%. Recyclable materials are collected every Friday free of charge whereas non-recyclable waste or trash has to be put in special pre-paid trash bags for collection. Contravention carries a penalty. In Fukuoka, Japan, "Home garbage Collection Fee" has been charged since 1 October 2005. Citizens have to buy designated garbage bags from local supermarkets and convenience stores. In Korea, the recovery rate of 38.2% is among the highest. A Volume-based Waste Fee System imposes different treatment cost as determined by the amount of waste generated by each household. Waste is collected in purchased volume-based bags. Recyclables are sorted and put out in separate bins.

The use of economic instruments to boost the recovery rate is becoming popular in many overseas countries. The policy instrument that attracts most attention in recent years is PRS. Under PRS, the obligation for managing end-of-life products is placed on the producers, distributors or sellers of the products. A well-designed PRS spurs producers to design products that generate less waste, or that can be reused or recycled. PRS has been widely employed through legislation in Europe, North America and Asia to manage products such as electrical and electronic equipment, batteries, packaging materials and vehicle tyres. However, the degree of success of such schemes depends on a series of factors such as the recovery arrangement, publicity of the programme and the environmental awareness of the general public. Among the overseas PRS programmes being implemented so far, two selected successful examples are given in Table 2 in the Annex.

Norway has achieved a recovery rate of over 90% in accordance with the European Union guideline on Waste Electrical and

Electronic Equipment (WEEE). In addition, the tyres recovery rate in Alberta, Canada is 14%. An advance disposal fee of CAN\$4/tyre is imposed on the sale of new tyres.

Therefore, we have been able to make reference to many successful or unsuccessful overseas examples as a reference before developing a recovery programme which is suitable to Hong Kong.

Annex

Table 1: Overseas Practices in Domestic Waste Recovery

| <i>Country</i> | <i>Recovery Rate</i> | <i>Recovery modes for Domestic Waste</i> |
|--------------------|----------------------------|--|
| Taiwan (Taipei) | 27% (2005) | Recyclable materials are collected five days a week free of charge whereas non-recyclable waste or trash has to be put in special pre-paid trash bags to be collected by Taipei City. The "Per Bag Trash Collection Fee Policy" has been implemented in Taipei since 1 July 2000 under the "Municipal Waste Cleaning Fee Collection Ordinance" enacted on 28 April 2000. The price of the special trash bags includes the trash collection and treatment fees. |
| Singapore | 48% ¹ (2004) | Collection bins are provided at public places, food centres and places with high human traffic for collection of waste paper, aluminium cans, plastic bottles and glass bottles. A National Recycling Programme (NRP) for the domestic sector was launched in April 2001. NRP is implemented in both Housing and Development Board's estates (that is, public housing) and landed properties (that is, private housing). In the NRP, the public waste collectors are required under licence, to provide door-to-door collection of recyclable materials from households every fortnight. Under the programme, residents are given recycling bags or bins to deposit their recyclables. These bags are collected once every fortnight. On the collection days, residents could place their recycling bags at their doorsteps for collection. |

| <i>Country</i> | <i>Recovery Rate</i> | <i>Recovery modes for Domestic Waste</i> |
|------------------|----------------------|--|
| Japan | 15% (2001) | "Home Garbage Collection Fee" has been charged for local home garbage in Fukuoka city since 1 October 2005. Citizens have to buy designated garbage bags from local supermarkets, convenience stores and variety stores throughout the city for home garbage disposal. The price of the designated garbage bags varies from size to size: the larger the volume, the higher the price. |
| Korea (Seoul) | 38.2% (1998) | A Volume-based Waste Fee System imposes different treatment costs as determined by the amount of waste generated by each household. This system is enforced nationwide and waste collected in purchased volume-based bags which include the cost of waste treatment. Recyclables are sorted and put out in separate bins free of charge. |

1 Covering domestic, C&I waste, and also used slag.

Table 2: Examples of Successful Overseas PRS

| <i>Country [PRS Programme]</i> | <i>Achievement (year)</i> | <i>PRS Arrangement</i> |
|------------------------------------|---|--|
| Norway [WEEE] | Recovery Rate over 90% (by weight) (2004) | Under the PRS for WEEE, manufacturers/importers are obliged to ensure that the EEE they introduce on the Norwegian market are collected when they end up as waste, and are recycled or otherwise properly handled. They are also obliged to arrange for the collection of WEEE from distributors/retailers and local authorities free of charge. |
| Alberta, Canada [Tyres] | Collection exceeded target of that year by 14% (2004-05) ^{Note 1} | An advance disposal fee of CAN\$4/tyre is imposed on the sale of new tyres. The fee is channelled to the Tire Recycling and Management Fund being operated, which is used to finance the collection, transportation and recycling of old tyres, public information/awareness and research. |

Note 1 The results indicated that all recoverable tyres are collected and recycled and the backlog that had been built up over a number of years could also be cleared.

DR RAYMOND HO (in Cantonese): *President, my main question is about waste recovery and recycling programmes, including those for domestic waste and C&I waste. However, the Secretary's main reply fails completely to answer the part on the recycling of domestic waste. It is mentioned by the Secretary in part (a) of the main reply that the average recovery rate for municipal solid waste was 39%. But in part (b) of the main reply, it is said that the recovery rate for domestic waste was just 14% and that for C&I waste was 59%. The ratio of the former to the latter was 1:4. In other words, out of the 9% of recovered materials that were recycled locally, only 0.7%, or seven thousandths, was domestic waste, so 99.3% was not recycled. How can the Secretary claim that they have done a very satisfactory job in this respect when compared with other countries? Can the Secretary provide us with some relevant information?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): President, I have never said anything like that. Dr HO, I have never claimed that Hong Kong has done a very satisfactory job in this respect. Frankly speaking, we are not at all satisfied. We have just made a start. The cases cited just now are only some successful examples in other countries. And, I suppose we can draw lots of lessons from them.

I do not know how Dr HO has come up with his statistics on domestic waste. The recovery rate is no doubt just 10% or so, but as I have pointed out, since there are very few recovery industries in Hong Kong, 90% of our waste must be transported to the Mainland for recycling. Most of the waste will thus be transported to the Mainland and the Mainland has undertaken to recycle the materials received rather than disposing of them as waste. It is not true to say that we do not recycle waste. We will just transport our waste to the Mainland for handling because the operating costs there are lower than those in Hong Kong.

In regard to source separation of domestic waste, a source separation programme has been implemented in 223 private and public housing estates. The programme has become increasingly full-blown, even recording a higher-than-average recovery rate in some private housing estates. We have been implementing this programme because domestic waste is our emphasis. As for C&I waste, since the materials are easier to handle, cleaner and with less impurities, operators will do source separation of their own accord. In regard to domestic waste, we have to make more efforts.

MR RONNY TONG (in Cantonese): *President, it is mentioned by the Secretary in part (b) of her main reply that the recovery rate for domestic waste was just 14%. It was on the low side. And, in another part of the main reply, it is said that the Government has been testing out various forms of domestic waste separation and recovery. May I ask the Secretary what measures have been put in place to educate the public? And, how effective are they? Will any special programmes be put in place in the future to boost the current recovery rate of 14%?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): President, I am totally convinced that the implementation of any environmental measures must be matched by education efforts. For this reason, the education work relating to domestic waste reduction and recovery in the 200 or so housing estates is undertaken by several teams under the Environmental Protection Department. Whenever any housing estate expresses interest in the programme, our staff will be despatched to the estate to conduct seminars, and pamphlets will also be published to educate residents on the ways and importance of source separation. It is easier to implement the programme in private housing estates, particularly those inhabited by middle-class people, for they are usually more receptive to the idea. We have also selected a number of more densely populated private housing estates, such as Heng Fa Chuen and City One in Sha Tin, for the implementation of the programme. The recovery rates in these private housing estates are usually higher.

As for public housing estates, we have launched the programme in 35 of them. Besides, we have extended source separation to the community level. We have also joined hands with NGOs, that is, non-governmental organizations, to conduct various forms of education and publicity in every housing estate.

The Government has been providing a certain degree of financial support because this kind of work will require some facilities. For instance, many different kinds of recovery boxes and collection bags must be made to suit the actual situation of source separation.

So far, 700 green schools have joined our recovery programme. In these schools, students learn how to make use of all types of waste instead of simple separation of rubbish. I have visited some of these schools and learnt that their students are requested to collect the scrap paper, toilet tissue rolls and tissue

boxes at home and bring them back to school. These materials will then be used as much as possible during their art and craft classes.

In brief, having been educated in school, children will bring the message back home. Our Rechargeable Battery Recycling Programme is also being implemented in many schools. Students will collect their useless rechargeable batteries at home and bring them back to school, where they can dispose of these batteries in the recovery stations set up by us. Some students even organize publicity on this programme of their own accord in the housing estates where they live. We have also worked out a long-term programme under the policy agenda, and this will be implemented next year or the year after next in some specific districts, private housing estates, government quarters and all schools.

MR RONNY TONG (in Cantonese): *President, part of my supplementary question just now is about the effectiveness of existing measures. I hope that the Secretary can say a few words on this because while she may think that these measures are effective, the recovery rate was just 14%*

PRESIDENT (in Cantonese): Mr TONG, you do not have to explain your supplementary question. Please state it direct.

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): There is of course a certain degree of effectiveness. For example, in the private housing estates implementing the waste recovery programme, the introduction of source separation has succeeded in boosting the recovery rate to 50%. Therefore, we are of the view that this is an effective way of promoting resource recycling and reducing waste.

MR SIN CHUNG-KAI (in Cantonese): *President, the Government seems to be very satisfied with the recovery of C&I waste. But I would like to ask a question on the actual situation in the construction industry, particularly the recovery of construction and demolition waste. When the developer concerned expressed its intention of demolishing the Hunghom Peninsula last year, it disclosed that it could adopt some waste recovery measures to achieve the aim of environmental protection. Since the developer has put forward so many sound proposals, will*

the Government consider the possibility of introducing the concept to other property developers and requiring them to achieve the aim of environmental protection in the course of demolition? To put it simply, what is the recovery rate?

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): When it comes to the construction industry, Members should know that a construction waste disposal charging scheme has been put in place since 20 January. This charging scheme is marked by three features. First, construction waste incapable of being recycled is charged at \$125 per tonne at landfills. Second, recyclable demolition waste such as mud and furniture pieces disposed of at our sorting stations near landfills is charged at \$100 per tonne. Finally inert waste is charged at \$25 per tonne. (Appendix 6)

In regard to public works, there are already established procedures and we have also prepared a set of guidelines on the maximum recovery of construction waste. The Government has its own guidelines which are all aimed at minimizing construction waste, and these must be complied with in all works projects. Metals are the type of construction and demolition waste that can certainly be recycled and the recovery rate is well over 90%. In the case of a brand new housing estate like the Hunghom Peninsula, all the materials are recyclable in theory. Concrete slabs obtained from wall demolition can be used for making cement if some money can be spent on crushing them into small aggregates. Naturally, we must at the same time consider the costs to be incurred and whether there is enough space for such works. In other words, we must consider the factor of cost-effectiveness.

Another thing is that people will not like to use certain types of recycled materials. For example, no one will like to use abandoned toilet bowls. Unused toilets in brand new housing estates like the Hunghom Peninsula are an exception and can of course be used again, but there is a difference here. As for the recovery rate in the construction industry, I do not have any information to hand. Please allow me to give Mr SIN Chung-kai a reply in writing later on. (Appendix I)

PRESIDENT (in Cantonese): We have spent more than 18 minutes on this question. Last supplementary question.

DR KWOK KA-KI (in Cantonese): *Madam President, it can be noticed from the Secretary's main reply that the recovery rate for glass is particularly low, just 2%. Can the Secretary offer an explanation and tell us whether there are any possible improvement measures?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): President, glass materials are indeed a thorny problem because it is very difficult to transport them and there are no recovery contractors of this type of materials in Hong Kong. Even if these materials are first collected and then transported to other countries, the cost-efficiency will still be very low. Glass is a kind of inert material which is not highly polluting. But glass materials will take up huge space at landfills. But then, due to the lack of any cost-effectiveness, it is very difficult to identify places where they can be disposed of. I have received many phone calls from expatriates or people who like beer and red wine, for example. They often tell me that their homes are full of glass bottles but they just do not want to discard them. Anyway, glass seems to be a very valuable material. We now hope that they can dispose of their glass bottles at refuse transfer stations. We have reserved some space at these stations.

In addition, we have also been working with some professors at The Hong Kong Polytechnic University to convert glass into bricks. But there is a limited demand for these bricks. Despite all our wish to develop a self-financing and sustainable glass recovery industry, it is difficult to succeed because there is no such industry in Hong Kong now and transportation is a very complicated problem.

PRESIDENT (in Cantonese): Oral questions end here.

WRITTEN ANSWERS TO QUESTIONS

Resource Allocation of Hospital Authority

7. **DR LUI MING-WAH** (in Chinese): *President, regarding the resource allocation of the Hospital Authority (HA), will the Government inform this Council whether it knows the following in each of the past five years:*

- (a) *a breakdown of the HA's expenditures on remunerating senior executives, specialists, non-specialists, general nurses and psychiatric nurses, as well as the respective percentages of each of the above expenditure items in the overall expenditure of the HA;*
- (b) *the respective numbers of senior executives, specialists and non-specialists of the HA, as well as their respective percentages in the total number of full-time employees of the HA; and*
- (c) *the respective numbers of senior executives, specialists, non-specialists, general nurses and psychiatric nurses of the hospitals and medical institutions under the HA, and their respective percentages in the total number of staff of the hospitals and medical institutions concerned?*

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

- (a) A breakdown of the expenditure of the HA in the past five years on remunerating management staff, specialist doctors, non-specialist doctors, general nurses and psychiatric nurses, together with the respective percentages of each of the above expenditure items in the overall expenditure of the HA, are given in Annex A.
- (b) The respective numbers of management staff, specialist doctors and non-specialist doctors of the HA for the past five years, as well as their respective percentages in the total number of full-time employees of the HA, are given in Annex B.
- (c) At present, services of the HA are organized on a cluster basis. Manpower resources are flexibly deployed, rotated and utilized amongst various hospitals within the same cluster. The respective numbers of management staff, specialist doctors, non-specialist doctors, general nurses and psychiatric nurses of the hospital clusters under the HA for the past five years, together with their respective percentages in the total number of staff of the hospital clusters concerned, are given in Annex C.

**Staff Expenditure of the HA
(2000-01 to 2004-05)**

| <i>Staff Group</i> | <i>2000-01</i> | | <i>2001-02</i> | | <i>2002-03</i> | | <i>2003-04</i> | | <i>2004-05</i> | |
|--|-------------------|-------------------------------|-------------------|-------------------------------|-------------------|-------------------------------|-------------------|-------------------------------|-------------------|-------------------------------|
| | <i>\$ million</i> | <i>% on Total Expenditure</i> | <i>\$ million</i> | <i>% on Total Expenditure</i> | <i>\$ million</i> | <i>% on Total Expenditure</i> | <i>\$ million</i> | <i>% on Total Expenditure</i> | <i>\$ million</i> | <i>% on Total Expenditure</i> |
| Personal Emoluments ⁽¹⁾ (PE) | 229 | 0.8% | 229 | 0.7% | 227 | 0.7% | 207 | 0.7% | 199 | 0.7% |
| (a) Management Staff ⁽²⁾ | | | | | | | | | | |
| (b) Medical Total | 6,044 | 20.8% | 6,608 | 21.5% | 6,616 | 21.4% | 6,587 | 21.7% | 6,431 | 21.6% |
| (i) Specialist Doctors ⁽³⁾ | 3,422 | | 3,822 | | 4,019 | | 4,094 | | 4,233 | |
| (ii) Non-specialist Doctors | 2,545 | | 2,705 | | 2,515 | | 2,415 | | 2,125 | |
| Doctors Total | 5,967 | | 6,527 | | 6,534 | | 6,509 | | 6,358 | |
| (iii) Other Medical Staff (Interns, Dental Officers) | 77 | | 81 | | 82 | | 78 | | 73 | |
| (c) Nursing Total | 9,389 | 32.4% | 9,846 | 32.0% | 9,949 | 32.2% | 9,804 | 32.4% | 9,405 | 31.6% |
| (i) General Nurses | 8,326 | | 8,730 | | 8,837 | | 8,720 | | 8,392 | |
| (ii) Psychiatric Nurses | 1,063 | | 1,116 | | 1,112 | | 1,084 | | 1,013 | |
| (d) Other Staff ⁽⁴⁾ | 7,907 | 27.3% | 8,253 | 26.8% | 8,266 | 26.7% | 8,091 | 26.7% | 7,788 | 26.2% |
| Total PE | 23,569 | 81.3% | 24,936 | 81.1% | 25,058 | 81.0% | 24,689 | 81.5% | 23,823 | 80.0% |
| Total Expenditure of HA | 29,008 | | 30,748 | | 30,921 | | 30,290 | | 29,782 | |

Note:

- 1 PE include basic salary, job related allowances and oncost.
- 2 Management staff refer to Chief Executive, Directors, Deputy Directors, Senior Executive Managers, Chief Legal Counsel and Executive Managers at the HA Head Office; and at the hospital level Cluster Chief Executives, Hospital Chief Executives, General Managers (Nursing) and General Managers (Allied Health).
- 3 Specialist doctors refer to all Consultants, Senior Medical Officers, Associate Consultants and Medical Officers/Residents with fellowship in Hong Kong Academy of Medicine.
- 4 Other staff refer to Allied Health Professionals, other Professionals, Administrative and Supporting Staff.

**The Number of Management Staff, Doctors and Nurses in the HA⁽¹⁾
(2000-01 to 2004-05)**

| <i>Staff Group</i> | <i>2000-01</i> | | <i>2001-02</i> | | <i>2002-03</i> | | <i>2003-04</i> | | <i>2004-05</i> | |
|--|----------------|--------------------------|----------------|--------------------------|----------------|--------------------------|----------------|--------------------------|----------------|--------------------------|
| | <i>No.</i> | <i>% of HA total</i> | <i>No.</i> | <i>% of HA total</i> | <i>No.</i> | <i>% of HA total</i> | <i>No.</i> | <i>% of HA total</i> | <i>No.</i> | <i>% of HA total</i> |
| (a) Management Staff ⁽²⁾ | 102 | 0.2% | 96 | 0.2% | 98 | 0.2% | 90 | 0.2% | 87 | 0.2% |
| (b) Medical Total | 4 229 | 8.3% | 4 461 | 8.5% | 4 618 | 8.8% | 4 872 | 9.3% | 4 859 | 9.3% |
| (i) Specialist Doctors ⁽³⁾ | 1 639 | | 1 758 | | 1 934 | | 2 054 | | 2 226 | |
| (ii) Non-specialist Doctors | 2 255 | | 2 347 | | 2 346 | | 2 488 | | 2 300 | |
| (iii) Other Medical Staff (Interns, Dental Officers) | 335 | | 356 | | 338 | | 330 | | 333 | |
| (c) Nurses Total (General+ Psychiatric) ⁽⁴⁾ | 19 727 | 38.7% | 19 682 | 37.4% | 19 568 | 37.1% | 19 308 | 36.8% | 19 162 | 36.8% |
| (i) General Nurses Total | 17 668 | | 17 655 | | 17 562 | | 17 377 | | 17 263 | |
| (ii) Psychiatric Nurses Total | 2 059 | | 2 027 | | 2 006 | | 1 931 | | 1 899 | |
| (d) Allied Health | 4 527 | 8.9% | 4 637 | 8.8% | 4 721 | 8.9% | 4 891 | 9.3% | 4 830 | 9.3% |
| (e) Other Professional/ Administrative/ Supporting Staff | 22 354 | 43.9% | 23 723 | 45.1% | 23 753 | 45.0% | 23 290 | 44.4% | 23 187 | 44.5% |
| HA Total ⁽⁵⁾ | 50 939 | 100.0% | 52 599 | 100.0% | 52 758 | 100.0% | 52 451 | 100.0% | 52 125 | 100.0% |

Note:

- 1 Manpower on full-time equivalent (fte) basis. Includes all staff in the HA's workforce on permanent, contract and temporary terms.
- 2 Management staff refer to Chief Executive, Directors, Deputy Directors, Senior Executive Managers, Chief Legal Counsel and Executive Managers at the HA Head Office; and at the hospital level Cluster Chief Executives, Hospital Chief Executives, General Managers (Nursing) and General Managers (Allied Health).
- 3 Specialist doctors refer to all Consultants, Senior Medical Officers, Associate Consultants and Medical Officers/Residents with fellowship in Hong Kong Academy of Medicine.
- 4 Includes the number of nursing trainees.
- 5 Excludes the clinical staff of the University of Hong Kong and The Chinese University of Hong Kong.

The Number of Management Staff, Doctors and Nurses by Hospital Cluster⁽¹⁾

| Staff Group | 2000-01 | | | | | | | | | | | | | |
|--|----------------|------------|----------------|------------|-----------------|------------|--------------|------------|--------------|------------|----------------------|------------|----------------------|------------|
| | Hong Kong East | | Hong Kong West | | Kowloon Central | | Kowloon East | | Kowloon West | | New Territories East | | New Territories West | |
| | No. | % of total | No. | % of total | No. | % of total | No. | % of total | No. | % of total | No. | % of total | No. | % of total |
| (a) Management Staff ⁽²⁾ | 11.0 | 0.2% | 10.0 | 0.1% | 11.0 | 0.2% | 5.0 | 0.1% | 16.0 | 0.1% | 14.0 | 0.2% | 9.0 | 0.2% |
| (b) Medical Total | 479.0 | 8.3% | 529.5 | 7.8% | 554.5 | 8.4% | 432.0 | 9.7% | 1 044.0 | 8.5% | 730.0 | 8.8% | 456.0 | 7.7% |
| (i) Specialist Doctors ⁽³⁾ | 179.0 | | 205.5 | | 256.5 | | 160.5 | | 412.0 | | 238.0 | | 184.0 | |
| (ii) Non-specialist Doctors | 276.0 | | 246.0 | | 245.0 | | 247.5 | | 560.0 | | 432.0 | | 248.0 | |
| (iii) Other Medical Staff (Interns, Dental Officers) | 24.0 | 0.4% | 78.0 | 1.1% | 53.0 | 0.8% | 24.0 | 0.5% | 72.0 | 0.6% | 60.0 | 0.7% | 24.0 | 0.4% |
| (c) Nurses Total (General+ Psychiatric) ⁽⁴⁾ | 2 022.0 | 35.0% | 2 686.0 | 39.6% | 2 587.0 | 39.0% | 1 793.0 | 40.2% | 5 105.5 | 41.7% | 3 233.0 | 38.9% | 2 280.5 | 38.7% |
| (i) General Nurses Total | 1 804.0 | | 2 604.0 | | 2 497.0 | | 1 751.0 | | 4 400.5 | | 3 005.0 | | 1 588.5 | |
| (ii) Psychiatric Nurses Total | 218.0 | | 82.0 | | 90.0 | | 42.0 | | 705.0 | | 228.0 | | 692.0 | |
| (d) Allied Health | 526.5 | 9.1% | 687.0 | 10.1% | 681.5 | 10.3% | 426.5 | 9.6% | 971.0 | 7.9% | 743.5 | 8.9% | 453.0 | 7.7% |
| (e) Other Professional/ Administrative/ Supporting Staff | 2 743.0 | 47.4% | 2 873.0 | 42.3% | 2 805.0 | 42.3% | 1 801.0 | 40.4% | 5 107.5 | 41.7% | 3 594.0 | 43.2% | 2 698.0 | 45.8% |
| Cluster Total ⁽⁵⁾ | 5 781.5 | 100.0% | 6 785.5 | 100.0% | 6 639.0 | 100.0% | 4 457.5 | 100.0% | 12 244.0 | 100.0% | 8 314.5 | 100.0% | 5 896.5 | 100.0% |

Note:

- 1 Manpower on full-time equivalent (fte) basis. Includes all staff in the HA's workforce on permanent, contract and temporary terms.
- 2 Management staff refer to Chief Executive, Directors, Deputy Directors, Senior Executive Managers, Chief Legal Counsel and Executive Managers at the HA Head Office; and at the hospital level Cluster Chief Executives, Hospital Chief Executives, General Managers (Nursing) and General Managers (Allied Health).
- 3 Specialist doctors refer to all Consultants, Senior Medical Officers, Associate Consultants and Medical Officers/Residents with fellowship in Hong Kong Academy of Medicine.
- 4 Includes the number of nursing trainees.
- 5 Excludes the clinical staff of the University of Hong Kong and The Chinese University of Hong Kong.

The Number of Management Staff, Doctors and Nurses by Hospital Cluster⁽¹⁾

| Staff Group | 2001-02 | | | | | | | | | | | | | |
|--|----------------|------------|----------------|------------|-----------------|------------|--------------|------------|--------------|------------|----------------------|------------|----------------------|------------|
| | Hong Kong East | | Hong Kong West | | Kowloon Central | | Kowloon East | | Kowloon West | | New Territories East | | New Territories West | |
| | No. | % of total | No. | % of total | No. | % of total | No. | % of total | No. | % of total | No. | % of total | No. | % of total |
| (a) Management Staff ⁽²⁾ | 11.0 | 0.2% | 9.0 | 0.1% | 11.0 | 0.2% | 6.0 | 0.1% | 15.0 | 0.1% | 11.0 | 0.1% | 8.0 | 0.1% |
| (b) Medical Total | 511.8 | 8.5% | 557.5 | 8.2% | 578.7 | 8.3% | 483.5 | 10.0% | 1 093.3 | 8.7% | 758.5 | 8.8% | 475.7 | 8.0% |
| (i) Specialist Doctors ⁽³⁾ | 198.3 | | 220.5 | | 275.7 | | 178.5 | | 427.3 | | 258.0 | | 197.7 | |
| (ii) Non-specialist Doctors | 286.5 | | 257.0 | | 249.0 | | 281.0 | | 587.0 | | 433.5 | | 253.0 | |
| (iii) Other Medical Staff (Interns, Dental Officers) | 27.0 | 0.4% | 80.0 | 1.2% | 54.0 | 0.8% | 24.0 | 0.5% | 79.0 | 0.6% | 67.0 | 0.8% | 25.0 | 0.4% |
| (c) Nurses Total (General+ Psychiatric) ⁽⁴⁾ | 2 022.0 | 33.5% | 2 644.5 | 38.8% | 2 699.0 | 38.7% | 1 882.0 | 39.0% | 4 939.0 | 39.4% | 3 236.0 | 37.4% | 2 233.5 | 37.6% |
| (i) General Nurses Total | 1 806.0 | | 2 557.5 | | 2 602.0 | | 1 831.0 | | 4 294.0 | | 2 986.0 | | 1 553.5 | |
| (ii) Psychiatric Nurses Total | 216.0 | | 87.0 | | 97.0 | | 51.0 | | 645.0 | | 250.0 | | 680.0 | |
| (d) Allied Health | 533.0 | 8.8% | 695.0 | 10.2% | 696.5 | 10.0% | 462.5 | 9.6% | 991.5 | 7.9% | 758.5 | 8.8% | 461.0 | 7.8% |
| (e) Other Professional/ Administrative/ Supporting Staff | 2 951.5 | 49.0% | 2 914.0 | 42.7% | 2 981.5 | 42.8% | 1 989.5 | 41.2% | 5 487.5 | 43.8% | 3 890.0 | 45.0% | 2 763.5 | 46.5% |
| Cluster Total ⁽⁵⁾ | 6 029.3 | 100.0% | 6 820.0 | 100.0% | 6 966.7 | 100.0% | 4 823.5 | 100.0% | 12 526.3 | 100.0% | 8 654.0 | 100.0% | 5 941.7 | 100.0% |

Note:

- 1 Manpower on full-time equivalent (fte) basis. Includes all staff in the HA's workforce on permanent, contract and temporary terms.
- 2 Management staff refer to Chief Executive, Directors, Deputy Directors, Senior Executive Managers, Chief Legal Counsel and Executive Managers at the HA Head Office; and at the hospital level Cluster Chief Executives, Hospital Chief Executives, General Managers (Nursing) and General Managers (Allied Health).
- 3 Specialist doctors refer to all Consultants, Senior Medical Officers, Associate Consultants and Medical Officers/Residents with fellowship in Hong Kong Academy of Medicine.
- 4 Includes the number of nursing trainees.
- 5 Excludes the clinical staff of the University of Hong Kong and The Chinese University of Hong Kong.

The Number of Management Staff, Doctors and Nurses by Hospital Cluster⁽¹⁾

| Staff Group | 2002-03 | | | | | | | | | | | | | |
|--|----------------|------------|----------------|------------|-----------------|------------|--------------|------------|--------------|------------|----------------------|------------|----------------------|------------|
| | Hong Kong East | | Hong Kong West | | Kowloon Central | | Kowloon East | | Kowloon West | | New Territories East | | New Territories West | |
| | No. | % of total | No. | % of total | No. | % of total | No. | % of total | No. | % of total | No. | % of total | No. | % of total |
| (a) Management Staff ⁽²⁾ | 11.0 | 0.2% | 8.0 | 0.1% | 11.0 | 0.2% | 6.0 | 0.1% | 14.0 | 0.1% | 11.0 | 0.1% | 9.0 | 0.1% |
| (b) Medical Total | 503.2 | 8.5% | 581.5 | 8.6% | 597.7 | 8.5% | 504.8 | 10.2% | 1 120.3 | 9.0% | 813.3 | 9.3% | 495.7 | 8.2% |
| (i) Specialist Doctors ⁽³⁾ | 227.7 | | 239.5 | | 305.7 | 4.4% | 195.8 | | 464.3 | | 292.8 | | 206.7 | |
| (ii) Non-specialist Doctors | 252.5 | | 263.0 | | 239.0 | 3.4% | 288.0 | | 583.0 | | 451.5 | | 269.0 | |
| (iii) Other Medical Staff (Interns, Dental Officers) | 23.0 | 0.4% | 79.0 | 1.2% | 53.0 | 0.8% | 21.0 | 0.4% | 73.0 | 0.6% | 69.0 | 0.8% | 20.0 | 0.3% |
| (c) Nurses Total (General+ Psychiatric) ⁽⁴⁾ | 2 020.0 | 34.0% | 2 589.5 | 38.2% | 2 626.5 | 37.5% | 1 882.0 | 38.2% | 4 894.5 | 39.3% | 3 239.0 | 36.9% | 2 296.0 | 37.9% |
| (i) General Nurses Total | 1 803.0 | | 2 502.5 | | 2 504.5 | | 1 832.0 | | 4 284.5 | | 2 981.0 | | 1 635.0 | |
| (ii) Psychiatric Nurses Total | 217.0 | | 87.0 | | 122.0 | | 50.0 | | 610.0 | | 258.0 | | 661.0 | |
| (d) Allied Health | 545.0 | 9.2% | 707.0 | 10.4% | 706.5 | 10.1% | 473.0 | 9.6% | 996.5 | 8.0% | 809.0 | 9.2% | 447.0 | 7.4% |
| (e) Other Professional/ Administrative/ Supporting Staff | 2 853.5 | 48.1% | 2 884.0 | 42.6% | 3 053.5 | 43.7% | 2 060.0 | 41.8% | 5 430.0 | 43.6% | 3 905.5 | 44.5% | 2 806.0 | 46.4% |
| Cluster Total ⁽⁵⁾ | 5 932.7 | 100.0% | 6 770.0 | 100.0% | 6 995.2 | 100.0% | 4 925.8 | 100.0% | 12 455.3 | 100.0% | 8 777.8 | 100.0% | 6 053.7 | 100.0% |

Note:

- 1 Manpower on full-time equivalent (fte) basis. Includes all staff in the HA's workforce on permanent, contract and temporary terms.
- 2 Management staff refer to Chief Executive, Directors, Deputy Directors, Senior Executive Managers, Chief Legal Counsel and Executive Managers at the HA Head Office; and at the hospital level Cluster Chief Executives, Hospital Chief Executives, General Managers (Nursing) and General Managers (Allied Health).
- 3 Specialist doctors refer to all Consultants, Senior Medical Officers, Associate Consultants and Medical Officers/Residents with fellowship in Hong Kong Academy of Medicine.
- 4 Includes the number of nursing trainees.
- 5 Excludes the clinical staff of the University of Hong Kong and The Chinese University of Hong Kong.

The Number of Management Staff, Doctors and Nurses by Hospital Cluster⁽¹⁾

| Staff Group | 2003-04 | | | | | | | | | | | | | |
|--|----------------|------------|----------------|------------|-----------------|------------|--------------|------------|--------------|------------|----------------------|------------|----------------------|------------|
| | Hong Kong East | | Hong Kong West | | Kowloon Central | | Kowloon East | | Kowloon West | | New Territories East | | New Territories West | |
| | No. | % of total | No. | % of total | No. | % of total | No. | % of total | No. | % of total | No. | % of total | No. | % of total |
| (a) Management Staff ⁽²⁾ | 11.0 | 0.2% | 8.0 | 0.1% | 9.0 | 0.1% | 6.0 | 0.1% | 11.0 | 0.1% | 10.0 | 0.1% | 8.0 | 0.1% |
| (b) Medical Total | 522.0 | 8.7% | 575.2 | 8.9% | 633.2 | 9.2% | 560.5 | 11.0% | 1 167.4 | 9.4% | 862.4 | 10.0% | 547.1 | 8.8% |
| (i) Specialist Doctors ⁽³⁾ | 228.2 | | 250.0 | | 316.5 | | 208.5 | | 497.6 | | 312.0 | | 238.3 | |
| (ii) Non-specialist Doctors | 273.9 | | 248.2 | | 263.8 | | 331.1 | | 597.8 | | 486.5 | | 285.8 | |
| (iii) Other Medical Staff (Interns, Dental Officers) | 20.0 | 0.3% | 77.0 | 1.2% | 53.0 | 0.8% | 21.0 | 0.4% | 72.0 | 0.6% | 64.0 | 0.7% | 23.0 | 0.4% |
| (c) Nurses Total (General+ Psychiatric) ⁽⁴⁾ | 1 977.4 | 33.1% | 2 507.4 | 38.7% | 2 578.9 | 37.6% | 1 894.2 | 37.3% | 4 792.6 | 38.7% | 3 192.9 | 37.1% | 2 344.5 | 37.8% |
| (i) General Nurses Total | 1 765.4 | | 2 421.4 | | 2 457.9 | | 1 846.2 | | 4 204.6 | | 2 940.9 | | 1 721.5 | |
| (ii) Psychiatric Nurses Total | 212.0 | | 86.0 | | 121.0 | | 48.0 | | 588.0 | | 252.0 | | 623.0 | |
| (d) Allied Health | 563.0 | 9.4% | 688.0 | 10.6% | 711.5 | 10.4% | 500.5 | 9.8% | 1 037.0 | 8.4% | 851.0 | 9.9% | 499.0 | 8.0% |
| (e) Other Professional/ Administrative/ Supporting Staff | 2 901.5 | 48.6% | 2 707.5 | 41.7% | 2 927.5 | 42.7% | 2 123.0 | 41.8% | 5 373.5 | 43.4% | 3 690.0 | 42.9% | 2 807.0 | 45.2% |
| Cluster Total ⁽⁵⁾ | 5 974.9 | 100.0% | 6 486.1 | 100.0% | 6 860.1 | 100.0% | 5 084.2 | 100.0% | 12 381.5 | 100.0% | 8 606.4 | 100.0% | 6 205.6 | 100.0% |

Note:

- 1 Manpower on full-time equivalent (fte) basis. Includes all staff in the HA's workforce on permanent, contract and temporary terms.
- 2 Management staff refer to Chief Executive, Directors, Deputy Directors, Senior Executive Managers, Chief Legal Counsel and Executive Managers at the HA Head Office; and at the hospital level Cluster Chief Executives, Hospital Chief Executives, General Managers (Nursing) and General Managers (Allied Health).
- 3 Specialist doctors refer to all Consultants, Senior Medical Officers, Associate Consultants and Medical Officers/Residents with fellowship in Hong Kong Academy of Medicine.
- 4 Includes the number of nursing trainees.
- 5 Excludes the clinical staff of the University of Hong Kong and The Chinese University of Hong Kong.

The Number of Management Staff, Doctors and Nurses by Hospital Cluster⁽¹⁾

| Staff Group | 2004-05 | | | | | | | | | | | | | |
|--|----------------|------------|----------------|------------|-----------------|------------|--------------|------------|--------------|------------|----------------------|------------|----------------------|------------|
| | Hong Kong East | | Hong Kong West | | Kowloon Central | | Kowloon East | | Kowloon West | | New Territories East | | New Territories West | |
| | No. | % of total | No. | % of total | No. | % of total | No. | % of total | No. | % of total | No. | % of total | No. | % of total |
| (a) Management Staff ⁽²⁾ | 10.0 | 0.2% | 9.0 | 0.1% | 9.0 | 0.1% | 6.0 | 0.1% | 10.0 | 0.1% | 8.0 | 0.1% | 6.0 | 0.1% |
| (b) Medical Total | 545.2 | 9.1% | 559.5 | 8.8% | 625.4 | 9.1% | 563.4 | 11.1% | 1 128.7 | 9.3% | 857.8 | 10.1% | 571.8 | 9.2% |
| (i) Specialist Doctors ⁽³⁾ | 246.8 | | 263.8 | | 334.6 | | 228.2 | | 538.6 | | 354.7 | | 254.4 | |
| (ii) Non-specialist Doctors | 272.3 | | 224.7 | | 248.8 | | 308.8 | | 522.1 | | 429.1 | | 292.4 | |
| (iii) Other Medical Staff (Interns, Dental Officers) | 26.0 | 0.4% | 71.0 | 1.1% | 42.0 | 0.6% | 26.5 | 0.5% | 68.0 | 0.6% | 74.0 | 0.9% | 25.0 | 0.4% |
| (c) Nurses Total (General+ Psychiatric) ⁽⁴⁾ | 1 987.6 | 33.2% | 2 448.9 | 38.5% | 2 580.8 | 37.7% | 1 882.6 | 37.1% | 4 712.7 | 38.7% | 3 161.6 | 37.1% | 2 357.6 | 37.7% |
| (i) General Nurses Total | 1 773.6 | | 2 370.9 | | 2 460.7 | | 1 832.6 | | 4 144.7 | | 2 911.6 | | 1 738.4 | |
| (ii) Psychiatric Nurses Total | 214.0 | | 78.0 | | 120.1 | | 50.0 | | 568.0 | | 250.0 | | 619.2 | |
| (d) Allied Health | 561.8 | 9.4% | 679.5 | 10.7% | 692.5 | 10.1% | 497.7 | 9.8% | 1 017.5 | 8.3% | 832.6 | 9.8% | 509.0 | 8.1% |
| (e) Other Professional/ Administrative/ Supporting Staff | 2 884.2 | 48.2% | 2 655.8 | 41.8% | 2 942.6 | 43.0% | 2 123.0 | 41.9% | 5 319.3 | 43.6% | 3 664.9 | 43.0% | 2 804.5 | 44.9% |
| Cluster Total ⁽⁵⁾ | 5 988.7 | 100.0% | 6 352.7 | 100.0% | 6 850.2 | 100.0% | 5 072.8 | 100.0% | 12 188.2 | 100.0% | 8 524.9 | 100.0% | 6 248.9 | 100.0% |

Note:

- 1 Manpower on full-time equivalent (fte) basis. Includes all staff in the HA's workforce on permanent, contract and temporary terms.
- 2 Management staff refer to Chief Executive, Directors, Deputy Directors, Senior Executive Managers, Chief Legal Counsel and Executive Managers at the HA Head Office; and at the hospital level Cluster Chief Executives, Hospital Chief Executives, General Managers (Nursing) and General Managers (Allied Health).
- 3 Specialist doctors refer to all Consultants, Senior Medical Officers, Associate Consultants and Medical Officers/Residents with fellowship in Hong Kong Academy of Medicine.
- 4 Includes the number of nursing trainees.
- 5 Excludes the clinical staff of the University of Hong Kong and The Chinese University of Hong Kong.

Guarantee for Land Boundaries

8. **MR PATRICK LAU** (in Chinese): *President, when it introduced the Land Titles Bill in 2002, the Government did not propose to provide any form of guarantee for land boundaries under the proposed title registration system, and stated that it might revisit the issue in due course. The Bill was passed by this Council in July 2004. In this connection, will the Government inform this Council whether:*

- (a) it plans to start studying the issue shortly; if so, of the details of its plan, including the date when the study will commence; if not, of the reasons for that;*
- (b) it will consider inviting the relevant professional institutes or organizations to jointly conduct the study; if so, of the specific mode of co-operation; if not, the reasons for that; and*
- (c) it will consider, as part of the study, granting a statutory status to the land boundary plans drawn up by authorized land surveyors in accordance with the relevant code of practice, and incorporating the relevant provisions into the Land Registration Ordinance; if not, of the reasons for that?*

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

(a) and (b)

When the Land Titles Bill was introduced into the Legislative Council in 2002, the Administration clearly advised that no form of guarantee for land boundaries was to be provided. Given the past history and circumstances of land boundary survey in Hong Kong, any form of guarantee for land boundaries would give rise to complicated disputes.

When the Land Titles Bill was passed in the Legislative Council in 2004, the Administration's stance as mentioned above was not

disputed. During the deliberation with the professional bodies at the Bills Committee, the Hong Kong Institute of Surveyors appreciated the possible difficulties that the Administration may encounter if any form of guarantee for land boundaries is to be provided. Paragraphs 114, 115 and 116 of the Report of the Bills Committee on Land Titles Bill dated 24 June 2004 are extracted in the Annex. The Administration's consideration has not changed. We do not intend to revisit the issue.

- (c) According to section 94 of the Land Titles Ordinance, if the Director of Lands decides that a land boundary plan prepared by an authorized land surveyor in accordance with the code of practice approved under the Land Survey Ordinance is acceptable for the determination of the boundaries of the lot concerned, the Director of Lands may, with the consent of the lot owner concerned, cause that plan to be registered with the Land Registry. With this procedure, the land boundary plan prepared by an authorized land surveyor is legally recognized. This provision will be in force together with the commencement of the Land Titles Ordinance, and will only apply to land registered under this Ordinance.

However, the Administration is committed to introducing suitable legislative amendment for a similar provision to be applicable to land not yet registered under the Land Titles Ordinance.

The Administration is reviewing and improving the Land Titles Ordinance, in order to put it in force as early as possible. We will deal with the above issue as part of the legislative amendments to be introduced after the review.

Annex

Land boundaries

114. The Bills Committee notes that under DRS, land boundaries are not guaranteed. In the previous Land Titles Bill introduced in 1994, the Administration has not proposed to provide any form of guarantee for land boundaries under LTRS. While some interested parties have expressed their

view that guarantee of land boundaries should be part of LTRS, the Administration considers that this would present great complications given the past history of land boundary survey in Hong Kong. As only boundaries surveyed since the establishment of the Geodetic Datum in 1980 (which represents only about 7% of existing properties) could be assured immediately, the Administration maintains its previous proposal and does not provide any form of guarantee for land boundaries under the Bill. The Administration however proposes that an avenue be provided under clause 92(1) for owners of registered land to apply to the Director of Lands for a determination of their lot boundaries.

115. The Bills Committee notes that HYK supports the Administration's proposal to allow the owner of registered land to make an application to the Director of Lands for a determination of lot boundaries. However, HYK considers that when an owner of registered land makes such an application, if the Director considers that the existing land boundary plan is acceptable for the purpose, he should verify the plan together with the relevant District Survey Office before causing the plan to be registered under clause 92(3)(c). The Bills Committee also notes that HKIS considers it most important that LTRS should provide reliable and adequate records about the particulars of the landed interest including plan showing the size, boundary and layout of the interests. Whilst appreciating that the Administration is not ready to provide any form of guarantee for land boundaries under the Bill, HKIS considers that the Administration should address the boundary problems of the Demarcation District lots in the New Territories by bringing these old land survey records up to the standard. In this connection, HKIS is concerned that under clause 92(2)(b), the Director of Lands shall not make a determination of lot boundaries in respect of a lot held under a block Government lease, i.e. a Government lease of old schedule lots.

116. The Bills Committee appreciates the concerns of HYK and HKIS, and requests the Administration to consider their views. On HYK's views on clause 92(3)(c), the Administration confirms that it will set out the criteria for deciding whether a land boundary plan, including the existing plan prepared by the Survey and Mapping Office of the Lands Department, is acceptable for determination of the boundaries of a lot and registration in the Land Registry. As regards the concern of HKIS about clause 92(2)(b), the Administration agrees to delete the subclause to address the concern.

Appointing District Council Members to Advisory and Statutory Bodies

9. **MR LAU WONG-FAT** (in Chinese): *President, in his policy address delivered in October last year, the Chief Executive pointed out that advisory and statutory bodies (ASBs) served as important partners of the Government in achieving effective governance. In this connection, will the Government inform this Council:*

- (a) *of the number of ASBs comprising District Council (DC) members, and the number of DC members serving on each of these ASBs;*
- (b) *whether it plans to include a certain number of DC members in the membership of each ASB, so as to increase public representation of ASBs with a view to reflecting public sentiment more effectively; if not, the reasons for that; and*
- (c) *whether it plans to allow DC members to indicate, in the annual updating of their personal data, their interests in joining particular ASBs for consideration by the authorities ?*

SECRETARY FOR HOME AFFAIRS (in Chinese): President,

- (a) As at 30 November 2005, DC members served on 117 (excluding the 18 DCs) out of the 403 public sector ASBs. They together took up 335 posts in the 117 ASBs. Information on the number of DC members serving on each of the 117 ASBs in question is at the Annex.
- (b) In making appointments to ASBs, the Government aims to secure the services of the most suitable persons to meet the requirements of the board or committee concerned. Each appointment is made on the basis of the merit of the individual concerned, taking into account the candidate's ability, expertise, experience, integrity and commitment to public service, and having due regard to the functions and nature of business of the board or committee concerned. As a matter of general principle, the composition of ASBs should broadly reflect the interests and views of the

community. In this connection, it is our policy to appoint more members with experience and interest in community affairs (including DC members) to boards and committees dealing with livelihood matters.

- (c) Principal Officials are responsible for making appointments or recommending appointments to ASBs under their purview. DC members who are interested in serving on a particular board or committee may submit their self-nominations to the responsible bureau/office for consideration.

Annex

Information on DC Members Serving on
Public Sector ASBs (excluding the 18 DCs)
(Position as at 30 November 2005)

| <i>Name of Body</i> | <i>Number of Posts Held by DC Members</i> |
|---|---|
| Action Committee Against Narcotics | 1 |
| Advisory Committee of the Partnership Fund for the Disadvantaged | 1 |
| Advisory Committee on Agriculture and Fisheries | 3 |
| Advisory Committee on Enhancing Employment of People with Disabilities | 1 |
| Advisory Committee on Social Work Training and Manpower Planning | 1 |
| Advisory Committee on the Admission Scheme for Mainland Talents and Professionals | 2 |
| Advisory Committee on the Quality of Water Supplies | 5 |
| Advisory Committee on Travel Agents | 1 |
| Advisory Council on Food and Environmental Hygiene | 2 |
| Air Pollution Control Appeal Board | 1 |
| Appeal Board (Amusement Game Centres) | 2 |
| Appeal Board (Bedspace Apartments) | 2 |
| Appeal Board (Clubs (Safety of Premises)) | 2 |
| Appeal Board (Hotel and Guesthouse Accommodation) | 2 |
| Appeal Board on Closure Orders (Immediate Health Hazard) | 1 |
| Appeal Board on Public Meetings and Processions | 1 |

| <i>Name of Body</i> | <i>Number of Posts Held by DC Members</i> |
|--|---|
| Appeal Board Panel (Consumer Goods Safety) | 1 |
| Appeal Board Panel (Gas Safety) | 1 |
| Appeal Board Panel (Town Planning) | 4 |
| Appeal Board Panel (Toys and Children's Products Safety) | 1 |
| Appeal Panel (Estate Agents Ordinance) | 1 |
| Appeal Panel on Housing | 6 |
| Appeal Tribunal Panel (Buildings) | 36 |
| Assessment Panel of Design Support Programme under the DesignSmart Initiative | 1 |
| Basic Law Promotion Steering Committee | 3 |
| Board of Management of the Chinese Permanent Cemeteries | 1 |
| Board of the Urban Renewal Authority | 3 |
| Brewin Trust Fund Committee | 1 |
| Broadcasting Authority | 1 |
| Cantonese Opera Advisory Committee | 1 |
| Chinese Temples Committee | 1 |
| Citizens Advisory Committee on Community Relations of the ICAC | 3 |
| Commission on Poverty | 3 |
| Commission on Strategic Development | 14 |
| Commission on Youth | 1 |
| Committee on Financial Assistance for Family Members of Those Who Sacrifice Their Lives To Save Others | 1 |
| Committee on Libraries | 3 |
| Committee on Museums | 2 |
| Committee on Performing Arts | 2 |
| Committee on Services for Youth at Risk | 1 |
| Committee on the Promotion of Civic Education | 3 |
| Community Investment and Inclusion Fund Committee | 3 |
| Consumer Council | 1 |
| Copyright Tribunal | 1 |
| Corruption Prevention Advisory Committee of the ICAC | 1 |
| Council for Sustainable Development | 1 |
| Council for the AIDS Trust Fund | 1 |
| Council of Lingnan University | 2 |
| Council of the Hong Kong Academy for Performing Arts | 1 |
| Council of the Hong Kong Institute of Education | 1 |

| <i>Name of Body</i> | <i>Number of Posts Held by DC Members</i> |
|--|---|
| Council of the Queen Elizabeth Foundation for the Mentally Handicapped | 1 |
| Council on Human Reproductive Technology | 3 |
| Country and Marine Parks Board | 2 |
| Criminal and Law Enforcement Injuries Compensation Boards and Appeal Board | 4 |
| Curriculum Development Council | 1 |
| Deposit Protection Appeals Tribunal | 1 |
| Disaster Relief Fund Advisory Committee | 1 |
| Disciplinary Tribunal Panel (Electricity) | 1 |
| Drainage Appeal Board Panel | 1 |
| Dumping at Sea Appeal Board | 2 |
| Economic and Employment Council | 3 |
| Elderly Commission | 2 |
| Electrical Safety Advisory Committee | 1 |
| Emergency Relief Fund Committee | 1 |
| Energy Advisory Committee | 1 |
| Environment and Conservation Fund Committee | 1 |
| Environmental Campaign Committee | 4 |
| Equal Opportunities Commission | 1 |
| Estate Agents Authority | 1 |
| Fish Marketing Advisory Board | 4 |
| Fisheries Development Loan Fund Advisory Committee | 1 |
| Gas Safety Advisory Committee | 1 |
| Greater Pearl River Delta Business Council | 1 |
| Harbour-front Enhancement Committee | 6 |
| HKSAR Passports Appeal Board | 1 |
| Home Purchase Allowance Appeals Committee Panel | 4 |
| Hong Kong Housing Authority | 6 |
| Hospital Authority | 1 |
| ICAC Complaints Committee | 1 |
| Independent Police Complaints Council | 44 |
| Kadoorie Agricultural Aid Loan Fund Committee | 1 |
| Legal Aid Services Council | 1 |
| Licensing Appeals Board | 3 |
| Liquor Licensing Board | 8 |
| Lotteries Fund Advisory Committee | 2 |

| <i>Name of Body</i> | <i>Number of Posts Held by DC Members</i> |
|---|---|
| Mandatory Provident Fund Schemes Advisory Committee | 1 |
| Marine Fish Scholarship Fund Advisory Committee | 2 |
| Municipal Services Appeals Board | 38 |
| Noise Control Appeal Board | 1 |
| Occupational Safety and Health Council | 1 |
| Panel of Assessors for the Innovation and Technology Support Programme under the Innovation and Technology Fund | 1 |
| Panel of Film Censorship Advisers | 1 |
| Post-Release Supervision Board | 1 |
| Railway Objections Hearing Panel | 4 |
| Registered Contractors' Disciplinary Board Panel | 1 |
| Registration of Persons Tribunal | 2 |
| Rehabilitation Advisory Committee | 1 |
| Research Grants Council | 1 |
| Residential Care Homes (Elderly Persons) Appeal Board | 1 |
| Secondary School Places Allocation Committee | 1 |
| Security and Guarding Services Industry Authority | 3 |
| Small and Medium Enterprises Committee | 1 |
| Social Security Appeal Board | 1 |
| Social Welfare Advisory Committee | 1 |
| Standing Commission on Civil Service Salaries and Conditions of Service | 1 |
| Standing Committee on Disciplined Services Salaries and Conditions of Service | 2 |
| Statistics Advisory Board | 1 |
| Steering Group on the Promotion of Innovation and Design | 1 |
| Telecommunications Users and Consumers Advisory Committee | 1 |
| Town Planning Board | 5 |
| Transport Advisory Committee | 1 |
| Transport Tribunal's Panel | 1 |
| Vetting Committee of the Professional Services Development Assistance Scheme | 1 |
| Vocational Training Council | 2 |
| Waste Disposal Appeal Board | 1 |
| Water Pollution Control Appeal Board | 1 |
| Women's Commission | 2 |
| Total: | 335 |

Control of Land Filling Activities on New Territories Agricultural Land

10. **MR DANIEL LAM** (in Chinese): *President, in February 2005, the Town Planning Board (TPB) unilaterally amended, without first consulting the owners of agricultural land in the New Territories, the "Notes" for agricultural land in the Master Schedule of Notes to Statutory Plans so as to control land filling activities undertaken on agricultural land. Then, in April of the same year, the TPB announced by notice in the Gazette amendments to 25 draft/approved Outline Zoning Plans, which included the above revision to the Notes. In this connection, will the Government inform this Council of:*

- (a) the number of complaints received in the past 10 years by the authorities about land filling activities undertaken on agricultural land, the number of pieces of land involved and their sizes;*
- (b) the number of cases in which works undertaken in the past 10 years by the Government for the purpose of developing new towns, constructing roads and river training in the New Territories had turned land in the vicinity into low-lying land, as well as the area of the land involved;*
- (c) the examples of cases showing that land filling activities undertaken by owners of agricultural land have negative impacts on the economy and livelihood of the local community; and*
- (d) how the authorities arrived at the 1.2 m upper limit on the thickness of soil laid in land filling activities requiring no planning permission, and whether the authorities have consulted owners of low-lying land; if so, please provide the relevant papers?*

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

- (a) In the past 10 years, the Planning Department (the Department) has received a total of 901 complaints regarding land filling activities in the rural areas of New Territories involving 708 different sites. However, the Department does not have detailed information on the sizes of sites involved.

- (b) In the past 10 years, no works for new town development, road construction and river training in the New Territories have turned land in the vicinity into low-lying areas. When implementing new town development projects (including land formation, road construction and river training), the Government would carry out project feasibility study and assessment as prescribed by established procedures and would implement the project in accordance with the relevant design standards and statutory requirements. Moreover, during the construction phase, adequate drainage facilities would be provided in the construction sites and in its vicinity.

Low-lying areas bordering main watercourses in the New Territories are mostly natural flood-plains and susceptible to frequent flooding. To enhance the flood relief capacity of watercourses, it is often necessary to widen and deepen these watercourses and build embankment to prevent flooding. The purpose of river training works is to alleviate flooding in flood-plains. In no circumstances will these works lead to the enlargement of low-lying areas.

- (c) The majority of those who lodged complaints with the Department are local residents directly affected by land filling activities. Illegal land filling activities in rural areas of the New Territories cause environmental, traffic and drainage problems such as the loss of agricultural land, air and environmental pollution, spoiling of rural landscape, blockage of access and serious flooding. All this will bring adverse impact to the lives and activities of local residents.

To quote some examples, the large-scale land filling activity in a village in Tai Po has created dangerous slopes and threatened the safety of local residents. The serious flooding in a private housing development in Yuen Long in recent years is also mainly attributable to land filling activity in an adjacent site. This land filling activity led to the filling up of a natural watercourse within the site and as a result rainwater cannot be drained away properly.

- (d) Last year, the TPB revised the "Notes" of the "Agricultural" zone in the relevant Outline Zoning Plans. The amendments stipulate that all land filling activities require prior planning permission from the

TPB unless the laying of soil serves cultivation purpose and does not exceed 1.2 m in thickness.

In preparing the amendments, the TPB took account of the comments from the relevant departments. According to the information provided by the Agriculture, Fisheries and Conservation Department, the thickness of the top soil required for cultivation of vegetables is roughly about 0.3 m to 0.45 m while that for trees is about 1 m to 1.2 m. As such, the laying of soil not exceeding 1.2 m is adopted as the criterion for exempting planning permission. In this way, usual agricultural activities will not be affected. It is considered that such arrangement has struck a balance between the need to control illegal land filling activities and to avoid causing nuisance to *bona fide* agricultural activities.

As the amendment would take immediate effect upon promulgation, the Administration did not conduct public consultation before its gazetting in order not to undermine the effectiveness of the control work. Nevertheless, the Town Planning Ordinance has provided for a statutory channel under which any person could lodge an objection against the amendments to the TPB during the exhibition of the relevant plans. All objections will be considered by the TPB in accordance with the said Ordinance. The TPB will deliberate on the grounds of objections before making a final decision. During the plan exhibition period, the Department has issued information papers and explained the amendments to the Heung Yee Kuk as well as the relevant District Councils and the Rural Committees.

Travel Agent Services Policy

11. **MR HOWARD YOUNG** (in Chinese): *President, the Hong Kong Export Credit Insurance Corporation (ECIC) launched its "Travel Agent Services Policy" (TASP) in October last year to provide professional risk management services and cover for bad debts to support local service providers. In this connection, will the Government inform this Council:*

- (a) *of the number of insurance applications received by the ECIC since the launch of TASP and the amount of insurance cover involved, and how the authorities promote such insurance services to the industry;*

- (b) *whether it will consider streamlining the application procedures concerned and shortening the time for approving applications; and*
- (c) *how the authorities will help the industry reduce credit risks besides the protection provided by the ECIC against such risks?*

SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY (in Chinese): President, my reply to the three parts of the question is set out below:

- (a) The ECIC launched a TASP in October 2005 to provide professional risk management services and cover for bad debts for local service providers. The ECIC has received three applications for the TASP since its launch. Two of them were approved, and the remaining one was subsequently withdrawn by the applicant. The total value of credit limits approved for the two applications amounted to \$6.3 million.

In order to develop a tailor-made TASP, the ECIC consulted the Travel Industry Council of Hong Kong (TIC) on the needs of the industry in 2005. The ECIC also organized two seminars for the TIC on export credit insurance services including the TASP. Information on the TASP was provided through the TIC to service providers with the ECIC actively following up the enquiries of the latter. The ECIC has also been publicizing the TASP by way of press release, advertisements and promotional leaflets.

- (b) The application procedures of TASP are very simple. An applicant has to submit only a proposal for the policy, credit limit application for its clients and basic information regarding its operation. The ECIC will assess the credit risks, decide on the amount of credit limit and issue a quotation for the applicant's consideration.

The ECIC has made a performance pledge that, upon receipt of adequate information, it will approve the credit limit applications within five working days and issue a quotation within two working days.

The ECIC will continue to monitor the needs of the travel industry and consider streamlining the application procedures of TASP if and when necessary.

- (c) As a trade self-regulatory body, the TIC has all along been concerned about the risk management of the trade. The TIC issued a directive to all member travel agents in September 2003, requiring inbound travel agents to specify clearly the terms of and deadline for payment of reception fees or deposit in the contract signed with overseas tour operators with respect to inbound tour groups; and inbound travel agents may give prior notice and terminate the transaction if the overseas tour operators fail to settle the payment according to the terms of the contract. Should the inbound travel agents choose to allow or give consent to the overseas tour operators to settle payment after the tour group has arrived in Hong Kong, they must receive the group according to the contract terms until the completion of all items and activities on the itinerary, irrespective of whether they have received the relevant payment or not. Under the above arrangements, the interests of both the consumers and the travel agents are protected.

Apart from insuring bad debt risks, the ECIC provides professional credit management services to travel agents in Hong Kong. With its international credit information network, the ECIC assesses the credit risks of the clients of the travel agents and monitors their buyer and country risks. This service provides an additional option for travel agents to enhance management of their credit risks.

Production of Fish and Shellfish in Local Mariculture Farms

12. **DR JOSEPH LEE** (in Chinese): *President, regarding matters relating to the production of fish and shellfish in local mariculture farms, will the Government inform this Council:*

- (a) *whether regular water samplings are conducted in local mariculture farms for analyses of water quality and oxygen level; if so, of the frequency and outcome of the samplings conducted each year;*
- (b) *whether a surveillance system is currently in place under which metal concentrations in fish and shellfish produced by local mariculture farms are checked against the international safety standards; if so, of the types of such metals and the safety standards concerned;*

- (c) *whether projects such as that of laying submarine gas pipelines are underway in the vicinities of the seabed of the mariculture farms in the territory in the past year; if so, whether the water quality and metal concentration levels nearby as well as the life process of fish and shellfish in the mariculture farms concerned are monitored by the relevant authorities; if so, of the monitoring results; and*
- (d) *as the wholesaling of fish and shellfish produced by local mariculture farms does not need to be transacted through wholesale markets managed by the Fish Marketing Organization, whether the relevant authorities have drawn up any controlling measures to prevent contaminated marine products from entering the local market, so as to reduce the risk of excessive intake of harmful substances by the public through consumption of marine products?*

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

- (a) The Agriculture, Fisheries and Conservation Department (AFCD) regularly monitors the water quality of fish culture zones. On average, the AFCD conducts water samplings every two weeks in six fish culture zones located in different parts of the territory (that is, Yim Tin Tsai West fish culture zone, Tap Mun fish culture zone, Kau Sai fish culture zone, O Pui Tong fish culture zone, Lo Tik Wan fish culture zone and Ma Wan fish culture zone) and every six months in other fish culture zones. Results of water quality analysis conducted over the years indicated that although red tides and stagnation caused short-term oxygen depletion in some fish culture zones, the water quality and oxygen level of all fish culture zones are normal in general.
- (b) At present, there is no international safety standard for metal contents in shellfish and fisheries products from aquaculture farms. The metal concentrations in shellfish and fish sold in Hong Kong must conform with the standards stipulated in Schedule 2 to the Food Adulteration (Metallic Contamination) Regulations (Cap. 132V). They must not contain arsenic, antimony, cadmium,

chromium, lead, mercury and tin in greater concentration than is specified in the Schedule. We make reference to the standards of other areas/countries and review our statutory requirements from time to time. If necessary, we will amend the legislation to protect public health. Furthermore, the AFCD has introduced a voluntary Accredited Fish Farm Scheme in June 2005 to improve the environmental hygiene of fish farms and enhance the quality of cultured fish. Fish farms participating in the scheme must adopt "Good Aquaculture Practices". All cultured fishes from these farms must undergo pre-market quality assurance tests to determine, among others, the concentration of drug residue and heavy metal, to ensure compliance with food safety standards. The limits for heavy metal concentrations of the scheme are set according to those specified in the aforesaid legislation.

- (c) The Hong Kong and China Gas Company Limited (HKCG) is now laying a set of submarine natural gas pipelines in Tolo Harbour, Tai Po, which will connect the Cheng Tou Jiao Liquefied Natural Gas Receiving Terminal, Shenzhen, to the Towngas Gas Production Plant located in the Tai Po Industrial Estate. The alignment of the pipelines is about 1 050 m away from the nearest fish culture zone (in Yim Tin Tsai East). Since the commencement of the works in early 2005, the HKCG and its contractor have installed silt curtains and have been controlling the progress of the construction works in accordance with the requirements as set out in the environmental permit. Water quality monitoring is being carried out on a regular basis and the data collected have been submitted to the Environmental Protection Department (EPD) upon verification by an independent environmental checker. As shown by the data, the works has not caused any exceedance of water quality limit levels as specified in the environmental permit.

Regarding the natural gas pipelines laying works in Tolo Harbour, the EPD has so far carried out two airborne monitoring by helicopters and 17 marine water quality monitoring exercises, 16 of which involved taking of water samples for testing. Neither the airborne or marine monitoring suggested any sign of adverse impact on the water quality in Tolo Harbour.

Under the Environmental Impact Assessment Ordinance, environmental impact assessment will be conducted for works classified as designated projects prior to commencement. If the projects involve marine works and the sites are in close proximity to fish rafts, mitigation measures will be taken in accordance with the recommendations made in the environmental impact assessment report. Water quality monitoring procedures will also be carried out to evaluate the effectiveness of the mitigation measures.

Water monitoring normally involves setting up a certain number of monitoring stations in the waters surrounding the works area and the fish rafts to collect water samples on a regular basis. Data on the suspended solid, dissolved oxygen, turbidity and temperature of the water samples will be analysed to determine whether the works project has caused any exceedance of water quality criteria in the vicinity of the works area. Water monitoring mainly aims to evaluate the impact of works project on water quality, rather than monitor the hygiene condition or safety of seafood. Normally, water monitoring exercise carried out for marine works does not cover metal concentrations.

Mitigation measures generally include installing silt curtains outside the marine works area and keeping track the progress of the works. The recommendations made in the environmental impact assessment report on mitigation measures and water quality monitoring will be implemented in accordance with the requirements specified in the environmental permit issued by the EPD. Should the results of the water quality monitoring suggest any exceedance of water quality criteria, the departments concerned will immediately conduct investigations to determine if it is associated with the works project and consider if further mitigation measures are necessary.

As for large-scale works projects, a 24-hour hotline will be set up. On receiving phone-calls from fishermen, the departments concerned will arrange for the clerk of works, the environmental monitoring personnel and staff of the AFCD and the EPD to observe the conditions of the fishes in the fish rafts concerned and collect fish samples as and when necessary.

- (d) Under the regular Food Surveillance Programme implemented by the Food and Environmental Hygiene Department (FEHD), samples of shellfish and fish are collected at import, wholesale and retail levels by the department for testing to ensure that they are safe and fit for human consumption. The FEHD announces test results regularly to communicate to the public the risk involved in consuming such food items. The department also makes use of its website to educate the public on the proper procedures of purchasing and handling aquatic products to reduce the risk of food poisoning and publicize the importance of a balanced diet in preventing excessive intake of certain harmful substances.

Meanwhile, the Administration is considering putting in place a comprehensive regulatory mechanism for marine produce upon the inception of the new Centre for Food Safety to tighten regulation of marine produce.

Pubs on Upper Floors of Commercial Buildings

13. **MR WONG KWOK-HING** (in Chinese): *President, with respect to pubs situated on the upper floors of commercial buildings other than shopping malls, will the Government inform this Council:*

- (a) *of the total number of such pubs at present, with a breakdown by district, as well as the names of the 20 buildings with the highest number of such pubs and the respective numbers of pubs in these buildings;*
- (b) *whether the Buildings Department (BD) and Fire Services Department (FSD) will make recommendations to the relevant authorities responsible for issuing restaurant licences and liquor licences on stipulating on the licences the maximum number of customers to be served at any one time by an individual pub; if they will, of the criteria for determining the maximum number; and*
- (c) *whether existing legislation has stipulated the maximum numbers of pubs to be issued with liquor licences in a building and customers to be served at any one time by such pubs?*

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

- (a) As at 30 November 2005, there are a total of 1 069 premises covered by liquor licence with the bar endorsement. The breakdown of such premises by district is as follows:

| <i>District</i> | | <i>Number of Premises</i> |
|-----------------|---------------------|---------------------------|
| Urban | Central and Western | 156 |
| | Eastern | 21 |
| | Kowloon City | 43 |
| | Kwun Tong | 9 |
| | Sham Shui Po | 12 |
| | Southern | 15 |
| | Wan Chai | 231 |
| | Wong Tai Sin | 6 |
| | Yau Tsim Mong | 418 |
| New Territories | Islands | 28 |
| | Kwai Tsing | 0 |
| | North | 12 |
| | Sai Kung | 15 |
| | Sha Tin | 15 |
| | Tai Po | 24 |
| | Tsuen Wan | 14 |
| | Tuen Mun | 22 |
| | Yuen Long | 28 |
| Total | | 1 069 |

According to the record, there are 19 buildings each with four or more premises covered by liquor licence with the bar endorsement. A list of these buildings is at the Annex. As for other buildings with such premises, the respective number of premises is no more than three.

- (b) Relevant departments will assess the adequacy of the means of escape in a building according to the "Code of Practice for the Provision of Means of Escape in Case of Fire" issued by the BD and having regard to the design of different types of premises therein and the estimated number of persons who may be accommodated in these premises based on their area. In vetting applications for liquor licence, the Liquor Licensing Board (LLB) will consider

imposing additional licensing conditions on the maximum number of customers at any one time in the premises with reference to the number of persons who may be accommodated in the premises as estimated or prescribed by relevant departments. As restricting the number of customers in premises with liquor licence is outside the purview of the FSD, the FSD does not provide advice to the LLB in this regard.

- (c) Liquor licences are issued under the Dutiable Commodities Ordinance (Cap. 109) and the Dutiable Commodities (Liquor) Regulations (Cap. 109, sub leg). The law does not prescribe the maximum number of pubs in a building nor the maximum number of customers to be served by such pubs.

Annex

Buildings with Four or More Premises
Covered by Liquor Licence with the Bar Endorsement

| <i>Names of Buildings</i> | <i>District</i> | <i>No. of Premises</i> |
|---|---------------------|------------------------|
| 1. Tiffan Tower | Wan Chai | 15 |
| 2. Circle Tower | Wan Chai | 12 |
| 3. California Tower | Central and Western | 7 |
| 4. New Mandarin Plaza | Yau Tsim Mong | 7 |
| 5. The Mall Pacific Place | Central and Western | 6 |
| 6. Passenger Terminal Building, Hong Kong International Airport | Islands | 6 |
| 7. LKF Tower | Central and Western | 5 |
| 8. Henry House | Wan Chai | 5 |
| 9. Continental Diamond Plaza | Wan Chai | 5 |
| 10. Bloom House | Wan Chai | 5 |
| 11. Bartlock Centre | Wan Chai | 5 |
| 12. Vincent Commercial Centre | Yau Tsim Mong | 5 |
| 13. Podium Plaza | Yau Tsim Mong | 5 |
| 14. The Pinnacle | Yau Tsim Mong | 5 |
| 15. Multifield Plaza | Yau Tsim Mong | 5 |
| 16. International Finance Centre | Central and Western | 4 |
| 17. Chinachem Cameron Centre | Yau Tsim Mong | 4 |
| 18. Wall Park Commercial Building | Yau Tsim Mong | 4 |
| 19. Englong Commercial Building | Yau Tsim Mong | 4 |

Concert Halls Under Leisure and Cultural Services Department

14. **MS EMILY LAU** (in Chinese): *President, it has been reported that some members of the public have criticized that the acoustics of the concert hall of the Hong Kong Cultural Centre (HKCC) are not up to international standards, and even worse, audience occupying certain seats of the auditorium cannot clearly hear the tunes of individual musical instruments. The Artistic Director and Chief Conductor of the Hong Kong Philharmonic Orchestra has also queried why the core arts and cultural facilities that the Government proposes to be provided in the West Kowloon Cultural District (WKCD) have not included a concert hall with acoustics meeting international standards. In this connection, will the executive authorities inform this Council:*

- (a) *of the number of such complaints received by the relevant authorities in the past three years;*
- (b) *whether the Leisure and Cultural Services Department (LCSD) engaged experts to assess the acoustics of the concert halls/auditoria in venues under its purview and recommend improvements in the past three years; if so, of the names and professional qualifications of the experts engaged, as well as the recommendations they made and, among such recommendations, of those adopted, and the reasons for the authorities not adopting the others; and*
- (c) *whether they will consider including the provision of a concert hall with acoustics meeting international standards in the WKCD development; if not, of the reasons for that?*

SECRETARY FOR HOME AFFAIRS (in Chinese): President,

- (a) We have not received any written complaints about the acoustics of the concert hall or auditorium of the HKCC or any of the district town halls over the past three years. Nevertheless, the LCSD is attentive to comments made by members of the public through the media and other channels on the acoustics of the concert hall of the HKCC.

- (b) In building its major performing venues, the LCSD had engaged acoustics consultants to provide technical and expert opinions on the concert halls or auditoria of the centres. Take for example, Marshall Day Associates of New Zealand was engaged as consultant for the HKCC and Vipac Engineers and Scientists Limited of Australia as consultant for the Yuen Long Theatre and Kwai Tsing Theatre. When maintenance work was carried out for the concert hall of the City Hall in 2004, Shen, Milsom & Wilke Inc of Hong Kong was engaged as the acoustics consultant.

The details of the acoustics improvement works carried out in respect of concert hall of the HKCC are as follows:

Several years after the opening of the HKCC in 1989, a number of acoustics improvement works were carried out to its concert hall, including the seat pads, orchestra shell on the stage, stage traps, and associated lighting and ventilation systems.

In 1997, a temporary forestage was added in the concert hall of the HKCC to cater for the performance of a major orchestra. Mr David AHERTON, the then Music Director of the Hong Kong Philharmonic Orchestra, gave valuable advice on improvements to the acoustics of the concert hall. He advised that a forestage would make it possible for an orchestra on stage to perform at a position closer to the audience, thus improving the resonance of low frequency sounds and clarity of string instruments. In this connection, the LCSD engaged once again Marshall Day Associates, the acoustics consultant for the concert hall of the HKCC when it was built, to conduct a comprehensive review. The works included rebuilding a temporary forestage, arranging for relevant professionals to listen to rehearsals of orchestras in the concert hall and then give their views advice, measuring the acoustics with dedicated apparatus, deciding on the most suitable technology to be used to build the forestage and the best position on the stage for performance by orchestras of all sizes and types. Based on the results of the review, improvement works to the concert hall were carried out in 1998. In addition to expanding the stage, seating and stage lighting were improved accordingly and

works relating to the sound systems were also carried out to cater for performances that required sound amplification.

- (c) Concert hall is not listed as one of the core arts and cultural facilities in the WKCD because statistics and surveys on the utilization rate of existing cultural facilities indicate that performing groups and the public have a greater demand for additional theatres than concert halls. However, screened-in proponents are welcome to provide other arts and cultural facilities in the district to add to the variety of facilities. A concert hall is one possible option.

The Government anticipates that with the commissioning of the new cultural facilities in the WKCD, more slots will be released for music programmes in those existing performing venues which are equipped with quality acoustics.

Regulation of Supply of Influenza Vaccines

15. **DR KWOK KA-KI** (in Chinese): *President, early last month, some medical groups and private clinics were discovered to have given several hundred residents injections with influenza vaccines imported from the Mainland but unregistered in Hong Kong. The incident has aroused grave concern in the community. In this connection, will the Government inform this Council:*

- (a) *how the authorities monitor issues relating to the provision of influenza vaccines, including the places of origin, distribution, registration and import of such vaccines;*
- (b) *whether the relevant mainland authorities and vendors have been contacted concerning this incident; if so, of the relevant details; of the plans to strengthen communication with the relevant mainland authorities; whether it will consider introducing legislative amendments to prevent unauthorized vaccines from entering Hong Kong; and*
- (c) *whether it knows the existing channels through which medical groups and private clinics acquire vaccines, and whether it plans to step up its monitoring efforts?*

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

- (a) Influenza vaccines are pharmaceutical products, the registration and import of which are subject to regulation by the Pharmacy and Poisons Ordinance (the Ordinance). Registration of pharmaceutical products is necessary to ensure the products meet the safety, efficacy and quality standard for administration/consumption. In making an application for registration, applicants are required to submit information including the place of origin of the pharmaceutical products.

According to the Ordinance, all pharmaceutical products must be registered by the Pharmacy and Poisons Board (the Board) before a company holding a licence for wholesalers of pharmaceutical products can apply for import licences. The Board is the issuing authority of licences for wholesalers of pharmaceutical products, which are granted to applicants possessing suitable experience and equipment for the transportation and distribution of pharmaceutical products. The Department of Health (DH) is the issuing authority of import licences, which will only be issued upon confirmation that the applicant holds a wholesale poisons licence and the pharmaceutical products to be imported have been registered in Hong Kong.

- (b) The DH has maintained close liaison with the Mainland on pharmaceutical products. When it came to the DH's notice last month that some clinics used unregistered vaccines originating from the Mainland, the DH immediately approached the relevant mainland authorities and manufacturers to gather further information, while at the same time notifying the Mainland's State Food and Drug Administration of the incident.

Under current legislation, all pharmaceutical products must be registered prior to import into Hong Kong by a licensed importer. In addition, the importer is also required to apply for an import licence for every batch of pharmaceutical products to be imported. Sale or possession for the purposes of sale, distribution or other use of any unregistered pharmaceutical product is an offence, anyone

guilty of which is liable on conviction to a fine of \$100,000 and to imprisonment for two years. The Administration considers the current legislation adequate in achieving the regulatory intent and will continue to maintain liaison with the Mainland on the import of pharmaceutical products into Hong Kong.

- (c) To the best of the DH's knowledge, medical groups and private clinics acquire their influenza vaccines from four local importers of influenza vaccines. Should there be reports of, or complaints about, the use of unregistered pharmaceutical products, the Administration would immediately commence investigations and require these service providers to furnish information about the acquisition and use of such pharmaceutical products for public health protection. The Administration considers the existing regulatory mechanism adequate in achieving the intended objectives.

Auctioning of Stalls for Lunar New Year Fairs

16. **MISS CHOY SO-YUK** (in Chinese): *President, it has been reported that although the Food and Environmental Hygiene Department (FEHD) had increased the minimum rental prices of the stalls for the Lunar New Year Fairs (LNYF) this year by 20%, the rental income from the stalls for the Victoria Park LNYF, instead of increasing, actually decreased substantially by more than 30%, from about \$10.6 million last year to about \$7.2 million this year, with many stalls being let out at their opening prices. In addition, there were bidders who, after having negotiated openly among themselves, won the bids for their stalls at the opening prices, and some bidders were even dissuaded from participating in the auction. In this connection, will the Government inform this Council whether:*

- (a) *it has investigated the above breaches in which bidders allegedly joined hands to force a reduction in prices; if it has, of the details and the results; if not, the reasons for that; and*
- (b) *it will consider conducting the auction of the stalls for the LNYF by way of sealed bids?*

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

- (a) The open auction for the 2006 Victoria Park LNYF stalls was conducted on 14 and 15 November 2005. Staff of the FEHD and police officers were present to maintain the order during the open auction. In the afternoon of 14 November, despite that bidding for certain stalls was rather competitive, persons found attempting to interfere with the bids of others were warned by the FEHD staff immediately on the spot. No one was found to jointly induce a reduction in prices throughout the whole auction process.
- (b) The FEHD has adopted the long-standing practice of the two former Municipal Councils to let out LNYF stalls by open auctions. We consider it impracticable to let out LNYF stalls by tender given the large number of stalls involved. Putting such stalls to tender in one go will prolong the processing time, and it will require a period of time before tenderers will know if their bids are successful, thus causing inconvenience to them. In addition, if several tenderers offer the same price for a stall, they will have to go through a second tendering exercise, which is time consuming.

In our view, open auction should continue as it is an open and fair system. Moreover, bidders in an auction may know at once whether their bids are successful and proceed to make arrangements for purchase of the merchandise. Taking into account the experience in the auction for the Victoria Park LNYF stalls, the FEHD has implemented some improvement measures at the auctions for other LNYF stalls. Such measures include video recording of the auctions and informing entrants of such arrangement, and use of identification cardboards by floor staff for easy identification of bidders by staff on the stage. We will keep the LNYF auction arrangements under review and introduce improvement measures as necessary.

Expenditure and Claims Relating to Airport Core Programme Projects

17. **MR ALBERT CHAN** (in Chinese): *President, regarding the expenditure and claims relating to the 10 Airport Core Programme (ACP) projects, will the Government inform this Council of the following as at the end of last month:*

- (a) *the total expenditure of each project and the difference between this figure and the estimated expenditure originally approved; and*
- (b) *the numbers and amounts of the relevant claims received respectively by the Administration, the Airport Authority (AA) and the MTR Corporation Limited (MTRCL), together with a breakdown of resolved and unresolved claims?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS
(in Chinese): President,

- (a) The total expenditure for all government projects under the ACP on a net basis (that is, after adjustment for the reimbursable Airport Railway works and Airport works), as at the end of 2005 was \$48,004 million which is \$1,604 million less than the published estimated expenditure of \$49,608 million. All funding and expenditure are in money-of-the-day prices. There is no overspending in respect of the government ACP projects.

The AA had expended \$49,325 million on the New Airport Projects as at the end of 2005. This is \$462 million less than the published estimated expenditure of \$49,787 million and there is no overspending.

The MTRCL had expended \$33,477 million on the Airport Railway project as at the end of 2005. This is \$523 million less than the published estimated expenditure of \$34,000 million and there is no overspending.

- (b) A total of 6 148 claims against construction contracts awarded for government projects under the ACP were received. All cases have been settled at a combined settlement amount of \$2,150 million. This sum has been included in the total expenditure of \$48,004 million for the above government projects.

The AA has received a total of 12 120 claims against the construction contracts awarded by it. All cases were settled at a combined settlement amount of \$5,622 million. This sum has been included in the total expenditure of \$49,325 million for the above

New Airport Projects. There was no extra expenditure after the 2003-04 fiscal year.

The MTRCL has received a total of 8 687 claims against the construction contracts awarded by it. All cases have been settled at a combined settlement amount of \$3,399 million. This sum has been included in the total expenditure of \$33,477 million for the above Airport Railway Project.

Establishment of Formal Professional Title for Chinese Medical Practitioners

18. **MR LI KWOK-YING** (in Chinese): *President, I have recently received a submission from a group of Chinese medicine practitioners (CMPs) in which they hope to strive for the establishment of an international professional title for CMPs and urge the Government to recognize "EC" as the formal professional title for registered CMPs (General Practice), registered CMPs (Acupuncture) and registered CMPs (Bone-setting), and to enact legislation to forbid the use of this title by unregistered persons. In this connection, will the Government inform this Council whether it will establish a formal title for CMPs and enact legislation to regulate the use of this title; if so, of the details; if not, the reasons for that?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Chinese): President, section 74 and section 90 of the Chinese Medicine Ordinance (Cap. 549) provide for the titles of registered CMPs and listed Chinese medicine practitioners respectively. Registered CMPs are called "香港中醫藥管理委員會註冊中醫", "香港中醫藥管理委員會註冊中醫師", "註冊中醫" or "註冊中醫師" in the Chinese language, or "registered Chinese medicine practitioner of the Chinese Medicine Council of Hong Kong" or "registered Chinese medicine practitioner" in the English language. The description of "全科", "針灸" or "骨傷" in the Chinese language, or "General Practice", "Acupuncture" or "Bone-setting" in the English language may be added in brackets after the abovementioned CMP titles to indicate the stream of practice in Chinese medicine. As for listed CMPs, they are called "中醫" or "中醫師" in the Chinese language or "Chinese medicine practitioner" in the English language. Section 108 of the Ordinance prohibits the use of these titles by any persons who are not CMPs.

The Chinese Medicine Practitioners Board of the Chinese Medicine Council of Hong Kong (the Board), a statutory body established under the Chinese Medicine Ordinance, has promulgated the Code of Practice for Registered Chinese Medicine Practitioners in Hong Kong for registered CMPs and the Code of Practice for Listed Chinese Medicine Practitioners for listed CMPs to govern the use of the titles of CMPs and to ensure that CMPs conduct their practice in compliance with professional standards.

In response to the request of some registered CMPs, the Board discussed in November 2005 whether "EC" should be recognized as the formal professional titles for registered CMPs (General Practice), registered CMPs (Acupuncture) and registered CMPs (Bone-setting). After detailed discussion, the Board came to the view that the law has already clearly provided for the titles for registered CMPs and listed CMPs. These titles, as specified in the Ordinance, have been made widely known to and accepted by the public and professional bodies and hence should be followed.

Giving Inmates Injections with Tranquilizers

19. **MR LEUNG YIU-CHUNG** (in Chinese): *President, regarding the Correctional Services Department's (CSD) giving inmates injections with tranquillizers, will the Government inform this Council:*

- (a) *of the total number of cases in which inmates were injected with tranquillizers in each of the past five years, as well as the respective numbers of cases where the inmates claimed to feel unwell after injection and those where the inmates died of complications from the injection; and*
- (b) *whether it will consider using other means (for example, mechanical restraint) as far as possible to deal with agitated and violence-prone inmates; if not, of the reasons for that?*

SECRETARY FOR SECURITY (in Chinese): President,

- (a) The CSD started to compile statistics on injection of tranquillizers for inmates in 2003. The total number of injections on inmates from 2003 to 2005 is as follows:

| | 2003 | 2004 | 2005 |
|---|------|------|------|
| Inmates at the Siu Lam Psychiatric Centre | 714 | 643 | 599 |
| Inmates at other penal institutions | 116 | 130 | 218 |
| Total | 830 | 773 | 817 |

Generally speaking, injection of tranquillizers may cause temporary mild discomfort, including slight soreness at the injection point and thirst. According to the CSD's records, during the said period, no inmates suffered from severe discomfort after injection of tranquillizers or died of complications from such injections.

- (b) The CSD has established procedures for front-line officers to follow in handling agitated or violence-prone inmates. Staff may use straitjackets to control such inmates or/and place them in a protected room to prevent them from injuring themselves or others. Tranquillizers will be administered to inmates only when the medical officers of the penal institutions consider it necessary based on their professional assessment.

Paid Leave for Giving Birth to and Looking After Children

20. **MR FREDERICK FUNG** (in Chinese): *President, regarding paid leave for giving birth to and looking after children, will the Government inform this Council:*

- (a) *given that since April 2003, pregnant employees in the United Kingdom have been entitled to 26 weeks' paid maternity leave, regardless of the length of their employment by the employers concerned, whereas a pregnant employee in Hong Kong is only entitled to 10 weeks of paid maternity leave provided she has been employed under a continuous contract for a period of not less than 40 weeks immediately before the date of commencement of her maternity leave, whether the authorities have assessed if Hong Kong lags behind other developed economic entities in labour legislation in terms of maternity leave; if they have, of the assessment results; and whether the period of paid maternity leave will be extended; if they have not assessed, the reasons for that; and*

- (b) *as the Chief Executive has, in his policy address last October, pointed out that cherishing the family was a core value of Hong Kong and stated that the Government would actively create a family-friendly working environment, whether the authorities will, by drawing reference from the practices of various developed countries, introduce legislation to grant employees paid paternity leave and parental leave; if they will not, the justifications for that?*

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

- (a) Under the existing provisions of the Employment Ordinance, a pregnant employee is entitled to 10 weeks' maternity leave if she has been employed under a continuous contract immediately before the commencement of her maternity leave. If the employee encounters health problems before or after delivery, the employer must allow her to take an additional maximum period of four weeks' leave. The employee is also entitled to maternity leave pay equivalent to four fifths of her normal wages if she meets the qualifying period of employment.

At present, the duration of maternity leave in most Asian countries ranges from 60 days to 14 weeks. While some places may provide longer period of maternity leave than Hong Kong, their maternity leave pay is lower (for example, the pay amounts to only 60% of normal wages) or the responsibility for paying maternity benefits is not solely borne by employers. The situation is similar for advanced economies. In the United States, for example, though pregnant employees enjoy 12 weeks' maternity leave, the leave is "without pay". The maternity protection system of the United Kingdom is rather unique. Although pregnant employees are entitled to 26 weeks' paid maternity leave, their employers may deduct over 90% of such payment from their next payments to the Inland Revenue, depending on their National Insurance liabilities. Thus, it can be seen that different places operate different systems and have different provisions for maternity leave. It would be inappropriate to make direct comparison between Hong Kong's maternity leave with that in other places. We will, however, continue to review our maternity provisions from time to time to see whether any revisions are required.

- (b) There is currently no international labour standard on paternity leave. For those economies which have introduced paid or no-pay paternity leave, the duration generally ranges from two to 15 days. As for parental leave, it usually refers to a longer period of leave immediately following the maternity leave or paternity leave to facilitate either parent to take care of the new born. However, as relatively few economies provide paternity or parental leave, there is rather limited experience for reference. Moreover, as most firms in Hong Kong are small and medium sized enterprises, they are relatively less flexible in making staff deployment. For this reason, introducing legislation to provide for paternity or parental leave would increase their running costs and create operational difficulties. Nevertheless, we will monitor developments and study the proposal at an appropriate time.

BILLS

Second Reading of Bills

Resumption of Second Reading Debate on Bills

PRESIDENT (in Cantonese): Bills. We will resume the Second Reading debate on the Employment (Increase in Penalty for Offences under Section 63c) Bill 2005.

EMPLOYMENT (INCREASE IN PENALTY FOR OFFENCES UNDER SECTION 63C) BILL 2005

Resumption of debate on Second Reading which was moved on 14 December 2005

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

MR ANDREW LEUNG (in Cantonese): Madam President, the resumption of Second Reading debate on the Employment (Increase in Penalty for Offences under Section 63C) Bill 2005 (the Bill) is aimed at increasing the penalty for employers defaulting on wage payments.

Wilful defaults of wage payments by employers and the abuse of the Protection of Wages on Insolvency Fund (PWIF) are truly infuriating. As an employer representative, I strongly support increasing the maximum penalty for wage offences. I maintain that employers are obligated to protect the interests of their employees, and employees' rightful entitlement to wages should be given the maximum protection.

The Liberal Party fully supports the Second Reading of the Bill and hopes that its provisions can be implemented expeditiously. We are very pleased that the Second Reading of the Bill can be resumed so quickly.

Although penalty increase is only one of the ways to deal with wage defaults by employers, we are nonetheless very pleased to note that the Labour Department (LD) has stepped up enforcement over the past few months, actively prosecuting employers wilfully evading their wage obligations and doing its utmost to plug the loopholes of the PWIF.

I also hope that apart from relying on the LD to step enforcement, the Government can at the same time co-ordinate the work of different departments, so that they can co-operate with one another to make enforcement more effective. The Official Receiver's Office, in particular, should play a more active role by conducting thorough audits of company accounts to check whether any company has sought to evade its obligation by transferring away huge capitals before liquidation to create a false state of insolvency.

I wish to emphasize here that the position of the industrial and commercial sector on imposing severe penalty for wilful wage defaults is just the same as that of the labour sector. It believes that the eradication of such employers will serve a very positive purpose in creating a sound business environment.

As a representative of employers, I strongly support the spirit of the Bill and believe that following its passage, those black sheep who wilfully default on wage payments will be duly sanctioned by the law.

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

MR ANDREW CHENG (in Cantonese): Madam President, in regard to the present proposal on increasing the penalty for wage defaults by employers to

protect employees' interests, the Democratic Party thinks that the direction is basically correct.

But we must note that the Court has rarely sentenced any employers to imprisonment for wage defaults. Very often, employers guilty of wage defaults will only be fined. This is of course too weak in deterrent effect and unscrupulous employers will simply continue to default in wage payments without any fear. Increasing the penalty is therefore a correct direction, but I doubt whether the passage of the Bill can achieve any substantial deterrent effect if the Court continues to pass light sentences. However, the Court is after all an independent judicial institution, so we can only hope that by conducting discussions in society and increasing the statutory penalty for unscrupulous employers, we can make the Court realize the demands of society and impose harsher punishments on unscrupulous employers.

Madam President, in the motion entitled "Reviewing the protection of wages on insolvency system", which I moved in May last year, I put forward more than 10 proposals on clamping down on employers defaulting in payment of wages for the reference of the Government. The motion aimed to prevent unscrupulous employers from abusing the Protection of Wages on Insolvency Fund (PWIF) as a means of paying the wages they owe to their employees. Its purpose is in line with the legislative intent of the current proposal on increasing the penalty for employers guilty of wage defaults. The Democratic Party hopes that the measures aimed at clamping down on employers abusing the PWIF can also be applied to the prevention of wage defaults by employers.

As in the case of preventing abuses of the PWIF, the measures of clamping down on employers evading their wage obligations can also be divided into three levels, namely, the protection of labour interests, penalty for unscrupulous employers and a comprehensive review of the protection of wages on insolvency system and the relevant legislation.

Apart from the Democratic Party's proposals on achieving a stronger deterrent effect by increasing the penalty for employers guilty of wage defaults, that is, apart from the legislative provisions under discussion today, the Government may also step up the prosecution of unscrupulous employers under the provisions of the Companies Ordinance on directors' fraudulent trading detected in the course of company winding up and those of the Employment Ordinance on the criminal liability of employers guilty of wage defaults, so as to prevent employers from evading personal criminal liability by trading as a

limited company. Since the enforcement of the abovementioned provisions does not involve any amendment to existing legislation, the Government can invoke them immediately to increase the deterrent effect.

Madam President, apart from achieving a stronger deterrent effect, the blacklisting of employers associated with wage defaults by the Companies Registry to bar them from serving as directors of limited companies within a specified period of time can also prevent these employers from defaulting in payment of wages using the same tactic. A certain restaurant director opened and closed a restaurant three times at the same venue under different names, and he also wilfully evaded payment of wages to some 180 employees. If the Government can implement this proposal, such a problem can be eradicated. This proposal can work alongside the increase in penalty under discussion today to deter unscrupulous employers.

The existing procedures adopted by the Government to handle labour disputes are so complicated that workers are often discouraged from taking any actions. Should the Government not streamline the existing procedures of handling claims in labour disputes or provide a one-stop service for workers? Should the Government not step in at an earlier time in the claims procedures or assist workers in following the legal procedures of applying for legal aid and the winding up or liquidation of their employers? The Panel on Manpower has repeatedly put forward a demand for streamlining the mechanism for claiming wages in default, so that employees can recover their wages more easily after winning a lawsuit in the Labour Tribunal. If the mechanism is not simplified, even an increase in penalty may not be very useful in helping employees recover their wages because the judicial system will still pose a major hindrance.

Madam President, the Government has refused to implement a deposit system on the ground that it may violate the Hong Kong Bill of Rights Ordinance. However, in the review of the Business Registration Certificate levy at the end of this year, will the Government consider the imposition of a higher rate on those employers belonging to businesses with a greater number of applications and larger claims from the PWIF? This is similar to the practice of the insurance sector whereby industries with higher risks are required to pay higher labour insurance premiums. Has the Government quickened its studies on this?

Lastly, Madam President, cases of wage default in the catering industry have indeed decreased recently. This is due to the enhanced enforcement

efforts of the LD on the one hand. On the other hand, economic improvements and the better business of restaurants are also a reason. However, the Government must not be complacent. This time around, it has only sought to clamp down on employers guilty of wage defaults. It must still conduct studies and take concrete actions in regard to the protection of labour interests and a comprehensive review of the protection of wages on solvency system and the relevant legislation.

Madam President, I so submit.

MR JAMES TIEN (in Cantonese): Madam President, several years ago, as a result of economic sluggishness and the wilful insolvency of some employers, there was a surge in the number of applications for payment from the Protection of Wages on Insolvency Fund (PWIF). The increase was especially obvious in 2002-03. Consequently, the PWIF was once on the verge of bankruptcy and had to obtain a loan of \$700 million from the Government. At the same time, the Government increased the Business Registration Certificate levy drastically from \$250 to \$600. But the PWIF still recorded a deficit, thus showing the gravity of the problem.

It cannot be denied that the problem of wage defaults by unscrupulous employers has been extremely serious over the past few years. According to the statistics of the LD, the number of summonses resulting in convictions in respect of wilful default of wages stood at 139 in 2002, 445 in 2003, 504 in 2004 and already as many as 493 in the first 10 months of 2005. There has been a three-fold increase over a span of just three years, so the problem must be squarely addressed. Whenever they encounter any business difficulties and record any losses, some unscrupulous employers will immediately fold their business, so as to evade their obligations as employers and make the PWIF pay their employees' wages for them. Sometimes, they may even change the names of their shops and start a new business. The Liberal Party does not endorse such a practice of treating the PWIF as a cash dispenser.

Madam President, thanks to the recent economic upturn and the enhanced enforcement actions of the Government, the PWIF has already eradicated its deficit, and over the past one year, there has even been a surplus amounting to \$300 million. The levy was increased from \$250 to \$600 only because the PWIF was then running out of capital. For this reason, I wish to advise the Government that since there is now a surplus of \$300 million, it should examine

whether it is possible to lower the levy payable by good employers from \$600 to \$250. I think the Government should consider this issue. The Liberal Party has always advocated that employers wilfully defaulting in payment of wages must be punished, and that the majority of law-abiding good employers in the industrial and commercial sector must not be unfairly incriminated due to the presence of a handful of black sheep. Besides, it is also unfair to make good employers shoulder the payment for unscrupulous employers — I am talking about the levy increase from \$250 to \$600. This levy of \$600 is precisely subsidizing unscrupulous employers. As far as the levy is concerned, the majority of good employers must not be made to bear a heavier burden simply because of the presence of a handful of law-breakers. Therefore, the Liberal Party supports the Government's move to amend the Employment Ordinance in order to increase the relevant penalty, that is, the maximum penalty for defaults in wage payment. It also hoped that the provisions concerned can come into effect as soon as possible, so as to achieve a deterrent effect.

We do understand that despite the increase in maximum penalty, Judges will still make independent verdicts. I hope that the Court can hear the voices of this legislature, including the views in support of the increase in maximum penalty expressed by the Liberal Party on behalf of the industrial and commercial sector. It is also hoped that the Court can address this problem squarely and pass harsher sentences. Thank you, Madam President.

MR WONG KWOK-HING (in Cantonese): Madam President, the Hong Kong Federation of Trade Unions (FTU) welcomes the Government's proposal on increasing the maximum penalty for wage defaults to a fine of \$350,000 and a prison term of three years. This can deter wilful wage defaults by unscrupulous employers to a certain extent. I have received the views of many trade unions on this amendment. The Hong Kong Construction Industry Employees General Union (the Union) has even sent me a letter on this matter. I shall therefore give a detailed account of the views of the Union in the following part of my speech.

The FTU is of the view that in order to prevent law-breaking businessmen from continuing to operate despite their clear knowledge that they will not be able to pay wages to their employees and must shift their obligation to the Protection of Wages on Insolvency Fund (PWIF), the Government may consider the idea of amending sections 31 and 63A of the Employment Ordinance, requiring that any employer who wilfully and without reasonable excuse

continues to employ any employees despite his clear knowledge that he will be unable to pay them wages shall be liable to a fine and imprisonment equivalent to the sentencing one may receive under section 63C.

Although we do understand that judicial independence should not be challenged, I must also point out that the ultimate function of the Court should be to uphold social justice and protect the legitimate rights and interests of every citizen. For this reason, the Government should relay to the Judiciary the view that heavier sentences should be imposed on law-breaking employers or directors.

There is also the important point that when many companies closed down in recent years — Madam President, there was one more last night — some of them even transferred away their assets beforehand in addition to defaulting in payment of wages, thus making it impossible for the PWIF to get any money after liquidating them. For this reason, the authorities should step up enforcement and prosecute employers more frequently for defaulting in wage payment. This is the only ultimate solution to the problems.

Last year, I moved a motion on implementing a deposit system, proposing to require an employer to pay a deposit at the time of business inception, so as to guarantee that he will have the money to meet severance payment and other statutory compensation. But such a deposit system should only be targeted on businesses marked by serious abuses of the PWIF, such as the catering and construction industries. At the same time, the Government should also consider the idea of imposing higher fixed licence fees on the construction and catering industries. Besides, these fees should be reviewed on a regular basis. It is only fair to require employers in those businesses noted for a greater number of claims from the PWIF to pay a higher Business Registration Certificate levy. It is hoped that the Government can consider this proposal.

Madam President, in order to deal with the problem of employers failing to pay wages in arrears according to the rulings of the Labour Tribunal or the Minor Employment Claims Adjudication Board, I propose that the relevant government departments should be given the responsibility of enforcing such rulings.

Once wages are placed under statutory protection, an employer shall commit an offence if he defies a ruling and keeps on delaying the payment of wages to his employees. This is a serious offence that will arouse huge public

outcries. It is completely different from other monetary claims. Government departments should stop allowing employers to evade their statutory obligations by manipulating legal procedures, and employees should not be required to recover their wages by following a separate set of administrative and legal procedures, that is, the procedures of applying for a Writ of *Fieri Facias* or petitioning the High Court for the winding up or bankruptcy of a company.

Actual cases have proven that this is extremely costly and time-consuming. Workers are already owed wages, so how can they have any more money for approaching government departments and instigating any lawsuits? Petitioning the High Court and applying for legal aid and a Writ of *Fieri Facias* will all involve administrative formalities and costs, and there is also the risk of whether or not the application for a Writ of *Fieri Facias* can be successful; as a result of all these obstacles, many claimants in wage default cases, that is, miserable "wage earners", will simply give up trying to recover their hard-earned wages rather than approaching any government departments. Why? Because they must immediately try to find another job to maintain a living instead of sparing any time to instigate any lawsuits. I therefore hold that the Government has the obligation and duty to invest resources in protecting our workers, who are now in such a disadvantaged position despite their role in creating the prosperity that is Hong Kong. Specifically, it must work out effective solutions to the problem of wage default, so as to uphold the rule of law. Consequently, I propose that if any employers fail to comply with a ruling on payment of wages in arrears, the Labour Tribunal and the Minor Employment Claims Adjudication Board should take actions to enforce the relevant rulings.

Madam President, in regard to the acute problem of wage default in the construction industry, I propose that the principal contractor should be held responsible for paying the entire sum of wage default by the immediate employer of the workers in question. Similarly, the users of the properties concerned should also be held responsible for paying the entire sum of wage default.

Section 43 of the Employment Ordinance provides that the principal contractor or the superior sub-contractor shall pay the wages due to an employee for the first two months in case of wage default. The current situation is that the period of wage default is usually longer than two months because employers often refuse to pay any wages on the ground that they have not received any payments. When principal contractors are tracked down at the end, they will also delay payment on the same excuse. What is most ridiculous is that such cases are mostly connected with government construction sites and workers will

be paid their wages only when they say that they will plunge to their death from a building. All these projects are launched by the SAR Government using public money, so how can it turn a blind eye to such a problem?

The unemployment rate of the construction industry has been very high and workers cannot get a job easily. But when they do get a job, they have to face the problem of wage default. I therefore maintain that by requiring the principal contractor to advance money for paying all wages in arrears, we will be able to effectively resolve the long-standing and aggravating problem of wage default in the construction industry. Unless the Government can specify in the tendering conditions that wages in arrears are to be met directly by the construction fees it pays, it will not be possible to solve the problem.

There are three justifications for requiring the principal contractor to pay all the wages in arrears owed by its sub-contractors for the purpose of wage protection. These three justifications can be seen in the judgement of the High Court on Labour Tribunal Appeal Case No. 104 in 2000. The content of the judgement is roughly as follows:

- (1) The legislation requiring the principal contractor to advance money for meeting wages in arrears is meant as alternative protection of wages. The rationale behind this is that employees have provided labour for the construction project and the principal contractor and the owners concerned are the ultimate beneficiaries of such labour.
- (2) The principal contractor is in possession of the deposit paid by its sub-contractor and also other unpaid construction fees.
- (3) Given its larger scale of business, the principal contractor is better able to bear risks than its employees. And, under certain circumstances, it may claim compensation from the owners concerned or the sub-contractor, which is why it is considered reasonable to make the principal contractor bear the responsibility of paying wages in arrears.

The above is based on the judgement of the High Court on Labour Tribunal Case No. 104 in 2000.

The High Court Judge concerned pointed out directly that owners were among the ultimate beneficiaries of workers' labour. In the broad sense, in

cases of wage defaults in government construction projects, one of the ultimate beneficiaries will be the SAR Government. In order to ensure that employees will not suffer any wage losses due to the unsatisfactory operation of the principal contractor, we should learn from the examples of other countries and hold the users and occupiers of the properties concerned responsible for paying all wages in default.

Madam President, there is no doubt a progressive aspect to the Government's present amendment. But the progress is still inadequate, just too small. I hope the Secretary, having listened to our presentations, can continue to work hard on this problem. Later at this meeting, there will be another motion debate on the conduct of a comprehensive review of the Employment Ordinance. I hope that the Secretary can listen to our views and seek to ensure that workers in Hong Kong can be "paid for their toil and sweat", so as to avoid any workers' miseries. I hope that the Secretary can continue to make efforts in this respect. With these remarks, I support the Government's amendment.

MR TOMMY CHEUNG (in Cantonese): Madam President, the Liberal Party and I both support the Government's move to increase the penalty for wage defaults by amending section 63 of the Employment Ordinance. We maintain that the raise of the maximum penalty from a fine of \$200,000 and a prison term of one year to a fine of \$350,000 and imprisonment of three years can make the penalty commensurate with the offence of wage defaults. We also think that a greater deterrent effect can be achieved.

In July last year, I conducted a questionnaire survey which covered more than 100 catering establishments. The findings indicated that 53% of the catering industry supported increasing the penalty for wage defaults, and that only less than 20% of those in industry opposed the idea. All this shows that the catering industry is prepared to support the Government in deterring the malpractice of unruly elements.

I must emphasize that the authorities must treat all equally in the course of enforcement, instead of targeting on certain industries only. The authorities have recently stepped up enforcement, taking actions to clamp down on wage defaults and even employing former police officers to assist in evidence collection. I support all these moves, but the catering industry which I represent has been the sole target, so I must say that this is most unfair. Since the measure concerned has been proven effective, why has it not been extended

to another industry which has recorded the greatest number of claims under the Protection of Wages on Insolvency Fund (PWIF), that is, the construction sector? Is it not true that everyone is equal before the law?

However, I must remind the authorities that they must keep a low profile in the course of investigation and monitoring. If they do not do so, the crisis of closure faced by a company may be prematurely disclosed, thus rendering it unable to gather enough capitals to tide over its difficulties and even denying it any opportunity of recovery. When this happens, its employees may be made jobless.

As a matter of fact, following the implementation of enhanced enforcement measures by the authorities, the number of applications to the PWIF last year already decreased. The result in the catering industry was especially obvious, with the number of cases in the fourth quarter of 2005 plummeting by nearly 80% when compared with the figure of the corresponding period in 2004. The results prove that it was largely unnecessary from the very beginning for the authorities to be prompted by the abuses of the PWIF to consider all such measures requiring companies to pay extra deposits and a higher Business Registration Certificate levy and to make mandatory provisions for severance pay in their liabilities.

I cannot deny that there are bound to be a handful of employers who may have abused the PWIF. But we should not thus put the blame on all employers because most employers who default in wage payment are actually forced by investment errors to do so. In this connection, I must call upon investors to cut losses immediately once their businesses run into any problems. Play safe and there will always be hope left, as the saying goes. They must not lose the wages of their employees and even their own reputation.

Madam President, finally, I wish to express support for Mr James TIEN's appeal, hoping that the Government can take account of the considerable surplus of the PWIF and reduce the current Business Registration fee of \$600. I so submit.

MR LEE CHEUK-YAN (in Cantonese): President, the Hong Kong Confederation of Trade Unions (CTU) of course supports the amendment put forward by the Government today, which was actually one of the proposals we raised with the Secretary during our meeting with him last year. The objective

of the Bill is to deter wage defaults by employers. From the perspective of employers, if the penalty is increased and they may even be sentenced to imprisonment, they will of course be deterred. However, if the Government rarely initiates any prosecutions, employers may well be tempted to try their luck, thinking that they may not be picked for prosecution.

In fact, records do show that the number of prosecutions has not been very satisfactory. The Government may of course claim that in 2005, there were some 500 prosecutions and in 2004, there were just around 400, so when compared with 2004, there was already some improvement in 2005, or even a drastic increase. However, when the Government says that there were some 500 or 400 prosecutions, we will have to remind ourselves of the number of wage defaults in Hong Kong. I am not going to talk about the largest figure, which is the total number of wage default cases registered with the LD. This is an enormous figure. I am going to talk about just the smaller figure, that is, the number of applications lodged with the Protection of Wages on Insolvency Fund (PWIF). In 2005 there were 13 000 cases and in 2004, there were 22 000 cases. Even if we only look at the 20 000 or 10 000 or so cases connected with the PWIF, we will still see that the 500 prosecutions initiated by the Government really represents a very small proportion of the total number.

Why has the Government initiated so few prosecutions? Is it because the Government has done nothing at all? I think that on the one hand, the Government has failed to do what it should do. On the other hand, I would say that there are some problems with the relevant legislation. What are the things that the Government should do but has failed to do? At present, the greatest problem lies with why there have been so few prosecutions. The main reason for this is that the Government requires workers to act as voluntary witnesses. We of course also call upon workers to act as witnesses, but if they are to do so, they must consider how they should face their new employers during the future prosecution. And, they will not be paid any wages on the day they give evidence, so what are they going to do?

Honestly speaking, we think the simplest solution is for the Government to make it very clear that no workers shall have to volunteer to act as witnesses. Instead, they will be summoned to act as witnesses, as in police cases — very often, the police will not ask people to volunteer to act as witnesses but will just summon them to do so. I hope that the Government can consider the actual situation faced by workers in these cases. The Government asks workers not to go to work on days of hearing, but will they be given any witness fees? It is

obvious that if workers are summoned to act as witnesses, their refusal to comply will be treated as contempt of court. As a result, they must act as witnesses as required. If workers are given witness fees, they will receive compensation for their absence from work on days of hearing, and they can offer an explanation to their employers, saying that since they are summoned to act as witnesses, they must take leave. If the Government is willing to take this step, it can at least deliver a clear message to employers, that it will initiate prosecutions in all cases of wage default without any exception. I suppose this can achieve a deterrent effect.

Members must not think that this is too harsh to employers. Members must note that this Bill is not aimed at ensuring success in prosecuting employers defaulting in wage payment for ordinary reasons. The authorities must prove that the employer concerned has "wilfully" and "without reasonable excuse" contravened the relevant provisions before they can achieve success in their prosecution. Members should realize that wilful wage defaults, frankly speaking, are no different from theft. The employer involved has stolen the labour of his employees and the seriousness of this offence is just the same as that of stealing because the employer has wilfully done so. Wilful wage defaults by employers, or any attempts to evade wage payment to people who work for them, are very serious. Therefore, the onus of proof is already put on the prosecution under the relevant provisions. If the Government can make it clear that it will initiate prosecutions in all these serious cases, I suppose it will be able to deliver a very clear message.

What is the other major problem? It lies with the fact that the Government has only proposed to amend the penalty under section 63C. However, attention must also be paid to section 64B of the same Ordinance, which provides that where an offence of wage defaults is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, the director shall be guilty of the like offence under section 63C and liable to the same penalty. But what is the problem with section 64B? I think the Government must review section 64B. The Permanent Secretary told us last time that they were holding discussions with the Department of Justice. What should be reviewed? In this connection, we propose that studies must be conducted on how to make directors "personally liable" more easily. As I have just mentioned, the prosecution must first prove that the relevant provisions have been contravened "wilfully" and "without reasonable excuse". Following this, if any directors are to be "held personally liable", it must be proved that wage default has been committed with their

consent or connivance or neglect. Why is it necessary to satisfy so many conditions before directors can be "held personally liable"? I am talking about corporate governance, but directors must also be held responsible and they simply cannot claim ignorance of everything.

Company directors — many of whom are even managing directors — are in charge of their companies every day. We must therefore work out more ways of subjecting them to section 63C. It is meaningless to prosecute a limited company; those in charge must be prosecuted instead. And, very often, it is equally incorrect to make scapegoats of those employees who are put in charge because the decision of not paying any wages to employees may well be made by directors themselves. Therefore, we must ultimately hold directors "personally liable" before we can achieve any genuine deterrent effect.

Therefore, I am of the view that we want the amendment today to achieve any genuine deterrent effect, we must take actions in several directions and make employers face wage offences squarely, so as to prevent the frequent occurrence of "only toil and sweat but no pay".

Earlier today, outside this building, the Secretary and I received a petition letter from the workers of the restaurant that had been closed down yesterday. Apart from defaulting in wage payment, the employer concerned even failed to make MPF contributions for these workers. It has been nine months since the workers opened their accounts when they were first employed. But the employer has so far failed to make any contributions for them. Where has all the money gone? This is nothing but theft. The act of theft in this case was blatant. The employer deducted 5% from the monthly wage of each worker, but the money has simply disappeared. I can foretell that by the time the Mandatory Provident Fund Schemes Authority prosecutes the employer involved in this case of wage default, the restaurant must have been liquidated. The Fund will only pay the workers wages for four months and the 5% wages of the workers over the past nine months will never be recovered. Actually, if the Government can step up enforcement both on wage defaults and MPF contributions, there will be more protection for workers.

Lastly, I wish to respond to Members' remarks on the issue of requiring deposits for the PWIF. I still think that the PWIF is being treated as a cash dispenser by unscrupulous employers. This is totally unacceptable. And, it is not so very useful for the Government to rely solely on prosecuting employers because by the time of prosecution, they may have gone bankrupt or

disappeared. As a result, it will no longer be possible to prosecute them. As I have mentioned, there has so far been only one case in which directors were "held personally liable". That being the case, the problem will only persist. Even with rigorous enforcement, those who intend to exploit the loopholes of the legislation may still treat the PWIF as a cash dispenser. I therefore think that we should not give up but should continue to request the Government to implement a deposit system.

Mr Tommy CHEUNG wondered why the catering industry had been made the sole target, saying that the situation in the construction industry was just the same. But I must say that the catering industry is after all the industry that has resorted to the PWIF most frequently. As for the construction industry, the principal contractor can in fact be made to pay more wages. For example, it can be made to pay four months' wages to workers instead of just two months. This is exactly the point made in the motion I will move later at this meeting. If the principal contractor is required to pay wages direct, the number of wage defaults in the construction industry will certainly decrease.

Therefore, the remaining problem, I suppose, will be the establishment of a deposit system for the catering industry. It is not necessary to require the payment of deposits in cash. If the employer can reach a deal with a bank, the latter may act as the guarantor. This will of course incur some costs, but other employers contributing to the PWIF will not have to pay wages for unscrupulous employers. This is the only way to eradicate the problem and the only means of preventing the PWIF from being reduced to a cash dispenser.

President, I hope that after the passage of the amendment today, the Government can quicken its pace of introducing other amendments and rigorously enforce all measures, including the summoning of witnesses which I have mentioned. It is also hoped that section 64B can be amended to hold directors "personally responsible", and that discussions can be held with Judges. This society cannot tolerate any wage defaults. I hope that the Government can increase the penalty.

Thank you, President.

MR JEFFREY LAM (in Cantonese): Madam President, I have mixed feelings about the passage of the Employment (Increase in Penalty for Offences under Section 63C) Bill 2005 today.

The Bill proposes to increase the penalty for wage defaults from a fine of \$200,000 and imprisonment of one year to a fine of \$350,000 and a prison term of three years. I strongly support the Bill because it can clamp down on unscrupulous employers intending to default in wage payment, thus bringing an end to the problem of non-payment of wages faced by "wage earners".

I said I have mixed feelings because a handful of unscrupulous employers have damaged labour relations in Hong Kong and created mutual distrust between employers and employees. As a result, "wage earners" have become resigned to the uncertainties of their jobs and unwilling to work hard for their employers, thus doing damage to the business environment. As a representative of the business sector, I am ashamed of all these black sheep.

For the same reason, I am very delighted to see the Government's proposal on amending the relevant legislation to increase the maximum penalty, so that severe punishment can be meted out to dishonest employers and wilful wage default can be eradicated as soon as possible.

However, I must stress that unscrupulous employers are after all in the minority and most Hong Kong employers do have a conscience. Even when they incurred losses during difficult times, many employers still did their best to maintain their businesses instead of thinking about closure lest their good subordinates might be deprived of their means of living. And, even when they were really forced to close down their businesses, they still paid their employees the full compensation prescribed by labour laws. Some of them even paid a bit more than that, in the hope that the livelihood of their employees would not be severely affected all of a sudden. Some employers even helped their employees find other jobs, referring them to their friends in the same industries, in the hope that they could find a way out. Such considerate employers are often right around us.

I hope that our sustained economic growth can lead to a drastic decrease in the number of applications lodged with the Protection of Wages on Insolvency Fund (PWIF). It is also hoped that following the increase in penalty and the authorities' enhanced enforcement efforts, no employer will abuse the PWIF. That way, labour relations can become more harmonious and good employers will not have to subsidize their unscrupulous counterparts so very often.

Madam President, I so submit.

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

MR LEUNG YIU-CHUNG (in Cantonese): President, it is only right and proper for an employee to get paid because he should be rewarded for his physical and mental labour. Although there have recently been fewer abuses of the Protection of Wages on Insolvency Fund (PWIF) and it has thus recorded a surplus of \$300 million, the number of convicted summonses on wage offences has nonetheless been increasing incessantly since 2002, rising from 139 in this particular year to 445 in 2003. Members may think that given the economic impacts of the SARS outbreak in 2003, wage defaults by employers should be understandable. However, this was not quite the case in reality. In 2004, the economy of Hong Kong grew by 7.5%, but there was no decrease in the number of convicted summonses on wage offences and there were 504 such summonses, representing a rise of 13% when compared with the figure for 2003.

What was the situation in 2005? Although many organizations and academics are of the view that there should be a 7% economic growth for Hong Kong last year, there were already 538 convicted summonses on wage offences in the first 11 months of last year, a number which is higher than the yearly total in 2004. This shows that neither economic recession nor economic growth will produce any impacts on the number of wage defaults. And, as a matter of fact, we can see that the number of wage defaults has been rising incessantly. This means that many people have not been paid any wages for their physical or mental labour. Given the repeated occurrence of these cases, we cannot help asking, "Are the employers concerned unscrupulous? Is the failure of employees to get paid for their labour really a separate issue?" President, I think that apart from unscrupulous employers, there is still a greater problem — the outsourcing system. As long as this problem remains unsolved, the problem of wage defaults will only deteriorate.

President, speaking of unscrupulous employers, I believe Members will all remember the closure of the Ocean Palace Restaurant in April last year. At that time, the restaurant owners rejected all claims for severance pay on the ground of insolvency. However, soon afterwards, some shareholders established a new restaurant in the same district and the employees concerned were threatened that if they wanted a job in the new restaurant, they must stop pursuing their claims. The whole thing was therefore very straightforward — the employers concerned were simply unscrupulous. They were not really unable to give out severance pay; rather, they were just unwilling to do so. This incident subsequently led to

a spate of restaurant closures, thus aggravating the problem of wage and severance pay defaults. Many people, including the labour sector, all expressed their concern. Fortunately, the Government later started to pay heed to the problem and it has discovered that besides wage defaults, abuses of the PWIF are also an equally serious problem in the catering industry. Last year, the Neighbourhood and Worker's Service Centre conducted a survey, in which workers were asked to select the top 10 news items that "hurt" workers most. The findings revealed that news on the abuses of the PWIF ranked fourth on the list. In other words, even employees are aware of the gravity of the problem.

President, apart from affecting the workers concerned, wage defaults may also affect the wider community in some cases. The first case of wage default in 2006 is an apt illustration of this. This particular case is connected with three construction sites under the Housing Department. These three construction sites were awarded to the same contractor. This unscrupulous contractor owed the workers more than \$1 million in wages and not only this, the wage default also led to project delay. And, this in turn necessitated the occupation postponement of some 400 public housing units. In the end, the waiting time for public housing units was lengthened. This shows that wage defaults will not only affect the workers concerned; there will also be chain effects on the entire community.

President, wage defaults in the construction industry are no simple problem but an extremely complex one. Lying at the heart of this problem is the system of sub-contracting or even sub-sub-contracting because problems will arise when there are many layers of sub-contracting for a project. If the first sub-contractor does not pay the second sub-contractor, the latter will have no money for the third sub-contractor, and so on. This will pose a very serious problem. President, over the recent months, I have received many cases connected with construction sites, some of which involve government construction sites. I understand that some third or fourth sub-contractors will be very relieved when they hear that the project concerned is a government project. But what has often happened is that under the system of sub-contracting, works projects are awarded to bidders offering the lowest quotations. When a sub-contractor bids for a contract at a price lower than the market level, he will even fail to recover the costs. In that case, his only alternative will be to run away without paying any wages to the workers.

In order to tackle the problem of wage defaults, the Government has now put forward this amendment to the relevant legislation, increasing the penalty

from a fine of \$200,000 and imprisonment of one year to a fine of \$350,000 and a prison term of three years. This may achieve a deterrent effect to a certain extent, but if we do not dig out the deeper problems, the increase in penalty will not achieve any substantial effect. What is more, as we observed from past cases, even when the Court decides to punish an employer, it will not impose the maximum penalty. For example, the maximum fine is \$200,000, but in most past cases, the fine imposed was usually \$140,000. Besides, the prison terms imposed were normally not very long. In other words, it is doubtful whether the increase in penalty can achieve any deterrent effect. Moreover, in some past cases, some employers who had been fined by the Court even told their workers that after paying a fine to the Court, they no longer had any money for paying wages. In the end, the Government could receive the fines imposed, but workers could not receive any wages. This will be of no help to workers.

Therefore, improving the Ordinance or increasing the penalty may just be able to achieve a certain degree of deterrent effect only. If the system of sub-contracting and outsourcing mentioned above cannot be improved, problems will continue to arise. Therefore, since the Government has expressed its concern over this problem, I really hope that it can look at all the problems in a holistic manner, instead of sticking to a "piecemeal approach", taking only stop-gap measures. If we are to eradicate the problems, we must pinpoint the system of sub-contracting or outsourcing because as far as we can observe, these problems are very serious in the construction industry. And, as I have mentioned, the catering industry also faces such problems.

I hope that after taking the first step today, the Government can take more steps in future, with a view to solving all the related problems.

President, I so submit.

MR LEUNG KWOK-HUNG (in Cantonese): President, put somewhat crudely, the increase in penalty is slightly better than being useless, and in more polite language, it is better than nothing.

Why has a proposal on increasing the penalty been put forward? Actually, this reflects the fact that ever since the onset of the economic crisis, workers have been treated very badly. There is now a very popular catch phrase among workers: Only toil and sweat but no pay. Last Thursday, right after a meeting, I hurried off to 1 Queen's Road. What place is 1 Queen's

Road? It is the headquarters of the Cheung Kong (Holdings) Limited. What was I supposed to do there? Of course, I do not know LI Ka-shing. Then, why did I go there? Because some workers had rushed into the building, chanting this catch phrase: Only toil and sweat but no pay.

Mr LI was in a way an innocent victim because he was not the principal contractor. He was just the developer (I would call him the "owner"). The units in the building he developed have all been sold and he has got all the money. After sharing out the money, the development project should have come to a close. However, all those workers who actually constructed the high-priced units with a wonderful sea view have not been paid any wages. They have been trying to recover their wages for a long time, in fact, for years. The Chinese New Year is approaching, so many of these construction workers want to go back to their hometowns for the festival — actually, this is something very miserable because these workers cannot get the hands of any Hong Kong women and must marry women in the Mainland. For this reason, they have to go back to the Mainland for the Chinese New Year. The Chinese New Year is drawing near, but all these workers who have been working so hard do not even have any money to support their families, or they do not even have any money for subsistence. This is the greatest misery in one's life.

At that time, it appeared that the workers did not have any justifications for their action. They only flew into a rage and rushed into the building, chanting the catch phrase. I can remember that a man from the upper floors of the building walked up to me and said, "Mr 'Long', please stop all this. You are obstructing the operation of the lifts. I am from Goldman Sachs Group Incorporation. Please do not obstruct our way." I replied, "Goldman Sachs Group Incorporation? I know this company. Well, you may stop renting any units from the Cheung Kong (Holdings) Limited and you can thus avoid all the frequent dunning actions of people."

What does this story tell us? Maybe, the Cheung Kong (Holdings) Limited really did not have any legal liability in this incident, but it could still reflect the very miserable reality in the construction sector: laws are ineffective and workers' rights are not protected. These owners all know very well that principal contractors will deceive workers, and sometimes, they even award projects at prices that cannot even cover the costs. For example, while they know clearly that a certain project will require a cost of \$100 million, they will just pay \$80 million and ask workers to complete the works within this budget.

Who are going to meet the shortfall of \$20 million? Naturally workers. Under such a pyramidal outsourcing system, those on the upper layers will oppress those on the lower layers to death. Those on the upper layers will surely be very safe. All is just like what happens during a flood. Those living on the fifth floor will not die. Only those living in basements will.

Sadly, since many workers are jobless, they are forced to work for these employers despite the very poor situation. They are in a way gambling. And, what do they want in return? Just some money to pay rents and the tuition fees and stationery fees of their children. They must still work for these employers although they know what the situation is like. Up from the bottom of the pyramid, from the grass-roots workers, there are the fifth sub-contractor, the fourth sub-contractor, the third sub-contractor, the second sub-contractor and the principal contractor. What kind of life are these people living? They all have to drink poison to quench their thirst, so to speak, that is, as I have just mentioned, they have to drink poison as Sars. Under such a system, only those on the apex of the pyramid can look far ahead, can marvel at the beautiful scenery, can tell the Government what to do and how to revitalize the economy. But those at the bottom will all be drowned once the deluge arrives.

One of the many cases I have handled — the owner in the first case I handled after becoming a Legislative Council Member was surprisingly the Buildings Department. In this particular case, I had to go to the Buildings Department with a group of workers before we could track down the principal contractor. This explains why I have just said that I must first contact Mr LI; he is the only one who can find the principal contractor. As Members know, it is always easy for an employer to find his subordinates, or for a boss to find his "No. 1 aide". Dial a simple telephone call and it will do. But it is never possible to find them when it comes to dunning or recovery of wages.

Workers must run around day after day in order to recover the wages owed to them. What kind of system is this? I may be a bit blunt, but I have to quote what Mr Lu Xun wrote in one of his novels, "Looking all around, one sees that the whole city is full of man-eating, man-eating systems." This is a system that eats men, that swallows everything without even spitting out the bones. Therefore, we must introduce reform today. Even if the system is man-eating, it must still spit out the bones and leave some residue. This is exactly the case now. After one has done something wrong, one must be punished more severely.

Actually, the whole thing is very simple. There must be a loophole in every law. Members all know that in the prostitution business, there is a post called "keeper". This is a person hired to admit all charges. Can they not hire keepers now? They can do so very easily. Therefore, I think that to tackle the problem at source, we should punish those who have erred, who eat men without even spitting out the bones. However, punishment is no longer my objective now. I think the best solution is to reform the system to eradicate all the defects.

Actually, this is not the first time I mention here that inside the coterie of functional sectors, there are many, many trade associations. The membership of some trade associations is even based on native origins. What is the purpose of setting up these associations? So that people can play mahjong together, or pose with a winning horse after a meet? The purpose of establishing a trade association should be to manage the businessmen belonging to the association and the trade concerned. Not only this, there must be good management. How can anyone be allowed to collaborate in the commission of offences? Therefore, functional sector bodies which often boast of their influence and strength in coterie elections should be ashamed of themselves if their true purpose is just to obtain political power in these elections, or to become a king-maker.

Actually, like student unions that are supposed to manage and serve students properly, these functional bodies should seek to manage the business sector. In the elections of Hong Kong nowadays, these functional bodies have been playing a certain role very effectively, and in the case of the "birdcage" constitutional reform package, they have also been playing this role very effectively, overcoming the majority and "turning every bean into a soldier". But have they ever discharged their social function of properly managing their respective trades and industries? The answer is no. I therefore cannot help saying that if they cannot manage themselves properly, they must spend their own money on solving the problem. People who are paid by them will solve all problems for them. Many people will do so after committing wrongful acts — they will make donations to Buddha halls and burn hell notes on the 14th of the seventh Lunar month every year. This is what they do.

The Protection of Wages on Insolvency Fund (PWIF) under discussion today reminds me of a past incident. Mr LAU Chin-shek is not present today, but he was the one who fought for the establishment of the PWIF years ago. I remember that there was a very large strike. Rodney Block, where the Labour

Department was situated, was not yet demolished at that time. Workers just kept pouring into the building and policemen warned them that they must proceed no farther, or they would be arrested. But workers continued to go inside and the situation came close to a riot. It was not until sometime later that the authorities realized that the problem could not be evaded. It was the political centre of Hong Kong and every day, many people would walk past there. That was why the establishment of the PWIF was subsequently approved, followed by the imposition of a levy afterwards.

Actually, it is not fair to increase the fees. By indirectly approving rental increases and tariff rises, the Government has already created many difficulties for small businessmen. What is more, the average levy imposed on them is also unreasonable. I have said many times before that the Government should solve the problem once and for all by imposing a one-off progressive profits tax on those who have made profits — owners must have made the most profits and since they have allowed all the problems to arise, they should also be held responsible. If this is not done, the Government must reform the system to hold owners and principal contractors fully responsible.

Actually, Members also know that construction workers will not receive their wages immediately after the completion of works. This is simply wishful thinking — money will be paid only after checking whether there is any water leakage, for example. This is also the case with decoration works. Money will be deducted if water leakage is detected one year after completion and the sum deducted will be withheld. Since money can be withheld to guarantee works quality, why is it impossible to withhold the hard-earned money? Why is it that when the stock market is rising to new heights and the prices of property stocks are also soaring, when everybody is making good money, workers in our society are still tortured by "only toil and sweat but no pay"? Very soon, these workers will even stop sweating, because they do not have the money to buy any drinking water. They will soon stop sweating. And, they will die pretty soon. But why has the Government ignored them? Reforms must be introduced. But increasing the business registration fee must not be the direction of such reforms.

Many small business proprietors have told me, "'Long Hair', you are preventing others from making money and victimizing them." I have told them that this is not the case. I am simply trying to rescue them, for the continued existence of such a system must not be allowed. The present situation can be compared to one under which a person is already hard-pressed by a mountain but

the Government is still trying to dump a few catties of mud onto them to make sure that they cannot stand up again.

There is only one system that can make those rich men who are much too fat to put on a pair of socks to give us something in return. What is this system? It is a system under which the people making the most profits must be held responsible. The first reform is to make them bear the responsibility. The second reform is that if they are not willing to bear any responsibility, they can be allowed to shift the risks by, for example, taking out labour insurance, which is now a widespread practice all over the world. If a central labour insurance fund can be set up in Hong Kong, we will be able to tackle the problem like fighting against a guerrilla. Wherever there is a breach of the line, there will be defence. Why is it impossible to do so? Our society is so affluent that it now ranks among the top ones in the world in terms of *per capita* income, and our fiscal reserves are the sixth largest in the world. Why should our workers still suffer like this? Why should we still hold any discussions in this Chamber on how to make piecemeal repairs? At a time when it is leaking everywhere, how can people still say that we should just plug the holes with a little something? This is totally unacceptable.

The present situation makes me feel ashamed of myself. I think I should also be held responsible because as a socialist, one who thinks that labour welfare should be improved, I have been unable to realize the things I want to do in this legislature. I am even unable to move a Bill because I am just a weak and lone fighter. Therefore, I have no alternative but to say here that piecemeal repairs are better than nothing. The system of outsourcing in Hong Kong must be reformed and a collective labour insurance system must be implemented. Without all this, this legislature will be reduced to a laughing stock because once we open the door and go out, we will see that the place is battered by a tempest. Inside, it is all sunshine and everybody feels so warm. But little do they realize the torrential rain and thundering outside.

My conclusion is very simple. It is absurd for the Government to stick to balanced participation and orderly and gradual progress in the handling of labour issues, because the present system is the legacy of the colonial era, something which is already outdated. Under this system, there must be a consensus among employees, employers and the Government before any reform of existing labour legislation can be put before the Legislative Council for discussions. How can this be accepted? All is just a sum-zero game. But the Government simply

refuses to do anything and tells us to tackle the problem first. When employers find that they can continue to benefit, how can we expect them to stop? Those insatiable consortia, in particular, will never introduce any reform.

As far as the present issue is concerned, I agree to the amendment. But I must point out that under the present system, the sole function of functional bodies in coterie elections is to make sure that no meaningful reform can be passed by the Legislative Council. This is not conducive to the interests of workers.

I hope that all workers in Hong Kong can realize this point and support democratic reforms. Thank you, President.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): If not, I now call upon the Secretary for Economic Development and Labour to reply.

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): Madam President, I would like to thank Members for supporting the Employment (Increase in Penalty for Offences under Section 63c) Bill 2005 (the Bill). I am very grateful to Members for agreeing that no bills committee has to be formed for the Bill, thereby enabling us to resume the Second Reading debate today.

The Bill proposes to increase the maximum penalty for wage offences from the existing fine of \$200,000 and imprisonment for one year to a maximum fine of \$350,000 and imprisonment for three years, so as to enhance the deterrent effect. The Labour Department (LD) has made all-out efforts to step up enforcement, prosecution and publicity and educational initiatives in co-ordination with the amendment exercise, in order to combat such offences.

We have consulted both the Labour Advisory Board and the Legislative Council Panel on Manpower and secured their support.

Madam President, earlier on, several Members have put forward many suggestions. I wish to point out that we are also exploring several proposals and will follow up other suggestions as well. The LD will clamp down at source on employers who evade the responsibility of making wage payments and prevent such wage defaults from becoming cases of applications for claims under the Protection of Wages on Insolvency Fund (PWIF). One of our major tasks is to increase the penalty to generate greater deterrent effect. This will greatly assist us in tackling such wage offences.

Apart from increasing the penalty, we have adopted other measures including stepping up enforcement. I believe Mr LEE Cheuk-yan can rest assured that, as long as evidence is available, we will definitely take prosecution actions. In fact, the prosecution figures have been increasing. In particular, we will spare no efforts in taking prosecution actions against cases with fraudulent intentions.

Apart from stepping up prosecution, we are now targeting our investigations on restaurants that may have problems. I shall dwell on this later. In fact, the catering industry has already made a lot of improvement. Of course, the catering industry is not the only focus of our actions. For other industries that may have problems, we will also target our specific investigations on them. Besides, there are also some other initiatives such as stepping up enforcement, strengthening our information collection efforts and enhancing our publicity and promotional campaigns.

Madam President, I would like to point out that, after adopting a multi-pronged and proactive approach, our work has shown rewarding results. We all know that, the financial situation of the PWIF has improved considerably, and the situation of the catering industry has also shown a lot of improvement. During the third quarter of last year, the number of restaurant employees submitting applications to the PWIF had dropped by 34%, and the decrease had even amounted to 79% in the fourth quarter. This fully illustrates that our work has been very effective. Of course, we will continue making all-out efforts to clamp down on wage offences, so as to ensure that workers can enjoy both work and pay, and they would not suffer from the pain of "toil and sweat but no pay" anymore.

Today, I implore Members to support the Bill.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the Employment (Increase in Penalty for Offences under Section 63c) Bill 2005 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Employment (Increase in Penalty for Offences under Section 63c) Bill 2005.

Council went into Committee.

Committee Stage

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

EMPLOYMENT (INCREASE IN PENALTY FOR OFFENCES UNDER SECTION 63C) BILL 2005

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Employment (Increase in Penalty for Offences under Section 63c) Bill 2005.

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

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

(Members raised their hands)

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

(No hands raised)

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

CHAIRMAN (in Cantonese): Council now resumes.

Council then resumed.

Third Reading of Bills

PRESIDENT (in Cantonese): Bill: Third Reading.

EMPLOYMENT (INCREASE IN PENALTY FOR OFFENCES UNDER SECTION 63C) BILL 2005

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): Madam President, the

Employment (Increase in Penalty for Offences under Section 63c) Bill 2005

has passed through Committee without amendment. I move that this Bill be read the Third time and do pass.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Employment (Increase in Penalty for Offences under Section 63c) Bill 2005 be read the Third time and do pass.

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Employment (Increase in Penalty for Offences under Section 63c) Bill 2005.

Resumption of Second Reading Debate on Bills

PRESIDENT (in Cantonese): We will resume the Second Reading debate on the Civil Aviation (Amendment) Bill 2005 (the Bill).

CIVIL AVIATION (AMENDMENT) BILL 2005

Resumption of debate on Second Reading which was moved on 1 June 2005

PRESIDENT (in Cantonese): Mr Ronny TONG, member of the Bills Committee on the above Bill, will now address the Council on the Committee's report on the Bill.

MR RONNY TONG: Madam President, on behalf of the Chairman of the Bills Committee, the Honourable Margaret NG, who unfortunately is not in Hong Kong today, I wish to report on the work of the Committee.

Madam President, the Bill seeks to amend section 8 of the Civil Aviation Ordinance so that the owner of an aircraft who has hired out the aircraft without

crew for a period exceeding 14 days and who does not have the management of the aircraft is exempted from strict liability for loss or damage to person or property on land or water caused by the aircraft.

The Bills Committee generally has no objection to the policy intent of the Bill to exempt passive owners of aircraft from strict liability in relation to loss or damage suffered by third parties (but not including passengers) caused by aircraft. A member, however, points out that under the common law, the question of an aircraft owner's liability hinges not so much on the duration of lease but the extent of the aircraft owners' involvement in the management of the aircraft. Hence, there is a need to expressly define the term "management". Otherwise, an owner of an aircraft, who is responsible for the maintenance and repair of the aircraft, leases it to an airline without crew for a certain period exceeding 14 days, may be successful in seeking an exemption of strict liability by arguing that "management" does not include "maintenance and repair". This will inevitably compromise the level of legal protection to third parties.

Members of the Bills Committee have discussed with the Administration the feasibility of qualifying or defining the word "management" to include "maintenance and repair". According to the Administration, "maintenance and repair" are crucial in ensuring aviation safety and thus fall squarely within the meaning of "management". Under the Air Navigation (Hong Kong) Order 1995, an aircraft shall not fly unless it is airworthy. It is also an international practice promulgated by the International Civil Aviation Organization that the maintenance and repair function is a determining factor concerning the airworthiness of an aircraft. Therefore, any person who has the responsibility for the maintenance and repair of an aircraft cannot reasonably argue that he is not involved in the management of the aircraft. Making specific reference to "maintenance and repair" would also give rise to the question as to whether other management functions not mentioned would be excluded from the meaning of the term. The ambiguity would unnecessarily introduce some uncertainties into the prospect of any victim of an aircraft incident seeking compensation from the owner or operator of the aircraft. Given that the final interpretation of whether a party has the management of an aircraft at a particular time rests with the Court, the Administration considers it prudent to leave this matter to the evolvement of case law.

There are dissenting views in this respect. Some members have pointed out that the maintenance and repair organizations are concerned that they themselves may be held strictly liable if the term "management" is expressly

defined to include "maintenance and repair". Others however hold the view that the Bill as presently drafted will invite litigation as it is unclear about what constitutes "management". To tackle the problem, the Bills Committee has examined the feasibility of the idea of holding "operator" of aircraft strictly liable.

According to the Administration, the intention of the Bill is to impose strict liability on operators and owners who have management of the aircraft. As it is difficult to expressly define the term "management", a different approach is adopted to carve out those owners who will not be held liable. Hence, the proposal of holding only "operator" liable is a major departure from the policy intent of the Bill. If only operators are held strictly liable, all owners will enjoy the exemption from liability. This represents a substantial diminution of legal protection to third parties on land or water. Nevertheless, the Administration acknowledges members' concern on the need to make it clear that owners who retain repair and maintenance responsibility of aircraft will be held strictly liable.

With this pointed out, under a typical lease arrangement, the responsibility to ensure the airworthiness of the aircraft (that is, that the aircraft is fit to fly or in good working order) is vested upon the lessee. There are also universally accepted international standards governing airworthiness, under which proper repair and maintenance is considered squarely part and parcel of the requirement of airworthiness. The Administration therefore proposes to move a Committee stage amendment to the effect that a lessor will be exempted from strict liability if, under the lease arrangement, the lessee has assumed the responsibility of ensuring the airworthiness of the aircraft. This will ensure that only genuine passive owners would be exempted from the strict liability while the lessee who is responsible for airworthiness would be held strictly liable. The Bills Committee agrees to the proposal which can achieve the policy objective of the Bill without diminishing the protection for third parties.

Members also accept another Committee stage amendment proposed by the Administration which expressly state that "owner" includes "operator", and that "operator" means "person having the management of the aircraft". The proposal would keep in line with other civil aviation legislation, preserve the existing scope of the parties being held strictly liable and at the same time put in perspective the possible interpretation of the term "management".

Madam President, the Bills Committee supports the Second Reading of the Bill.

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

MR WONG TING-KWONG (in Cantonese): President, the Bill mainly seeks to amend section 8 of the Civil Aviation Ordinance, so that the owner of an aircraft who has hired out the aircraft without the crew for a period exceeding 18 days (sic) and who does not have the management of the aircraft is exempted from strict liability for loss or damage to person or property on land or water caused by the aircraft. On behalf of the DAB, I support the Bill and its amendments.

In fact, in many countries with a developed aviation industry, such as the United States, the United Kingdom, New Zealand, Australia and Singapore, the owner of an aircraft, if it is a financial institution, does not have to shoulder strict liability. This offers protection to financial institutions from some legal risks when they engage in commercial financing activities, thereby promoting business activities. Therefore, the common practice is airlines hiring aircrafts from financial institutions who own the aircraft. Although the financial institution is the legal owner of the aircraft, airlines possess the management and operational control over the aircraft. If the financial institutions have to shoulder the accident liability, it would be unfair to them, and it would also dampen their desire to continue making investments. As an international financial centre, Hong Kong needs to provide a sound and fair investment environment for investors. Basing on the principles of fairness and reasonableness, the amendments to the Ordinance are essential.

In the process of deliberating on the Bill, certain members had made enquiries with the officials concerned on issues related to the Bill, such as the pertinent laws of other jurisdictions as well as certain wordings which are not too explicit. For example, in respect of section 8(5)(a) in the Bill, questions were raised on "bona fide" and the definition of "other arrangement", as well as the relevant justifications and criteria of the specified period of "a term exceeding 14 days". The Administration has made the clarifications afterwards. We hope that after the amendments have come into effect, the authorities can seriously monitor the actual implementation and conduct periodic reviews.

I so submit. Thank you, President.

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

MR HOWARD YOUNG: Madam President, I would like to declare that I am an Executive Committee Member of the Board of Airline Representatives Hong Kong (BAR) and also an employee of the Cathay Pacific Airways. But more importantly, I represent the tourism sector which includes all airlines operating to and from Hong Kong.

Airlines understand the main purpose of the amendment proposed by the Administration. They even agree that it is fairer that strict liability should be borne only by parties having the actual management, rather than pure ownership, of an aircraft. It is a common practice that the owner of an aircraft, if it is a financier, hires out the aircraft without being involved in any management function. The aviation industry accepts that passive aircraft owners having no involvement in the management or having anything to do with the airworthiness of their aircraft or maintenance can be relieved of the strict liability at the time of loss or damage caused by an incident. They believe that the amendment will bring the existing regulatory framework in line with common practices overseas, and can only have a positive effect in attracting institutions — having in mind financial institutions — to finance aircraft in Hong Kong.

However, when it was suggested during the discussion of the Bill that the definition for "management" of the aircraft should be stated expressly to include "the maintenance and repair of the aircraft", the trade's concern was aroused. As it appeared that maintenance might be regarded as management as well, aircraft maintenance and engineering contractors were worried that the amendment might extend the strict liability to cover them. Would that result in higher insurance and repair costs for the airline operators? Under existing provisions, airlines can seek indemnity from maintenance and engineering contractors if any incident is due to the latter's negligence. On the other hand, airlines in fact have no intention — and I repeat, airlines have no intention — to divert or spread the strict liability of loss or damage to other parties. It is commonly expected that if you want to run an airline or operate an airline, you — and solely you — are responsible for ensuring its airworthiness, and you have to bear the burden of strict liability. That is a fact of life if you want to be in the business. Otherwise, do not participate in it. As an operator of the aircraft, airlines are willing to bear strict liability with or without the introduction of the Amendment Bill. This is an internationally accepted practice.

In order to avoid any ambiguity and dispel misunderstanding, I requested the Administration to clarify the provisions of the Bill and the amendments. I

am happy the Administration has recognized the concerns of the trade and made further proposals and amendments. I believe the Government's amendments can reflect the original legislative intent.

Thank you, Madam President. With these words, I support the Bill.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): If not, I now call upon the Secretary for Economic Development and Labour to reply.

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): Madam President, first, I would like to thank Mr Ronny TONG who spoke on behalf of the Chairman of the Bills Committee, Ms Margaret NG. My thanks also go to Mr WONG Ting-kwong and Mr Howard YOUNG for their support.

It is common practice that airlines acquire aircraft through leasing arrangements with financiers. The financiers are the legal owners of the aircraft, but they have no management or operational control over the aircraft. In Hong Kong, the Civil Aviation Ordinance imposes strict liability on aircraft owners for loss or damage caused to third parties, regardless of whether they manage the aircraft. However, in many other jurisdictions with a developed aviation industry, owners not involved in the operation or management of aircraft are relieved of the third-party liability.

To follow international practice, the Bill seeks to exempt aircraft owners not involved in aircraft management from the strict liability. Specifically, an owner will be exempted if he has leased out the aircraft without crew for a period exceeding 14 days and assumes no management of the aircraft.

The amendment proposal would relieve financial institutions of any unnecessary risks or liabilities and present a much more favourable environment for aircraft financing business in Hong Kong. This would enable Hong Kong airlines to acquire aircraft under more favourable terms, thus enhancing the

competitiveness of our aviation industry as a whole. The legal protection to the general public would not be undermined after the amendment as the owners involved in the management of aircraft and the operating airlines would still be subject to the third-party strict liability.

The Bills Committee supports the policy intent of the Bill. When studying the Bill, the Bills Committee conducted in-depth and careful deliberation on the detailed provisions. In particular, the Bills Committee has given useful views and suggestions regarding the definition of "aircraft management", how to clarify the exemption criteria to better protect third parties, and so on. In response to the Bills Committee's concerns and after consulting the aviation and financial industries, we propose to further improve the drafting of the Bill, so as to provide clearer parameters for the interpretation of "aircraft management" and to provide more specific exemption criteria. These refinements have the support of the Bills Committee and the industries. Later on I would propose the relevant Committee stage amendments.

Madam President, I would like to take the opportunity today to thank the Chairman of the Bills Committee, Ms Margaret NG, and members of the Bills Committee, Mr CHAN Kam-lam, Mr SIN Chung-kai, Mr Ronny TONG, Mr Jeffrey LAM and Mr Howard YOUNG for their valuable time, efforts and advice.

Madam President, the Bill would facilitate the development of Hong Kong's aviation industry. It would also help maintain our status as an international aviation centre. I therefore strongly recommend that Members pass the Bill.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the Civil Aviation (Amendment) Bill 2005 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Civil Aviation (Amendment) Bill 2005.

Council went into Committee.

Committee Stage

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

CIVIL AVIATION (AMENDMENT) BILL 2005

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Civil Aviation (Amendment) Bill 2005.

CLERK (in Cantonese): Clauses 1 and 3.

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Clause 2.

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): Madam Chairman, I move the amendments to clause 2 of the Civil Aviation (Amendment) Bill 2005 (the Bill). The proposed amendments are contained in the document submitted for Members' consideration.

The existing Civil Aviation Ordinance imposes strict liability on aircraft owners. The term "owners" is defined to include "persons having the management of the aircraft". The Bills Committee was of the view that "aircraft management" is not sufficiently clear. We therefore propose to amend clause 2(a) to expressly state that "persons having the management of the aircraft" are equivalent to "operators of aircraft", or generally understood as airlines. This amendment will provide useful parameters for the interpretation of "aircraft management".

Under the Bill, an owner would be exempted if he leases out the aircraft and does not have the management of the aircraft. The Bills Committee was concerned that this criterion was not clear enough and, as a result, a lessor owner who retains the repair and maintenance responsibility would still be exempted, hence mitigating the protection to the general public. We recognize that proper repair and maintenance is an important condition to ensure aircraft safety. However, there are also other internationally recognized technical requirements governing aircraft safety, generally referred to as "airworthiness". We consider the concept of airworthiness more embracing and therefore propose to amend the exemption criteria in clause 2(b) to stipulate that a lessor owner would only be exempted if the lessee, that is, an airline, has taken over the responsibility of ensuring the airworthiness of the aircraft. This amendment provides for more specific exemption criteria. It facilitates compliance by the industry and accords sufficient protection to third parties.

Madam Chairman, the proposed amendments reflect the views and suggestion of the Bills Committee and have the support of the Committee and the industry. I recommend that Members pass the relevant amendments.

Proposed amendment

Clause 2 (see Annex)

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Clause 2 as amended.

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

(Members raised their hands)

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

(No hands raised)

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

CHAIRMAN (in Cantonese): Council now resumes.

Council then resumed.

Third Reading of Bills

PRESIDENT (in Cantonese): Bill: Third Reading.

CIVIL AVIATION (AMENDMENT) BILL 2005

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): Madam President, the

Civil Aviation (Amendment) Bill 2005

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

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Civil Aviation (Amendment) Bill 2005 be read the Third time and do pass.

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Civil Aviation (Amendment) Bill 2005.

MEMBERS' MOTIONS

PRESIDENT (in Cantonese): Members' Motions. Proposed resolution under the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China.

PROPOSED RESOLUTION UNDER THE BASIC LAW OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION OF THE PEOPLE'S REPUBLIC OF CHINA

MR JASPER TSANG (in Cantonese): President, I move that the resolution on amending the Rules of Procedure of the Legislative Council of the Hong Kong Special Administrative Region, as proposed by me, be passed.

The Committee on Rules of Procedure (CRP) has studied whether Members should be allowed to change questions from oral to written ones after notices of the questions have been given. The CRP is of the view that changing an oral question to a written one will deny interested Members the opportunity to ask supplementaries on the question. The CRP therefore proposes that Members should not be allowed to change oral questions to written ones after notices of the questions have been given.

At present, if a Member is not present to ask his or her oral question and has not invited or given consent for another Member to ask it, the question shall be treated a written question. In view of its proposal to disallow changing oral questions to written ones, the CRP has studied whether the oral question of an absent Member, who has not invited or given consent for another Member to ask it, should be treated as having been withdrawn. The CRP is of the view that such treatment will have the effect of prohibiting the question to be asked at the Council meeting at which it is originally scheduled. This may delay the answering of oral questions of topical interest in a timely manner.

The CRP therefore proposes that when a Member is not present to ask his or her oral question and has not invited or given consent for another Member to ask it on his or her behalf, the question should be asked by the House Committee chairman or, in her absence, the deputy chairman of the House Committee. The chairman of House Committee may decide whether or not to follow the

usual practice and ask the first supplementary question after the public officer has answered the question. In the event that both of them are absent, the President shall call upon the Member who is highest on the order of precedence specified in Rule 1(A) of the Rules of Procedure to ask the question. The President will ask the responsible public officer to answer the question; thereafter, Members of the Council may ask supplementary questions to the original question.

The CRP has also studied whether or not Members may be allowed to withdraw oral questions scheduled to be asked at Council meetings. The CRP considers that, while disallowing the withdrawal of an oral question may achieve its aim to ensure that a scheduled oral question and supplementary questions can be asked and answered, a total ban on withdrawal even where there are valid reasons for withdrawing a question may not be in the Council's interest.

To strike a fair balance, the CRP proposes that provided that there is no dissenting voice, the Member concerned may withdraw the question at the relevant meeting before it is asked. If there is dissenting voice, the question shall not be withdrawn. The CRP also proposes that no debate on withdrawal shall be allowed.

At any one meeting, each Member is normally limited to asking only one oral and one written or alternatively two written questions. Currently, these restrictions do not apply to the asking of an oral question by a Member on behalf of another Member. The Committee proposes that such restrictions should also not apply to the asking of oral questions by the chairman or deputy chairman of the House Committee or by the Member highest on the order of precedence who asks supplementary questions on behalf of other Members.

The CRP's proposed amendments to the Rules of Procedure, which have been accepted by the House Committee, are set out in the resolution. I now call upon Members to support the resolution.

Thank you, President.

Mr Jasper TSANG moved the following motion:

"RESOLVED that the Rules of Procedure of the Legislative Council of the Hong Kong Special Administrative Region be amended —

(a) in Rule 24 —

(i) in subrule (3), by repealing everything after "reply" and substituting a full stop;

(ii) by adding —

"(3A) Notwithstanding the provision in subrule (3), the President may, if in his opinion an additional question is an important one of public concern, allow a Member to ask that additional question.";

(iii) by adding —

"(5) The reference to "questions" in subrule (3) shall not include a question asked under Rule 26(6) or (6A) (Asking and Answering of Questions).";

(b) in Rule 26 —

(i) by repealing subrule (6) and substituting —

"(6) If a Member is not present to ask his question when that question is reached on the Agenda, the question may with his consent be asked by another Member.";

(ii) by adding —

"(6A) If the President is satisfied that a Member is not present to ask his question and no other Member present has the consent of the Member to ask the question under subrule (6), the President shall call upon the chairman of the House Committee to ask the question.

(6B) In subrule (6A), "the chairman of the House Committee" shall mean —

- (a) "the deputy chairman of the House Committee" if the chairman of the House Committee is not present ; or
 - (b) "the Member present who has the highest precedence in the order of precedence of Members as determined in accordance with Rule 1A (Precedence of Members)" if both the chairman and deputy chairman of the House Committee are not present." ;
- (iii) by repealing subrule (8) and substituting —

"(8) No question of which notice has been given may be withdrawn, except —

- (a) where the question is a question for which a written answer has been sought, the Member who has given notice of such question may withdraw it by giving notice to the Clerk not less than one and a half hours before the meeting at which the question is to be asked; or
- (b) where a Member is called by the President to ask his question under subrule (3), he may, with leave of the Council, withdraw the question before the question is asked if there is no dissenting voice, and no debate may arise on the withdrawal of the question." . "

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

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

PRESIDENT (in Cantonese): Two motions with no legislative effect.

First motion: Expediting the construction of the MTR South Island Line.

EXPEDITING THE CONSTRUCTION OF THE MTR SOUTH ISLAND LINE

MR HOWARD YOUNG (in Cantonese): Madam President, first of all, I must make a declaration. Apart from being a Member of the Legislative Council representing the tourism industry, I am also a resident of the Southern District and a member of the Southern District Council. So, today, I will mainly speak in these capacities and I hope that Members do not mind. Today, I would focus

on the economy and tourism development in Hong Kong in my speech, with a view to highlighting the pressing need of the construction of the MTR South Island Line.

Madam President, given that residents of the Southern District have long been plagued by the traffic problem, coupled with the official implementation of the redevelopment of the Ocean Park and successive commencement of other tourism projects in the Southern District, it is estimated that the rapid development of the Southern District in the future will greatly facilitate local economic development and employment opportunities of the Southern District. Given the increased flow of people and goods, the demand for transport services will also increase continuously. To alleviate congestion of outbound traffic in the Southern District, and to cope with the future development of the Southern District, I have proposed a motion today to urge the Government to expedite the construction of the MTR South Island Line to complement the future development of the Southern District.

First of all, I wish to talk about the redevelopment plans of the Ocean Park. The Executive Council has officially approved the redevelopment plans of the Ocean Park, and the Legislative Council has also endorsed the provision of a loan guarantee to support half of the total construction costs. In the light of the redevelopment plans of the Ocean Park, the Wong Chuk Hang Driving School may have to be relocated. The redeveloped Ocean Park will become bigger in size and the entertainment facilities will also double, with a view to developing it into an ocean theme park which is second to none in the world. The entire project will be constructed at a cost of \$5.55 billion, and is expected to be completed in two phases in 2008 and 2010 respectively.

After the completion of the redevelopment plans of the Ocean Park, the number of visitors is expected to increase from 3.4 million in 2007-08 to over 5 million in 2010-11, and the number may also increase further in the future. However, the road networks connecting the Ocean Park are seriously congested especially during holidays and festivals. With their present capacity, it is downright impossible to cope with the additional transport demand brought by the redevelopment plans.

I also wish to talk about other tourism development projects in Aberdeen. To enhance the appeal of the Southern District, the Tourism Commission has plans to launch tourism projects with local characteristics to reflect the history of

Aberdeen as a fishing port and its uniqueness. The Tourism Commission has drawn up an Initial Concept Plan for the Aberdeen Tourism Project comprising three thematic clusters, namely, the Traditional Fishing Harbour, the Fisherman's Wharf, and Leisure and Dining, to tie in with the redevelopment of the Ocean Park. It is expected that the fishing port can be completed by 2008 the earliest (upon the completion of the first phase of the redevelopment of the Ocean Park).

After the completion of these projects, the increased flow of people will greatly increase the burden on traffic in the Southern District. If the situation becomes serious, it will even produce chain effects. In fact, congestion at the Aberdeen Tunnel has already extended to cover Aberdeen, Wan Chai, Causeway Bay and Central. As it is difficult to expand the road network in these areas, the construction of the South Island Line should be a more thorough solution to the problem.

I would also like to mention the hotel development projects in the Southern District, which have aroused less public attention. The Wong Chuk Hang industrial area in the Southern District is now being gradually redeveloped into a cluster of hotels. Since 2003, the Town Planning Board has approved 10 hotel development projects in the Wong Chuk Hang area, which will provide some 5 000 hotel rooms. The redevelopment plans of the Ocean Park also include the construction of three hotels providing about 1 200 rooms. Following the continued increase in the number of visitors, coupled with the corresponding increase in the number of workers engaging in tourism- and hotel-related industries, the demand for transport service in the district will increase rather than decrease, and this will further add to the burden on the road network.

Concerning the problem at the Aberdeen Tunnel which I have mentioned earlier, I think the Aberdeen Tunnel is approaching the point of saturation. While the Government agreed that the number of visitors will increase after the completion of the redevelopment of the Ocean Park, it holds that since the sightseeing hours of tourists will not overlap with the rush hours, there would not be a significant bearing on the existing traffic conditions. Besides, the Government envisaged slight congestion only by 2016 and considered that the road network would be incapable of coping with the demand only by 2022. However, I think the Government's projection is much too optimistic. As I said earlier, the flow of people will not simply come from the Ocean Park. The visitors staying in those 10-odd hotels together with the hotel workers will be going in and out the district and will hence generate a flow of people too.

There are now over 300 000 residents in the Southern District. The Aberdeen Tunnel and the Wong Chuk Hang Road are the major outbound access roads for residents in the district. At the Aberdeen Tunnel, which is the most important access for the residents, serious congestion takes place during the rush hours, and in times of congestion, a journey to Central or Kowloon via the Aberdeen Tunnel, which originally takes only 15 minutes in non-rush hours, will take as long as 45 minutes or over an hour. I live in the Southern District, and very often when I need to attend a meeting in the Legislative Council in the morning, I often make a detour by driving to Central via Nam Fung Road or the Repulse Bay, in order to avoid congestion at the Aberdeen Tunnel. Otherwise, the journey may take over an hour more anytime.

Another development project is the Wong Chuk Hang Estate. The Wong Chuk Hang Estate will soon be cleared and residents will be moving out of the estate. The site may likely be used for developing residential or commercial/residential projects in future. If it is used to develop residential flats for the middle class, the potential demand for the Aberdeen Tunnel will then significantly increase given an increase in the number of drivers. On the contrary, if the cleared site is used for constructing a MTR station and developing commercial/residential buildings, it will be helpful to easing the pressure on the Aberdeen Tunnel.

In fact, I think the construction of the MTR South Island Line is an all-win proposal. In view of the increasingly serious traffic problem in the Southern District, the Southern District Council has specifically set up an ad hoc committee on the MTR South Island Line to study matters relating to railway development. A series of campaigns were organized at end-October, including the Signature Day when over 30 000 signatures of the residents were collected to express their strong aspiration for the construction of MTR in the district. Moreover, the ad hoc committee also launched on Monday a survey on bus journey time in the Southern District. The survey, which is scheduled to end on Sunday, will enable us to understand more thoroughly the aspiration of the residents in the Southern District. At a meeting with the Financial Secretary in November, the Liberal Party also conveyed to the Financial Secretary the aspiration of the Liberal Party, members of the Southern District Council and residents for the construction of the MTR South Island Line.

When the South Island Line was first proposed, some transport sectors did have strong views on the South Island Line proposal. But at a meeting between

the ad hoc committee and representatives of various transport sectors (including green minibuses, taxis and buses) in October last year, the transport sectors had responded more positively to the revised proposal and agreed that the MTR South Island Line (East) be constructed first at the present stage, in order to achieve an all-win situation. Since these transport sectors, which will be hit the hardest, have no objection, why does the Government not expedite the construction of the MTR South Island Line to resolve the traffic congestion problem that has plagued the Southern District residents for so many years?

The MTR South Island Line will only access part of the Southern District and so, residents and tourists still have to rely on the feeder services provided by various transport sectors. Therefore, the proposal will not stifle the commercial viability of other modes of public transport. Besides, if we can handle it properly and come up with a sound plan, it would provide room for development and hence give the residents more choices in public transport.

Although it is estimated that there are only about 300 000 residents in the Southern District, after the successive completion of the Ocean Park's redevelopment plans, other new tourist attractions as well as hotels, a large number of visitors and crowds of people (including locals and foreigners) will be attracted to the Southern District for sightseeing. The demand for public transport services then will no longer be confined to residents in the district, and railway ridership will increase accordingly. I believe as long as the development of the Southern District continues to flourish gradually, which will lead to an increase in the flow of both people and goods, commercial viability will be guaranteed for various modes of public transport. The only question is how vicious competition can be avoided to create an all-win situation.

Finally, I would like to say a few words on air quality, since Secretary Dr Sarah LIAO is very concerned about this. The MTR South Island Line will be a medium capacity rail line with viaducts and tunnels passing such tourist attractions as the Ocean Park, the hotel zones in Wong Chuk Hang and the Fisherman's Wharf, so that tourists can view the scenes during the journey. As the MTR South Island Line will be using rubber wheels like tyres, the environmental impact caused by noise can hence be reduced. The MTR is a mass carrier that is not fuel-driven and so, it will not emit exhaust as vehicles do. This will be conducive to improving the air quality, so that the Southern District will continue to be a place with cleaner air in Hong Kong.

For these reasons, I think the construction of the MTR South Island Line is a feasible option which can improve the outbound traffic in the Southern District. In view of the rapid development of the Southern District, the need for constructing the MTR South Island Line is all the more pressing. Therefore, I have proposed a motion today in the hope that the Government can expedite the construction of the South Island Line.

I so submit.

Mr Howard YOUNG moved the following motion: (Translation)

"That, given the successive completion of the Ocean Park's Redevelopment Plans from 2008 onwards and that works on the new tourism projects will be launched in Southern District, which are expected to further aggravate the already very heavy traffic in the district, to alleviate traffic congestion, complement tourism development and give impetus to the local economy, this Council urges the Government to expedite the construction of the MTR South Island Line, but should study in parallel how vicious competition of the new line with other public transport such as minibuses or buses can be avoided, thereby protecting the public's right to choose and their interests."

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

PRESIDENT (in Cantonese): Dr YEUNG Sum will move an amendment to this motion. The motion and the amendment will now be debated together in a joint debate.

I now call upon Dr YEUNG Sum to speak and move his amendment.

DR YEUNG SUM (in Cantonese): Madam President, I move that Mr Howard YOUNG's motion be amended. Madam President, I speak in support of the motion proposed by Mr Howard YOUNG. I have only proposed a simple amendment concerning the timetable of the construction of the railway.

While we are here conducting a debate on the MTR South Island Line today, I noticed that the two bus companies, namely, the New World First Bus Services Limited and the Citybus Limited, have issued a statement in the newspapers opposing this motion. Their main argument is that if a MTR line — I mean the east extension — is constructed in the Southern District, 59 bus routes in the Southern District and as many as 160 000 passengers will be affected. They considered that most tourists will go to the Ocean Park via the Aberdeen Tunnel in tourist coaches. As this project involves an equity injection by the Government amounting to nearly half of the capital requirement, they questioned whether the Government should subsidize a listed company or transport operator as such.

However, I think this statement made by the two bus companies has only reflected the superficial phenomenon, without mentioning at all the more fundamental viewpoints or considerations. First, they have entirely evaded the problem of traffic congestion. As Members may have noticed, in moving his motion earlier, Mr Howard YOUNG mentioned that traffic is very congested in the Southern District, and I will speak on this in detail later. Second, they do not pay regard to public interest, because I believe the construction of the South Island Line will be beneficial to the economy, employment and tourism development of the Southern District, and together with the tourism proceeds generated by the Disneyland, I think it will bring huge benefits to Hong Kong as a whole. Besides, the construction of the South Island Line will significantly take forward the development of the entire Southern District community. The statement made by the two bus companies seems to have completely evaded these public interests.

With regard to the traffic conditions, Mr Howard YOUNG mentioned earlier that for many kaifongs in the Southern District, such as residents of the South Horizons or Ap Lei Chau, if they go to work in Wan Chai, the journey to Wan Chai will actually take 15 minutes only, but because of the intermittent closures of the Aberdeen Tunnel plus the bus waiting time, they often have to spend nearly 40 minutes and sometimes more than 40 minutes before they can arrive in Wan Chai, and this, they think, is entirely unacceptable.

Besides, Members may have noticed that during the New Year or Christmas holidays, many tourist coaches will use the Aberdeen Tunnel to take tourists to the Ocean Park, causing serious congestion at the Aberdeen Tunnel and even giving rise to public discontent. If the Government still takes no action to address this issue, I think the problem will become very serious.

Congestion now takes place even in Pokfulam during rush hours. So, when the Kennedy Town Line, that is, the West Island Line from Sheung Wan to Kennedy Town, is commissioned in 2012, if the South Island Line can also be commissioned at the same time in the Southern District, I think this will be immensely helpful to improving the traffic conditions on Hong Kong Island as a whole.

With regard to traffic conditions, there is still one point to be made. According to the results of a traffic survey conducted by consultants commissioned by the MTR Corporation Limited (MTRCL), it is found that during rush hours in the afternoon, the Wan Chai-bound traffic flow at the Aberdeen Tunnel is about 2 800 vehicles per hour, which is actually near saturation. After the completion of the Ocean Park's expansion works, the traffic flow will increase to 3 700 vehicles per hour, which will exceed the present volume by 32%, and upon the completion of the Aberdeen Fisherman's Wharf and the commercial and trade developments at Wong Chuk Hang by 2016, the traffic flow will even increase to 4 300 vehicles per hour, which is 55% higher than the present level. Since there is already congestion now, and together with the completion of the Ocean Park's expansion works and the Fisherman's Wharf — Macao has already gained an advantage in making a head start — I think the traffic conditions by then will be grossly unimaginable. If the Government does not consider this from the angle of public interests and refuses to inject funds for constructing the South Island Line, I think the situation will become very serious.

I believe the Secretary has all along been very worried about patronage. But other than the patronage by residents of the Southern District, there is also patronage from mobile passengers, which means patronage by tourists. In a speech given in the Legislative Council, the Chairman of the Ocean Park said that he very much hoped that a MTR extension can be constructed in the Southern District because after the development of the Disneyland, if the Southern District can also be serviced by the MTR, the Ocean Park and the Disneyland can then be linked up through the MTR. In that case, he estimated that tourists may extend their stay in Hong Kong by one to two days, and this will be very important to the overall consumer spending in the territory, for tourism has already become a major lifeline of Hong Kong.

With regard to economic benefits, the consultants commissioned by the MTRCL, which I have mentioned earlier, also pointed out that according to their

estimate, the construction of the South Island Line will create 30 000 jobs. Added to this is that Wong Chuk Hang, after redevelopment, may be developed into a cluster of hotels with participation from property developers including the Wheelock Property, Swire Property, China Motor Bus, and Dah Sing Property. I have recently heard that the sites for hotel development may be converted for use as residential development. If they are used for residential development, I think the resultant demand for transport services will be far greater than that of hotel development. If no improvement can be made to the traffic, the Aberdeen Tunnel will continue to be often closed intermittently, and I think this will cause a substantial impact on economic benefits.

As regards community development, I have mentioned earlier that after the redevelopment of Wong Chuk Hang, a cluster of hotels may be developed in the vicinity, or property developers may convert the hotel sites for residential development instead. Apart from this, there is also the Government's overall planning which will soon be completed and also the Fisherman's Wharf to be developed in future. Without the South Island Line, I think the entire district will be seriously affected whether in respect of the development of the property market, employment opportunities for unskilled labour, and also the overall economy and employment situation which are issues of great concern to the Liberal Party.

My amendment seeks only to propose a timetable. I have this idea not because I was stimulated by the timetable on the constitutional reform. What made me do so is the commissioning of the West Island Line to Kennedy Town in 2012. From the perspective of economy of scale, I think the MTRCL also hopes that the construction works of the two MTR lines can proceed at the same time, so that resources can be utilized more effectively and savings may hence be achieved. For this reason, I have only proposed the inclusion of a timetable in the motion.

I very much support a point made in Mr Howard YOUNG's motion and that is, if the Government decided to inject funds for constructing the South Island Line, it should liaise with other relevant transport operators, in order to promote positive competition. Competition will certainly emerge, but we hope that it will be positive, so as to make it a win-win proposal. If there are large crowds of people or increased flow of people in the Southern District, it will actually be helpful to the business of transport operators to a certain extent. Tseung Kwan O is a very good example.

I wish to put two points on record in the official proceedings of the meeting. If the Government really decided to finance the construction of the South Island Line, it must pay attention to the noise problem in the course of construction, and after the construction works are completed, it must also pay attention to the impact on the environment. Moreover, I also hope that the fares will be pitched at a more reasonable level, and it is even better to have regard to the provision of concessions to the elderly and people with disabilities travelling on the mass carrier.

I hope Honourable colleagues will support the motion proposed by Mr Howard YOUNG and also my amendment in furtherance of the overall public interest. Thank you, Madam President.

Dr YEUNG Sum moved the following amendment: (Translation)

"To add "for commissioning in or before 2012" after "MTR South Island Line". "

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Dr YEUNG Sum to Mr Howard YOUNG's motion, be passed.

MS MIRIAM LAU (in Cantonese): Madam President, I have always been in favour of the development of railways, however, I also believe that railway development programmes must tie in with the pace of development and the planning of a district. Only in this way can the financial viability of a railway be ensured, so that railway development can yield the greatest benefits for the relevant district. The development of a district will also create a greater scope for transport service providers to provide diversified services to the public. This will be the most beneficial to residents, railways and even to other public transport services.

The Liberal Party fully understands that residents in the Southern District have suffered from the woes of traffic congestion for many years because there is no railway network in the Southern District and transportation within the district and to other places has to rely on the road network, with the Aberdeen Tunnel being the major external access road for residents in the district. Unfortunately, during the morning and evening rush hours, this major access road is affected by

the traffic congestion that occurs in the road network linking the exit of the Hung Hom Cross-Harbour Tunnel, so it is also very congested and it is sometimes even necessary to close the tunnel temporarily. A trip to Central or Kowloon via the Aberdeen Tunnel originally takes only 15 minutes, however, during rush hours, it often takes more than 45 minutes. Therefore, objectively speaking, the Southern District is in desperate need of a railway that will connect it to the external transport system. It is paradoxical that on the basis of the local economic development in the Southern District in the past, it would be financially not viable to develop a railway without any sustained increase in the demand for transport services. This is because in terms of district development, apart from some areas, the population of the Southern District is low in density and dispersed. As regards economic development, for many years, the Government has not actively replanned the land use in the Southern District. Although the Southern District has great potential in being developed into a centre for tourism, there are only some isolated tourist attractions and the Wong Chuk Hang area is still a rundown industrial area which has not been redeveloped into a commercial area despite the relocation of factories to the north. According to the assessment of the Second Railway Development Study, if a greater number of large-scale development projects are not carried out in the Southern District, a railway in the Southern District will not be financially viable.

In view of this, the Liberal Party was the first to request the Government to implement the plan to develop the Southern District into a centre for tourism and commerce as soon as possible. We believe that if the Government makes its decision to build a railway in the Southern District, it must also draw up a detailed plan to enhance the vibrancy of the Southern District, so that a sustained increase in demand for transportation can be created. In fact, a few years ago, the Planning Department planned to develop tourism in the Southern District comprehensively. However, just like many other government proposals, the Government only had discussions but did not put things into practice and the development of the Southern District was delayed considerably. If we want the development of a railway in the Southern District to be successful, we believe the Government should launch the development plans as soon as possible.

It was in the middle of last year that the development of the Southern District became more definite. Firstly, the redevelopment plan for the Ocean Park was implemented and the Tourism Commission also drew up the Initial Concept Plan for the Aberdeen Tourism Project, displaying a keen intention to develop the Aberdeen Harbour into a tourism area that includes a Traditional

Fishing Harbour, Fisherman's Wharf and a leisure and dining node. In addition, the applications to change the land use of a number of industrial buildings at Wong Chuk Hang were successful and the construction of hotels and commercial buildings is now possible. After the implementation of these plans, the Southern District will be reinvented as a tourism and commercial area full of vitality. According to the estimation of the Ocean Park, upon the completion of the redevelopment plan, it is estimated that the number of visitors to the Ocean Park will exceed 5 million people in 2010 and by 2021, the number will be over 7 million people. The MTRCL estimated that railway development can create as many as 20 000 to 40 000 long-term jobs in the district. In the long run, the Government should connect the developments in the Aberdeen Harbour to other tourist attractions in the Southern District, such as Deep Bay, Repulse Bay and Stanley, so that the whole Southern District can become a major district for tourism in Hong Kong and significant economic growth can be generated for the Southern District.

In order to tie in with the pace and scale of development in the Southern District, and since it is anticipated that these developments will generate movements of large numbers of people and goods, the Government should take measures well in advance to meet the transport needs arising from the increased movements of people and goods by embarking on the construction of the South Island Line as soon as possible. Not only will the development of the South Island Line in such a context serve the residents of the Southern District, it will also provide convenient transport services to tourists, as the railway will serve all existing or future major tourist attractions in the Southern District.

However, the Government should also study how vicious competition between the railway and other modes of public transport can be avoided. Take Tseung Kwan O as an example, before the MTR came into operation, the residents of the new town had always relied on other means of transport. However, after the MTR had come into operation, some of the public transport operators were forced out of the market immediately. Residents in the Southern District have relied on other transport carriers for an even longer period of time than those in Tseung Kwan O and a certain number of public transport carriers have operated in the district for many years. If the Government fails to co-ordinate various public transport carriers properly, the South Island Line will definitely have a considerable impact on other public transport carriers. Just now, Dr YEUNG Sum said that the two bus companies are already very concerned about their future development and whether there will still be scope

for them to continue to operate in the future. Their concerns may not be groundless, rather, they are well-founded. However, if co-ordination is carried out properly, the additional demand for transportation generated by the development of the district can in fact offer greater opportunities to various modes of public transport and enable them to provide better feeder service and perhaps diversified services to the public, so that the needs of various parties can be met.

Therefore, if the Government carries out comprehensive planning, develop tourism and commerce in the Southern District, carry out co-ordination among various public transport carriers and build the South Island Line as early as possible, this will surely create an all-win situation for residents, the railway corporation concerned and even for the operators of other types of public transport services.

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

MS AUDREY EU (in Cantonese): President, I am very grateful to Mr Howard YOUNG for proposing this motion and to Dr YEUNG Sum for his amendment. Mr Howard YOUNG said in his speech that he is a resident of the Southern District. I think everyone in Hong Kong actually knows that traffic is very congested in the Southern District, especially at the Aberdeen Tunnel. Only the Government thinks otherwise. Every time when we bring up the congestion problem at the Aberdeen Tunnel with the Government, the Government does not feel that this is a problem at all. We have drawn its attention to the bridge linking the South Horizons and also to the Aberdeen Tunnel before, and the Government said that according to statistics, these roads have not yet reached saturation. But we often see that the Aberdeen Tunnel has to be closed intermittently, and residents living nearby all know that this is a serious problem, just that the Government refuses to admit it. So, I believe the Legislative Council will unanimously support the original motion and the amendment.

In fact, to solve the traffic problem, the construction of the South Island Line is a better option, for railway is more desirable whether in terms of safety, speed and environmental protection.

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

Let us look at it from the environmental angle. According to the Report of the Second Railway Development Study of the Environmental Protection Department, in terms of air pollution, if we draw a comparison between road transport and rail, we can see the following: nitrogen oxide emissions from road transport were found to be approximately 2.5 times greater than rail, while emissions of carbon dioxide and respirable suspended particulates generated by road transport were found to be about two and 10 times greater than rail respectively. With regard to landtake implications, rail infrastructure was shown to be less land consuming than equivalent capacity roads. In respect of the impact on the ecology, landscape and heritage, railway is also more desirable than road transport, and is more capable of achieving the objective of sustainable development.

From the perspective of economic benefits, the construction of railways can generate benefits in respect of property development, and it can also bring indirect benefits to the economy and tourism.

The South Island Line will reduce the journey time from Wong Chuk Hang to Admiralty from 30 minutes as required at present to six minutes. It will take only 12 minutes to reach Tsim Sha Tsui and just nine minutes to go from the South Horizons to Admiralty. If time is a money equivalent, the development of railway absolutely can save plenty of time cost. As pointed out by an academic study, the development of the West Island Line and the South Island Line can help shorten the daily travelling time of the citizens, and such savings in time cost over a period of 40 years will be equivalent to \$17.9 billion; the expenditure on traffic accidents will be reduced by \$600 million, and medical expenditure will also be reduced by \$300 million as a result of improvement to roadside pollution.

On the employment front, according to a topical report of the Civic Exchange on the West Island Line and South Island Line, railway can help facilitate the hotel and business development projects in Wong Chuk Hang, and it is estimated that 14 000 to 22 000 new jobs can be created.

However, Secretary Dr Sarah LIAO stated last year that as there is a difference between the projected population growth in the Southern District than what was envisaged before, a decision can be taken only when the review of tourism and business development in the Southern District is completed by the Planning Department.

Although the results of the review are not yet available, we can expect persistent growth in the demand for public transport services in the Southern District from the series of future development plans in the district, such as the expansion of the Ocean Park, the redevelopment plan of Wong Chuk Hang, and so on. In his speech earlier on, Dr YEUNG Sum actually mentioned two very important figures. He said that the traffic volume during peak hours at the Aberdeen Tunnel is about 2 800 vehicles per hour and that upon completion of the various projects, the figure is expected to increase to 4 345 per hour, which is 55% higher than the present traffic volume. For this reason, the development of the MTR South Island Line brooks no delay.

Certainly, I very much agree with the part of the original motion which spells out the need to pay attention also to the underlying effects of development while throwing weight behind this rail line. First, the railway system will inevitably put pressure on the bus, minibus and taxi trades. To protect the commercial viability of these industries and residents' right to choose in respect of public transport services, the Government must give play to its co-ordinating role. To achieve a win-win situation for four parties — and even for five parties if members of the public are also factored in — consideration can be given to adjusting the restricted areas for public transport in some districts or enhancing point-to-point feeder service provided by buses and minibuses for the railway.

I would also like to say that in considering the development plans of the Southern District, the Government also attaches importance to environmental conservation, stating that the local characteristics of the district will be preserved. The proposed construction of the West Island Line and the South Island Line is already incorporated into the list of projects for which statutory Environmental Impact Assessment (EIA) is under way. In this connection, while I hope that the authorities will proceed to construct the railway, I also hope that the EIA can be completed as soon as possible and in particular, I hope that consideration can be given to the impact on the Aberdeen Country Park and Tai Tam Country Park in the Southern District as well as the relevant remedial measures both in the course of and upon completion of the construction works.

Thank you, Deputy President.

MR LAU WONG-FAT (in Cantonese): Deputy President, being a representative of the District Council constituency, in this motion debate, I will

convey to Honourable colleagues the views of the Southern District Council on the construction of MTR South Island Line.

In order to solve the problem of traffic congestion which has plagued the residents of the Southern District for many years and to tie in with the long-term development of various tourism projects in the Southern District, the Southern District Council has all along supported the proposal made by the MTR Corporation Limited (MTRCL) on the construction of the South Island Line, so as to solve the problems of inadequate external transport link for the Southern District and of traffic congestion in the district due to the frequent occurrence of traffic jams at the exit of the Aberdeen Tunnel in Wan Chai.

A study on the traffic flow in the Southern District, which the MTRCL commissioned a consultancy to carry out, shows that without the South Island Line (East), by 2016, the traffic flow on the major road link with the Ocean Park, that is, the Aberdeen Tunnel, will be very slow; and by 2022, the traffic of the Aberdeen Tunnel will remain at maximum capacity most of the time.

At present, during peak hours, approximately 2 800 vehicles per hour drive through the Tunnel and this is close to maximum capacity. Upon the completion of the Ocean Park Redevelopment Plan in 2010, the traffic flow will increase by one third over that at present. After the area around the Aberdeen Fish Market has been developed into the Fisherman's Wharf, the traffic flow will be 42% more than that at present; and after the development of the Wong Chuk Hang Hotel Area has been completed, the traffic flow will be 55% more than that at present.

In addition, there are many landmark tourist attractions in the Southern District such as the Jumbo Floating Restaurant, the Aberdeen Typhoon Shelter, Repulse Bay and Stanley. It can be seen that it is not just the more than 300 000 local residents of the Southern District but also a large number of visitors who have to rely on the Aberdeen Tunnel and Wong Chuk Hang Road to travel to and out of the Southern District every day. In order to cope with the future challenges posed by traffic in the Southern District and to dovetail with the developments in tourism, the construction of the MTR South Island Line should brook no delay. In his policy address this year, Mr TSANG, the Chief Executive, undertook to press ahead with major infrastructural projects such as the MTR South Island Line in order to tie in with the long-term development of Hong Kong.

At the same time, the Southern District Council is also concerned about the possible impact of the proposed MTR South Island Line on the transport sector. The South Island Line Focus Group under the District Council held three consultation sessions to consult the transport sector in October last year. Members in the minibus trade expressed their support for the plan to construct the South Island Line (East) first of all at this stage, so that an all-win situation for the three parties, namely, residents of the Southern District, the trade and the Government, can be achieved.

Deputy President, with proper co-ordination and division of labour among various public transport carriers, the MTR will become the major transport carrier for travelling to and out of the Southern District, whereas buses and minibuses will provide auxiliary feeder services to other areas in the district. On the premise of protecting the right to choose and the interests of the public, the Government has to, while having the MTR South Island Line constructed as soon as possible, carry out a detailed study on co-ordinating the operation of various modes of transport, so as to avoid vicious competition.

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

DR KWOK KA-KI (in Cantonese): Deputy President, first of all, I wish to take this opportunity to thank Mr Howard YOUNG and Dr YEUNG Sum for proposing the motion and the amendment.

Basically, on 28 June last year when the Chief Executive in Council announced the decision to commence studies and construction of the MTR West Island Line, it was already stated very clearly why the West Island Line would be constructed. The main reason is that passengers mostly rely on road-based transport to travel to and from Central and Western District, and the construction of the West Island Line can, in fact, reduce congestion on road and ease road traffic between Wan Chai and Central in the future. It is now the best opportunity, for the Secretary is sitting in this Chamber, and her portfolio includes the environment, transport and public works. What is under discussion today is precisely a transport issue, and the other "hat" that the Secretary is wearing is environmental protection. Earlier on, some Honourable colleagues mentioned that Hong Kong is basically a small, narrow city faced with serious pollution problems. Insofar as our urban development is concerned, especially in developing mass transport systems, it is indeed

necessary to have an efficient means of public transport that can reduce environmental pollution. Railway is a means of public transport in Hong Kong proven to be able to achieve this objective.

But strangely enough, when taking forward railway development in the New Territories or other parts of the territory, the Government has turned a blind eye to the needs of the residents of the Southern District. We all know that at present, it takes residents of the Southern District a long time to reach downtown during rush hours every day either by the Aberdeen Tunnel or the Pokfulam Road. No matter which way they choose, they still cannot be spared from traffic congestion. At present, during rush hours, the journey from the Southern District to Central via the Aberdeen Tunnel, which normally takes only 15 minutes, will take 30 minutes or even up to 45 minutes. I think when we listen to the daily traffic reports, we will keep on hearing about intermittent closure of the Aberdeen Tunnel or the announcement that the Tunnel is not available for use. Under such circumstances, many residents of the Southern District are therefore forced to use the Pokfulam Road, thus making it difficult for improvement to be made to the traffic problem from Pokfulam Road to Central. Through the Transport Department, the Government has conducted studies on the traffic volume. Results show that by 2016, if the Route 4 project is not delivered, at a critical section of Pokfulam Road (the section between Pokfield Road and Sassoon Road), the traffic volume is 1.1 with the implementation of interim measures; it will be 1 even if Option 2 of Route 4 is implemented; and with such measures as the completion of the West Island Line, the figure will also be 1.

As for the Aberdeen Tunnel, disregarding which option the Government will eventually implement, the traffic volume ratio is 1.1 or 1.2, which means that even if there is no question of developing the Southern District, just as you, Deputy President, said earlier in your speech that assuming development is out of the question for the Southern District, then in 2016 or later, the problem faced by residents of the Southern District basically cannot be solved. Unless the Government intends to sit idly by doing nothing, it cannot avoid giving consideration to putting into practice one of the options.

Certainly, an alternative will be the construction of Route 4. But let us take a look at the options, especially Option 1 of Route 4. It will have a great impact on the environment and on the landscape. The consultancy report in 2003 pointed out that this Option will cost \$10 billion, while the cost proposed by the MTRCL for the South Island Line (East) is between \$6 billion and \$7 billion.

Even though it is faced with a vast amount of statistics, the Government still has not listened to the aspirations of the community, including those of the residents of the Southern District, and it still has not actively put forward proposals or implemented any option. This is indeed very disappointing and regrettable.

In her reply to a question asked by Mr MA Lik last year, the Secretary said that she would make reference to two reports if the construction of the South Island Line would be considered. The first is the analysis of the study results relating to the redevelopment plans of the Ocean Park. She said at the time that consideration must be given to whether it would be worthwhile to spend \$5.5 billion on its redevelopment. The second report is the study on the South Island Line conducted by the Planning Department. In fact, all these are stalling tactics. I would like to respond to her second question. As we all know, the Finance Committee has approved a funding of \$4.7 billion for Phase 2 of the development of the Ocean Park. In fact, the Government's Tourism Commission has also mentioned continued development of the Southern District on Hong Kong Island in future, with a view to developing it into a tourism centre. The thinking of the Government is always that it has to wait until the situation has deteriorated to the worst or the economic benefits are adequate to give it the incentive to spend the money on constructing the railway before it will do something. But the Government has never made longer-term and forward-looking consideration. This is also a mistake made by the Hong Kong Government in planning over the years. That is, when certain steps must be taken, it prefers to spend time working out the economic losses, rather than making forward-looking consideration.

During my earlier visit to Taiwan, I saw that many tourist spots in Taiwan are accessible by subway, although there may not be highly concentrated business development. This has precisely facilitated the development of tourism in Taiwan, and this is also why many visitors can arrange their visits to Taiwan on their own. I think this issue has been discussed for a very long time and so, this is but an old issue. I only hope that Honourable colleagues will support the motion and the amendment proposed by the two Members, so as to finally make the Government construct the South Island Line as soon as possible with no further delay. Thank you, Deputy President.

MR ALAN LEONG (in Cantonese): Deputy President, in the Second Railway Development Study completed in May 2000, it was proposed to position the South Hong Kong Island Line as mainly a provider of shuttle services connecting

the commercial areas with such densely populated areas as Wah Fu and Ap Lei Chau. However, since the working and residential population of the Southern District was at the time unable to meet the financial efficiency requirements of railway construction, the South Hong Kong Island Line was not grouped under the preferred railway network. As a matter of fact, the South Hong Kong Island Line has always aroused more controversies than the West Hong Kong Island Line and the opinions of stakeholders are vastly divergent.

After consolidating all the views for and against the idea, the Transport Panel of the Legislative Council passed a motion on 25 February last year, urging the Government to expeditiously draw up planning for the tourism and economic development of the Southern District and to construct a South Hong Kong Island Line that meets cost efficiency, so as to tie in with the development of the Southern District and cater for the transport demand of the residents there. The Government replied that it would consider the prospects of constructing the South Hong Kong Island Line only after completing the planning review of the tourism and commercial development of the Southern District and taking account of the deliberations on the Ocean Park's redevelopment plan. The review was originally scheduled for completion at the end of last year. I hope that the Government can give us an account of its latest progress.

Deputy President, the Government frequently stresses that its long-term transport strategy will be based mainly on railway development, and that it hopes to build railways as the backbone of Hong Kong's transport network. If we compare railways with road networks, we will see that both in terms of carriage capacity and environmental impacts, the former should be preferred to the latter in theory. This is especially true in the case of the Southern District, which has all along been regarded by society as a beautiful tourism node and a prime residential area. We do not wish to improve the transport conditions in the district by resorting to any means that produces huge amounts of emissions. Therefore, railway development is an option that can meet the requirements of both environmentalism and carriage capacity.

However, this does not necessarily mean that railway development is always compatible with the spirit of sustainable development. The social benefits brought about by railways will not be limited to the transport function. They will also affect the economic structure, housing demand and even employment prospects in the places along their alignments. Besides, railway construction works will also cause environmental problems that will adversely affect the superb air and water quality and even the quiet environment of the

Southern District. I wish to make it very clear that while railway construction can bring benefits, there will certainly be some side-effects at the same time. In the course of planning, the Government must cautiously assess the pros and cons instead of merely focusing on the possible generation of revenue to the Treasury.

We must also pay special attention to whether the Government will once again allow railway corporations to develop superstructure and surrounding properties as a means of subsidizing railway development. I note that this approach can no doubt help reduce public spending on railway construction, and that as the major shareholder of railway corporations, the Government will be able to share the profits of railway property development. However, I am afraid that the Government may, as always, focus solely on Treasury revenue in its consideration of planning and development, ignoring the fact that the established planning and land administration concepts are already outdated, failing to catch up with society's changing values and preferences in regard to planning.

Deputy President, under the established approach of allowing the MTRCL to develop properties, railway corporations may have to play a role similar to that of the Urban Renewal Authority, combining both planning and development in themselves. However, if railway corporations are able to make profits from property development, they may aim to maximize their profits from land development. Do we really wish to see the recurrence of the kind of planning marked by unreasonably tall buildings, the absence of any streets for pedestrian movements and the conversion of green zones into air gardens? Will it be possible to construct public sitting-out areas, which may not generate any huge profits, near railway stations?

People are already fed up with the series of land planning blunders. Still less can they put up with a cityscape dominated by tall buildings erected on prime sites. Nowadays, the civil society will not only fight for the retention of the beautiful environment in the course of development; it also wants the beautiful environment to become a common asset for the enjoyment of all people. I guess that in order to make the Southern District a fine example of natural beauty and quality living, the Government should really consider the development of a public coastal trail, so that more people can make use of the improved transport network as a means of getting close to the natural beauty of the coastline. Is it possible to turn historical relics such as the Pokfulam Village, the monastery and the University Hall, into cultural tourism spots, so as to develop the cultural diversity of Hong Kong?

I believe that the construction of the South Hong Kong Island Line will bring about changes to the local economy and even the humane activities of the district. It is only by allowing the civil society to take part in this transformation that we can possibly meet Hong Kong's urban construction requirements in the new era. The construction of the South Hong Kong Island Line will offer the Government another opportunity to change its utilitarian mindset of maximizing the profits from lands and to join hands with the people to build up a better living environment. With such a participatory process, the civil society can make known its views on how Hong Kong should develop in the next 30 or 50 years. Besides, the civil society may also actually participate in the planning process and thus embrace the development of the South Hong Kong Island Line.

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

MR PATRICK LAU (in Cantonese): Deputy President, first of all, since the construction of the South Hong Kong Island Line is closely related to the redevelopment of the Ocean Park, I must declare that I am a Director of the Ocean Park.

Over the years, it has not been quite so convenient to travel to the Southern District. In most cases, public transport commuters and private car drivers will both prefer the Aberdeen Tunnel connecting the Southern District and Happy Valley unless they have sufficient time to route via the long and meandering section of Pokfulam Road along the hills — and, do not forget that drivers there will frequently receive traffic offence tickets. I believe the Secretary will remember this only too well. It is precisely for this reason that the Aberdeen Tunnel has been noted as a major link road marked by serious congestion. The seriousness of traffic congestion can be described as terrible especially during peak hours. The road closures in Happy Valley on Race Days are also very frustrating to people.

As revealed by the consultancy study commissioned by the MTRCL, the throughput of Wan Chai-bound traffic via the Aberdeen Tunnel during afternoon peak hours is roughly 2 800 vehicle trips per hour, which is almost the maximum capacity. At the same time, the study forecasts that following the redevelopment of the Ocean Park, the traffic throughput will increase to 3 700

vehicle trips per hour, higher than the present throughput by more than 30%. It is also predicted that upon the completion of the Aberdeen Fishermen's Wharf and the commercial development in Wong Chuk Hang around 2016 as planned, the throughput will even rise to 4 300 vehicle trips per hour, far exceeding the present level by more 55%. Members can thus imagine that if the Government does not address the construction of the South Hong Kong Island Line as soon as possible, traffic congestion will occur not only on the two ends of the Aberdeen Tunnel. Even the traffic in Wan Chai, Causeway Bay and the Cross-Harbour Tunnel will be adversely affected. I agree with the several Members who have spoken that the construction of an environmentally-friendly railway system is preferred to a highway system. The reason is that, as Members are aware, it is often impossible to construct any buildings in places near our existing highways. I am sure that the Secretary will still remember the many troubles arising from the erection of sound barriers.

Therefore, Deputy President, we must not forget that a sound transport network will not only bring convenience to Southern District residents and visitors but will also promote its economic development. Why does the Government plan to construct a harbour tourism node comprising the Aberdeen Fishermen's Wharf in the Southern District? The ultimate objective is just to promote Hong Kong tourism and boost the economic restructuring of the hitherto industry-based Southern District. Since the Government is determined to develop the Southern District into a tourism node, how can it refrain from making forward-looking improvements to the transport network in the district? I believe no other places in the world will develop a tourism area in such a way.

What is more, the offices of many companies are located in the Southern District. As a result many "wage earners" not living there are tortured by the congestion of the Aberdeen Tunnel during the peak hours every day. And, many companies also find that after moving their offices into the Southern District, they begin to face many problems. On the one hand, traffic congestion has led to numerous grievances among their employees, thus lowering staff morale and efficiency. On the other hand, when any urgency arises in the daily operation of a company, as when there is a sudden need to send people to the Southern District, traffic congestion may easily led to the loss of a business opportunity. Therefore, many enterprises have decided to withdraw from the Southern District, thus producing an impact on the local economy. Traffic inconvenience can be described as the greatest hindrance to the development of the Southern District.

In view of all this, Deputy President, I very much support the proposals in the motion on promoting the construction of environmentally-friendly transportation means. I hope that the Government can finalize the construction of the South Hong Kong Island Line as soon as possible, so that it can inaugurate in or before 2012. However, I think that before finalizing the construction of the railway, the Government should conduct an efficient and serious assessment of the demographic increase, zone planning and the actual transport and community needs in the Southern District, so as to ensure that the district can be developed into a tourism and commercial centre marked by unique local characteristics and convenient transportation.

Thank you, Deputy President.

MR LI KWOK-YING (in Cantonese): Deputy President, the Southern District is endowed with rich tourism resources. One of the major local tourism spots, the Ocean Park, which is immensely popular among visitors from China and overseas, is located in the district. With the commencement of the various tourism projects for the Southern District, it is expected that more visitors from China and overseas will flock to the area. However, the main means of transport used by people in the Southern District are still minibuses and buses. During the usual peak hours, one may be caught up in the traffic congestion of the Aberdeen Tunnel from half an hour to 45 minutes, and this is very inconvenient to local residents leaving and returning to the district. If there is a traffic accident, the situation will be inconceivable. Since the expansion of the Individual Visit Scheme by the authorities, the number of visitors to the Southern District has been rising incessantly. For this reason, the authorities must formulate a new development plan for the transport network of the Southern District and construct the South Hong Kong Island Line as quickly as possible, so as to cope with the local transport demand and the tourism development there.

Actually, there are sufficient justifications for constructing the South Hong Kong Island Line expeditiously. The most important justification is that there is a need for coping with the local tourism development of the Southern District and the transport demand generated by the increasing number of visitors, especially visitors coming under the Individual Visit Scheme. Earlier on, during Christmas, the Ocean Park was almost overwhelmed by hordes of visitors because many people wanted to see the real snow there. As a result, the traffic in the vicinity of the Ocean Park became heavily congested, thus necessitating the intermittent closure of the southern end of the Aberdeen Tunnel.

Although the real culprit causing the temporary closure of the Aberdeen Tunnel on that day was in fact a traffic accident instead of the hundreds and thousands of visitors to the Ocean Park, the incident still highlighted the problems resulting from the over-reliance of the Ocean Park and the Southern District on the Aberdeen Tunnel as a main transport link. In case there is a traffic accident again, or if there is an excessive number of visitors, the traffic in the vicinity of the Ocean Park will certainly be paralysed.

The traffic congestion mentioned above can aptly highlight the appeal of the Ocean Park to visitors. It has therefore become extremely urgent for us to improve the traffic arrangements in the district. During Christmas, the Ocean Park was already able to attract hundreds and thousands of visitors simply by offering the single attraction of real snow. I believe that after its expansion and the addition and renovation of its facilities, the Ocean Park will surely become more attractive. Are we supposed to wait until there are long lines of visitors outside the Ocean Park before we take any action to deal with the associated traffic pressure?

Recently, the Hong Kong Tourism Board has been actively promoting the Ocean Park as a "must" for visitors from the Mainland. The authorities have even invited Hong Kong and Chinese movie stars and celebrities and even the family of Chinese Diving Queen FU Mingxia to shoot a television publicity film, so as to create an image of the Ocean Park as a nice place for parent-child activities. It is estimated that after the completion of the Ocean Park's Phase I renovation, the number of visitors will rise by as many as 1 million. The Ocean Park can offer attractions that are both entertaining and educational. It is now also supported by so many movie stars and celebrities, so its patronage will surely scale new heights. If the finalization of the South Hong Kong Island Line is delayed again and again, we can envisage that with the continuous increase in the number of visitors, a crisis of traffic quagmire will soon arise in the vicinity of the Ocean Park. For this reason, the Government must squarely address the transport problems of the district.

The Ocean Park aside, the various tourism development projects in the Southern District will also aggravate the transport problems of the district. There are many cultural and ecological attractions in the Southern District. And, these attractions have not been fully exploited, so we can say that the district is endowed with very rich potentials for tourism development. I have heard that the Government intends to turn Aberdeen and Ap Lei Chau into a

scenic area with the theme of a fishing port. Honestly speaking, this idea is not bad at all. In the Mainland, the theme of an ancient water village is adopted in many tourism cities and these cities have succeeded in attracting large numbers of visitors. With all its natural endowments, Aberdeen can certainly be developed into the Venice of the Orient.

It is worth mentioning that the Government has drawn up a concrete plan on developing the fishing port characteristics of Aberdeen, and that it intends to strike up closer connections among the scenic spots in the district. However, I hope that while seeking to develop the fishing port characteristics of Aberdeen, the Government will not forget that the transport links between Aberdeen and the outside are also very important. If the Government forgets the importance of this, then even when Aberdeen becomes a beautiful haven on earth, the inconvenience of traffic will still lead to grievances among visitors, taking away their mood of sightseeing and eliciting curses from them. Consequently, the Government must construct a railway as quickly as possible, so as to turn Aberdeen into an attractive tourism node with traffic convenience.

The tourism development of the Southern District is closely related to its traffic throughput. According to the consultancy study commissioned by the MTRCL, after the expansion works of the Ocean Park, the traffic throughput will exceed the present level by 32%. Following the completion of the Aberdeen Fishermen's Wharf and the commercial development of Wong Chuk Hang, the traffic throughput will even exceed the present level by 55%. In other words, the transport facilities in the Southern District will, by all these times, fail to cope with the sudden increase in passenger flow. If the authorities continue to be so hesitant in the construction of the South Hong Kong Island Line, then, as I have mentioned, the crisis of a traffic quagmire in the Southern District will surely emerge.

Recently, there have been many rumours about the construction of a third theme park in Hong Kong. It is said that in order to attract more visitors, the Government is making active efforts to identify new tourism spots. However, I wish to advise the Government that it must not focus solely on the development or renovation of tourism spots. It must also pay attention to whether or not our overall tourism facilities and infrastructure can provide sufficient support. If not, although there are more tourism spots, and although they are very appealing, transport problems will still reduce visitors' interest in visiting our tourism spots.

DEPUTY PRESIDENT (in Cantonese): Time is up.

DR RAYMOND HO: Madam Deputy, traffic problems have been bothering residents of the Southern District on Hong Kong Island for a long time. Prompted by large-scale development of public housing estates and private residential projects, the population has been steadily growing in the area in the past few decades. However, only a few improvements, such as widening Pok Fu Lam Road and Victoria Road, have been made since the opening of the Aberdeen Tunnel in 1982, almost a quarter of a century ago. Residents in the area have to live with difficult traffic conditions during peak hours every day. Traffic in the area is susceptible to the conditions of Pok Fu Lam Road or Victoria Road as well as the congestion of the Aberdeen Tunnel, particularly during the rainy and typhoon seasons, and is also vulnerable to any vehicular breakdown.

The construction of a South Island Line has been discussed for a fair amount of time. Dating back to the last decade, when I was Chairman of the Transport Advisory Committee from 1995 to 1997, I established a working group for two years with representatives from relevant departments. We came up with various recommendations, including rail link to the Southern District to serve the needs of the residents in the area. However, nothing happened in the past 10 years although major developments, such as Cyberport, have emerged in the district.

A number of development projects in the Southern District are also in the pipeline. The recently announced ambitious redevelopment of the Ocean Park is among these projects. It is worth noting that the redevelopment includes plans for building three hotels, in addition to five or six other hotel projects which have been given the green light. Meanwhile, a concept plan for the Aberdeen Tourism Projects comprising three themed areas, including a traditional fishing harbour, fishermen's wharf and floating restaurants, is being actively pursued by the Tourism Commission. On the other hand, there is a growing interest among the developers to redevelop the nearby Wong Chuk Hang industrial area into a mixed hotel and residential district. The expected surge in traffic volume upon the completion of the above projects gives us new urgency to the construction of a railway line for the area.

Indeed, we should use railways as our first choice to meet this expected passenger traffic demand. As the Government must agree, railways are efficient mass carriers and are environmentally friendly. Rail travel accounts for some 34% of the total daily public transport volume in Hong Kong as a whole. The rail connection between the Southern District to the existing rail lines on Hong Kong Island would help raise the share of rail travel closer to the 40% target as envisaged earlier by the Government. Moreover, the building of the South Island Line will also break the sole road-based passenger transport mode available to Southern District residents at present.

Nevertheless, the Government must formulate a clear transport policy for the area if it decides to go ahead with the South Island Line. It must explore the question on whether the future rail line will serve as the major backbone of the passenger transport system in the area while other public transport, such as franchised buses and public light buses, will fit into the feeder services, or, the Government wants to see rail service have a balanced development mode with road transport service on an equal footing.

In any circumstance, vicious competition of the new line with the other public transport must be avoided. The Government must make it clear to the other transport operators so as to allay their fear of and to reduce their opposition to the rail project which will definitely benefit the Southern District as a whole.

With these remarks, Madam Deputy, I so submit.

MR ALBERT CHAN (in Cantonese): Deputy President, the MTR South Island Line has, in fact, been discussed for many years, and there has been much controversy on whether railway or roads should be developed first or whether both should be developed in parallel.

I have engaged in district work for more than 20 years. From the viewpoint of the public, with regard to ancillary facilities for the overall transport development, particularly ancillary facilities for railway development, many factors must be taken into consideration, including the level of fares which is of the utmost concern to members of the public. To the public, when they are provided with railway services, are they going to pay more or less in fares? Or can they pay less on the one hand and enjoy speedier modes of transport on the other, so that they can save time and transport fares? It is certainly most desirable if would be the case.

However, from past experiences, we clearly understand that the reality is cruel, and things will never be as ideal as they are said to be in this Chamber of the Legislative Council. More often than not, it will eventually turn out that members of the public have to pay exorbitant fares and have less choice after the commissioning of a railway. Tung Chung is an example of the very bad situation that has arisen. Residents of Tung Chung have been complaining about inadequate transport facilities in the district. Yet, to Tung Chung, the silver lining is that there is the Airport, and given the development of airport buses, residents of Tung Chung can have a greater choice. However, railway fares are much higher than the fares of other modes of public transport in general and so, residents of Tung Chung feel that they can do nothing but be made subjects of exploitation by the MTR Corporation Limited (MTRCL), and they are entirely incapable of putting up any resistance.

When developing a railway, we must also consider its financial viability. The West Rail is a most notorious example. When the West Rail was first commissioned, there were only 100 000 passengers and slowly, the daily patronage gradually rose to 200 000 but still, there have been serious deficits. What are the reasons for the deficits? The Kowloon-Canton Railway is wholly owned by the Government, and while the MTRCL is a listed company, the Government is still the major shareholder, and generally speaking, the MTRCL is making a profit. As regards the construction of the South Island Line, the MTRCL has said before that huge government subsidies may be required. Why should subsidies be provided to a listed company? Since it is a listed company, the MTRCL should make plans for its railway and carry out expansion works according to its own prudent commercial principles, so to speak, without any government subsidies.

If the railway will be developed using the mode of the Disney Resort Line or Ngong Ping Cable Car, I would entirely oppose it. Since the MTRCL is a listed company, there is no reason for the Government to subsidize its operation with public coffers. It should not allow the MTRCL to develop other projects by way of dividend distribution, thus indirectly obviating the need to obtain funding from the Legislative Council. I think this is despicable and unconstitutional. So, in relation to the development of the South Island Line, I think we must make clear several points: Firstly, can the MTRCL construct the railway entirely on a self-financed basis? Secondly, while the railway will be developed on a self-financed basis, will residents of the Southern District have less choice than what they have now after the completion of the railway?

Thirdly, how will the fares be calculated? To members of the public, when they are given more choices, does it mean that the overall transport fares payable by the public will not put an extra burden on them, and will the fares be reasonable?

Having asked many questions, my conclusion is that this is not a feasible option. The MTRCL has also said repeatedly that it is not feasible. The MTRCL pointed out that the development of the South Island Line requires government subsidies, and even if no subsidies are provided to it financially, the Government should grant land to the MTRCL for it to develop other properties as another form of subsidy. If subsidies are provided to a listed company as such, I would think that the Government is being generous at other people's expenses. Is it not? According to the memorandum of association of the MTRCL or the Mass Transit Railway Ordinance, the MTRCL should operate under prudent commercial principles. Since the MTRCL has made a profit of \$4 billion, it should allocate funds out of its own profit for constructing the South Island Line, instead of asking the Government to develop the railway with the taxpayers' money. Why does the Government not build other roads for the public to reach their destinations more directly and allow a more reasonable division of labour with minibuses or buses? When it comes to ancillary facilities in the overall transport system, the development of a mass carrier system, such as railway, is not always a panacea. Such a system should have regard to the patronage, and consideration must also be given to whether or not the district concerned is busy.

Please take a look at several other railways. Take the West Rail as an example. Since the population is still not concentrated and many of its stations are far away from some high density areas, residents still have to rely on feeder services, and once feeder services are involved, it means that the public have to pay for the extra costs. To go from place A to place B, many people have to first go to the MTR station and after travelling on the MTR, they have to travel again to another place, which means that they need to take two trips and they have to pay for each trips. If the Government can base on the example of Shing Mun Tunnel or Tai Lam Tunnel and provide free feeder service through general bus operation, such as providing free interchange on the same journey, I think services can be delivered more effectively. Under this mode of operation, all means of public transport must pass a trunk road or a major tunnel portal which will be used as an interchange point. The Shing Mun Tunnel is a successful example. So is the Tai Lam Tunnel.

Therefore, having considered the overall situation and given the tragic experiences of the West Rail and the Disney Resort Line, I cannot agree that the construction of the South Island Line be expedited before roads are constructed. I cannot support this motion. Thank you, Deputy President.

MRS SELINA CHOW (in Cantonese): Deputy President, with the Government, the citizens as well as this Council giving support to the Ocean Park for its expansion works, I think it is an indisputable fact that the Southern District will be developed into a major tourist node, just that we have yet to know when this will be materialized.

As we all know, the first phase of the redevelopment of the Ocean Park is already scheduled for completion in 2008. After that, many tourism projects will be kick started one after another with the Ocean Park taking the lead, such as the Fisherman's Wharf or fishing village about which we have heard a lot but have yet seen any substantive development programmes, and also other commercial developments on top of the 70 Ocean Park-related projects. Other than this, as far as I understand it, the 5 000 rooms to be provided by 10 large-scale hotels are expected to be completed successively in Wong Chuk Hang and the Southern District between 2006 and 2009. We can imagine that the entire Southern District will take on a new look by then.

The Panel on Economic Services discussed the development of the Ocean Park at a meeting in November last year. At the meeting we discussed the assessment of the transport needs of the Ocean Park. The Ocean Park Corporation said that according to their assessment, "there will be no significant impact to the local network until well after 2016, and the situation with respect to the major road link, Aberdeen Tunnel, is expected to be less favourable without the MTR South Island Line (East)". I wonder if they have noticed that the current situation is already less favourable from time and time, and sometimes the Tunnel even has to be closed intermittently. The Ocean Park Corporation also said that ".....during the evening peak, the situation is expected to be tolerable in 2011". I do not know who will find it tolerable, but it is definitely not the drivers, as they sometimes already find it intolerable. There would be "very slow trips by 2016; and the departing traffic through Aberdeen Tunnel will be at its peak capacity for much of the day by 2022." This is what the Ocean Park Corporation told us.

As for the Transport Department, in its assessment it is stated that "the traffic capacity of the adjacent road network and major road links will not be significantly affected up to 2011 despite an increase in visitor number using the Park". That is after the new facilities at the Ocean Park coming into operation in 2008. "By 2016, without the South Island Line (East), northbound traffic through Aberdeen Tunnel will experience some traffic congestion and queuing during the evening peak hours. By 2022, without the South Island Line (East), the road network would be overloaded".

The Ocean Park will have launched the first phase of its redevelopment works in 2008. Why is it that both the assessments made by the Government and the Ocean Park Corporation seem to be detached from the reality? Besides, we seem to be very passive in our thinking, as we think that a decision will be made depending on the increase in the flow of people after the new facilities have come into operation in the Ocean Park. Should we think aggressively or passively? That is definitely passive thinking, and an aggressive way of thinking is that since we are going to expand the Ocean Park and we have plans to develop the Southern District into a tourist attraction, should we not provide more convenient transport services to visitors and citizens to facilitate their access to these facilities? If so, should our mass transport system not be improved to this end? Obviously, I have stated on various occasions that this is what we must do and that we should adopt a more aggressive approach.

As we all know, the MTRCL has stated that if they are asked to purely work out an estimate, there will be great difficulties in achieving accuracy. When assessing the flow of people, the MTRCL will certainly work on a lower number, and we do not wish to give it bargaining chips in the negotiation either. But anyhow, we must accept the reality that the MTRCL may not necessarily be willing to launch the project without government subsidies. Therefore, I very much hope that the Secretary, who is in the Chamber now, can expeditiously take this matter forward. The Secretary has said before that a decision can be taken only when planning is completed. Since the planning work has now been completed as the planning for the Southern District was already completed at end-2005, I very much hope that the Secretary can start negotiations with the MTRCL as soon as possible. The development may require \$2 billion to \$3 billion. But looking back on the Disneyland project, the Government provided a subsidy of \$2 billion at that time, and now, 40% of the visitors going to the Disneyland travel on the MTR. We may not be able to work out an estimate of how many people in the Southern District will take the MTR in the future, but I

am sure that this mass carrier system will enable the Ocean Park to recover the costs earlier. It will increase the number of visitors and also expedite the development of the Southern District into a tourist spot. This transport facility will be used not only by overseas tourists, but also for the enjoyment of our citizens. In this connection, I hope that negotiations can commence and conclusions be drawn as early as possible for our *(the buzzer sounded)*.....discussion in the Legislative Council.

DEPUTY PRESIDENT (in Cantonese): Time is up.

MRS SELINA CHOW (in Cantonese): Thank you, Deputy President.

MISS TAM HEUNG-MAN (in Cantonese): Deputy President, if we look at a map of the coverage of the railway network in Hong Kong, we will find that among the 18 districts, only the Southern District on Hong Kong Island is still blank. Why is the Southern District, being one of the districts that saw early development in Hong Kong, still not connected by any railway line when all other new towns in Hong Kong already have railway lines cutting through them?

Does the Southern District on Hong Kong Island really need a railway line? On this, the Government and the railway corporation concerned have conducted quite a number of studies of various scales over the years. The results of such studies show that the Southern District of Hong Kong Island needs such a railway. The development plan of the MTRCL has incorporated the construction of the South Island Line into it long ago. However, residents of the Southern District have been waiting for an unduly long time, but the implementation of the railway project is still not in sight. How many more years do they have to wait?

Earlier on, the Legislative Council approved the financial arrangement for the redevelopment plan of the Ocean Park and this means that the relevant project will be launched soon. According to the information provided by the Government, the Ocean Park after redevelopment will in the long run attract 7 million visitors each year and the increase in the number of people is more than 50%.

I own a property in the Southern District on Hong Kong Island, so I often have to travel to the Southern District. I find that at the bottleneck of the Southern District, that is, the Aberdeen Tunnel, traffic congestion occurs during rush hours or when the Ocean Park is doing a brisk business. If the authorities are really intent on developing the Southern District into an important tourism area, and if, in addition to redeveloping the Ocean Park, other attractions will also be added, the transport system should be enhanced significantly. A study points out that if the number of tourists to the Southern District increases but the South Island Line is not constructed, the Aberdeen Tunnel will become over-burdened. More specifically, the temporary closures enforced during rush hours in the Aberdeen Tunnel at present will occur throughout the day and there will be traffic congestion at all times.

My greatest concern about any infrastructural project or project involving considerable investment is the cost-effectiveness of the project. If the Government commits large sums of money to developing the Southern District into a major tourism area, there must be an appropriate complementary transport infrastructure, otherwise, no matter how beautiful and entertaining the facilities are, they will not be able to attract more tourists and in the end, the investments made by the authorities will not yield the expected return. Will this not then be yet another instance of a waste of public resources?

Apart from attracting the considerable spending power that comes with tourists to the Southern District, a well-developed mass transit system can also drive the development of the whole local community. Therefore, according to reports in the press, residents in the Southern District are indeed looking forward to the construction of a railway day and night.

Some people may be worried that the construction of the South Island Line may lead to vicious competition among the various transport carriers in the Southern District, thus affecting the profits and even the livelihood of workers providing other types of transport services. However, according to studies, building this railway will not have any significant impact on existing transport carriers. In fact, to put it simply, the construction of the South Island Line is intended to a certain extent to complement the development of the tourism infrastructure. Even if it is not constructed, the existing road network and the various transport carriers will not be able to absorb the increase in the number of visitors. Therefore, the situation where various transport carriers compete with one another for a living will probably not arise.

Regarding when the South Island Line should come into operation, we should consider two important factors. One of them is the actual time needed for its construction and another is the pace of development of the Southern District. As far as the time needed for its construction allows, the authorities should try to meet the request made and make this the goal of the project. Unless the authorities can offer highly compelling technical reasons against it, otherwise, we cannot really see any reason for objecting to the amendment.

Deputy President, the aim of developing transport facilities is to complement the investment in other infrastructural projects and dovetail with the long-term development of a community, or to make things convenient for the residents in a community. If a transport infrastructural project is cost-effective, it should be launched as soon as possible. I hope the South Island Line can be constructed, completed and commissioned as soon as possible, so as to give the Southern District a new development opportunity. I so submit. Thank you, Deputy President.

MR MA LIK (in Cantonese): Deputy President, as we all know, the external links of the Southern District on Hong Kong Island consist only of the Aberdeen Tunnel and the Pokfulam Road. At present, these two access roads can hardly meet the need of the district for external transport links because traffic congestion occurs frequently during rush hours on ordinary days, thus causing great inconvenience to residents. Moreover, there are also many tourism resources and attractions in the Southern District that appeal to the public and tourists. As a result, serious traffic congestion occurs in the Southern District even on public holidays.

At present, the Government has designated the Southern District as the focus in tourism development and carried out a series of development planning, including the redevelopment of the Ocean Park and the development of a tourism node with a fishing port theme. As a result, the Government's attitude towards railway development in the Southern District has become more positive.

In fact, even without these redevelopment or development plans involving tourism facilities, an MTR network should still be constructed in the Southern District. The Southern District covers almost half of Hong Kong Island. However, most of its 290 000 residents are concentrated in an area covering

Wah Fu, Aberdeen, Wong Chuk Hang and Ap Lei Chau. According to the Guinness World Records, Ap Lei Chau, with a population of 80 000 to 90 000 persons living in an area of 1.3 sq km and a population density of 60 000 persons per sq km, is the most densely populated island in the world.

As we all know, as early as 1999, in the Third Comprehensive Transport Study, the Government already suggested the need to construct new railways to access towns which were not connected to the railway system and the area covering Aberdeen, Wong Chuk Hang and Ap Lei Chau, with their high concentration of residents, was mentioned in particular. Unfortunately, the South Island Line was not included in the Second Railway Development Study for "financial reasons". Subsequently, since it has to be examined together with Route 4, it turned out that both items were delayed. To date, no conclusion has been reached on these two items and this has caused great disappointment among residents in the Southern District.

In late June last year, the Government requested the MTRCL to commence the preliminary planning and design for the West Island Line. We can see that the three stations of the West Island Line will serve a total population of 140 000 people within their service areas, and on average, each station will serve less than 50 000 people. Strictly speaking, the population size cannot meet the requirements for the construction of new stations. In terms of population, the areas covered by the South Island Line and the West Island Line are quite similar. Insofar as the cost of construction is concerned, according to some reports, the cost for both of them will be about \$6 billion to \$7 billion and the Government will only have to inject about half of the funds. If the construction of the West Island Line is necessary and feasible, then the same should apply to the South Island Line. The future tourism development plan for the Southern District should be able to enhance the financial appeal of the South Island Line, so the Government's bargaining chips in its negotiations with the MTRCL concerning the financial arrangements can also be enhanced.

It is necessary to point out that the MTRCL is a listed company and it has to be accountable to its shareholders. The fact that the MTRCL is willing to construct the South Island Line is proof that it has assessed the development prospect of the Southern District and believes that as long as there is an appropriate injection of capital by the Government, the construction of the South Island Line is financially viable and the railway can pay for its own costs of construction and daily operation.

If we consider the commitments that the Government has to make, we will find that it is more cost-effective to invest in railways than in highways. Take Route 4 as an example, it is estimated that an investment of \$10 billion from the Government is required and the annual cost of repair and maintenance may be more than \$10 billion. In contrast, the cost of constructing the South Island Line is only \$6 billion to \$7 billion and the Government only has to foot half of the bill, while its future cost of operation and maintenance will be borne by the MTRCL.

Of course, railway transport cannot completely replace road transport. However, according priority to railway is a transport strategy that has the approval of the community. In particular, in terms of environmental benefits, railway enjoys an incomparable edge and its construction is suitable for areas such as the Southern District, where the emphasis is on tourism. There are concerns that the MTRCL is merely setting it sights on the property development projects along the railway line. I think that the Government should look at this from the viewpoint of stringent financial assessment and reasonable arrangement. Whether the Government will use property development as a means of capital injection is not an issue because railway projects can never be carried out solely with private investment.

Last month, during the convening of the WTO Conference, road closures were implemented on Gloucester Road on Hong Kong Island. On that day, it so happened that I had to go to the Southern District. In the end, it took me two hours to reach my destination. The reason is that the two access roads I have mentioned before were both blocked. Therefore, I had to spend as many as two hours before I could reach the Southern District to attend a ceremony. On that day, the first thing that I said at the ceremony was, "I can truly appreciate the need for an MTR extension that goes to the Southern District direct." Therefore, I hope that on the issue of constructing the MTR South Island Line, the Government will not delay any further. Rather, it should make a decision as soon as possible and bring good news to the residents of the Southern District. I so submit. Thank you, Deputy President.

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

MR WONG KWOK-HING (in Cantonese): Deputy President, in view of the rapid development of the tourist industry in Hong Kong, this Council approved

the Ocean Park Redevelopment Plan last month in order to attract more visitors to Hong Kong in the future. This is welcomed by the general public. Of course, to match the increase in the number of tourists, apart from providing recreational facilities at the Park, a complementary transport network is also indispensable. However, the design and planning of transport facilities must give careful consideration to the balance between railway operation and the operation of other types of land transport, and a balance between the need of residents to bear high transport costs and the use of public funds must also be struck. The Government has the responsibility to identify the highest common factor that yields the greatest public interest.

At present, the transport sector relies on the Aberdeen Tunnel and the Pokfulam Road in the Western District to travel between Central and the Southern District. With the increase in population and the number of tourists, the present trunk roads will no longer be inadequate. The construction of new trunk roads or a railway will become an important solution. However, the transport sector, in particular, professional drivers in general are worried that the construction of a new railway will deal a serious blow to their operation. Moreover, soaring oil prices have already imposed a heavy burden on their operation. It will be truly difficult for them to compete with the railway company, which is rich and powerful. For instance, soon after the commissioning of the MTR Tseung Kwan O Extension, the number of passengers using non-franchised bus services and maxicab services dropped drastically by 87% and 70% in no time. As a Member of the Panel on Transport, I remember clearly that the Panel had discussions on this issue last February and the trade unions generally supported the construction of Route 4 instead of a railway.

In addition, in recent years, the Government has been vigorously advocating a policy of "Priority to Railway" and continues to develop rail links for public use. However, the construction of railways often requires enormous investments. For example, the cost of constructing the West Rail is as high as \$46.4 billion. Apart from expending large sums of public funds, in order to cover the high cost of construction, railway fares are generally higher. Ultimately, the high cost will again be transferred onto the public and this of course includes residents of the Southern District. Is this reasonable and fair to them? How can the Government make them pay more in travelling expenses? The lesson of the West Rail is still fresh in our mind. The lesson imparted by the West Rail is that before planning for railway development, careful estimation and assessment must be carried out to ensure that public funds are used reasonably and that local residents can afford the fares.

Lastly, I hope that before planning any railway development project, the Government will first carry out careful planning and extensive public consultation, then conduct prudent studies. It must not make rash or hasty decisions. If there is an insufficient number of passengers, it may be better to build new trunk roads instead. In this way, the transport needs of the Southern District can be met and at the same time, new business opportunities can be created for the sector. I so submit. Thank you, Deputy President.

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

(No Member indicated a wish to speak)

DEPUTY PRESIDENT (in Cantonese): Mr Howard YOUNG, you may now speak on Dr YEUNG Sum's amendment. You have up to five minutes to speak.

MR HOWARD YOUNG (in Cantonese): Deputy President, the amendment moved by Dr YEUNG Sum to the original motion has only added the request for the commissioning of the South Island Line in or before 2012. So it carries primarily the same implications as the original motion, and there is no difference between the two.

I have just noticed that, in Dr YEUNG Sum's speech which lasted for about 10 minutes, it appeared that only one reference was made to his own amendment, whereas the rest of his speech was all dwelling on the original motion. Among the 14 Members who have spoken, only a few of them have mentioned 2012. With regard to Dr YEUNG Sum's amendment, the Liberal Party will support it.

(THE PRESIDENT resumed the Chair)

The construction of the South Island Line has been the aspiration of the residents of the Southern District for many years. Of course, the sooner it is implemented, the better it will be. And the original motion has also made reference to urging the Government to expedite the construction of the Line.

However, Dr YEUNG Sum specifies that the Line should be commissioned in or before 2012. This has imposed a limitation on the project. On the question of whether this Line can be commissioned in or before 2012, some people say that this limitation may be too tight because according to the estimate of the MTRCL, even if the project is given the green light today, it will still take at least six years to complete the construction of the South Island Line. Yesterday morning, certain MTRCL staff members disclosed in a radio talk show that the environmental impact assessment alone will take one year, not to mention other types of work involved. Of course, the sooner the Line is commissioned, the better it will be. However, the truth is, it looks rather unlikely that the Line can be commissioned in or before 2005. Therefore, regarding the proposal of constructing the South Island Line, the Government still cannot make the decision, even though much discussion has been conducted on the subject.

Besides, the Liberal Party hopes that, after the plan has been given the green light, the MTRCL will not implement the project in a hurried and sloppy manner in order to achieve the specified time target, thus bringing about negative consequences. However, I believe it will not turn out this way. The track record of the MTRCL does not suggest anything like that. I also believe that the MTR South Island Line, which the people have been longing for its construction, will eventually emerge as a safe and reliable railway system. Right now, all we are waiting for is nothing but the green light to be given by the Government.

I have been wondering: As the original motion has already mentioned our urging the Government to expedite the construction of the project, which means as soon as possible, then when Dr YEUNG Sum added "for commissioning in or before 2012" to the motion, I do not know whether there are any special reasons which make him worry that the railway might not be commissioned even after the completion of its construction? Is the amendment moved only for the sake of moving amendments, which is most unnecessary? As a matter of fact, how meaningful is it? After all, we still think that it is not necessary for us to oppose this amendment, so it will have our support.

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): President, first of all, I thank Members for expressing many views on the proposed construction of the South Island Line. My thanks also go to Mr Howard YOUNG for proposing this motion. With regard to transport policies, the Government has always worked in a long-term and forward-looking

direction, given the need to complement the overall development of society, including the needs of economic activities and environmental protection. Insofar as public transport in Hong Kong is concerned, performance has been very good whether in respect of management or service quality. I believe Members have met friends from overseas countries, and in comparison, they also consider our public transport one of the best. Besides, many returned emigrants have told me that the management of public transport in Hong Kong, though being such a small place, is indeed first-class. I am not blowing my own trumpet. In fact, this should be attributed to the efforts made by my predecessors, and it is also because of the established forward-looking policies of the Government that there can be such good performance.

With regard to the views expressed by Members today in support of the construction of the South Island Line, I fully agree with them. All these are entirely undeniable facts. However, the Government has the duty to balance the comments and views of all sectors of the community and make consideration from all perspectives. More often than not, as we are in different positions, we may not see eye to eye with each other. I understand that the elected Members need to fight for a more convenient and expedient transport system for their constituents. When they demand the construction of an additional railway, the colossal costs involved are just money out of the Government's pocket and this, of course, will not be a problem to them. An additional railway will obviously provide greater convenience, and traffic congestion will also be eased as a result, but this is not the right attitude that we, being a responsible government, should take in making investments with public money. For this reason, I do not agree with the comments made by some Members including Dr KWOK Ka-ki that we lack vision, refuse to listen to opinions and work on incomplete information. These views are exaggeration to which I must take exception. He also alleged that the Government is oblivious to the situation of the public in traffic jams. I cannot agree with this flimsy argument either. Having said that, I share many views put forward by other Members.

On the issue of traffic congestion, in fact, in this small place of Hong Kong, the main roads are set to be congested to some degree during rush hours. It is impossible to expect congestion to disappear in Hong Kong, and it is just a matter of how serious the congestion is. In Hong Kong, we have a set of scientific methods to base our assessment as to what extent traffic is congested when congestion is considered intolerable. This is an approach adopted by big cities. This is the practice of such metropolis as New York, London and Paris.

If, in a big city, traffic is smooth with not the slightest congestion, just as it was during the SARS outbreak in Hong Kong, then there must be a problem with this city. I wish to tell Members that the Government will not act rashly. The statistics are worked out in a scientific way and then we will accord priorities. On deciding when there is a pressing need to provide new road access (be it roads or railways), we must, given limited resources, make stringent scientific assessment and calculation before putting anything into practice.

In this discussion, I have noticed several major issues and I wish to discuss them with Members. First, the development of the Southern District. The redevelopment of the Ocean Park has been finalized and this is certainly good news. We also hope that the development of tourism in Hong Kong can be taken forward. The annual patronage of the Ocean Park is also projected to increase from some 3 million to 7 million in 2022. The number of visitors is expected to increase gradually in the interim. We can look at the example of the Disneyland. When Hong Kong people or visitors coming to the territory under the Individual Visit Scheme visit our tourist spots, they often travel by a particular type of transport, namely, tourist coaches. So, even if we provide many new bus routes for the Disneyland, they would eventually be operating at a loss, for these direct bus routes would not have sufficient passengers. Certainly, the Sunny Bay Station of the Disneyland Resort Line is very popular. This, we understand. It is because the station is convenient, and it is also due to the novelty of the station. The MTR in Hong Kong is indeed highly reputable in the world.

Another consideration is the planning of the district. Today, we heard that many Members agreed to developing a completely new look for the Southern District. But the construction of an additional railway will also affect property development along the railway line, and the look of the entire district may also change subsequently. Many wealthy people living in the Southern District told me that they very much would like the Southern District to be included in the railway catchment. I asked them if they wish to travel on the MTR. They said that they do not, just that they hope more people can travel on the MTR, so that they can arrive in their office more expediently when driving to work. Some people do hold this view.

With regard to the percentage of traffic flow, in London, for instance, after the implementation of electronic road pricing — they use a different name for the system, but it is the same system — the percentage of traffic flow has only

reduced by a very small margin (of less than 10%), but the overall traffic conditions have become smoother indeed. That is why I said that after the construction of the railway, some people will certainly travel on it, but will its patronage be sufficient to ensure cost-effectiveness of the railway? How much government subsidies will be required? To decide on the feasibility of constructing this railway, do we purely consider the needs of tourism, or do we focus on meeting the needs of the residents? The West Rail has taught us a very good lesson. It was after much hard work that its ridership is increased from 100 000 to 200 000, but the figure still falls far short of the projected ridership of some 300 000 to 400 000. Sometimes, during visits, I would ask the people why they did not use the West Rail — as Members said earlier, Hong Kong people like those means of public transport which provide point-to-point service — they replied that they will need to interchange for many times if they travel by the West Rail. So, even though free feeder bus services are provided for passengers to interchange to the Light Rail and the Kowloon-Canton Railway, they still prefer to take point-to-point buses. After the railway is constructed, the usage and the significant increase in the operational cost are factors that the Government must consider. I am not saying that this is a dead end, but we must clearly understand the situation. As I always say, "We are walking with our eyes wide open". I hope Members will understand that there is a price to pay to construct a railway. Considering the very low density of population (a large number of residents can be found only in one or two housing estates in the district), we have to project that usage of this railway will be on the low side, and even may not reach the level of ridership as expected during the design stage.

We are now waiting for the report of the Planning Department, which should be completed by the end of last year, but we have yet received it. However, transport development must go hand in hand with planning, and the report will state clearly the difference between our projection in the RDS (Railway Development Strategy) in 2000 and the current situation of population growth. The reason is that the growth of population has slowed down indeed, and when we are to carry out planning all over again now, we need to reconsider all the factors.

As mentioned by two Members earlier on, various modes of public transport, including minibuses, buses, taxis and residential coaches, have all expressed concern about resultant vicious competition after the construction of the railway, because Hong Kong Island is a key area of business to them. At

present, a total of 85 franchised bus routes and 40 green minibus routes are servicing the Southern District. At a meeting of the Legislative Council Panel on Transport in May 2004, they petitioned Members, and during the discussion at that meeting, consideration was given to the competition between the railway and other transport trades. They called on the Government to consider the operational conditions of these modes of public transport and not to turn a blind eye to their operational conditions. Some Members said that they hope to achieve a win-win situation for four parties, but I am afraid that it will not be easy. In any place accessible by railway, the business of other modes of public transport will certainly be affected. We hope to strike a balance through this report of the Planning Department, and we also need to conduct studies on whether the construction of this additional railway will inevitably cause an impact on all means of public transport of all scales, big or small, and also how we should tackle such impact.

Moreover, in the debate, a number of Members mentioned the impact on the environment. In general, they considered that railway development can reduce the impact on the environment in such aspects as noise, air quality and landscape, and also reduce the needs for reclamation. Certainly, this is very true if we compare it with the original design of Route 4, for the section between Kennedy Town and Aberdeen, which was a proposal under the Western District Development, also involved reclamation in the Western District. This project is more complex and difficult, and will cause a greater impact. As it requires reclamation in the Victoria Harbour, I believe it will be very difficult for this proposal to be approved. But why do we still propose it for Members' consideration? It is because we need to consider the difference in the overall policies between railway and roads. In both cases, the Government is required to meet part of the investment, and the patronage of this type of railway, in particular, may not be very high. Each new railway will involve huge investment, and the Government also has to make commitments for it. Unlike other means of public transport, flexible redeployment in response to changes in public demand may not be possible insofar as railway is concerned. Take bus routes as an example. Redeployment can be made anytime in that more routes can be provided and bus routes can also be cut; and when there are not sufficient passengers, small buses can be used to replace the big ones. In fact, after the construction of the railway, even when the ridership is low and the revenue from fares cannot meet the operational costs, such as electricity tariffs, staff wages, repair and maintenance costs, and so on, the operator must still continue to meet these costs. In the case of the West Rail, for instance, although there are only

200 000 passengers, the operator still has to meet the costs for the projected ridership of 400 000. Yet, its operation must continue, and it is suffering a loss in its operational costs every month, and the question of responsibility still has not been resolved. I do not wish that after constructing a very expensive railway, the burden will ultimately fall on the public and passengers. If the railway fares are too high, the public will not choose it, and this will not serve the purpose of constructing this railway.

In the long run, railway operators must recover the construction cost. Therefore, when we compare the injection of government resources or social resources into railway and into other public transport facilities, we must consider more thoroughly and prudently our investment in railway development, because once we set the ball rolling, there can be no turning back.

In the entire discussion, we very much hope Members can understand that the Government has not been selective in listening to public views. I would be glad to know that at least most Members would throw weight behind the railway if it would really be constructed in the future. But in the process, I believe Members will be understanding, and I think they also hope that the Government will consider the matter with great care. It is because the MTR Corporation Limited will have to assess the cost-effectiveness of any railway that it is going to construct, and if it is found that a railway line may not necessarily yield the expected rate of return, then the Government will have to make investment with public coffers. At a rough estimate, this South Island Line will cost over \$10 billion. As to how much government subsidies are required, we are still considering it. As I said earlier, careful and detailed consideration is always warranted in everything.

Here, I would like to mention in passing the problem of traffic congestion at the Aberdeen Tunnel. Traffic in the tunnel is congested during a certain period every day. There are many factors contributing to congestion, and the problem is not only confined to traffic from the Southern District to other parts of the territory. A reason for the congestion is the bottleneck that exists in Wan Chai near the entrance/exit of the Cross-Harbour Tunnel. If this problem is not alleviated, it will be difficult for the problem at the Aberdeen Tunnel to be solved. We are actively working with the Western Harbour Crossing Company and the Eastern Harbour Crossing Company to study whether the traffic flow from the Canal Road to the Cross-Harbour Tunnel can be eased through toll adjustment of the three tunnels.

We understand that in putting forward this proposal, Mr Howard YOUNG hopes that the traffic capacity can cater for the tourism projects upon their completion, so as not to disappoint the tourists. Our colleagues responsible for transport matters will continue to actively conduct studies in this regard. After the Planning Department has completed its report, we will draw a conclusion together and then we will again bring it to the Legislative Council for discussion.

Thank you, President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the amendment, moved by Dr YEUNG Sum to Mr Howard YOUNG'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.

(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 amendment passed.

PRESIDENT (in Cantonese): Mr Howard YOUNG, you may now reply and you have three minutes 32 seconds.

MR HOWARD YOUNG (in Cantonese): Madam President, it is an indisputable fact that residents in the Southern District are very dissatisfied with the traffic jams in the Southern District. In the past few years, the Government has done a lot of work in the Southern District but it seems this has not been helpful to the most crucial problem, that is, the traffic condition of the Aberdeen Tunnel. Just now, I noticed that of the 14 Members who have spoken (and I thank these Members for taking part in the debate), more than half of them have mentioned

the problems relating to the Aberdeen Tunnel and they include Ms Audrey EU, Mr LAU Wong-fat, Dr KWOK Ka-ki, Mr Patrick LAU, Mr LI Kwok-ying, Mrs Selina CHOW and Miss TAM Heung-man. However, concerning the problems relating to the Aberdeen Tunnel, the Government has said that they may not be really that serious.

The construction of a railway may have something to do with the tunnel, but how is it relevant to tourism? The movements of tourists are different from those of members of the general public. When we talk about tourism, do not just think of the Ocean Park because there will also be more than a dozen hotels with several hundred staff members each. In addition, the transport of guests to and from hotels every day will also generate traffic. Moreover, the present trend in tourism is that more tourists are taking the MTR and visiting Hong Kong on an individual basis, so not everyone is travelling by coach. The Secretary also mentioned the Disneyland Resort Line just now. One day, at about 10 am, I took the MTR Tung Chung Line from Central. When the train left the station, it was already full. When it reached Sunny Bay Station, 70% of the passengers alighted, so it can be seen that the Disneyland is quite a success. If a tourist attraction can be reached by rail direct, it will be very popular.

Of course, another focus today is the issue of co-ordination. I notice that Ms Miriam LAU, Mr LAU Wong-fat, Dr Raymond HO and Mr WONG Kwok-hing have all pointed out the need for co-ordination and creating a win-win or an all-win situation. I also agree that this is very important.

On financing, Mr Alan LEONG and Dr Raymond HO have mentioned the issue of financing for the railway in their speeches, whereas Mr MA Lik has talked about according priority to railway construction. On financing, some people consider that no subsidy should be provided and Mr Albert CHAN even objected to doing so. However, being the sponsor of the motion and just like the Liberal Party, I will keep an open mind on the method of financing. The Government has considered this carefully and perhaps we can also think about this and lend our support. Concerning the importance of constructing the South Island Line to tourism, other Members have talked about this at length in their speeches. This is not just about tourism, for it is also closely related to the prosperity, employment opportunities and commercial development in the entire Southern District.

In the first motion debate of the new year, there is a sense of harmony in the Chamber and Members have shown their support for one another. This is a

good start. As regards other debates, I dare not venture to comment on them.
(*Laughter*)

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Mr Howard YOUNG, as amended by Dr YEUNG Sum, 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 as amended passed.

PRESIDENT (in Cantonese): Second motion: Comprehensive review of labour legislation.

COMPREHENSIVE REVIEW OF LABOUR LEGISLATION

MR WONG KWOK-HING (in Cantonese): Madam President, I move that the motion as printed on the Agenda be passed.

In October last year, a contractor of cleaning services not only defaulted in wage payment and withheld rest days but also prevented workers from taking part in trade union activities. As a result, the workers brought the case to the Court and the Magistrate at the Kowloon City Magistracy meted out a severe punishment on the company and pointed out that labour legislation in Hong Kong

was backward. This remark in the judgement passed by the Magistrate inspired me to move this motion today.

Madam President, the existing Employment Ordinance was enacted in 1968 and it has a history of almost 40 years. There have been some amendments and supplements to it since enactment. However, when the law was first enacted, Hong Kong was an economy mainly composed of manufacturing industries and the law was made with reference to the then prevailing employment relations and social conditions. Provisions were formulated to address problems faced by workers at that time and protection was offered by these provisions accordingly. In those days industries were booming and when employers hired workers to engage in production, the employment relationship between them was, as a general rule, clear enough. Even if there were controversies related to piece-rated workers and outworkers, and so on, the matters could be settled in the Court. It was pointed out that provided that certain conditions were met, employment relationship still existed and the employer concerned should bear the responsibilities as specified in the law.

However, as times have changed, Hong Kong has now changed to a predominantly service economy and as the employers try all sorts of ways and means to evade their liabilities, there is a total distortion of employment relationship. The labour legislation we have now was enacted some three or four decades ago and it is out of tune with the times. It fails to protect the employees. There are employers who love to exploit the loopholes in the labour legislation and evade their responsibilities to employees and society. The Government is doing the same thing as well because it takes the lead to change permanent posts into temporary, contract or outsourced posts. Therefore, I hope that with this motion debate today, Members can present their views and urge the Government to undertake a comprehensive review of all items in the labour legislation. Of course, the debate process may not necessarily be fiery as Mr Howard YOUNG has put it.

What have served to change employment relationship most markedly are the myriad of ways of "de-employment" by resorting to making workers self-employed or engaged in contract, part-time employment and outsourced services. In the past, there were only very few people who were self-employed. These people were those who really had a certain amount of capital which enabled them to be self-sufficient from the income of the small business they ran. But now many self-employed people have been forced to become such and they are not owners of any business.

As we begin our review from the year 2000, at that time there were 165 000 self-employed people (or 5.1% of the total workforce). Then in 2001, the number surged to 215 000 (or 6.5%). Then in 2004, the number jumped again to 230 000 (or 7.3%). Does it really mean that there are so many people who have the abilities to become self-employed? Are there really so many people who have become bosses? Or if they used to be employed, but now they have been forced to be self-employed? Of course, the answer from the employers is most likely to be the former. They will say that as the economy fares better, more people have become bosses. But the ordinary people know it very well (as they may be the victims) and they will say that these people have been forced to become self-employed people.

The above figures show that during the time from 2000 to 2001, the number of self-employed surged by 50 000. The reason as everyone knows is that at the end of 2000 when the Mandatory Provident Fund (MPF) system was launched, some unscrupulous employers forced their employees to become self-employed because they did not want to pay the MPF contributions. The legacy of this kind of "de-employment" arrangements is still felt today and the construction industry is most adversely affected by it. In the construction industry, there are greater risks of accidents and industrial accidents than other trades. Ever since this tide of forcing workers to become self-employed people has swept across the entire construction industry, many workers have been unable to get any compensation after they are injured as the risks are not borne by the employers. At the same time, insurance premiums keep on surging and workers cannot afford to take out insurance even if they want to and if they do not have any insurance, they will not be offered any work, unless workers do not care about their life, prepared to work illegally without taking out any insurance. But when an accident happens, the workers will not be paid a single cent. The scaffolding workers are therefore in a most difficult situation. These workers are put in a dilemma and no assistance from the existing employees compensation system can be expected, for the system has failed to keep itself abreast of the times.

Madam President, these changes in the form of employment to being self-employed, contractual or part-time employment or engaged by a contractor of outsourced services, and so on, have made the existing Employment Ordinance useless. It seems that the employers can play tricks and all of a sudden, there is no longer any employment relationship existing between them and the employees and gone are also at least 10 statutory entitlements which employees should be able to enjoy under the law, including rest days, paid

holidays, payment in lieu of notice upon dismissal, end-of-year payment, sickness allowance, maternity protection, severance payment, long-service payment, prevention of discrimination against trade unions and such like protection accorded under the Employment Ordinance. In some cases, even the original wages are slashed.

Madam President, I would like to cite an obvious example to illustrate the problem. As Members may know, a classic example is the outsourced services of the PCCW. The workers wear PCCW uniforms but they are self-employed in capacity. Three years ago, PCCW asked the employees to form companies and undertake the works it would contract out. The result is that many departments in PCCW have become a number of contractor companies. In the few years afterwards, PCCW has been cutting back on the contract fees on numerous occasions. Workers in the contractor companies have also had their wages slashed greatly on numerous occasions. The cumulative cut is more than half of their original income, from some \$16,000 originally to some \$7,000 now. On top of it, workers have lost many of the rights and benefits to which they were originally entitled. These so-called small bosses are really pitiable. What PCCW is doing is clearly to lay off its staff and make a pay cut, but it is outrageous to find the boss of the PCCW say without any hint of shame that this is a matter of the contractor companies and it is none of its business. The latest development is that the money a worker makes each day will depend on the number of orders he or she can take each day and they will have no income when they do not have any orders. The employment relationship has thus become one which depends on the number of orders placed. We can just imagine what kind of world this will become.

In view of these, I think the Government will respond this way: Even if the Employment Ordinance is amended, it will not help solve all the problems caused by self-employment and outsourcing. However, if the Government is willing to undertake a full-scale review of the labour legislation and if it is willing to do a "body check" of the law, I think the Government will at least want to think of some ways to make some improvements, such as improving the existing employees compensation system and establishing a centralized employees compensation system so that even the self-employed can be insured.

Moreover, the Employment Ordinance has the so-called "418" requirement, that is, a worker must work continuously for the same employer for four weeks and 18 hours each week before he is regarded to be in continuous employment and hence entitled to protection under the Employment Ordinance

and he will be able to enjoy the statutory entitlements prescribed by labour legislation. But what these unscrupulous employers are doing is that they will rack their brains to find all kinds of excuses and ways to change many jobs which fit the "418" requirement originally so that the employees will never meet the employment requirements for "418". These include asking the workers to work only 17.5 hours every week or dismissing them after they have been employed for nearly four weeks, or changing the method of salary payment all the time to show that the employee is actually working for different employers, and so on. The Government should expeditiously amend this "418" requirement in the Employment Ordinance or enact new laws to protect part-time workers. This is because they are also employed and they should get the minimum protection offered by the Employment Ordinance.

Lastly, I must also point out that as there has been a massive outflow of local positions in recent years, many workers are forced to go to the Mainland or Macao to earn a living. But the SAR Government gives little support and protection to those people who work outside Hong Kong. Recently, a serious industrial accident took place in Macao and two Hong Kong people were killed. The victims' family members spent two days negotiating with the authorities in tears outside the mortuary — alone and unassisted. Then they were forced to sign papers before they had confirmed the identity of the deceased and got back the dead bodies of their husbands. But various kinds of documents of the deceased were still retained there. From this incident we can see that workers employed outside Hong Kong are just like orphans. How can we stand such kind of things?

Madam President, at the beginning of last month I listened to the radio and heard C Y LAM, Director of the Hong Kong Observatory, say something most humane. He was of the view that employment relationship these days was no better than the slavery system in the ancient times. He said the following to this effect, "In the modern age, the family of the employees is not taken into consideration and in this respect, it is even worse than in the ancient times.....A reasonable income should be sufficient to feed the family of the employee and sustain it.....The result of enhancing efficiency should be easier and less work, and more wages, instead of longer working hours." After listening to these remarks, a lot of feelings swelled in me.

Though the Director of the Hong Kong Observatory does not belong to the labour sector, maybe due to his affinity with nature and his love for it, his remarks sound closer to human nature. His words are kind and they show that

he attaches great importance to social justice. I hope other officials who are likewise civil servants like the Director of the Hong Kong Observatory will learn from him and emulate his love for nature and compassion for the hardship of the workers and do more good and charitable things for the workers in terms of the law and administrative matters. I also hope all the more that Honourable colleagues will support my original motion.

A few other Members of this Council from the Hong Kong Federation of Trade Unions would further elaborate on the approach to be taken for conducting a full-scale review of the labour legislation. Thank you, Madam President.

Mr WONG Kwok-hing moved the following motion: (Translation)

"That, as the economic pattern and labour relations in Hong Kong have changed, the existing labour legislation cannot keep abreast of the times and fails to improve the protection of workers' rights and benefits, this Council urges the Administration to expeditiously conduct a comprehensive review of various legislation relating to labour matters."

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

PRESIDENT (in Cantonese): Mr LEE Cheuk-yan, Mr LEUNG Yiu-chung and Mr Andrew CHENG will move amendments to this motion respectively. The motion and the three amendments will now be debated together in a joint debate.

I will call upon Mr LEE Cheuk-yan to speak first, to be followed by Mr LEUNG Yiu-chung and Mr Andrew CHENG, but no amendments are to be moved at this stage.

MR LEE CHEUK-YAN (in Cantonese): President, on behalf of the Hong Kong Confederation of Trade Unions, I propose to amend the original motion of Mr WONG Kwok-hing. However and apparently, we do not hold any difference in opinions with Mr WONG Kwok-hing and we only think that since a "comprehensive review" is going to take place, then I may as well do something. I have listed out items that must be reviewed and compiled a to-do list for the Secretary so that he can complete these 16 items according to the list.

President, there are two recent stories in the newspapers. One makes me furious and the other makes me sad. The first is that the Government made a recent announcement that Hong Kong is the freest economy in the world. This is because the Heritage Foundation of the United States says that Hong Kong has the freest economy. That is why our Government says that there should not be any minimum wage or regulation of working hours locally so that the economy can stay on being free. I was furious because, speaking of Hong Kong or the world, what is after all the most important thing? Is a free economy really the thing that we are most eager to pursue above everything else? And is there no need to care about the human factor? It is true that the economy is free, but men have become slaves of work. Those giant consortia which have reaped benefits and amassed huge profits from a free economy will certainly say that they want a free economy. But what about those employees who are being exploited and who have long working hours and low wages and insufficient protection? They are the slaves of work. So I condemned the Heritage Foundation of the United States, despite the fact that I had met its members once. I said to them that that they only cared about the rightist, most primordial principle of a free economy but they did not care about the human factor at all which in my opinion should be taken into account by society.

The second story makes me very sad. It is about a Judge in Tsuen Wan who has spoken the mind of the workers. This Judge was trying a case and it was about how workers were exploited by a cleaning service contractor. The workers were asked to pay back what they earned, thereby destroying the whole idea of a minimum wage imposed originally. The Judge pointed out that labour legislation in Hong Kong was very backward. I share his view and I could not agree more.

Labour legislation in Hong Kong is really extremely backward. Often times Hong Kong brags about how advanced it is, but our labour legislation is only comparable to that in the Third World. Our labour legislation is backward. It lacks such basic elements as a minimum wage, regulation of working hours, the right to collective bargaining, and so on. The whole society is very unbalanced. The Government is only inclined towards the interests of the giant consortia and mega tycoons. Please do not talk about the small and medium enterprises (SMEs) and things like that later on. Actually, at times the SMEs are better than the big businesses. Often times it is the big businesses and giant consortia that exploit the workers most, but the Government is protecting their interests, hence accounting for the backward state in labour legislation.

This is particularly the case for the seven years after the reunification. The period can be said to be the ice age of labour legislation. If we check out what has been amended in the labour legislation during these seven years, we will only find that the only improvement made is in the area of occupational safety. Speaking purely about the Employment Ordinance, there have indeed been amendments of a technical nature, but as for amendments which do not belong to a technical nature, the only thing and it has only served to make things worse, is the repeal of a law after 1997 which provided for the right to collective bargaining obtained by us after a long fight. It was an important piece of law. But the Government still wanted to slash the rights of the employees and so the law was axed. What are the other improvements made? It is that under the Basic Law, workers are entitled to the right of strike and it is prescribed that after the strike they can get severance pay. This is the only thing and together with the slight improvement made in the Protection of Wages on Insolvency Fund, there is simply nothing else. All these are only technical changes and that is all. Of course, there is one last piece of law and it is about Chinese medical practitioners.

We can see that during these seven years, on the whole, labour legislation can be rightly said to have made no progress at all. It is like in an ice age. It is like being put in a fridge and frozen, chilled and iced. There has been no progress whatsoever. I have put forward 16 suggestions today and if Members care to read them carefully, they will find that I have not touched on compensation for injury at work. Therefore, what I have mentioned are purely problems in the Employment Ordinance and the MPF entitlements.

If a rough classification is to be made of these 16 suggestions, they can be divided into three types. The first type is about the basic rights of employees, including the rights to join trade unions and engage in collective bargaining, as well as other anti-discrimination protection. If Members would look at the 16 amendments proposed by me, they will find that items (c) to (i) belong to this type. What is involved can be said to be very basic rights. These are basic rights that must not be exploited. The second type are items (j) to (p) and they are about employees' rights and benefits, such as sickness allowance, maternity allowance and these are entitlements of employees. As to how the levels of these are to be determined, they are open to discussion. These are unlike basic rights like the right to collective bargaining which, as mentioned by me, afford no compromise and are indispensable. But these are not found in Hong Kong. The third type is that if the employees are to enjoy their benefits, the most

important precondition is that they should be under the protection of labour legislation. Therefore, suggestions belonging to the third type, that is, items (a) and (b), are made in the hope that the capacity of the employee can be redefined and made clear with respect to the changes in the labour market. So all in all, the suggestions can be divided into three types.

Let me talk briefly about these three types of suggestions. The first type is about the capacity of the employee, that is, items (a) and (b) in my amendment. Just now Mr WONG Kwok-hing has explained what is meant by the "418" requirement. Put it simply, if someone works less than 18 hours a week and if he has not worked for four full weeks, then he is not protected. This can lead to a great problem because there are two loopholes in law. We can see that there are two hurdles. One is the 18 hours. What the employer can do is to make arrangements for an employee to work only for 17 hours and a half. For example, when the large supermarkets hire part-time cashiers, it is stated clearly that they are only required to work for 17 hours and a half a week, exactly 17 hours and a half. It will not do if it is more than 17 hours and a half. Once an employee borrowed another person's identity card and worked an extra 17 hours and a half — 17 hours and a half plus 17 hours and a half makes 35 hours. But the manager concerned was fired for this, because he had assisted that employee. Actually, this employee has a great grudge. This shows that obviously the big companies are making use of this loophole in law and the manager concerned was fired. Why does the company have to do this? Why is it so mean with respect to protection under the labour legislation? Why can workers not be allowed to work more than 17 hours and a half?

Apart from imposing restraints in connection with this 18-hour requirement, the second method used is to require an employee to work for three weeks and then stop working for one week. Would Members stop going to KFC (Kentucky Fried Chicken) outlets because it is precisely the KFC that requires its employees to work for three weeks, then stop working for one week. And please do not go to the dinner reception hosted in honour of ZENG Qinghong, for those who work there are all casual workers. I do not know if ZENG Qinghong knows that or not. These workers also work for three weeks, then stop working for one week. All the top-class hotels in Hong Kong hire casual workers this way. There was a case where an action was successfully brought against an employer and ever since then, all the bosses are making use of this loophole in law. The trick they play is to let them work for three weeks and

then stop working for one week, then they can work for another three weeks. That is the situation now. This is obviously making use of the loophole in law. Why can this not be plugged? The United Kingdom has repealed this law because it knows well that this law violates the law on equal opportunities.

The second type is about self-employment. The nature of self-employment is obviously depriving the staff of their capacity as employees. This is the second type of benefits, for example, those relate to increasing the maternity leave and sickness allowance, and so on. I would not explain them one by one. Members can discuss how the levels can be determined. No improvement has been made all through these many years. We think that it is time that these should be improved. Some people say that things are better in certain countries. They have contributions and this means social security is provided. Members may draw reference from these in discussions. Talking about the present situation, the labour legislation must be improved. This also includes matters related to leave applied for family matters and training leave. All along the Government has been encouraging training, but now regardless of training or family matters, no leave is granted. Some improvement must be made in this. As to whether the leave is paid or not, that would be another question. However, such things should be brought up for discussion and improved.

The last type is about the right to collective bargaining and the freedom of trade unions from discrimination. With respect to this, the Government has for many years been rebuked by the International Labour Organization (ILO) and asked to make improvement. But to date, it has already been seven years after the law on this was repealed and there has been no improvement whatsoever. The Government has done nothing to promote legislation related to the right to collective bargaining, nor has it considered the view of the ILO that legislation should be enacted and a mechanism set up. It can therefore be said that the Government has never taken the initiative to promote negotiation between the employers and employees on this. As for the freedom of the trade unions from discrimination, no achievement has been made.

I cannot possibly explain each one of the 16 suggestions, but I would like to convey a definite message and that is, the Government has been too backward and it has favoured the consortia too much. This is the most unequivocal proof of the collusion between business and the Government. Thank you, President.

MR LEUNG YIU-CHUNG (in Cantonese): President, our Honourable colleague, Mr Jeffrey LAM of the Liberal Party, has recently published an article in the newspaper in which a view is expressed and, that is, both the employers and the employees are always in the same boat. President, I agree with this view very much, but the question is that he has not pointed out clearly how they are in the same boat.

As a matter of fact, if the relationship between the employers and employees is really that amicable, then everything will be perfect. But is this really the case? President, let us look at some figures first. Take the situation in the third quarter of 2005 as an example. In the third quarter of 2005, the real wage index of the workers registered a growth of 1.8%. But Members should not feel happy at seeing this growth in real wages. President, we should also look at how much real growth there was in the economy at that time. It was 8.2% and the difference between the two figures is as much as six percentage points.

The economic situation in 2005 may be quite good but actually this situation is not limited to the year 2005. Let us then look at other years as well. In 2003, we can also see that there was a real growth in wages by 0.8%. But what was the actual economic growth then? It was 3.3%. Someone may say that since the growth rate is so small, there is nothing we can do about it. This was how things were back in 2003. Then what about 2004? The real wage dropped 0.2%. Members may think that this was due to the recession. But was this true? President, no. Economic growth in real terms for that year was as high as 7.5%.

When we say that we are sitting in the same boat, do we not have the concept, that is, as the ancient people put it, that we are passing the good and bad times together? But, Madam President, if you look at the figures, this is not the case at all. People are asked to ride out the times of adversity, but in times of prosperity, will they be asked to enjoy together? Only a small number of scrupulous employers will trickle some benefits to their employees through their fingers. But nothing will ever come from those unscrupulous employers. If this is called sitting in the same boat, then, President, is that fair?

The reason I propose this amendment today is because I want to uphold justice. President, for so many years in the past, we have seen that workers are always placed in a disadvantaged position when it comes to labour relations and workers are always helpless. Therefore, the amendment we propose today

includes two aspects, one is to urge the Government to enact law to protect employees against unfair dismissal and the other is to reinstate the right to collective bargaining which Mr LEE Cheuk-yan has just mentioned. This will give workers the chance, the position and a statutory role to discuss with employers on how labour relations can be reasonably fostered in the factory or workplace.

Actually, Mr LEE Cheuk-yan has just pointed out that many of the laws are very unfair, including the two aspects which I have said. However, I recall a few days ago, a certain Honourable Member sitting here phoned me and said, "LEUNG Yiu-chung, you moved a private Member's bill on unfair dismissal in 1997 and the Government, that is, Stephen IP, had accepted many of your views and from these law was enacted." Even as this has really been done and even as the authorities have enacted some law on the basis on the views accepted, there are still a lot of places that are fragmented and incomplete. One of the most important core issues is the right to reinstatement. Talking about this right to reinstatement, in foreign countries such as Australia, the right to reinstatement is actually very important when it comes to unfair dismissal. But the existing law fails to provide for this and so this is something incomplete.

At the same time, as Mr LEE Cheuk-yan has just said, there are still at lot of loopholes in law, such as the law about the termination of employment which protects only those employees who have worked for two full years to five years. Before these employees have worked for two full years, these unscrupulous employers will dismiss them first and in this way these employees are deprived of any protection. Therefore, we hope that the Government can give more comprehensive consideration when enacting laws, for if not, even as the Government may be well-intentioned, the result is that it is doing a disservice. The existence of these loopholes will offer room for unscrupulous employers to exploit. In the end, the employees will lose more than they can ever gain and they will not get any protection. If someone is dismissed after working for more than one year and cannot get any compensation, this will be a most unfortunate thing. Therefore, the Government must do something to make things better.

Apart from the two-year requirement for protection just mentioned, Mr LEE Cheuk-yan has also talked about the "418" problem. This "418" problem is also a common occurrence. I do not want to repeat those words which Mr LEE Cheuk-yan has said earlier. There are far too many loopholes in this. We hope that the authorities can offer protection or plug the loopholes in this

regard and a bill on unfair dismissal will have advantages in this respect. So we insist that the Government should enact laws on this and protect the workers so that they can avoid being dismissed unfairly.

Apart from this, I would like to discuss the right to collective bargaining. Mr LEE Cheuk-yan has mentioned earlier that a bill on this was passed before 1997. But as Members all know, the Provisional Legislative Council was born under undemocratic circumstances and it made use of this factor and repealed the law on the right to collective bargaining in that year. Actually, when we, especially the investors, hear the words "the right to collective bargaining", we will feel very scared. The Government often says that investors will fear that employees will have powers because of this law.

President, the employees are not going to monopolize power. The essence of the right to collective bargaining is not like this. Actually, the contents of the bill proposed by Mr LEE Cheuk-yan at that time were very loose and there were only seven kinds of matters on which employees might reach an agreement with the employers. At that time these included the terms and conditions of employment, working environment, dismissal, allocation of duties, disciplinary matters, employees' membership of trade unions and the provision of facilities to trade unions. It is only these matters that could be handled by collective bargaining. Moreover, this law requires that the employees cannot divulge any information in the process of collective bargaining. Apart from that, if employees know about any commercial or production secret of the company, they cannot disclose it and failure to do so would contravene this principle.

What in fact is this kind of contents for? It is mainly aimed at providing a relatively fair — I stress it is relatively — that is a relatively fair position for employers and employees to discuss matters related to their rights in work. This is not what some people would put it, to seize power from the employers and run the company. This view is totally a misunderstanding and a distortion. So if employees have this right, it would help promote a harmonious relationship between both parties. There are quite a number of similar experiences overseas. So, with respect to Mr WONG Kwok-hing's proposal to undertake a review of all the labour legislation, these two aspects are of vital importance.

Actually, for so many years in the past, no matter when the economy was good or bad, we would see something and that is, employees were often

dismissed for no reason or they would be dismissed when they wanted to discuss with the employers on how the working environment or the conditions could be improved. In such cases, the employees would not get any protection at all. I therefore hope that the review this time can focus on these two aspects so that the employees will have more opportunities to discuss these problems with their employers. This will also prevent the employees from being dismissed whenever they come forth to fight for their rights.

We know that if an employee tells the employer that with the upturn in the economy now and as more orders have been placed with the company, he would like to know if there can be a rise in salary, the result will be disastrous. What will happen when he has said such things? He will be told not to come for work on the next day. Employees can never say such things because the boss will not like to hear them. Those who say these things will be regarded as troublemakers and they will be fired. So laws in these two aspects should be able to ensure that employees will have more channels and opportunities to communicate with their employers. Hence, labour relations can be improved. Besides, if improvements are seen in matters related to the rights and benefits of the employees, this will actually help raise productivity. If employees are willing to be committed and work harder, the company will gain more. In view of the above, I hope that as a proposal is made today to review all the labour legislation, there should be a review of these two aspects as well.

President, I so submit.

MR ANDREW CHENG (in Cantonese): Madam President, last October when the Court tried a case of a pest control company depriving its employees of rest days, the presiding Judge said that labour legislation in Hong Kong was more backward than that in many countries. Hong Kong calls itself a world city and the Government should think it is time that this labour legislation of ours which is so full of flaws and loopholes be reviewed.

What in fact is wrong with the labour legislation in Hong Kong? We have many pieces of labour legislation and these can be divided into the following five categories:

- (1) Those which protect the basic rights of employees while in employment, for example, the Employment Ordinance;

- (2) Those which protect the employees in their recovery of defaulted wages, such as the Protection of Wages on Insolvency Ordinance and the Labour Tribunal Ordinance;
- (3) Those which protect employees in their claims for compensation upon injury or death at work or suffering from occupational diseases, such as the Employees' Compensation Ordinance and the Employees Compensation Assistance Ordinance;
- (4) Those which protect safety at work and occupational safety of employees, such as the Factories and Industrial Undertakings Ordinance and the Occupational Safety and Health Ordinance; and
- (5) Those which offer retirement protection to employees and the self-employed, such as the Mandatory Provident Fund Schemes Ordinance.

By all appearance, these laws seem to have placed many layers of safety nets for the employees and it looks like everything is protected. But unfortunately, at times these layers of safety nets may only look nice but they would not help. They are fraught with loopholes. When the employees really need help, these safety nets will not function in the way they are expected to function. For those who have a job, because of the absence of any protection in minimum wage and standard working hours, they often have to work very hard but they can only get a meagre income. For those whose wages are defaulted, even if they have won their case in the Labour Tribunal, they may not recover their defaulted wages.

As for the Protection of Wages on Insolvency Ordinance, this has made us feel that the fund has been relegated into an automatic teller machine for those unscrupulous businessmen. In May last year, in the motion on "Reviewing the protection of wages on insolvency system", I put forward more than 10 recommendations for the Government's reference. The result is that only one recommendation was accepted and, that is, the resumption of the bill for Second and Third Readings today with the objective of imposing heavier penalties on employers who default on the payment of wages to their employees.

As for the Labour Tribunal Ordinance, the Panel on Manpower of this Council has held numerous meetings to discuss how to solve the problem of employees whose wages are in default and who after the Court has imposed a

penalty on the employers are still unable to recover their defaulted wages. Calls are made to the Government to amend the laws and empower the Judges to impose penalty on those who refuse to enforce court rulings, in line with the practice in other countries. But the result is that the Government has not accepted this suggestion.

Take the example of the MPF contributions problem raised by Mr SIN Chung-kai today, we find that the MPF trustees charge exorbitant fees and this undermines the return for the employees, depriving them of the protection after retirement to which they are entitled. Last time when the Government undertook a review of the Code on Disclosure for MPF Investment Funds, this should have been reviewed together. But it was not done.

Therefore, the Democratic Party thinks that we cannot afford to delay on the review of labour legislation as this will offer adequate protection to employees. However, there are indeed many pieces of labour legislation in Hong Kong and it would be difficult to undertake a full-scale review. The Democratic Party thinks that an order of priorities can be devised so that at the present stage a review should be conducted of those areas which closely affect the wage earners and where serious problems are found. Then the scope of the review can be extended to labour legislation in other areas.

The issue which closely affects wage earners is extremely long working hours. This will not only affect the mental and physical health of wage earners but also reduce the time they can spend with their family. It will even affect their further studies and self-enhancement, which will not be advantageous to the employers either. On a personal front, the problem may even lead to suicidal tendencies. Therefore, pressure at work is a time bomb for society.

In January 2006, the Democratic Party conducted a survey through the interactive voice processing system and interviewed 746 citizens. It is found that 72% of the interviewees agreed that there should be a five-day working week and more than 50% of them thought a five-day week would have a positive impact on the health, work performance and even the family and social life of employees.

Actually, the implementation of a five-day week and standard working hours has become international practice and this includes economic entities comparable to Hong Kong both in terms of economic development and the level

of competition, that is, places like Singapore, Japan, South Korea, and so on. They have all enforced a five-day working week or standard working hours. Our survey also shows that 43.6% of the interviewees thought that working five days a week will not affect our competitiveness.

Looking at the experience of five-day work system around the world, we find the following three phenomena:

First, most of the developed countries and advanced places have long since enforced a five-day work system and standard working hours.

Second, many developing countries such as our own Motherland, the Philippines, and so on, have all enforced a five-day work system.

Third, for some countries and places which have not introduced a full-scale five-day work system, they are moving towards this goal of a five-day work system. The government departments have taken the lead to launch a five-day work system and private sector companies are encouraged to follow.

It is unfortunate to see that in Hong Kong there are still no requirements on standard weekly working hours or a five-day work system. This is clearly lagging behind the international trend.

To solve the problem of long working hours, the authorities can adopt a two-pronged approach by first promoting working for five days each week and this is to be enforced by the Government in the first place, then this is to be followed by setting the number of standard weekly working hours.

Madam President, before the Economic and Employment Council (EEC) was dissolved — the EEC has actually been dissolved now, Ms Emily LAU and I solemnly submitted a report at a meeting of the EEC and demanded that the Government launch a five-day working week. Before the authorities have legislated to impose standard working hours and on the condition that service quality is not compromised, the authorities may adopt some proactive measures to promote five-day work in all government departments, public bodies and universities as a start. Then the five-day work system can be extended to other private companies. Actually, some of the private companies in Hong Kong, including some multinational banks, and so on, are actively considering it and

some have even enforced a five-day work system. The introduction of such a system means one extra holiday for the employees every week and this will not only give them more leisure time to spend with their family but also provide them with more ample time for further studies. This will increase their sense of belonging and also enhance the productivity in the companies and in the Government. Hence it will have a very positive impact on the companies, the Government as well as the people. Our survey also shows that nearly half of the interviewees agreed that before legislation is enacted to regulate standard working hours, the Government should begin practising five-day work in the departments.

However, I would like to declare in the first place that a five-day work system cannot solve the problem of long working hours for the employees. Teachers, for example, work five days a week, but their working hours are very long and this is precisely because there are no requirements on standard working hours. So standard working hours, five-day week and minimum wage are all complementary to each other. All measures aimed at protecting the labour sector must be made to complement each other in many respects.

Madam President, apart from the five major types of labour legislation which I have just mentioned and which are fraught with loopholes, there used to be a sixth type before the reunification and that was the labour legislation on protecting the employees' right to collective bargaining and the rights of the trade unions. But after the reunification, this type of legislation no longer exists and the reason is that the relevant laws were repealed by the Liberal Party, the DAB, and so on, during the days of the Provisional Legislative Council. As early as December 1998, I proposed a motion for another time on "The repealed labour ordinances" in the hope that the Legislative Council can incorporate the repealed laws into the existing laws.

The amendment proposed by Mr LEUNG Yiu-chung today bears a striking resemblance to the motion I moved in December 1998 and his wording is also very mild, just urging that the Government should reintroduce the repealed or amended pieces of labour legislation to this Council for deliberation again. However, seven years have passed, and it seems that the Government has done nothing at all on that.

At that time, the FTU cast opposing votes and I hope Members from the FTU sitting here now, including Mr WONG Kwok-hing who proposed this

motion, will present a clear explanation on their voting decision at that time, regardless of whether or not they will agree to the amendment proposed by Mr LEUNG Yiu-chung today.

With these remarks, Madam President, I propose the amendment.

MR ANDREW LEUNG (in Cantonese): Madam President, all along employers and employees in Hong Kong have maintained good partnership relations. With continuous improvements in the economy, labour legislation in Hong Kong has been reviewed from time to time in a reasonable manner, resulting in ever increasing protection for employees. This shows that employers are not just mindful of their own interests but they are willing to share with their employees the fruits of economic prosperity. Hence, it is of great importance that a harmonious relationship can be maintained between the two parties. On one hand, we support upholding the rights and protection of employees while on the other there should be a stable business environment in general.

The motion points out that labour legislation in Hong Kong cannot keep itself abreast with the times and fails to improve the protection of workers' rights and benefits. Such a view is obviously not correct. All along the Government has been amending labour legislation and from 1970 to the present, about 77 amendments have been made. Of these 16 amendments were made during the 1970s; 17 were made during the 1980s and during the 1990s, as many as 26 amendments were made. During the period from 2000 to 2005, labour legislation met the needs of the times and as many as 18 amendments were made. Key initiatives include the Mandatory Provident Fund Schemes Ordinance which came into operation in December 2002 and this is closely related to labour protection. The Occupational Deafness (Compensation) (Amendment) Ordinance 2003 which came into operation in May 2003 launched a package of measures on improving occupational deafness schemes. The Occupational Safety and Health (Display Screen Equipment) Regulation which came into force on July 2003 offers protection to the safety and health of employees who use computer screen equipment over a long period of time. The Factories and Industrial Undertakings (Safety Officers and Safety Supervisors) (Amendment) Regulation 2001 which came into force on January 2004 extends its prescribed ambit to include the container handling trade.

We can see that in the past few years the Government has been actively undertaking a review of the existing labour legislation, adding and updating

labour protection and updating the protection for the rights and interests of workers. The Liberal Party agrees and supports such reasonable reviews conducted from time to time of the labour legislation by the Government in line with the changes in the pattern of economic activities.

The amendment describes labour legislation in Hong Kong as full of flaws and loopholes. Such a view is exaggerated. It is because regardless of matters like regulating child labour, prohibiting young persons aged 15 to 18 from overtime work, rest days for injury and death at work, defaulted payment of wages on insolvency, maternity leave, long service payment, retirement system (including the MPF) and legislation outlawing discrimination against disabilities, sex and family position, and even laws safeguarding the occupation safety of white-collar workers in the office, and so on, all these are protection extending to various spheres. Such protection is more comprehensive than that offered in other countries and places. One might say it is closer to perfection. The view expressed in the amendments which is not consistent with the facts will only serve to injure labour relations and cause social strife, and this is certainly not a correct way to address the problems in a pragmatic manner.

Actually, all along the Government has been reviewing employment matters through the work of the Labour Advisory Board (LAB). As early as in the mid-1990s when I was still a member of the LAB, the employer and employee representatives of the LAB and the Legislative Council had identified common goals and gave full play to the spirit of tripartite co-operation among employers, employees and the Government. The mechanism permits the three parties to abandon their bias, give full play to the spirit of consultation and maintain a cordial relationship of consultation.

As a matter of fact, whenever the Government wanted to introduce any policy related to labour affairs, it would consult the LAB for its advice before presenting it to the Legislative Council. However, during these few years past, whenever legislation was introduced to the Legislative Council for deliberation, Members would often attach more conditions to the consensus reached in the LAB. I hope that Members of the Legislative Council can show more respect to the consensus reached by the three parties in the LAB and implement its recommendations expeditiously.

The Employment (Increase in Penalty for Offences under Section 63C) Bill 2005 passed by us earlier aims at imposing heavier penalties on employers

who default in the payment of wages. This is an instant response made to penalize the black sheep and hence enhance social justice. The passage of this Bill shows that the Government will never condone unscrupulous employers and representatives from the employers will not oppose just any piece of legislation which will benefit the employees.

Hong Kong is presently facing increasingly fierce competition from the rest of the world and coupled with the constant increase in the costs of raw materials, fuel charges and other costs, local employers, especially those running small and medium enterprises (SMEs), have to face enormous difficulties in business operation. If labour benefits are to be improved wholesale, this will add to the hardships faced by employers. On the one hand we have to be mindful of the needs of labour protection while on the other we need to care about the business environment of the SMEs. A balance should be struck between the two. If more restrictions are imposed by the labour legislation, it would only increase labour costs drastically and hence the burden of the SMEs. This would be more to the disadvantage than not when it comes to the business environment of Hong Kong.

Madam President, both the employers and employees are in fact in the same boat and if jobs are to be created effectively, there should be a harmonious relationship between the two. We agree that the Government should, on the major premise of striking a balance between the interests of the two parties, create a macro business environment which can protect workers' rights and benefits while being conducive to business operation. If the suggestions found in the amendments are followed to increase the rights and benefits of employees by a great rate, this would only add to the operation costs of employers, put them in a difficult position and finally drive them out of business or force them to invest elsewhere. If that happens, the job opportunities for employees will be greatly reduced. Therefore, if the suggestion made in the amendments of raising the labour benefits wholesale is followed, then it is like the trade unions are hosting a banquet and the SMEs are asked to pay the bill, in the end it would be the economy as well as the people who will suffer.

I so submit.

MR LI KWOK-YING (in Cantonese): Madam President, now there are plenty of labour laws and each piece of legislation is closely related to the personal interests and protection of employees. However, many aspects of the labour

legislation and policy are criticized and calls are made for their amendment or review. These include issues like the "418" continuous employment contract, the Protection of Wages on Insolvency Fund (PWIF), employees compensation and mediation of labour disputes, and so on. The Government should conduct a comprehensive review of the labour legislation. All through their life, members of the working class have toiled and laboured. In order to provide a retirement protection to these wage earners so that they can lead a comfortable life when they are old, I am especially concerned about the issue of the Mandatory Provident Fund (MPF) and I hope that the authorities can review the implementation of the MPF from time to time and its interaction with other pieces of employment laws. This will give a great boost to the retirement life of wage earners. However, after operation for a few years, has the MPF really removed all the worries of wage earners?

Previously, many wage earners had to lead a very miserable life in their old age because they did not have any full retirement protection and they had not made any plans for their retirement. Some of them had been forced to live on the Comprehensive Social Security Assistance (CSSA) payments. As a kind of retirement protection, the MPF now faces a first and foremost problem for it is not popular with the people as it should be and it fails to gain the support and trust of wage earners. A survey conducted some time ago shows that close to 60% of the local employees interviewed do not know whether or not their MPF schemes will suit their needs. Close to 90% of the interviewees who hold numerous MPF accounts because they have switched jobs say that they have not dealt with these accounts because of the trouble involved and they do not know about the procedures. In the face of such findings, the Mandatory Provident Fund Schemes Authority (MPFA) is really obliged to do something about this. On the one hand, it must review the publicity it has done to see whether there is anything inadequate, then on the other, it must step up its publicity and educational efforts in the hope that the people can gain a fuller understanding of and trust in the MPF.

To be fair, it is understandable that some members of the public do not care very much about the MPF because this may bear a close relationship with the fact that the MPF cannot provide enough retirement protection for wage earners. MPF is a kind of investment and an employee will place his own contribution and that from his employer in some investment fund portfolio. When the employee invests in these fund portfolios, there may be two problems. First, those employees who have a rather conservative approach to investment can place their contributions on some portfolios which bear a lower risk, for

example, those capital preservation funds. However, such low-risk portfolios would as a general rule charge the contributors all kinds of administrative fees. When the money made from the fund is not able to cover the administrative fees and when added with factors like inflation, and so on, when the employee withdraws his contributions after retirement, there may be a situation that not much is left or his account may even be in the red. So how can the employees care much about the MPF?

On the other hand, those employees who hold an aggressive attitude in investment, as the unit prices of the funds may rise or fall, will have to face the risk of incurring loss. What is more worrying is that they see the MPF as an investment tool and what they are doing is to speculate on the money which is supposed to support their living expenses after retirement. In the end, they may lose more than they gain. A couple of days ago, the MPFA said that it had found that a small number of the employees were speculating on the MPF and switching their MPF investment portfolios very frequently. The fact that these employees are taking such an active part in MPF investment is after all due to the fact that they hope to secure a greater retirement protection and that is all. As we know, all investments will mean risks. But some of these employees are willing to bear the risk of incurring losses because they want to get a higher return. This shows perfectly well that deep in their mind, the MPF cannot actually provide for their retirement life.

In order to give the employees enough retirement protection and encourage them not to speculate on their MPF funds, the Government may consider increasing the ratio of voluntary contribution from the employees and look into the feasibility of offering some tax concession for them. This will not only complement the inadequacies of the MPF but also prevent employees from having to spend much time and effort on looking for the right retirement plan or taking the risk to speculate on their MPF funds.

The loose nature of the labour legislation or another problem about implementing the MPF is that there is still serious default of or failure to make contributions for employees by the employers. Some of these employers are even suspected of abusing the PWIF as a means of evading MPF contributions at company closures. In trying to evade contributions, some of these unscrupulous employers even adopt the practice of false self-employment and this denies employees of protection from their employers. In the construction industry, some contractors make it a mandatory requirement for workers to subcontract some construction processes from them. In this way, the

employment relationship is changed into that of a subcontracting relationship. Thus the employer can evade their responsibility of paying the MPF contributions and providing holidays and compensation for work injury. They can also reduce or withhold payment for works on the excuse that they are not satisfied with the quality of the works. This is a cut back on the wages of the employees in disguise.

In addition, some of these unscrupulous employers will abuse the PWIF as a tactic to deliberately default on the payment of wages or to stop paying the MPF contributions for their employees. In the first quarter of 2005, though the number of applications made to the PWIF dropped by 20% as compared to the same period last year, there were still a lot of applications to the PWIF from the catering industry. A couple of days ago, one more restaurant closed down and its staff would face the problem of losing a job when the Chinese New Year is just around the corner. For this reason, the Government should all the more conduct a speedy review of the entire mechanism of the PWIF.

In order to protect the rights and interests of employees and prevent abuse of the PWIF by unscrupulous employers, at times when employers stop paying the contributions or when there is any obvious shortfall of contributions found, should the MPF service providers not review the situation and consider a grace period arrangement for settlement whereby employers can pay the shortfall within 30 days? In addition, should employers fail to make up for the shortfall upon expiry of the 30-day grace period, apart from informing the MPFA, the MPF providers should also inform the employees concerned as well as the Labour Department so that there can be greater monitoring of these companies who run into financial problems.

The authorities must address the loopholes and inadequacies of the MPF, make improvements and undertake a review of the Employment Ordinance which is out of touch with the times. With these remarks, Madam President, I support the original motion.

MR JEFFREY LAM (in Cantonese): Madam President, I believe Members must have all noticed a news report last week which said that the Heritage Foundation of the United States had rated Hong Kong as the freest economy in the world; moreover, Hong Kong has won this honour for 12 years in a row. One of Hong Kong's strengths is its stringent labour legislation with which compliance is not difficult.

However, the Heritage Foundation also reminded us that if a minimum wage is introduced, our ranking will be affected because a minimum wage will reduce the flexibility of the labour market. In addition, the recent report on the global business environment released by the World Bank in September last year also points out that the laws and regulations on recruitment and employment in Hong Kong are adequate in protecting the interests of employees.

All this fully indicates that international investors and research institutes are very much concerned about issues such as whether the labour legislation in Hong Kong is too strict and stringent, as well as the extent of interference in wages. If the Government makes significant changes to the labour legislation at will, it will only arouse concern about whether Hong Kong's competitiveness will drop drastically and whether economic development will be hampered.

Is it true that the existing labour legislation cannot offer protection to "wage earners"? I believe the answer is a definite "No". If we blame the labour legislation for not providing adequate protection merely because the lives of low-skilled workers are harder than before, I believe this is jumping to the conclusion.

The restructuring of the Hong Kong economy, the northward relocation of the industries and the loss of low-skilled and low-qualification jobs have made the unemployment problem among this group of people serious, however, this problem cannot be solved merely by reviewing the labour legislation.

In fact, with the economic restructuring in recent years, quite a number of employers in small and medium enterprises (SMEs) are facing daunting challenges in their operation. For example, in the past few months, problems such as high oil prices, increases in the prices of raw materials, the increase in transport cost and soaring rents have hit them wave after wave. Let alone making a profit, it is already difficult enough to balance the books. However, in order to keep the operation afloat, so that this family of a company can be sustained, they can only dig their toes. They definitely do not want to let this family fall into disarray because if this family falls apart, many people will become unemployed and the livelihood of more families will suffer. Is this what we wish to see? In fact, being under the same roof and in the same boat, if all of us can co-operate and share the fruits of labour, I believe everyone will support this co-operative arrangement. However, if some people only want to ride in the boat but do not work, what should we do then? I believe Mr

LEUNG Yiu-chung will perhaps steer another boat, come along to take these people away and give them three meals a day unconditionally. In that case, a lot of problems would be solved.

Concerning the proposals in the amendments to comprehensively or drastically amend labour legislation, the claim is to enhance the protection of workers' rights and benefits, however, I believe they are tantamount to handing out welfare freely. For example, to extend the period of paid maternity leave from 10 weeks to 12 weeks and increase the rate of maternity leave pay to 100% of the employee's wages, to introduce family commitment leave and training leave and to relax the conditions on paying sickness allowance, and so on, will change the manpower and work arrangements put in place by employers abruptly. Employers may have to hire more workers in order to tie in with the relevant arrangements, so overheads will increase. To SMEs operating with small amounts of capital, this will add to their already onerous burden and will be absolutely impossible to stomach. SMEs can only earn enough to keep them going and doing so will only drive them down the road of ruination.

I also hope Members will note that in fact, the law is often tempered with compassion and many employers are prepared to allow pregnant employees to take a longer maternity leave and even to give some male employees paternity leave or pay them wages during their leave. The treatment is even better than that required by labour legislation and in some cases, even full pay is given. However, the introduction of family commitment leave is a bit perplexing. What does family commitment leave mean? What sort of happenings in the family or what matters warrant the taking of leave and how can this be defined? Employers will really have difficulty in defining them, moreover, this will easily give rise to abuse. At present, if the family members of employees unfortunately had an accident or passed away, most employers will usually exercise discretion in dealing with such matters. However, if such matters are regulated by rigid provisions, it will be difficult to implement these provisions and unnecessary disputes may easily arise.

I wish to reiterate that the majority of employers in Hong Kong have a heart. They treat their employees as though they were family members and care about the livelihood of their employees very much. How can members in a family not care for one another? The productivity of a company can be raised significantly only by forging a harmonious working environment and instilling a sense of belonging in employees. Conversely, if employers and employees are suspicious of one another, this will not be beneficial to either side.

I believe the provision of better protection to workers is a correct course of action. However, surely this does not mean that one has to do as several Members is proposing today, that is, to write out blank cheques arbitrarily and push up the costs of business operation at will regardless of the reality. We should strive to create a better business environment and attract more investments to Hong Kong. Only in this way can employment opportunities be created, so that the economy as a whole and the living conditions of employees can be improved. Conversely, if labour legislation becomes too strict and inflexible, this will only hamper business operation and scare investors away, and this will not be conducive to the protection of workers' rights. It is said that without the skin, the hairs will have nowhere to attach themselves. If employers cannot keep their businesses afloat and have to close them down, employees will not be able to make a living, let alone improving their welfare and working conditions.

Madam President, I so submit.

MR ALAN LEONG (in Cantonese): Madam President, "Hong Kong labour laws were lagging far behind those in other countries, and that deduction of wages and attempts to prevent employees from joining trade unions had reached an intolerable state". These remarks were not made by me, nor were they made by any leader of labour union or other Honourable colleagues of the Legislative Council who support workers' rights and benefits, but by a Magistrate of the Kowloon City Magistrates' Courts, Mr Ernest LIN. Mr LIN made these remarks when ruling that a cleaning company was guilty of the charges of failing to grant rest days and discrimination against trade union members and he imposed a fine in excess of \$230,000 on the company accordingly.

This ruling is no doubt a cause for celebration, however, it is worthwhile for us to ponder the comments made by Mr LIN carefully. Generally, judicial officers tend to be more conservative and they are inclined to making rulings faithfully according to the law and the facts and it is not often that they will comment on the provisions of the law directly. However, this time, even the Magistrate felt that he could no longer remain silent and must voice his views on the law. Perhaps all the groups that can exert some influence on the issue of labour legislation, including the Government, employers' representatives, members of labour unions and even Members of the legislature, can no longer continue to turn a blind eye and a deaf ear to this problem.

Madam President, generally speaking, the framework of the existing labour legislation took shape in the late '60s and the early '70s of the last century. Many academics believe that this framework is directly related to the riots in 1967. This unprecedentedly large-scale riot can actually be considered a total eruption of public unease and social contradictions. The riots made it impossible for the Government not to take the plight facing grass-roots workers seriously, so it reorganized the fragmented legislation on labour rights and labour disputes at that time into the Employment Ordinance of 1968, the Labour Tribunal Ordinance of 1972 and the Labour Relations Ordinance of 1975.

However, as the analysis made by Dr WONG Hung of the Social Work Department of The Chinese University of Hong Kong points out, the legislative intent of the labour legislation in Hong Kong is only to set a minimum standard on the protection of the welfare of employees and the direction of the labour policy is legislation-oriented. The legislation specifies the basic responsibilities of employees' and employers' and under the overriding principle of "non-intervention in the free market", employees and employers are given a free hand in dealing with other matters by entering into contracts. As long as the contents of the contract do not contravene the basic requirements of the Employment Ordinance, all labour disputes will only be regarded as contractual disputes and will be dealt with by the arbitration mechanism, including specialized courts of law.

However, even though the disputes are channelled to this arbitration mechanism, it does not mean that justice will always be done. Apart from the fact that the drawn-out procedures of the Labour Tribunal cannot deal swiftly and directly with the problems arising from employment contracts encountered by "wage earners", the power of the tribunals is also limited. Even if the Court rules that the dismissal made by an employer is unlawful and asserts that the employer must reinstate or re-employ the employee concerned and the employee concerned also agrees with continuing to work for his employer, the Court cannot issue an order of reinstatement if the employer does not agree to it. In many cases, what the employee can obtain is a sum of statutory compensation or a little additional compensation, however, the unlawful decision to dismiss the employee remains intact. Even if the Court rules that an employer has to make compensation to an employee, often, the employee finds the ruling useless because of the underhand tactics employed by unscrupulous employers.

Madam President, the existing labour legislation in Hong Kong focuses mainly on compensation. This labour policy, which offers only a minimum

degree of protection to employees, can perhaps dampen the motivation of workers in organizing large-scale industrial actions and prevent workers caught in a desperate plight from taking part in radical confrontations. However, this is a far cry from the spirit of justice and care being espoused. The attitude behind this policy is that the Government will only prevent the most serious forms of exploitation but it has no intention of exercising its public authority more proactively to bring about a consensus between employers and employees, so as to rectify an area in the labour market that is detrimental to overall public interest. This kind of thinking has obviously fallen short of the expectations of the public for a responsible government.

For example, the working hours in Hong Kong are the longest among developed countries of the world. We do not believe that the Government has no understanding whatsoever of how excessively long hours can affect employees' physical and mental well-being and how their productivity and opportunities to pursue further studies are affected, thus indirectly reducing the economic efficiency in Hong Kong. However, given the thinking underlying the existing labour policy, the Government is not even interested in establishing a mechanism for employees and employers to conduct negotiations on standard working hours in the light of the developments in the market. If the Government continues to be so passive, may I ask when it will be possible to remedy the negative effects that the labour market has wrought on society?

Madam President, it is no longer possible for the legal system to establish a fairer balance of power in the relationship between employer and employees. If the Government continues to act like an ostrich by turning a blind eye to the present plight of grass-roots workers and refuses to pinpoint the undesirable occurrences in the labour market and address them accordingly, the contradictions between different classes in society will only be aggravated. I dearly hope that the labour policy will no longer be designed to simply prevent strikes and stamp out troubles, rather, it has to establish fairer working conditions consistent with justice.

Madam President, I so submit.

MR JASPER TSANG (in Cantonese): President, I totally agree with Mr Andrew LEUNG of the Liberal Party that we got to have a harmonious labour relationship and I also agree very much with Mr Jeffrey LAM that the great

majority of employers in Hong Kong are good employers. Employers treat employees like people in the same family. Even without the requirements of legislation, when employers find that employees are in difficulty, they will exercise their discretion and offer assistance.

However, we believe that in order to maintain good and harmonious labour relations, apart from good corporate culture and occupational ethics and relying on the kindness of employers, a set of well-developed labour legislation tailored to the local economic, social and even political situations is in fact also very important. Because it is only with this set of legislation that it is possible to solve the various kinds of disputes that may occur in a fair and impartial manner and promote harmonious labour relations.

In fact, a set of complete and up-to-date labour legislation can, apart from protecting the rights and benefits of employees, also enable employers to have a clear idea of the responsibilities that they have to assume. Actually, this will also give people in the business sector a stable business environment.

Just now, Mr Andrew LEUNG set out the improvements made to the labour legislation in Hong Kong over the past several decades. If we say that for a period of time in the past, labour legislation in Hong Kong has entered the ice age, as Mr LEE Cheuk-yan put it, we consider such a claim unfair. However, we notice that most of the amendments to the legislation, including a lot of those mentioned by Mr Andrew LEUNG, were meant to patch up the inadequacies and loopholes in the original legislation found in the course of enforcement or to enhance the legislation in response to some transient social occurrences. These amendments may not be able to solve the deep-rooted contradictions and problems that have occurred as a result of the structural changes in our economic model and labour relations. Therefore, we believe a comprehensive review is in fact necessary.

We in the DAB agree with the premise stated in Mr WONG Kwok-hing's motion. He said that our economic pattern has undergone profound changes, so our labour relations have also undergone profound changes. Several Honourable colleagues also pointed out that in the past several decades, the service industry has become the mainstay in Hong Kong whereas the manufacturing sector is shrinking all the time. The contribution of the service industry to the Gross Domestic Product (GDP) is now close to 90%, which is a significant increase from that two or three decades ago. The manufacturing

sector accounted for 30% of our GDP in the 1970s, now it accounts for somewhere in excess of 3%. Therefore, these changes will surely render the legal framework established in the heydays of the manufacturing sector not in keeping with the times.

We also notice that at a time of economic restructuring, since the demand for many types of low-skilled jobs in society and in the market is ever decreasing, the bargaining power of such workers is also becoming weaker. Therefore, the levels of wages for some jobs are ever dropping and this Council has already debated this matter a number of times. In some trades, the wage levels of workers with low bargaining power have fallen to an unacceptable level. Therefore, it is of course necessary for us to explore the issue of enacting legislation to stipulate a minimum wage.

Concerning the changes in labour relations, Mr WONG Kwok-hing has pointed out a number of them in moving his motion. For example, concerning the issue of outsourcing, the Government has certainly outsourced some types of work undertaken by several departments such as those of the Housing Department and the FEHD, over the past decade or so. As regards private companies, the original intention of the contracting system is to lower operating and management costs, however, since our labour legislation requires employers to provide protection to employees in various aspects, employers gradually found that by adopting the approach of contracting out, they can avoid assuming a considerable number of responsibilities required of them and they do not have to provide the benefits to which employees are originally entitled and problems have occurred as a result.

We also found that the number of part-time workers is increasing and I can also see that the international community actually attaches increasing importance to the welfare of part-time workers. Be it the International Labour Organization or the European Union, they have put in place measures to protect the due benefits of part-time workers, which are on a par with those of full-time workers. Even in cases in which the benefits are not the same, they will be provided to workers proportionately. The distinction whereby only full-time workers are entitled to the benefits but part-time workers are not does not exist. Therefore, it is really necessary for us to review the "418" requirement.

We find that there is a growing number of self-employed people. In particular, after the launch of the MPF schemes, we understand that in many

instances, in order to avoid assuming the responsibilities under the MPF schemes, a lot of problems relating to the so-called false self-employment have occurred.

As regards other types of relations, for example, the increase in the number of illegal workers and the number of people working on the Mainland or Macao due to the intense interaction between Hong Kong and the Mainland, new problems have emerged to warrant resolution. Therefore, we believe that this review is necessary. However, concerning the specific proposals put forward in the several amendments, although we believe that in principle they can be explored, no decision should be made today.

MR TOMMY CHEUNG (in Cantonese): Madam President, I agree that the Government has the duty to amend legislation from time to time according to the actual circumstances and changes in society. However, I cannot see anything that is backward or lags behind other countries or regions in the labour legislation in Hong Kong. Mr WONG Kwok-hing and other Members who have proposed amendments have all called for a review of the various pieces of labour legislation at the earliest opportunity on the ground of enhancing protection for workers. I believe all the proposals are overstatements. Should they be implemented, they will be counter-productive and the economy of society as a whole will be undermined and ultimately, it will definitely be the workers who suffer.

During the past year, many Honourable colleagues seated here have called for the establishment of a security deposit system and the levy of a higher business registration fees for certain so-called "high-risk" industries in which abuses of the Protection of Wages on Insolvency Fund (PWIF) have occurred, so as to reduce instances of abuse of the PWIF. This time, Mr LEE Cheuk-yan even demanded that the criminal liability of people such as directors of body corporates be reviewed. I have stressed time and again that the present problem does not lie in any inadequacy of the law but the enforcement failure, therefore, such a measure is in fact redundant.

The recent figures on applications made to the PWIF have proven that my view is correct. Over 9 000 applications for the PWIF were received for the whole of last year and although most of the applications still came from the catering and construction industries, the number of applicants from the catering

industry was 4 105 persons, representing a substantial decrease of 22% compared with that for the year before. If a more careful analysis is carried out, it will be found that the decrease in the number of applications from the catering industry in the second half of the year was even more pronounced. In the fourth quarter of 2005, only 277 applicants submitted applications, representing a decrease of 79% from that for same period of 2004.

It can be seen that there is no need whatsoever for the authorities to amend the legislation in order to achieve such good results. It is mainly because the Labour Department has stepped up prosecution of employers who defaulted on wages in accordance with the existing legislation and hired some former veteran police officers, thus boosting its capacity to gather information and evidence significantly. Coupled with the recent heavy penalties meted out by the Court on convicted employers, the deterrent effect has been enhanced significantly.

These are real-life examples that show that existing labour legislation is not out of date, rather, it shows that if legislation is enacted but not enforced, workers' rights and benefits will not get any protection either. If we believe that workers can be protected simply by enacting legislation, I am afraid such thinking is too simplistic.

Restaurants and eating establishments are operated mostly as small and medium enterprises (SMEs) and in recent years, they are facing more and more challenges. From August to October last year, the overall unemployment rate fell to a new low of 5.3% in recent years, however, that for the catering industry still remained at 8.5%, so it can be seen that the catering industry has not yet got back on its feet. In fact, restaurants have not made any price increase. In particular, even though the catering trade has been doing a brisk business in the past two months and it seems that there are a lot of customers, the prices have not been increased, so it can be seen that it has not yet got back on its feet.

Now, some Members have made a number of proposals on reviewing the labour legislation and demanded that employers provide to employees the twin benefits of contributions to the MPF schemes and severance payments or long service payment, as well as introducing family commitment leave and training leave and extending the period of paid maternity leave, and even converting all public holidays to paid statutory holidays. All this will only continue to increase employers' burden without respite, such that the catering industry will suffer even greater misery and SMEs will be deprived of their room for survival.

More workers in the catering industry will see their means of living destroyed and in that event, no amount of money in the PWIF will be enough.

Members must not forget that originally, when the Government introduced the MPF schemes, the major argument it gave in persuading employers to get on board was that severance payment could be offset by contributions to the MPF schemes. However, some Honourable colleagues now say that the MPF schemes are outdated and again maintain that the severance payment should also be paid in full. May I ask how employers can continue to hold talks with trade unions in future? Because it seems that no sooner had Members got one thing than they demanded another.

Recently, some Honourable colleagues of the labour sector keep advocating the "minimum wage, maximum working hours" proposal. As the representative of the catering industry, I strongly oppose it. I am concerned that we will get the demerits before seeing the merits. At present, our costs are rising and an increase in one area will trigger other increases, so it is indeed very difficult for eating establishments with small capitals to keep afloat. In addition, the increase in operating costs will also further undermine Hong Kong's competitiveness and investments will go elsewhere. In order to cut costs, the work processes will be broken down and given to casual workers, so that in the end, workers will lose the protection available to full-time workers. Low-skilled, low-qualification and older people will no longer be able to negotiate their wages with employers according to individual circumstances and will eventually be forced out of the market. The deviation of wages from the market rate will also make employers take risks and spawn social problems such as large numbers of illegal workers and the deduction of wages.

However, some colleagues have turned a deaf ear to the foregoing problems and even said that they intend to promote a five-day work week. Most people in the catering industry adopt a system of a six-day work week and the wages are also determined on this basis. If legislation is enacted to implement a five-day work week, this will have the same effect as stipulating the maximum working hours by driving up the operating costs. If employees are not willing to revise their contracts, eating establishments will be forced to lay off workers. I am afraid that if things go on this way, a lot of eating establishments will close down even before they can taste the fruits of economic recovery. What I have to add further is that if Hong Kong implements a five-day work week on a full scale, a large number of members of the public will be attracted to spend their leisure time across the border. If even the good

business on Friday evenings, which are called "lesser weekends", is gone, Hong Kong will become a deserted city.

On the demand to enact legislation to give trade unions the right to collective bargaining and to protect representatives of trade unions against discrimination, the Liberal Party and I also strongly object to it. We must be pragmatic in dealing with labour matters. At present, there is already a well-developed mechanism in Hong Kong for resolving labour disputes. Instead, I have received complaints from my sector from time to time criticizing the Labour Department of siding with employees and failing to perform its function as a mediator, and of referring cases to the Labour Tribunal for hearings before carrying out thorough investigations, thus wasting public funds.

I often say that employers and employees are not adversaries. They are in fact in the same boat and comrades in arms. The labour legislation must balance the interests of employers and employees. The pressing task for the Government is to improve the business environment and foster the creation of more job opportunities according to the overall economic situation in society. Only in this way can employees really be benefited.

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

MISS TAM HEUNG-MAN (in Cantonese): Madam President, following the structural changes in Hong Kong's economy and human resources, it is indeed necessary to review our labour legislation from time to time. What is more, a number of employees are still being unfairly treated, or even exploited. It is therefore imperative for a review to be conducted.

One of the inadequacies of Hong Kong's labour legislation is the absence of a standard working hours system and overtime compensation requirements, thus giving rise to the problem of excessive long working hours. This happens not only to grass-roots workers, but also to accountants who are required to work overtime constantly. However, many accountants, particularly young accountants, will not receive any compensation for their overtime work. Overtime work incurs extra human resources. Employers are not required to pay any extra costs even though resources have been used. This is grossly unreasonable. I believe that, in addition to working hours and overtime compensation, our labour legislation still has many domains that warrant a

review. Therefore, whatever the conclusion today, we do not want to see the motion today achieving nothing.

Apart from reviewing the labour legislation, I also hope that the authorities can step up law enforcement and protection of employees reporting non-compliant employers. This is because many phenomena expressly prohibited by labour legislation can still be found in the labour market. A number of Members have focused on the plight of grass-roots workers. However, I can tell Members that accountants, being professionals, are similarly bullied and oppressed by their employers too.

Let me cite a real example in which a friend of mine was dismissed by his employer because they could not get along with each other very well. His employer even used the reference letter as a threat to demand him to give up the three-month payment in lieu of notice. Without a reference letter, it would be difficult for my friend to get a new, decent job. In yet another example, an accountant asked for an employment certificate to facilitate his application for certain professional qualification. However, he was requested by his employer to surrender his long service payment in return. He was subsequently dismissed and required to give up his long service payment. Without the professional qualification, the future of the accountant will definitely suffer a great blow. For the sake of their future, the two accountants could not but accede to their employers' demands eventually. I believe it is not exaggerated to describe these employers who have used their employees' future as a means of exploitation as "unscrupulous".

Despite their unfair treatment, the two accountants have been reluctant to lodge a complaint for structural behaviour reasons. Therefore, however perfect labour legislation is, informers must be given adequate protection, and the penalty for offenders must be increased as well. Otherwise, even if the various proposals raised in the amendment proposed by Mr LEE Cheuk-yan today are realized, workers in Hong Kong will still not be truly protected. While enactment of legislation is important, law enforcement is even more so. If no one dares to report, offenders will not receive the punishment they deserve or the punishment will be too lenient, and a lot of people will naturally be lured to turn to crime.

Many employers share the view that tightening our labour legislation is a disguised means to encourage and allow employees to unite together to share the fortunes of employers. However, the employers are indeed worrying too much

because, with adequate employment protection, all dutiful employees will work extra hard. Conversely, employers will definitely be benefited. It is indeed imperative for employers to understand that employment relations should be co-operative and mutually beneficial. Therefore, we should not resist any labour legislation reviews.

In the course of reviewing our laws, we must not completely treat employees as victims. Instead, we should start from the angle of balancing the interests of both parties. Therefore, during the review, a platform for equitable communication is of the paramount importance. I hope that the existing Labour Advisory Board (LAB) can play this role. Should today's motion be passed, the authorities should jointly review the LAB's structure to ensure that it is fit to be a fair platform to enable employers and employees to conduct equitable consultations and complete the review of labour legislation.

Madam President, the Chief Executive, Mr TSANG, once expressed his wish to focus his energy on economic development. Our human resources are precisely a major momentum for economic development. I hope the authorities can expeditiously prioritize the review of various pieces of labour legislation and commence the relevant work. I so submit. Thank you, Madam President.

MR FREDERICK FUNG (in Cantonese): President, in mid-October 2005, the infamous contractor of outsourced services of the Food and Environmental Hygiene Department (FEHD), the Wai Hong Cleaning & Pest Control Company Limited, was charged with numerous counts of discrimination against trade unions and failure to give rest days to its employees. The company was found guilty and fined a total \$234,000. The case is the first of its kind in Hong Kong in which an employer is tried and convicted of discrimination against trade unions. In sentencing, the Magistrate said to the effect that labour legislation in Hong Kong lagged behind other countries and such kind of withholding of wages and benefits and preventing workers from joining trade union activities must not be tolerated.

The remarks by the Magistrate sparked off widespread discussion in society immediately as to whether labour legislation in Hong Kong has lagged far behind other countries and if so, by how much and whether or not a review should be undertaken by the Government. All of these problems cannot be denied and it is clear that labour legislation in Hong Kong is indeed backward.

President, Hong Kong often boasts that it is a free economy and around the time of the Sixth Ministerial Conference of the World Trade Organization which was closed not long ago, the Hong Kong Government often stressed the openness of our economy and that it could rightly be called exemplary by world standards. The Heritage Foundation of the United States lavished high praises last week on the freedom of the Hong Kong economy. This made the top officials feel flattered. On the surface, these remarks and comments look reasonable. But the other side of the coin is that under the banner of free trade and market liberalization, the rights and benefits of grass-roots workers are often sacrificed.

President, the Government often makes it a pet phrase that Hong Kong has the best economic infrastructure and laws beneficial to doing business. Even when compared to other advanced economies in the West, Hong Kong fares no worse. But please do not forget that if we compare the labour legislation of Hong Kong with that in the advanced economies of the West, just how backward are ours? Does the Government know this? Does it care? Is it concerned? When will a review be conducted and improvements be made?

Such a state of affairs will actually cause a great concentration of social interests on the side of the employers while the rights and benefits of the employees are often neglected and suppressed. If anyone who makes the slightest attempt to touch or improve on this tilted structure, he will be branded as trying to upset economic prosperity. Does it mean that possessing sound labour legislation and a free economy will mean a lack of competitiveness and prosperity will thus be ruled out? Why can this be done in the societies and countries in the West which are prosperous and free economies at the same time?

After the judgement was passed on the Wai Hong case, some top official put up a defence at once and said that the existing labour legislation was quite comprehensive and complete and there would be no need to undertake a full-scale review. What Secretary Stephen IP said was somewhat better. He said that a full-scale review would take a lot of time and the most effective thing would be to undertake a review first of the loopholes in the laws. President, first of all, the Government should feel obliged in this matter, for what is involved is a contractor of the FEHD and this is telling proof that the FEHD has not been doing a good job in monitoring its contractors. When tenders are invited, the FEHD would only attach importance to the price tags and no consideration is made of the track record of contractors. What is more ironical is that Wai Hong is totally unaffected by this ruling and it is still holding a lot of government outsourced service contracts. Do the authorities not need to

undertake a full review of the drafting of these contracts of outsourced services and how they are monitored?

In addition, when the Magistrate pointed out that labour legislation was more backward than other countries, there should be no need for the Government to put up any unnecessary attempt to refute and deny. This is because no one in the community has ever called for the Government to emulate what other countries have done, but at least there should be a review of the existing legislation in order that the justifications for the legislation passed in other countries can be understood, hence improvements can be made. President, there are indeed a lot of areas in the law which should be reviewed. First of all, I would like to talk about the protection given to trade unions. Right on the next day after the judgement had been passed, an editorial in the papers said to the following effect, "for a long time relations between trade unions and employers in Hong Kong are quite cordial and if any side becomes more powerful..... it will definitely not be a good thing. So we must never permit further growth in the powers of trade unions after the judgement made in this case as this will lead to a deterioration in labour relations". Such comments are just incredible. The problem is not that the powers of trade unions in Hong Kong are too great but that all along trade unions in Hong Kong are the underdogs and they have no bargaining power. As a matter of fact, more than 100 countries all over the world have passed laws on collective bargaining. As its name suggests, collective bargaining is based on a platform of fair co-operation between employers and employees whereby disputes involving rights and benefits are solved by way of consultation. The Government must face squarely the fact that the employers have always been the strong and powerful and who have the say, whereas the employees are the weak ones. This problem must be seriously looked into and collective bargaining should be implemented.

Then with respect to the rights and benefits enjoyed by workers, there is an urgent need to enact legislation to impose a minimum wage and standard working hours. Latest statistics show that in the second quarter of 2005, workers exclusive of foreign domestic helpers whose wage is less than \$5,000 numbered 352 900. Employees whose weekly working hours are more than 60 hours numbered as many as 756 800. When faced with grass-roots workers who have trouble even to feed themselves and employees who are forced to trade off their health and family life because of the long working hours, can the Government pretend that it does not see? Numerous countries all over the world have passed laws on minimum wage and standard working hours, the

argument behind such moves is no other than this importance they attach to the working class. This is an embodiment of care for human beings. It is a way to check this insatiable hunger for profits in the business sector, that there must be a stop to this care only for superficial economic benefits and competitiveness and this squeezing of the last trace of energy from the employees who should be considered valuable human resources.

Moreover, as I have pointed out in the written question I asked today, the situation is likewise very backward when it comes to the paid leave enjoyed by local employees. Take the example of maternity leave, in the United Kingdom, a pregnant employee can expect to get 26 weeks of paid maternity leave, whereas there are only 10 weeks in Hong Kong. On top of this, there are no pre-natal leave, parenting leave and training leave as such in Hong Kong. If the Government does not undertake any review of this, it will really put me in great doubts as to how the Government can foster a working environment friendly to the employees' family as it has been proposed in the policy address.

It remains of course that there are still many problems related to labour rights and benefits, such as the right to reinstatement, universal retirement protection, and so on, which are listed out in the amendment proposed by Mr LEE Cheuk-yan. I hope that the Government can undertake a serious review of all these.

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

MR KWONG CHI-KIN (in Cantonese): Madam President, a comprehensive set of labour laws is lacking in Hong Kong. Legislation related to workers' rights and benefits are scattered in various ordinances, including the Employment Ordinance, the Employees' Compensation Ordinance, the Occupation Safety and Health Ordinance, the Labour Tribunal Ordinance, the Minor Employment Claims Adjudication Board Ordinance, the Mandatory Provident Fund Schemes Ordinance, and so on. These ordinances are, however, enforced by different departments. Even when an employee claims for his rights and benefits over a single item, different areas, including employment rights and benefits, compensation for injury sustained at work, occupational safety, Mandatory Provident Fund (MPF) protection, and so on, may be involved. The employee often has to approach different departments and go through repetitive and complicated claims procedures.

For these reasons, the Hong Kong Federation of Trade Unions (FTU) has, over the years, been emphasizing the need to review labour protection, including examining the formulation of a labour code by integrating all related labour laws into a set of labour legislation to be taken charge of by a single department, thus obviating the need for employees to approach different departments in making compensation claims.

Let me site a most common example to illustrate my point. Employees who have unfortunately not received full payment of wages or have been deducted MPF contributions by their employers will have to approach the Labour Department (LD) to make their claims. They will then be requested by the staff of the LD to fill in forms to declare the amount of outstanding wages, benefits, holidays and rest days. However, once MPF is involved, they will be required to register separately at the Mandatory Provident Fund Schemes Authority. Not only are the procedures evidently overlapping, it is a waste of time for the employees as well.

While the integration of and improvement to all labour laws is vital, the enhancement and upgrading of the enforcement of labour legislation as a whole is also of great urgency. Let me start with the role of the LD as a conciliator. It is simply impossible to say that the LD has brought its role into full play. As many unscrupulous employers are aware of, and indiscriminately abuse, the application system and purposes of the Protection of Wages on Insolvency Fund (PWIF), they will simply not attend the conciliation meetings arranged by the LD. They will only credit the defaulted payments to their employees in full to the PWIF account. The staff of the LD can only inform the employees that their employers will not attend the meetings and the employees will then be referred to the Labour Tribunal, the Legal Aid Department, the PWIF Board, and so on. In the absence of the employers, there is simply nothing the LD can do; it will only waste the time of the workers.

The workers have found it even more discontented that, even if their employers attend the conciliation meetings, the LD often abandons its enforcement role and instead stands in the position of the employers, persuading the employees to accept discounted wages in arrears and other payments. Wage default by employers is absolutely unlawful. The LD should therefore stand in the position of the employees to recover their outstanding payments. Why should the payments, being the entitled rewards for labour of the workers, be discounted? As the LD often acts in this manner, some employers attending the

conciliation meetings will state openly that their employees can only receive 70% or 80% of their wages, or they will leave the meetings. This proves that the LD's practice has sent a wrong message to the employers, that it will connive at the employers' unscrupulous act of deducting wages. As a result, even more employees will see their rights and benefits compromised. The FTU proposes that the Government strengthen the LD's statutory conciliation power to enable the employees to at least receive fair conciliation opportunities. In doing so, the employers will take the conciliation meetings arranged by the LD more seriously.

The LD must double its efforts in law enforcement in order to clamp down on wage defaults by employers. The wages and statutory rights and benefits of workers are all protected by the law. However, employers can often defy the law completely and evade their criminal liability very easily. Even when the Labour Tribunal and the Minor Employment Claims Adjudication Board (MECAB) have ruled that an employer has to pay wages in arrears, the latter can still delay the payment again and again in defiance of the law. If an employer resorts to hurting others by means of big capital and manipulating the legal procedures by lodging an appeal, enforcement of the ruling by the Labour Tribunal and the MECAB can even be put on hold. Such being the case, I wonder when the workers will be able to get back the money they earned by hard toil. Should the employees fail to obtain legal assistance or do not have time to fight against their employers, they will only see their outstanding wages go down the drain.

In the final analysis, loose law enforcement is to blame for the employers' acts of defaulting wages and defying rulings. Defaulting payment of wages and statutory compensations are criminal offences. However, the LD very often relies mainly on conciliation, to be supplemented by law enforcement. As I said earlier, the LD is simply powerless in playing its role as a conciliator. From their experience accumulated over the years, employers have learnt that they can default payment of wages unscrupulously in reality.

I once proposed in the Panel on Manpower of this Council that prosecution be stepped up by the LD in order to achieve the deterrent effect. I hope the Government will act seriously. Without serious enforcement, the legislation will only be reduced to a piece of useless paper.

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

MR RONNY TONG (in Cantonese): President, the Article 45 Concern Group (the Concern Group) supports this motion generally. This is because the main object of the motion today is to conduct a comprehensive review of the labour legislation. In my opinion, labour legislation in Hong Kong lags far behind many other places. We have not fulfilled our constitutional obligations. Therefore, we support the suggestion to review the legislation on a full scale.

President, first of all I would like to remind Honourable colleagues that the Government of the Hong Kong Special Administrative Region (SAR) has constitutional obligations with respect to labour legislation. Article 27 of the Basic Law puts it clearly enough: "Hong Kong residents shall have.....the right and freedom to form and join trade unions, and to strike." It is also written down clearly in Article 36 that "The welfare benefits and retirement security of the labour force shall be protected by law." Article 39 sets out clearly: "The provisions of the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and international labour conventions as applied to Hong Kong shall remain in force". Lastly, Article 147 also sets out unequivocally that "The Hong Kong Special Administrative Region shall on its own formulate laws and policies relating to labour." On the international labour conventions mentioned in Article 39, it is mentioned *inter alia* that since Hong Kong is a signatory, it has an international and constitutional obligation to enact legislation to enforce the international labour laws.

Why do we have such laws? As a matter of fact, President, a most fundamental reason is that there is a very marked difference between the bargaining power of the employers and employees. In many respects the workers do not have any power to fight for or defend their own rights and benefits. This has led to a very unfair situation and in some of the bad examples, it can be seen that their rights and benefits are constantly being exploited by those unscrupulous employers. In this regard, we can read from the news reports every day that such examples abound, such as those about poor working conditions, that workers' rights are exploited, that they are unfairly dismissed or that the benefits they deserve are slashed, and so on. Under the labour legislation, there are restrictions in law with respect to the Labour Tribunal that both parties cannot have any legal representation. Actually, the unfairness about this law is that it is restricting the workers and not the employers. Why am I saying this? This is because many large corporations and big bosses in Hong Kong have some so-called in-house lawyers. Though

they are not practising lawyers, they have enough training as lawyers and the experience. These people can represent the employers to attend the labour dispute cases handled by the Labour Tribunal. They do not come as lawyers but they are doing what lawyers would do. Of course, they are much superior to the workers in making submissions and interpreting the law. That is why in the Labour Tribunal, the workers actually receive some very unfair treatment.

If we do not do anything to rectify this very unfair system, then I think we are actually not fulfilling our obligation to protect the benefits of the workers in Hong Kong. In this connection, we have browsed the relevant laws and as Mr KWONG Chi-kin has said, labour legislation in this regard is far from being sound. First, stipulations are made in many different areas and there is no single piece of substantial and comprehensive labour law. The most important thing is that although under the Trade Unions Ordinance, wage earners in Hong Kong are allowed to form trade unions and the trade unions may register and have their statutory position recognized, the functions and powers which the trade unions can exercise are very much limited. The most important thing is section 44 of the Trade Unions Ordinance which states: "Nothing in this Ordinance shall enable any court to entertain any legal proceeding instituted with the object of directly enforcing or recovering damages for the breach of any of the following agreements....." This is to say, section 44 has laid down the definition of agreements in very broad terms and they are not legally binding and they do not have any statutory status. The agreements reached may include any of those agreements which are reached after employers and employees have engaged in collective bargaining which are of course not legally binding. Any agreement reached on the payment of any subscription or penalty to a trade union are likewise not legally binding. Even with respect to any agreement on the application of the funds of a trade union "(i) to provide benefits for members; or (ii) to furnish contributions to any employer or employee not a member of such trade union, in consideration of such employer or employee acting in conformity with the rules or resolutions of such trade union; or (iii) to discharge any fine imposed on any person by sentence of a court of justice." All these are not recognized by the law. In such circumstances, the trade union concerned is only a toothless tiger or a toothless body. It cannot fulfil its functions to protect the rights of the workers at all.

Therefore, we hold that legislation in Hong Kong in this respect is lagging far behind the times and it cannot help the SAR Government to fulfil its constitutional and international obligations. The Concern Group therefore fully supports the proposal to conduct a comprehensive review and hopes that

legislation on this can be improved soon. We support the motion and all the amendments. Thank you, President.

DR FERNANDO CHEUNG (in Cantonese): President, Mr WONG Kwok-hing points out in his motion that labour relations in Hong Kong have changed in tandem with changes in the economic pattern. I think this is a very correct observation. However, Members may wonder, all along labour relations are actually the bosses buying the labour of wage earners. This has always been the case. But under the globalization trend, the entire society is heading towards a knowledge-based economy and so this transaction has become vastly different from what was the case in the past. This is not only due to economic restructuring but also due to the fact that the entire culture in society and labour relations as a whole have changed. A few years ago, a sociologist named Richard SENNETT wrote a book entitled *The Corrosion of Character* in which mention is made that the present-day labour relations are no longer underlined by mutual commitment. Gone are the days when employees are loyal to the employers, that the employees are hardworking and dedicated and the ethics of work like the belief that learning a skill and working hard will promise a good life, basic protection and a happy life, and so on.

Employers now want more and things done fast, well and economical. They want the labour they purchase can be instantly translated into profits. They do not ask for loyalty, long-term relationship or mutual commitment anymore. What is said in the market is flexibility, that is, employees are hired or fired in accordance with changing needs in the market. This is coupled with the myriad of changes in and pounding impact on the working environment and work relations. I think as we consider conducting a full review of the existing labour legislation, we must also take into account the culture in our society these days and view everything in the labour relations in the light of changes that have taken place.

As we review the situation in Hong Kong, we will see problems related to the contracting out of public services. As spearheaded by the Government, many public services are outsourced. The way to do it is through some contracts of a short term or a somewhat longer term, part-time employment and such like so-called flexible forms of employment which are becoming increasingly common. As a result, the wage earners are put under the constant threat of losing their jobs. In addition, wages of the non-skilled workers have always been suppressed and these workers are seriously exploited. Information

from the Census and Statistics Department show that in 2004, there were more than 100 000 full-time workers who had a monthly income of less than \$5,000. From time to time we would hear about how employers deduct and withhold the wages of the low-income and low-skilled workers such as the cleaning workers, and so on. All these are outrageous facts.

Of the so-called four major pillars of the Hong Kong economy, the financial and professional services sector is an important one, but more than half of the workforce in Hong Kong is made up of workers who have a low educational attainment and are low-skilled. They all face a very serious employment problem. But the people who have to face this lack of protection are actually not limited to those wage earners who have a low level of educational attainment.

A couple of days ago, I attended two public occasions in one single day and they were all related to labour disputes. In the morning, I went to the Hong Kong Baptist University (HKBU). The HKBU wants to transfer its teaching staff into a new system. About 10% of the staff in the HKBU will face a salary cut of about 10%. Though the teaching staff do not have to face a salary cut for the moment, the new system will take away many kinds of leave to which they are entitled as well as their basic protection. If the staff (including the teaching staff and those staff protected by long-term employment terms) do not want to sign the new contract, they will be dismissed. Although the management says that it does not want to dismiss any of its staff and they will be offered a new contract when their employment is terminated, the terms and conditions in the new contract are even worse than those found to facilitate the transfer to the new system. Obviously, does it not show that this is a high-handed and hegemonist approach? Is this not an outright suppression of the wage earners? It is surprising to learn that elites in society, those who teach in the university, holding a PhD degree and with many years of teaching experience, are facing such a state of affairs.

In that evening, I attended another occasion and that was about what happened in the YWCA. It was because some colleagues of the YWCA had staged a hunger strike in protest. The organization is facing great financial problems — but even so, it still has reserves to the tune of more than \$30 million plus other sources of income. All the colleagues there had agreed to a pay cut of 8% and they had joined the new establishment. But under this new establishment, some of the colleagues had been demoted and as these colleagues felt aggrieved, they staged a hunger strike in protest.

Our officials think that as the economy swings an upturn, everybody is bound to benefit. But we all know the truth. As we face the challenges posed by globalization, competition among the companies will only become fiercer than ever. This implies that the situation of the grass-roots workers and even many professionals alike will go from bad to worse. If labour legislation as it is cannot keep itself abreast of the times, this will certainly create serious class conflicts. Therefore, I agree very much with Mr LEUNG Yiu-chung when he urges the Government to reintroduce into this Council for scrutiny those pieces of labour legislation which had been passed in this Council but were subsequently repealed by the Provisional Legislative Council.

In addition, we can also see that if the Government continues to favour the giant consortia and refuses to balance the rights and benefits of the workers in enacting labour legislation, the future development will certainly be that most people will be deprived of a sense of security. Hence, they will struggle to survive in a situation where they get no protection from the labour legislation. This is never something we would want to see.

Thank you, President.

MR SIN CHUNG-KAI (in Cantonese): President, conducting a review of the labour legislation is certainly a major surgical operation. We must know something about the background, especially the fact that in the latter part of the 1960s and the 1970s, protection as given by labour legislation was focused on employees in the working class or the grassroots. But now at this time and age, there are more and more white-collar workers or members of the middle class in Hong Kong and they can be said to be the mainstream of the workforce and the service industries. Of these many professionals are put under great pressure — this was mentioned by Miss TAM Heung-man earlier — and that is caused by the so-called maximum working hours issue. In the information technology (IT) sector which I represent, the same problems do exist. The people in the IT sector are different from the self-employed professionals in that such self-employed professionals as barristers may work day in and day out to handle a case, but the way their reward is calculated may be project-based, that is to say, they will charge their fees only when the case is finished. As I have said, many wage earners or professionals, regardless of whether they are employed in the IT sector or in the accounting sector which Miss TAM Heung-man has just talked about, would often find themselves under great pressure as a result of the great

number of working hours. They have to work 70 to 80 hours on average a week and this is really too much. Moreover, instead of being a transient situation that lasts only for a short time, it is something that goes on and on. Moreover, even though they work such long hours, they will not get any extra compensation. I hope that the Government can look into this problem carefully.

Hong Kong has undergone an economic restructuring. In the past, there used to be some 800 000 to 900 000 people engaged in the manufacturing industries and labour legislation might be quite important to them. But now the workforce is mainly composed of professionals or those in the service industries. Even when it is 6 pm now when people should be off duty, most of the offices in Central are still brightly lit. Though the working hours of wage earners are supposed to be from 9 am in the morning to 5 pm in the afternoon, the actual working hours for most people are 9 am in the morning to 8 pm in the evening. Such long working hours are commonplace. Actually, 9 am to 8 pm cannot be said to be very long working hours, for there are many people who will have to work until 9 pm or 10 pm in the evening. This is especially the case in my trade.

Of course, the Secretary General is working overtime now. This is also commonplace, too. When we are to conduct a review of the legislation, do we have to look into this situation and tackle this problem step by step? Over the past few years, the Government had been having reservations about it. At its peak, the issue has been discussed eight to 10 times. But what the Government will do is only putting up a smile. Our Director of Bureau is such a taichi master and he has sit on this issue. Does the Government not need to give us some date for an answer to this? What the Government should care about are not only the grass-roots workers, and as the middle-class people are also workers, they should be cared for as well. Should our legislation not aim at protecting and caring for the entire economy? Of course, some employers would oppose it, but if the health of workers or the employees are harmed, in the end there will be loss on the part of the employers as well. I think that amendments and reviews of the labour legislation should address the changes of the times. In the past, it was the grassroots, that is, the workers of the manufacturing industries, who were cared for, but now it is those in the service industries and the professionals who need care. I hope the Government can proceed with the review.

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

MR ALBERT CHAN (in Cantonese): President, of all the legislation in the territory, labour legislation can be considered the most backward, outdated and exploitative. Labour legislation has indeed contributed tremendously to Hong Kong being ranked as the freest economy for a number of years. At the same time, owing to our labour legislation, Hong Kong workers lack protection; employers can do whatever they want, exploiting, bullying and oppressing, and cheating our toiling masses, thereby depriving many labour groups and unions of their basic rights. Even when workers are unfairly and unreasonably treated by their employers, the former can only suffer in silence.

The Hong Kong Government has contributed the most in making this situation possible. We have often condemned the Government for collaboration with businessmen and transfer of benefits. Such legislation best exemplify how benefits are transferred among these financial magnates, consortia and unscrupulous employers. To rectify this unfair, unreasonable and inhumane phenomenon, the Government must overhaul and modify labour legislation to return to the toiling masses and workers in Hong Kong their entitled rights. Like other so-called advanced countries and communities, and governments with conscience, we should give our workers comparable protection and their deserved rights. I believe we are, in many ways, at least 40 to 50 years behind Europe and the United States.

However, I fail to notice that the Hong Kong Government is aware of the need for conscious reform in this area. Our Government is still extremely proud of its "big market, small government" principle, which means no government intervention. It has allowed the barbaric acts of Social Darwinism, such as the "jungle rule" and survival of the fittest, to continue to exist. If the President gave me leave to do so in the Chamber, I could knock out all government officials because, according to the principle of survival of the fittest, I would call the shots. Yet, owing to the rules laid down by the President, I was not allowed to engage the Government in a single fight, am I right? Otherwise, I believe the toiling masses will surely clap their hands in applause.

There are indeed double standards in the existing legislation. By way of legislation, the Government allows employers to act indiscriminately in exploiting, and bullying and oppressing workers. Yet, an array of stringent legislation is imposed to curb the so-called slightly violent behaviour of workers. Workers found to act in a slightly violent manner will definitely be arrested for subsequent sentencing and detention. Such a phenomenon in which the weak

serves as a prey to the strong and the invisible mode are very frightening, and have given rise to instances of white terror. President, I have very often received many labour complaints in my district every other day, if not every day. The complaints involve default or late payment of wages, or employers forcing their employees to sign a number of contracts by bullying and oppressing, misleading or holding back information from them. Some ignorant school-leavers aged in their late teens will sometimes unknowingly sign the contracts, and then they will have to face enormous fears.

Some contracts can be utterly outrageous. The female client of a case I just handled last week was a first-time employee. The contract she entered into with a sort of a beauty parlour provides for a one-year period of employment. In the event of dismissal, the employer will not be required to make compensations and she can be dismissed at any time. However, should she want to quit after the trial period, she will be required to pay the wages of the remaining months. As Members should know, the contract may not stand any chance should it be dealt with by the Labour Tribunal. When my client enquired with two offices of the Labour Department (LD), she was advised by one of the offices that, given that the contract was unfair, she would have a chance to win should her case be brought to the Labour Tribunal for litigation. However, the reply she got from the staff of another office was that she must act according to the contract. This might have something to do with the quality and competence of the staff of different LD offices, though my interpretation might not necessarily be right too. However, as far as I understand it, it is indeed inadvisable for the Government to allow a certain piece of legislation to exist if it is unfair. However, I can tell the Secretary and the Director that this situation can frequently be found in Hong Kong society, every day and everywhere.

These contracts will not cease to exist should legislation fail to make it clear to employers that, when drawing up these contracts, they are legally liable and may be punished by the law. As a result, many socially disadvantaged groups and youngsters, the less-educated and people who do not have the required legal knowledge to grasp these issues will live in fear. As I said earlier, Hong Kong's labour legislation enables employers to do whatever they want and allows these contracts to continue to exist in an unscrupulous manner. Should the Government do nothing to address, change or stop all this, the Government will be no different from an accomplice who connives at and assist the unscrupulous employers in continuing to bullying and oppressing the toiling masses.

Another frequent phenomenon is late payment of wages. How many employers have been prosecuted? I wonder if one employer out of 1 000, or even 10 000, employers has been prosecuted. Workers whose wages are due and unpaid will thus be forced to live in poverty. Even the Government itself has not done its job very well. In a case involving a group of former employees of the Housing Department (HD), who were dismissed because of certain internal government procedures and who have not yet received their pensions, the process involved was extremely unreasonable. This case has been pursued for years. The Government, though it can dismiss its employees, is certainly subject to other legislative control. After a judicial review, however, all the clients of the case finally lost. Of course, these former employees of the HD are not protected by labour legislation too.

Therefore, so long as our labour legislation remains unchanged, the Government will still be conniving at employers to continue exploiting, bullying and oppressing, and suppressing the toiling masses in Hong Kong. Thank you, President.

MR LEUNG KWOK-HUNG (in Cantonese): President, I am grateful to Mr WONG Kwok-hing for moving this motion to let us say a few words on labour legislation.

Subsequently to the scrapping of some labour ordinances immediately after the reunification, the labour side no longer enjoys the right to collective bargaining previously conferred on it, as well as the protection from unreasonable dismissal as a result of participation in labour union activities. Even its affiliation with foreign labour unions and acceptance of donations are no longer protected. All these amendments, made after the reunification, were the first gift received by workers after the reunification.

Soon after the reunification, the Government began in mid-July introducing measures to freeze our laws. Ms Elsie LEUNG, now already retired and has become a chief, was responsible for freezing legislation back then — conferring workers with such enormous powers might produce an adverse impact and easily lead to fatal consequences. I was arrested for demonstrating in the public gallery in connection with this event too.

Now we are demanding a review of the labour legislation. Actually, the legislation had originally been like this, only that it was scrapped subsequently.

The first thing the Government should do is to reinstate the legislation, right? Without a revival of the law and restoration of the right to collective bargaining, employees will face the risk of dismissal. The situation is just this simple. I recall the dismissal of a worker surnamed TANG, ex-chairman of the labour union of the Oriental Overseas Group, operated under the name of Mr TUNG Chee-hwa. Despite Mr TANG's attempts to stage a "sleep-in" protest and go on a hunger strike here, no one took notice of him. Can Policy Secretaries intervene now that the legislation has been scrapped? Despite our repeated calls, the first thing we have to do is to give back to the labour side its entitled rights. In other words, all the bad things done by the Provisional Legislative Council, which was not elected, should be vindicated. Otherwise, all comprehensive reviews of labour legislation will just be an illusion. I wonder if Mr WONG Kwok-hing agrees that a review conducted under such circumstances is nothing but an attempt of flattery with an ulterior motive.

Second, after the reunification, this Council has repeatedly indicated by the number of votes that the Government should accede to the demand for setting a minimum wage and maximum working hours. Our unique, ugly separate voting system has, however, turned the majority into the minority. Are we not responsible for representing public opinion? Is the Government not responsible too? Although the Government stated that the voting result had indicated disapproval, it should be able to see that more than 30 votes were in favour of the demand. Given the Government's commitment to strong governance, should it protect labour rights as well? Can the Government do nothing in spite of full knowledge of it? Can the Government pretend it has not seen it? Secretary IP and Director CHEUNG, who were sitting in the Chamber at that time, agreed unanimously that the motion had been voted down. We could tell from their smiling faces that they did not take the matter seriously. Do they really not see the public opinion?

Third, it is deceiving to expect employers and employees to reach a consensus in the meeting held by the tripartite Labour Advisory Board before reform can be launched, because this is basically a zero-sum game — while employees certainly want "more", employers would like to see employees get "less". The Government is encouraging employees to negotiate with a tiger for its hide, will the employees succeed? The Government has even acted shamelessly as a middleman by asking the employees this question, "So, you have nothing to eat? However, the other party has rejected your request for a blood transfusion or a 'saline drip'." Could there possibly be a doctor like this on earth? A doctor is always kind at heart. The Government cannot even act

like a doctor. Is all this what Mr Donald TSANG means by "Strong Governance for the People" when he appears in the Question and Answer Session tomorrow?

In order to conduct a comprehensive review of labour legislation, there must be an elected government. Without the support of its electors, the Government will have to step down. Hong Kong's labour force, numbers more than 3 million, plus their family members, represents the majority of the community. They have seen their rights continuously suppressed and teased both inside and outside this Council simply because we do not have election. The present government is not going to step down.

The democratic camp is being treated by the Government as an opposition party. The Government even lacks political sense. What does an opposition party mean? What does a faithful opposition party mean? An opposition party will, in accordance with an established, fair procedure, demand the resignation of the government head. I am from the faithful opposition camp. The present situation is different. We have, at the most, Chief Executive Donald TSANG, or someone like that, elected by 1 600 people. How dare the Government treat us as the opposition? It would be wonderful if the opposition could join forces. Should that be the case, Hong Kong people would have put an end to their suffering a long time ago. Take those words about the opposition party back immediately!

I can tell Members that an opposition party, though not necessarily the democratic camp, will emerge sooner or later. It might even be formed by the masses. So long as the present system remains unchanged, the emergence of an opposition party will still be possible. Instead of being a faithful opposition party, it will even turn out to be a subversive opposition party because of the unfairness of the present system. The Government is not qualified to treat others as the opposition party. In what ways is it qualified to do so? Can they ascend to power?

The present government, known for its stubbornness and collaboration with businessmen, is to blame for the emergence of a subversive opposition party. I am looking forward to an opposition party which can really represent the masses, workers and the grassroots. I hope that an opposition party will have emerged by the time the next comprehensive review is conducted. I also hope that my brothers and sisters throughout the territory can organize themselves into an opposition party. Thank you, President.

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

MR JAMES TIEN (in Cantonese): President, let me get down to business to express my views on this motion debate on a comprehensive review of labour legislation. I do not think I have to speak so loudly when delivering my speech.

President, I believe the changes in labour relations experienced by Hong Kong due to economic transformation occur not only here in the territory, but also in other parts of the world. Some countries going through economic transformation will change from an agricultural to industrial country, while some from an industrial country to a country relying on services or financial industries. Of course, as the economic pattern changes, the roles of employers and employees have to be adjusted too. In this connection, I share the question raised by Mr SIN Chung-kai earlier: Given the expansion of the service sector and the large number of employees engaged in the sector, are the ordinances previously targeting factories still applicable? This issue warrants our discussion.

However, the Liberal Party disagrees that the existing labour legislation cannot keep abreast of the times and that the Government seems to have done nothing over the years. The Liberal Party does not have any strong views on the last sentence of the motion which reads "this Council urges the Administration to expeditiously conduct a comprehensive review of various legislation relating to labour matters" because we believe more ordinances will have to be deleted upon the completion of the review. Obsolete ordinances that offer extreme labour protection are meaningless.

President, the Liberal Party has looked up some information to ascertain if the Government has really done virtually nothing over the years and if the employers have refused to compromise no matter what, as alleged by Members of the labour sector? Yet, we have found from the record that this was not the case really.

Hong Kong's labour legislation can be broadly divided into three major categories. The first category, related to basic rights, covers the Employment Ordinance, the Protection of Wages on Insolvency Ordinance, and so on. The second category, related to compensation for injuries or deaths in employment, or occupational diseases, covers the Employees' Compensation Ordinance, the Employees Compensation Assistance Ordinance, the Pneumoconiosis

(Compensation) Ordinance, the Occupational Deafness Compensation Ordinance, and so on. The third category, related to working in a safe environment, covers the Factories and Industrial Undertakings Ordinance, the Occupational Safety and Health Ordinance, and the like. We can see from here that there are three major categories of labour legislation in Hong Kong.

President, I returned to Hong Kong in 1970, and have been running my father's factory since 1971 for 35 years. I have requested the staff of the Liberal Party to look up the records of the past 35 years to ascertain if the Government and employers have made any efforts in improving labour legislation in a gradual and progressive manner. Eventually, 12 protection measures have been identified. Such protection, though being offered at the moment, was unavailable in 1970 when I just returned to Hong Kong. Let me start from the first measure.

First, expanding the scope of protection under the legislation. When the Employment Ordinance was initially enacted, it was applicable merely to manual workers and non-manual employees with a monthly salary of \$1,500. In 1990, however, the income ceiling on non-manual employees was abolished as a gradual and progressive initiative. As a result, from 1990 onwards, all employees, whether or not engaged in manual work and regardless of their level of income, are protected. Furthermore, the Employees' Compensation Ordinance was expanded in 1998 to cover employees employed by Hong Kong employers but have sustained injuries in employment outside Hong Kong. Starting from 1988, even employees working in factories operated in Shenzhen are protected as well. In 1990, the Factories and Industrial Undertakings Ordinance was further amended to include food undertakings. In other words, even the catering industry was brought under the Factories and Industrial Undertakings Ordinance in 1990 because many from Hong Kong were engaged in the catering industry at that time. Therefore, even though the title of the Ordinance remains unchanged, the catering industry, treated as factories, is included.

Second, increasing the number of holidays. The legislation initially provided that workers were entitled to only one rest day in every period of seven working days and six statutory holidays a year. The number of statutory holidays was increased to 10 in 1976, to 11 in 1983, and even to 12 in 1999. This proves that it is not true to say that the Government has, though confronted with economic restructuring over the years, not kept abreast of the times and has

done nothing in addressing labour legislation. On increasing the number of holidays, we have also noticed that provisions on paid holidays were introduced in 1977. The number of paid holidays was increased in 1990 from seven to 14.

Third, sick leave and sickness allowance. The period of paid sick leave — sorry, it should be accumulated paid sick leave — was initially 24 days while sickness allowance was one half of wages. In 1977, the period of accumulated paid sick leave was increased to 36 days while sickness allowance was increased from one half to two thirds of wages. In 1983, the number of accumulated paid sick leave was increased to 120 days. In 1996, sickness allowance was further increased from two thirds to four fifths of wages. Has the Government not kept abreast of the times over the past years?

Fourth, maternity leave. When the relevant legislation was enacted in 1970, pregnant employees were entitled to 10 weeks' unpaid maternity leave only. In 1981, pregnant employees could obtain payments at a rate of two thirds of their wages under the Employment Ordinance. The rate was further increased in 1995 to four fifths of wages.

Fifth, introduction of severance payment and long service payment. After the enactment of the relevant legislation in 1974, the rate of severance payment was increased in 1984 from one half to two thirds of a month's wages for every year of service. Furthermore, long service payment was provided for in 1985. And in 1995, the qualifying period of service for long service payment upon old age retirement was lowered from 10 to five years.

President, I have not yet told Members the sixth to twelfth changes made by the Government for the protection of labour rights and benefits. As I predicted that I would not have enough time to speak, I will pass my draft speech to Mr Howard YOUNG later so that he can read out the remaining part of my speech.

I only wish to point out that, since I came back 35 years ago, the Government has introduced a total of 12 pieces of legislation successively. All the legislation, as part of the Government's on-going exercise, is in keeping with the times. The Liberal Party supports the Government continuing with the review. However, the Liberal Party disagrees with the accusation that the Government and employers have done nothing over the many years past.

Thank you, President.

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

MR HOWARD YOUNG (in Cantonese): President, when I returned to Hong Kong looking for a job more than 30 years ago, I did not hear of any particular labour legislation at that time. The salary of my first job was \$250, and I have been working till now.

However, I can see that the body of labour legislation has indeed continued to grow. Workers were benefited each time a new piece of labour legislation was introduced. In addition to the five changes mentioned by Mr James TIEN earlier, new requirements on unreasonable or unlawful dismissal have been added to the Employment Ordinance. In 1997, the Government stipulated that, in the event of unreasonable dismissal or unreasonable alteration of employment contracts, employees might claim compensation from their employers.

Furthermore, in 1974 and 2000, new provisions protecting the right to participate in labour union activities were added to the Employment Ordinance. In 1974, new provisions were added to protect trade unions against discrimination. In 2000, the Ordinance was amended to clarify that employers have no authority to dismiss employees without notice or payment of wages in lieu of notice on the ground that the latter have participated in strikes. Of course, this point has been discussed by colleagues some time earlier.

The Protection of Wages on Insolvency Fund (PWIF), the subject of the discussion earlier today, has been set up too. The Protection of Wages on Insolvency Ordinance, on the other hand, was enacted in 1985. The Government has also offered such protection recently. Moreover, the penalties for contravening the Ordinance have also been raised by the Government recently. All these efforts run in the same direction.

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

As regards insurance, according to the ninth item in our information brief, a new mandatory employee compensation insurance has now been provided for. In 1982, the Employees' Compensation Ordinance provided that employers must take out employees' compensation insurance for their employees. As a wage

earner myself, I have thus been benefited as well. With the enactment of the Employees Compensation Assistance Ordinance in 1991, the Employees Compensation Assistance Fund was set up to provide assistance to employees who fail to receive compensation from employers who have not taken out insurance or insurers who have become insolvent. In addition to insurance, this serves as additional protection.

According to the tenth item in our information brief, a wide range of specific compensation funds have been set up for occupational diseases to offer protection previously unavailable. At present, specific compensation funds have been established even for occupational diseases with a relatively long incubation period. As a result, the number of occupational diseases eligible for compensation has gradually increased to 46.

We have also noticed that, in earlier years, the scope of statutory occupational safety protection was confined merely to employees working in factories or industrial undertakings. Under the Occupational Safety and Health Ordinance, enacted in 1997, the scope of protection was expanded to the non-industrial sector, even including the display screens commonly used in offices. The relevant Ordinance has been extended to cover all employees and workplaces, including offices, commercial premises, schools, hospitals, and so on. Previously, only factory employees were covered by the Ordinance.

Finally, the establishment of the Mandatory Provident Fund (MPF) System. A question raised today was about the operation of the MPF schemes too. As Members are aware, the old age pension, introduced in the '90s, was subsequently replaced by the provident fund. After several U-turns, the MPF System was finally established. The Mandatory Provident Fund Schemes Ordinance, enacted in 1995, came into force on 1 October 2000.

With respect to the review proposed in today's motion, we certainly agree that all matters should be reviewed from time to time. However, we must not exaggerate by describing our labour legislation as completely useless. Nor should we call for an overhaul because of the view that we have lagged behind seriously, or even consider our labour legislation full of flaws and loopholes. All these are overstatements. We certainly disagree. We are obliged to examine in a rational and objective manner what improvements the Government has made over the years. For such improvements to keep abreast of the times,

employers and employees must hold detailed discussions and make constant improvements to perfect our labour legislation by way of consultation.

However, we must take employers into consideration too. While labour legislation seek to protect employees, what about employers? Being an employee, I have never been an employer before. But still, I can envisage that if the business environment is so poor that employers can no longer run their business, I will lose my job too. Besides the Liberal Party, Members should also understand these business principles and needs. As an employee, I consider that protection is essential. However, it must be borne in mind that, should employers find it impossible to stay in business, employees' protection and rice bowls will become nothing but empty talks. I so submit.

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

MR ALBERT CHENG (in Cantonese): Deputy President, Mr James TIEN said that when he returned to Hong Kong to work 35 years ago, the protection provided by labour legislation in the territory was not adequate. He quoted many examples to illustrate that, during the past 35 years, the Hong Kong Government has actually done a lot in respect of labour rights and benefits, and has enacted many ordinances for protection of the same. However, even if the Government has enacted 12 ordinances in 35 years, it does not mean that the Government has done its part or that Hong Kong workers have already obtained the protection. The most crucial issue is whether the protection is sufficient.

I often share this story with others. Once upon a time, some slaves received 10 strokes by the whip daily from their employer. They received these 10 strokes daily by the whip for a long time. One day, their employer felt the pain on his hands, so he just whipped them only five strokes. These slaves were excessively grateful, thanking the employer for being so kind to them on that day. But what we are talking about is equality and justice. One hundred years ago, Hong Kong was just a little fishing village. Why should the people need to have labour legislation at that time? Where could the workers find any protection then? However, 35 years ago, we only had some cottage factories on domestic premises in Hong Kong. People living in the territory then were all refugees who were all too thankful for being able to come to Hong Kong to make a living.

When I was a little child, I witnessed someone sleep on the street on a camp bed that could be folded and put away in the morning. When others were having meals, they might just give him a pair of chopsticks and invite him to join them. If there were not sufficient food to go with the rice, they would resign to some preserved bean curbs. However, with the lapse of 35 years, some operators of home-style factories manufacturing plastic floral decorations, electronic products and garments have now become some rich financial magnates or international tycoons whose wealth has grown to astronomical proportions. Comparing the financial conditions of these tycoons with those of the workers, have they moved forward with time at the same pace? Of course, we all know that the answer is in the negative.

Our Honourable colleagues have criticized the Government of not doing enough. I think such criticisms are not fair. In fact the Government has already done a lot. This is true. According to the statistics provided by Mr James TIEN, the Government has made improvements through 12 pieces of labour legislation which provide workers with protection. For example, at that time, there were no holidays for workers. When I was small, the shops would only celebrate the "First Nga" (頭禡) and the "Last Nga" (尾禡) and the workers could enjoy only one rest day per month. The employees would feel very happy already if they were served with chicken at two of the meals in a month. But nowadays, workers do have 12 days of leave. But I think, where else in the world could we find some holidays being specified as workers' holidays? Only in Hong Kong. How can we explain this to our children? If the father is a worker, when other people are enjoying the holiday on the Boxing Day in Christmas, the father can only tell his children that he is not entitled to this type of holidays as he is a worker. This should not happen in our society. We should have fairness and justice.

Why did I say that our Government had been doing the right thing and is doing enough work? Mr Albert CHAN demands the Government to enact legislation. Does our Government have a ruling party here? Can the Government secure enough votes here? Let us ask Stephen IP to table the legislation to the Legislative Council tomorrow. Can the legislation on minimum wage, maximum working hours and collective bargaining be passed here? I can stake my life on the bet that it will never happen.

After all, democracy is still the most significant thing. Well, in fact, I am digressing to another issue now. On 21 December last year, a voting result of

34:24 with one abstention defeated the constitutional reform package. On the following day, some comments emerged: What kind of Legislative Council was this, with the majority obeying the minority? The constitutional system is very important. If a company has to dispose of its assets, a 75% majority vote in favour of the decision is required before it can really proceed to dispose of its main assets or change its business nature. But the constitutional system is a different issue because all the relevant rules are stipulated in the Basic Law. But, another show will soon be staged in this Legislative Council, that is, even though we have the majority votes supporting this motion and the amendments, still they will definitely not be passed after the votes are counted under the separate voting system. Therefore, it is most important for us to achieve universal suffrage. By then, we can have a democratic government and a Legislative Council with all its Members elected by "one person, one vote". Only in this way can we ensure justice and fairness in society.

Functional constituency sectors still exist in our current Legislative Council. Most of the representatives of the functional constituencies are standing for the interests of the commercial and industrial sector. As long as they can secure more than 15 votes in the functional constituencies, they hold the absolute authority to veto any motion. Therefore, later on, this motion will definitely be negated. This is not the mistake of the Government. Instead, this is a reason for us to strive for democracy. Why must the commercial and industrial sector stifle the democratic development in Hong Kong? This is the reason: They have to safeguard their vested interests.

After listening to the speeches delivered by many Members standing for the interests of the commercial and industrial sector and those with vested interests, I can see that they have only a few tricks, that is, to lure the people with benefits and threaten them by intimidation. They threaten that if the labour legislation is improved, they will close down their businesses and have them relocated to other places. If the business is not profitable, who will operate it? Are they really doing it all for charity? Is every shop being run like the Tung Wah Group of Hospitals or the Po Leung Kuk? Even if they are the Tung Wah Group of Hospitals or the Po Leung Kuk, they still have to operate within their means.

As for the claim that we are the freest economy in the world, we simply cannot build up this reputation at the expense of the sweat and toil of the workers. Otherwise, even if we can get this reputation, we should still feel ashamed of it. Why did no one bother to discuss our Gini Coefficient? This is

one area in which we are comparable to the African countries. Why did no one bring this up?

Recently, I had been to a shop selling a kind of local snack called "small egg cake" (雞蛋仔). The shop was only as large as the combined area of my bench and that of Mr Martin LEE. I asked the owner how much money he was paying as the monthly rent. He said it was \$60,000. So the rent per day is already \$2,000. The owner and his wife are running the shop. We wonder whether they can earn \$2,000 daily as their income. If so, I would also like to sell some "egg crispy chips" (雞蛋散) and be a salesman of such food, and then I do not have to stand here anymore. To the small and medium enterprises, the biggest single cost is rent. It is exactly the expensive rents that have made the business operations difficult, thus making the businessmen exploit the workers. It is as simple as that.

Our labour legislation has indeed improved, but it is still inadequate. Today, Hong Kong is an economy and a financial centre. But it has not moved forward to keep itself abreast of the rest of the world. Therefore, regarding the motion and all the amendments, I will certainly support them. What is more, the amendments we are proposing are just reversing a law that was passed before the reunification in 1997.

I so submit. Thank you, Deputy President.

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

MISS CHAN YUEN-HAN (in Cantonese): Deputy President, Hong Kong was awarded a top ranking last week, and just now Mr Albert CHENG has also mentioned it — Hong Kong had been named the world's freest economy for the 12th year in succession by the Heritage Foundation. However, in this free economy, there are blood, tears and sweat. What is more, this time we scored an unprecedented 1.28 points. Hong Kong has been commended by the Foundation as the "poster economy for economic freedom around the world". This is really a commendation that is much too heavy for us.

However, I want to see what this commendation consists of. The Financial Secretary said that he was delighted and encouraged as, on the one hand, Hong Kong had received a top ranking, and on the other, Hong Kong had

been hailed as a poster economy for economic freedom. I believe many Hong Kong officials would also feel happy about the news. However, I guess Secretary Stephen IP and the Director may not feel too happy about it because they know what I am going to say.

Let us take a look at the details of the report of the Foundation. After reading the index report, I feel as if someone has thrown a wet blanket over me. I find the situation of Hong Kong absolutely unsatisfactory. As pointed out by Mr WONG Kwok-hing, who moved the motion today, Mr LEE Cheuk-yan and Mr LEUNG Yiu-chung, who proposed the amendments, as well as a group of fellow unionists who are concerned about the well-being of the workers, it is true that the Government found it necessary to change its approach of governance some 30 years ago, due to the social upheavals that had taken place in the '60s in Hong Kong. Therefore, many pieces of labour legislation had been enacted (in the order of A, B, C, and so on) after 1971. However, strictly speaking, the pace of development of such legislation was as slow as a snail.

Let me say something about the widely acclaimed free economy of Hong Kong, and let us see what it is all about. If we examine the breakdown of the index report, then we can discover a situation. Among the top 10 freest economies, only Hong Kong and Iceland have not prescribed a minimum wage. But Iceland has already established the mechanism of collective bargaining and a Wage Management Committee to facilitate discussions among the various parties. Hong Kong has none of these. Next, someone will say that the prescription of a minimum wage will definitely affect the degree of freedom in Hong Kong. We can go on discussing the cases down the ranking table. Singapore, which has some restrictions on the wages, ranks second among the freest economies, with a score of 1.58 points, which just shows a difference of 0.28 points from Hong Kong. Having attained a score of 1.58 points, Ireland ranks third and it has already implemented the minimum wage in 2001. Its score is just 0.3 points away from Hong Kong. This shows that, even if Hong Kong implemented a minimum wage, it does not mean that it would lose its status as the freest economy. Therefore, we should not hold the workers responsible for all the negative happenings, and make them shoulder the responsibility.

Frankly speaking, we really do not want to receive the honour of such a top ranking. I believe Hong Kong workers would rather see our city follow the examples of Iceland and Singapore, instead of receiving such a commendation. This is because the situation of our workers is too miserable. All along, our

grass-roots workers have been hoping that they can enjoy the protection of a minimum wage, so that they can be assured of a basic income. Secretary IP, please make good use of this point to convince the top echelon of the Government, so as to make them understand that there is nothing they need to fear in formulating a minimum wage.

Apart from the minimum wage, the issue of default wage payment is also a problem that has been bothering the workers all the time. In particular, construction workers are the worst hit group. Deputy President, I believe you must have heard that the construction industry has the highest rate of unemployment. Even nowadays, construction workers still find it difficult to get a job. Besides, most of them still have to face many problems and disputes, including the default wage payment problem. On top of this, they also have to worry about whether they can have work to do. But having a job does not ensure happiness for them. Section 43 of the Employment Ordinance stipulates that the principal contractor or the main nominated sub-contractor should be responsible for paying the outstanding wages due to the workers for the first two months. However, what happens in reality is, wages in default for workers often amount to more than two months. In other words, it is necessary to amend this provision. The FTU agrees that workers should be repaid the amount of wages due to them ranging from four months to the total amount of wages in default. Workers should be repaid the full amounts of wage in default.

Besides, ever since the implementation of the contributory Mandatory Provident Fund (MPF) schemes, many construction workers have been forced to become self-employed persons. Very often, for those who work in this industry, their situations are very miserable. When accidents happen to self-employed persons, neither the insurance companies nor their employers would provide them with any assistance. But incidentally, this industry has the highest rate of industrial accidents in Hong Kong. In connection with this issue, we have held numerous discussions with the Government, the Mandatory Provident Fund Schemes Authority, the Secretary and the Director on how we can help them. I still recall that when Mrs Pamela TAN was the Director of Labour, we already raised this subject, but no progress has been made so far. Very frankly speaking, when we are facing these self-employed construction workers, and if they have not taken out any insurance for themselves, I very much hope that the Government can say that it is considering the central employee compensation mechanism which has been repeatedly proposed by us. The Government should consider it. On this point, I think all the different

sectors should work together to find a solution. One or two decades ago, we discussed this with people of the commercial and industrial sector, and they also agreed with the concept of central compensation.

Besides, I would like to talk about the construction workers again. On the coming Friday, my two partners will travel to Macao. Since the unemployment rate is very high among construction workers in Hong Kong, many of them have gone to work in Macao. We told the Governments of both Hong Kong and Macao last year that the present insurance system is basically inadequate for protecting Hong Kong workers working in Macao because the labour insurance cover is just \$500,000 in the event of the death of a worker. In Hong Kong, the compensation is at least \$1.7 million. At that time, no accident had happened yet, and of course we pray that no such accidents would ever happen because once an accident happens, the consequences would be very bad. Recently, an accident did occur in a private construction site, in which a group of workers were injured and two were killed. Their situations are all very gloomy and miserable. In fact, we visited Macao for a certain period of time last year for the purpose of fact finding. On our return to Hong Kong, we held some discussions with the Hong Kong Government. My two partners, Mr KWONG Chi-kin and Mr WONG Kwok-hing, will visit Macao again the day after tomorrow.

The SAR Government has failed to identify the critical causes of the problems by studying the labour problems that have arisen or the dangers that have emerged. However, we cannot tolerate that such issues should be delayed again and again. If it is claimed that the resistance comes from the commercial and industrial sector, I believe Mr James TIEN would not be unwilling to provide workers with protection. Since professionals going to work on engineering projects out of Hong Kong are protected by double insurance cover, why are the front-line construction workers not insured? In providing workers with protection, is there any distinction between the professionals and the non-professionals?

Deputy President, speaking on the issue of MPF, I still have a lot to say. Recently, it is reported that people do not know how to work out the figures when MPF contributions are transferred from one company to another. Many people do not know how the figures are arrived at when their MPF contributions are deducted. I think that after the MPF schemes have been implemented for a period of time, it is the right time now for us to conduct a comprehensive review

of the relevant legislation in order to identify the inadequacies. I also hope that the Government can face these problems squarely.

Deputy President, I would also like to mention the amendment proposed by Mr LEUNG Yiu-chung. The FTU supports this amendment because we support the establishment of the right to collective bargaining. It did not materialize in the era of the Provisional Legislative Council simply because it had not gone through the process of deliberation before Members were asked to vote on the motion of establishing the right to collective bargaining (which was repealed later). Now, many problems are related to the right to collective bargaining, and the Government is also promoting relevant discussions and consultations. Therefore, I hope the Government can reorganize the information on those provisions, and come to the Legislative Council to discuss the issue with us again.

Deputy President, I so submit. Apart from the motion which we have participated in discussing, the FTU also supports all the amendments. Thank you.

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

MRS SELINA CHOW (in Cantonese): Deputy President, the contents in today's discussion have in fact been mentioned repeatedly in many other debates. Of course, just like many other issues (and this one in particular), people of different sectors will have different viewpoints about rights, and they will also think differently about costs. Therefore, I believe it is very difficult for the different sectors to reach a consensus.

However, I wish to clarify this point after all: In discussing the benefits of employees, is it true that the Liberal Party will always adopt a disapproving attitude? This is untrue. All along, we have been willing to participate in reasonable discussions. However, when we see certain subject matters..... I think it is better for me to skip such subjects. I do not wish to repeat our viewpoints on minimum wage and maximum working hours. We have discussed such subjects on many occasions. However, I can see that different Members have put forward different checklists. In particular, Mr LEE Cheuk-yan has put forward as many as 16 amendment items, which are in a way

similar to those ornaments on a Christmas tree. Such amendment items are more specific ones. On the other hand, the ideas mentioned by Mr WONG Kwok-hing are more conceptual.

However, all these have led me to think of this particular question: What is the situation of Hong Kong workers in comparison with those in other places? I have heard a lot of comments made by people from other places to the effect that Hong Kong is rather generous in terms of holidays. Now, in a year, we are entitled to paid statutory holidays, which include Christmas and the Buddha's Birthday and other holidays designated with reference to different religions and cultures (some are even unrelated to religions). All these holidays are listed as paid holidays. In fact, such holidays are not stipulated in many parts of the world. Now, I can see that there is a suggestion of introducing family commitment leave and training leave, and now a Member even suggests converting all public holidays into paid statutory holidays.

In fact, frankly speaking, it involves two issues. We in the Liberal Party have always said that we must understand all kinds of everything and pay attention to them. Hong Kong is an externally oriented economy, so we must understand how strong our competitiveness is and we cannot ignore this fact. We cannot just look at ourselves in isolation. We cannot put Hong Kong into a certain frame and just look at the internal situation of Hong Kong, and say that we want to do this and that. We have pointed out more than once that if the standards of living of workers receiving extremely low wages have really dropped to an extremely unreasonable level, the Government should address such a problem squarely, and there is really the need to take care of these extremely low-income workers. We are willing to consider providing these workers with assistance. However, if we are requested to consider putting an additional burden on the shoulders of employers by amending labour legislation, thereby undermining the competitiveness of Hong Kong in the world, then we will disagree. And with regard to those viewpoints, we shall not agree either.

Besides, we have also mentioned more than once that such pieces of labour legislation will not cause any insurmountable difficulties for the large enterprises. Instead, very often, the labour legislation will enhance the competitiveness of the large enterprises; whereas the competitiveness of the small and medium enterprises (SMEs) will be undermined. The present success of Hong Kong is largely attributable to the flexibility of its SMEs. We treasure very much the room for their survival. However, all along in the past, we have

witnessed the continued enhancement of labour legislation and labour welfare, which put many SMEs in difficult situations. Perhaps, the Secretary should tell us later on, when we introduced such additional legislation in the past, whether the Government had really contacted the SMEs and listened to their genuine feelings. For us, we had really been listening to their genuine feelings. They did tell us that, regardless of whether costs or complicated formalities are involved, they have really caused great difficulties to most SMEs, thereby stifling the economic development of Hong Kong. Now, particularly in recent years, many SMEs have voiced lots of grievances to us in this aspect. The Government must really face this issue squarely and listen to their voices. I also hope to find out how the Secretary can really listen to their genuine feelings.

Our Party Chairman, Mr James TIEN, also mentioned earlier that we had not adopted a negative attitude towards the review. However, now there are some allegations saying that there has not been any progress in our labour legislation or labour welfare. We absolutely cannot agree with such allegations. Thank you, Deputy President.

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

(No Member indicated a wish to speak)

DEPUTY PRESIDENT (in Cantonese): Mr WONG Kwok-hing, you may now speak on the three amendments and you have five minutes.

MR WONG KWOK-HING (in Cantonese): Deputy President, first of all, I would like to thank the Magistrate of the Kowloon City Magistracy for sounding the alarm for us. Next, my thanks are also due to all the labour unions in Hong Kong for expressing valuable opinions on this motion debate moved by me. Regarding the amendments moved by the three Members, I welcome them because they have enriched my original motion and made it even better. Of course, I am aware of the existence of resistance mentioned by them in their speeches. But I hope my original motion can be passed, so that we would not end up with nothing. It all depends on whether Members can really act according to their conscience, and whether they can really understand the present situation of Hong Kong workers.

This motion debate has been conducted for several hours, with 21 Members having delivered their speeches. I am thankful to Members for presenting all the opinions. In fact, I moved this motion mainly for highlighting the fact that the current economic restructuring in Hong Kong has led to drastic changes in the mode of labour relations, in the hope that we can urge the Government to conduct a comprehensive review. This is exactly the major original intention of my original motion, and this is where the problem lies.

In my earlier speech, I said explicitly that, during the past 40 years, the Employment Ordinance had not been without any amendment or supplement. I had not denied everything in a sweeping manner. In fact, for more than three decades in the past, there have been continuous amendments and supplements to the labour legislation as well as the various provisions of the Employment Ordinance in Hong Kong. However, these amendments or supplements are absolutely not the bestowed blessings from the Government. I have participated in the work of the labour unions since 1966. I have dedicated myself to the labour movement for nearly 40 years, and clearly witnessed the enactment of the Employment Ordinance in 1968. In the subsequent campaigns for the various amendments, I have also participated in them. In fact, we can clearly see that the continuous improvement and supplements were the fruits of the incessant fighting efforts of many of our predecessors and fellow workers involved in the labour movement. We can see that, in spite of the great efforts made in the process, many of such amendments and supplements were in fact nothing more than some kinds of makeshift responses for remedying the crises. Many pieces of labour legislation of Hong Kong are rather backward. However, the sacrifices made by many workers in the past have not been totally in vain after all; they have achieved some results. Therefore, I would like to take this opportunity in this solemn Chamber to pay tribute to all those who have made sacrifices and efforts in fighting for reasonable protection and legislative improvement for Hong Kong workers during the past 40 years.

(THE PRESIDENT resumed the Chair)

I think this is a very good opportunity for us to move this motion on this occasion, so as to respond to the changes and progress that are taking place in society. And the Government really ought to examine the present situation. Therefore, regardless of whether my original motion or the other amendments

can be passed later on, I still hope that the Government can face squarely the problems before us. I hope the Government can conduct a serious and comprehensive review. What we call "a review", allow me to use a simple comparison for illustration, is only similar to a medical checkup. For all the Members who have been so worried, why should you be so scared? Why can't medical checkups be conducted? Why should medical checkups be stopped? On the contrary, I would like to take this opportunity to urge the Government to formulate some proposals for conducting a serious medical checkup of the existing labour legislation. I agree that there must be different priorities for different tasks. But still, we need to first undertake the checkup and conduct the review before we can make corresponding improvements to ameliorate the problems. Thank you, President.

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): Madam President, although I cannot rival Mr LEUNG Kwok-hung in terms of a loud voice and Mr Albert CHAN of size, Members need not worry about me, because I am not prepared to confront them with the words and phrases used by Mr Albert CHAN.

I am very grateful to Mr WONG Kwok-hing for moving this motion on a comprehensive review of labour legislation. I am also thankful to Mr LEE Cheuk-yan, Mr LEUNG Yiu-chung and Mr Andrew CHENG for their amendments, as well as Honourable Members for their speeches delivered earlier.

The existing labour legislation in Hong Kong is so comprehensive that various areas, including occupational safety and health, employees' rights and benefits, employees' compensation, and so on, are covered, and employees are suitably protected. Notwithstanding this, the Government has kept reviewing the labour legislation from time to time in the light of changing social needs and the pace of economic development, with a view to making appropriate amendments or introducing new provisions to ensure that the protection conferred on employees by legislation can keep abreast of the times.

I would like to thank Mr James TIEN for making a lot of efforts in gathering information to show that labour rights and benefits in Hong Kong are constantly improving. I certainly agree that there are inadequacies in our legislation, and a constant review is required.

In the course of reviewing legislation, we will give full consideration to the situation of employers and employees and take account of their different needs in striking a reasonable balance between the interests of both sides. The Employment (Increase in Penalty for Offences under Section 63C) Bill 2005 was passed by Members this afternoon to increase the maximum penalties for wage offences. This aptly exemplifies the Government's effort in ensuring that labour legislation keep abreast of the times.

The existing labour legislation in Hong Kong can be broadly divided into the following aspects:

- (a) legislation ensuring employees work in a safe and healthy environment;
- (b) legislation safeguarding the basic rights of employees in the course of employment and their rights to organizing and participating in trade unions; and
- (c) legislation ensuring that employees are compensated for injuries, deaths or occupational diseases arising from employment.

On occupational safety and health, the Government in 1995 conducted a comprehensive review of Hong Kong's industrial safety policies and proposed a number of improvement initiatives to enhance overall safety performance. Over the past decade, the Government has progressively implemented these initiatives and made major improvements to legislation in five areas. The improvements include widening the scope of occupational safety and health legislation to cover non-industrial undertakings, making it compulsory for people engaging in dangerous industries or work procedures to receive safety training, enhancing regulation of dangerous work, introducing legislation relating to safety management and self-regulation, and strengthening occupational health protection.

Prior to 1997, safety legislation applied merely to industrial undertakings including factories, construction sites, cargo and container loading areas and food premises. In the wake of social development and needs, the Government in 1997 widened the scope of safety legislation to cover various economic activities, including non-industrial undertakings. As a result, the number of employees under protection has increased from 800 000 to more than 3 million.

The widening of the scope of occupational safety and health legislation to cover non-industrial undertakings has significantly enhanced occupational safety and health for the local workforce.

Meanwhile, for the sake of raising workers' safety awareness to prevent the occurrence of industrial accidents at source, the Government required, from 2001 onwards, employees engaging in construction and container handling industries to receive mandatory safety training, and obtain the "green cards (certificates)" before undertaking the relevant work. Furthermore, regulations have been made to require operators of certain types of dangerous machinery or equipment to receive recognized safety training.

On the other hand, in order to strengthen the regulation of dangerous work to protect more effectively the safety of workers working in confined spaces, we require that, from 2000 onwards, the working environment of confined spaces be assessed by qualified personnel before approved workers can work inside. Apart from this, in the light of the management and responsibility problems arisen from the subcontracting system, the responsibilities of principal contractors have been extended so that other contractors or sub-contractors have to bear the responsibilities jointly with a view to further improving the overall work safety performance at construction sites.

In enacting new occupational safety and health legislation in recent years, we are gradually shifting from the traditional mode of regulation and to requiring employers and employees to exercise self-regulation to minimize work hazards. We believe this is a good way to upgrade occupational safety and health standards in the long run. In this connection, a regulation was enacted in 1999 requiring proprietors of factories, shipyards and designated undertakings employing 50 or more workers, and construction site contractors to implement a safety management system. In 2004, the requirement of employing registered safety officers was extended from construction sites and shipyards to container handling operations as well. What is more, the required qualification and working experience of safety officers have been raised for the purpose of upgrading safety management standard.

With social progress and advances in technology, occupational health problems have been taken more seriously by members of the community. For the purpose of safeguarding the safety and health of employees operating display screen equipment for a prolonged period, responsible persons of workplaces are

required, from 2003 onwards, to carry out risk assessments for their workplaces and take appropriate measures to minimize risks.

Furthermore, in view of the threat posed to the employees of certain trades and industries (such as the health care and livestock industries) during the outbreaks of SARS and avian flu in Hong Kong, these two diseases were added to the list of notifiable occupational diseases last year.

In addition to occupational safety and health legislation, the Government has also reviewed other labour legislation from time to time to ensure that all the legislation meets the reasonable expectations of employers and employees, and fulfils the overall development and needs of society. The Employment (Increase in Penalty for Offences under Section 63C) Bill 2005, the newly passed Bill mentioned by me earlier, is precisely a manifestation of our determination in safeguarding employees' rights and benefits. The authorities have managed to, within a very short span of time, complete the work of consultation, law drafting and tabling of the bill to the Legislative Council to raise the maximum penalties for wage offences under the relevant provisions of the Employment Ordinance from a fine of \$200,000 and one year's imprisonment to a fine of \$350,000 and three years' imprisonment. We believe the increased penalties will enhance the deterrent effect, help combat wage offences, and safeguard employees' right to wages.

Madam President, the payment of wages to employees has actually been protected under the Employment Ordinance since 1968. The provision of such protection was also the main objective of enacting the Ordinance at that time. In the light of social development, the scope of protection of the Ordinance has been expanded correspondingly. At present, other provisions relating to employees' benefits have been added to the Ordinance too. The benefits include paid annual leave, statutory holidays, maternity leave, sick leave, long service payment, severance payment, year end payment, and so on. The Ordinance also provides occupational protection to employees who are pregnant, taking maternity or sick leave, or engaged in union activities.

To keep pace with Hong Kong's economic development, the Government has repeatedly amended the provisions of the Employment Ordinance with respect to sickness allowance, maternity protection, severance payment, long service payment, and so on, with a view to improving employees' statutory rights and benefits. For instance, the qualifying period of service for long service payment upon old age retirement was in 1995 reduced from 10 to five

years. Later, the payments receivable by employees during maternity leave and those receiving sickness allowance were increased from two thirds to four fifths of their wages. In 1997, employment protection provisions were introduced to protect employees from unreasonable dismissal or alteration of contract terms by their employers, and unlawful dismissal by their employers for reasons of pregnancy, sick leave, work-related injuries, participation in union activities or testifying in litigations relating to labour legislation.

In addition to the Employment Ordinance, the Protection of Wages on Insolvency Ordinance is yet another example of the Government's commitment to protecting employees' rights and benefits. The Protection of Wages on Insolvency Fund, set up in 1985, seeks to provide timely assistance to employees of insolvent employers by granting the former *ex gratia* payments. During the past decade, the Ordinance has been amended five times with a view to improving protection of employees' rights and benefits. The amendments include extending the period for employees to lodge applications for *ex gratia* payments from four to six months after the expiry of contracts. Moreover, the upper ceiling of various *ex gratia* payments, including wages in arrears, payment in lieu of notice and severance payment, were raised.

On protection of employees organizing unions, the Trade Unions Ordinance provides a legal basis for employees by providing unions with suitable protection and regulation. Following the development of union activities, the Government has reviewed the various provisions of the Ordinance from time to time with a view to meeting the expectation of the general public and unionists for union management. Past amendments to the Ordinance include giving more protection and rights to union members in participating in union activities and management, allowing unions to, with the consent of union members, use union funds to pay for the costs relating to District Council and Legislative Council elections, and so on.

During the past decade, the Government has continuously reviewed the employees' compensation for injuries at work and occupational diseases, and introduced improvements in a number of areas. The improvements include, among others, increasing the periodical payments for injuries at work to injured employees during their sick leave from two thirds to four fifths of their normal wages and, for the sake of benefiting all employees injured at work, abolishing the requirement that injured employees have to be granted more than three days of sick leave before they can obtain periodical payments for injuries and

payments for covering their medical expenses. Furthermore, the mechanism for claiming compensation for death was in 2000 improved to shorten the period for processing death cases and enable the family members of deceased employees, regardless of their degree of dependency, to receive full payment of the compensation.

In recent years, the scope of protection of the Occupational Deafness Compensation Scheme has been twice expanded, with the compensation items and the amount of compensation increased as well. What is more, the scope of the work of the Occupational Deafness Compensation Board has been expanded to include rehabilitation. In addition to the inclusion of SARS and avian flu as notifiable occupational diseases, as mentioned earlier, the Employees' Compensation Ordinance was amended again last year to add these two diseases to the list of compensable occupational diseases to protect the benefits of relevant employees.

Meanwhile, in order to dovetail with the development of Chinese medicine and social development in Hong Kong, a bill was submitted to the Legislative Council last year to propose amendments to the relevant labour legislation so that employees who have fallen ill or injured at work, or pneumoconiotics patients can opt for consulting Chinese medical practitioners. The treatments administered, body checks conducted, and certificates issued, by registered Chinese medical practitioners will be recognized under the relevant ordinance. The relevant bill is being scrutinized by the Bills Committee.

Madam President, I have explained in detail earlier that our labour legislation has been constantly amended in the past several years for the sake of strengthening protection of employees' rights and benefits. This reflects that our labour legislation is keeping abreast of the times, instead of standing still. Substantial improvements have been made in various areas, such as occupational safety and health, employees' rights and benefits, employees' compensation, and so on, in keeping pace with socio-economic developments and changes in employment relations with a view to providing employees with suitable protection. We will definitely continue to review existing legislation from time to time in keeping with socio-economic and other developments.

Mr LEE Cheuk-yan, Mr LEUNG Yiu-chung and Mr Andrew CHENG have proposed nearly 20 proposals on amending labour legislation. I would like to point out that all amendments must take account of, and keep pace with, the

pace of Hong Kong's socio-economic development. At the same time, a reasonable balance must be struck between employees' rights and benefits and employers' affordability. I believe the proposals raised by Members will produce both positive, and possibly negative, impacts on society. Therefore, they cannot be implemented unless employees and employers have reached a consensus and expressed support after extensive consultations. As Mr Jasper TSANG said earlier, it is inadvisable to explore the merits and demerits of these 20 or so proposals today. I believe it will be quite time-consuming to discuss these proposals *seriatim*. As a number of Members commented earlier, it is most important today to affirm the need for a comprehensive review of the existing labour legislation. As Members are well aware, the Labour Advisory Board (LAB) is conducting an in-depth exploration and study into the proposals on minimum wages and standard working hours, a matter of concern to all of us, in the hope that a consensus can be reached on these subjects of great concern to all sectors of the community. Meanwhile, the Labour Department is actively following up the requirement that the Court and the Labour Tribunal may provide for mandatory reinstatement or re-engagement to provide further protection to employees who have been unreasonably or unlawfully dismissed. On collective bargaining, the Government has all along spared no efforts in promoting a voluntary, direct labour consultative mechanism and taken various initiatives which meet the local situation, such as setting up trade-specific tripartite committees, in order to engage employers and employees, or their affiliated organizations, in consultation in a voluntary and direct manner. As regards the proposal of abolishing or lowering the requirement of working for 18 hours a week over a continuous period of four weeks (the "418" requirement), the Census and Statistics Department is currently conducting a fresh round of survey among employees not subject to the "418" requirement to collate the latest information on relevant issues, such as information on the profile of these employees and the benefits given by employers to these employees. Upon the completion of the survey, we will submit these topics to the LAB for discussion. I must point out that, at present, all employees (including employees not subject to the "418" requirement) are entitled to such basic protection as payment of wages, statutory holidays, protection against discrimination against trade unions and unreasonable and unlawful dismissal, and so on, under the Employment Ordinance. Furthermore, the legislative amendment proposed by the Mandatory Provident Fund Schemes Authority to include housing allowance in "relevant incomes" is being pursued by the Financial Services and the Treasury Bureau. It is evident from all these examples that the Government is exploring ways to improve labour legislation in different aspects with a view to enhancing labour protection.

In the course of reviewing labour legislation to further improve labour protection, we have to enable labour rights and benefits to keep abreast of the times consistent with the major international trend. On the other hand, however, we have to ensure that, in the face of globalization, the conditions of employment in Hong Kong will not undermine the competitive edge of the territory. We must maintain a business-friendly environment and harmonious labour relations. All reviews must be conducted in a gradual and orderly manner. As pointed out by a number of Members earlier, all reviews must be conducted according to their relative priorities.

Lastly, I would like to thank Mr WONG Kwok-hing once again for moving this motion debate today. Actually, before proposing this motion debate today, Mr WONG asked me if the existing labour legislation would be reviewed. My reply at that time was that we would surely do it because we realized the imperfections of our labour legislation. Therefore, it must be reviewed from time to time to ensure that inadequacies are rectified for the sake of improving labour rights and benefits as far as possible. Here I would like to thank Honourable Members for their valuable input, which I will certainly consider.

PRESIDENT (in Cantonese): I now call upon Mr LEE Cheuk-yan to move his amendment to the motion.

MR LEE CHEUK-YAN (in Cantonese): President, I move that Mr WONG Kwok-hing's motion be amended.

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

"To add "which is full of flaws and loopholes" after "existing labour legislation"; and to add ", including: (a) abolishing the requirement in the definition of 'continuous employment' under the Employment Ordinance that an employee has to work for 18 hours or more in a week in order to be deemed to have been in continuous employment; (b) preventing employers from evading their statutory liability by employing employees under service contracts instead of employment contracts; (c) introducing

legislative provisions to provide for employees' right to protection by collective agreement, and formulating a set of fair and objective procedures for recognizing trade unions in conducting collective bargaining; (d) introducing legislative provisions to provide for the right of citizens or employees to seek civil remedy from the Labour Tribunal should they be discriminated against by employers in appointment, remuneration, promotion, transfer or other areas of employment for their being members of trade unions or for participating in activities of trade unions; (e) introducing legislative provisions to protect citizens or employees against age discrimination by employers in appointment, remuneration, promotion, transfer, dismissal or other areas of employment, and to provide for the right of victims of age discrimination to seek civil remedy from the Labour Tribunal; (f) introducing legislative provisions to protect employees against unfair dismissal by employers, and to provide for the right of victims of unfair dismissal to seek civil remedy from the Labour Tribunal; (g) increasing the criminal penalties for offences of unlawful dismissal (i.e. offences under sections 15(1), 21B(2)(b), 33(4B) and 72B(1) of the Employment Ordinance, section 6 of the Factories and Industrial Undertakings Ordinance and section 48 of the Employees' Compensation Ordinance); (h) abolishing the provision that the court or the Labour Tribunal shall only make an order for reinstatement or re-engagement upon agreement by the employer under section 32N of the Employment Ordinance; (i) abolishing the provision that severance payments or terminal payments made to an employee under Part VIA of the Employment Ordinance may be offset by the employer's contributions under the occupational retirement scheme or Mandatory Provident Fund Scheme ('MPFS'); (j) enacting law for stipulating a minimum wage and regulating employees' working hours; (k) reviewing the criminal liability of directors, managers, secretaries or other similar officers of body corporate in respect of offences relating to defaults on employees' wages; (l) amending section 43C of the Employment Ordinance to the effect that the liability of a principal contractor and its superior sub-contractor(s) to pay wages of employees of sub-contractor(s) be increased to the amount of wages due to such employees for four months; (m) introducing family commitment leave and training leave, and gradually converting all public holidays to paid statutory holidays; (n) extending the period of paid maternity leave to 12

weeks, and increasing the rate of maternity leave pay to 100% of the employee's normal wages; (o) abolishing the provision that an employee is entitled to sickness allowance only if the sick leave taken is not less than four consecutive days, and increasing the rate of sickness allowance to 100% of the employee's normal wages; and (p) extending the application of the MPFS to domestic employees, and abolishing the provision that housing allowance is not regarded as part of the relevant income" after "legislation relating to labour matters". "

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr LEE Cheuk-yan to Mr WONG Kwok-hing'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 three minutes, after which the division will begin.

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 SIN Chung-kai, Mr WONG Kwok-hing, Dr KWOK Ka-ki, Dr Fernando CHEUNG and Mr KWONG Chi-kin voted for the amendment.

Dr LUI Ming-wah, Mr Bernard CHAN, Mrs Sophie LEUNG, Dr Philip WONG, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Timothy FOK, Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Daniel LAM, Mr Jeffrey LAM and Mr Andrew LEUNG voted against the amendment.

Miss TAM Heung-man abstained.

Geographical Constituencies:

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

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

Mr CHAN Kam-lam, Mr Jasper TSANG, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr LI Kwok-ying and Mr CHEUNG Hok-ming abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 21 were present, six were in favour of the amendment, 14 against it and one abstained; while among the Members returned by geographical

constituencies through direct elections, 26 were present, 17 were in favour of the amendment, two against it and six 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.

MS MIRIAM LAU (in Cantonese): President, I move that in the event of further divisions being claimed in respect of the motion on "Comprehensive review of labour legislation" or any amendments thereto, this Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.

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

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

(Mr Albert CHENG raised his hand to indicate his wish to speak)

PRESIDENT (in Cantonese): I now put the question to you as Mr Albert CHENG, do you want to speak?

(Mr Albert CHENG indicated his wish to speak)

MR ALBERT CHENG (in Cantonese): President, I oppose this motion for a very simple reason. I think more than 1 million workers in Hong Kong cannot be suitably protected by labour legislation.....

PRESIDENT (in Cantonese): Mr Albert CHENG, I am sorry. Can you.....

MR ALBERT CHENG (in Cantonese): I shall come to the subject matter very soon. As workers cannot be protected by labour legislation, so when this Council holds a debate on this subject, there should be sufficient time for

Members to consider it, instead of shortening the voting time from three minutes to one. Why can we not spend two more minutes on contemplating whether workers' interests should be protected, thus enabling us to vote according to our own conscience after some prudent consideration? Thank you, President.
(*Laughter*)

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): Ms LAU, you may now reply.

MS MIRIAM LAU (in Cantonese): I think Mr Albert CHENG may have forgotten. As a matter of fact, whenever I move this motion to propose that votes be taken after the bell has been rung for one minute, he would oppose it. This is not the only time he has voiced objection. Thank you, President.
(*Laughter*)

MR ALBERT CHENG (in Cantonese): President, I want to make a response.

PRESIDENT (in Cantonese): You cannot make a response now. Please sit down. (*Laughter*) Regarding this motion, I have been conducting the voting in accordance with the relevant rules under normal circumstances. Therefore, I am acting according to the rules.

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

(Members raised their hands)

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

(Members raised their hands)

PRESIDENT (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members who are present. I declare the motion passed.

I order that in the event of further divisions being claimed in respect of the motion on "Comprehensive review of labour legislation" or any amendments thereto, this Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.

PRESIDENT (in Cantonese): Mr LEUNG Yiu-chung, you may move your amendment.

MR LEUNG YIU-CHUNG (in Cantonese): President, I move that Mr WONG Kwok-hing's motion be amended.

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

"To add ", to enact law for protecting employees against unfair dismissal, and to expeditiously reintroduce into the Legislative Council the pieces of labour legislation that were repealed by the Provisional Legislative Council, so as to reinstate employees' right to collective bargaining" after "legislation relating to labour matters". "

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

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

(Members raised their hands)

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

(Members raised their hands)

Mr LEUNG Yiu-chung rose to claim a division.

PRESIDENT (in Cantonese): Mr LEUNG Yiu-chung has claimed a division. The division bell will ring for one minute, after which the division will begin.

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 SIN Chung-kai, Mr WONG Kwok-hing, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Mr KWONG Chi-kin and Miss TAM Heung-man voted for the amendment.

Dr LUI Ming-wah, Mr Bernard CHAN, Mrs Sophie LEUNG, Dr Philip WONG, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Timothy FOK, Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Daniel LAM, Mr Jeffrey LAM and Mr Andrew LEUNG voted against the amendment.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Miss CHAN Yuen-han, Mr LEUNG Yiu-chung, Dr YEUNG Sum, Ms Emily LAU, Mr Andrew CHENG, Mr Albert CHAN, Ms Audrey EU, Mr LEE Wing-tat, Mr Alan LEONG, Mr LEUNG Kwok-hung, Mr Ronny TONG and Mr Albert CHENG 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 LI Kwok-ying and Mr CHEUNG Hok-ming 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, 21 were present, seven were in favour of the amendment and 14 against it; while among the Members returned by geographical constituencies through direct elections, 26 were present, 17 were in favour of the amendment and eight against it. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negatived.

PRESIDENT (in Cantonese): Mr Andrew CHENG, you may move your amendment now.

MR ANDREW CHENG (in Cantonese): President, I move that Mr WONG Kwok-hing's motion be amended.

Mr Andrew CHENG moved the following amendment: (Translation)

"To add ", to promote five-day work week and to enact law for regulating the weekly standard working hours" after "legislation relating to labour matters".

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr Andrew CHENG to Mr WONG Kwok-hing'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 Andrew CHENG rose to claim a division.

PRESIDENT (in Cantonese): Mr Andrew CHENG has claimed a division. The division bell will ring for one minute, after which the division will begin.

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 SIN Chung-kai, Mr WONG Kwok-hing, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Mr KWONG Chi-kin and Miss TAM Heung-man voted for the amendment.

Dr LUI Ming-wah, Mr Bernard CHAN, Mrs Sophie LEUNG, Dr Philip WONG, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Timothy FOK, Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Daniel LAM, Mr Jeffrey LAM and Mr Andrew LEUNG voted against the amendment.

Geographical Constituencies:

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

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

Mr CHAN Kam-lam, Mr Jasper TSANG, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr LI Kwok-ying and Mr CHEUNG Hok-ming abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 21 were present, seven were in favour of the amendment and 14 against it; while among the Members returned by geographical constituencies through direct elections, 26 were present, 17 were in favour of the amendment, two against it and six abstained. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negatived.

PRESIDENT (in Cantonese): Mr WONG Kwok-hing, you may now reply and you have two minutes three seconds.

MR WONG KWOK-HING (in Cantonese): President, after several hours of debate today, the Secretary's response just now was very positive. I welcome it. However, we should still wait and observe what his future actions would be after taking his words just now. We hope that the Secretary can really live up to his promise of conducting a comprehensive review, as mentioned in his speech delivered in today's debate. Please do not employ any delaying tactics, and we hope to see the findings of the review as soon as possible.

Regarding today's situation of having all the three amendments negatived, I certainly feel sorry about it. So, only the original motion is left now. I hope Members who originally wanted to oppose the motion to consider the situation in the overall interests of Hong Kong as well as the words of Donald TSANG to the effect that we should strive for a harmonious society. If there are good labour relations, the economic prosperity of society will have a good foundation. If Members do not heed this final suggestion of mine which is full of sincerity, they should still listen to the words of a Magistrate of the Kowloon City Magistracy. If you are less inclined to listen to the words of judges, then in fact you should

listen to the words of doctors. I am making an analogy and ask: Why is it bad to conduct a comprehensive review of the existing labour legislation? In fact, there will be absolutely no disadvantages at all. Everyone must undergo some physical checkups from time to time. It is a need of society to constantly perfect the labour legislation. What is more, earlier on, Secretary Stephen IP already made an undertaking to do it. Therefore, I hope those Members who want to vote against the motion can change their stance into not opposing it, thus preventing themselves from "blocking the revolution of the Earth". I hope today we would not end up getting nothing passed. Thank you, President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Mr WONG Kwok-hing, as printed 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.

(Members raised their hands)

Mr WONG Kwok-hing rose to claim a division.

PRESIDENT (in Cantonese): Mr WONG Kwok-hing has claimed a division. The division bell will ring for one minute, after which the division will begin.

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 SIN Chung-kai, Mr WONG Kwok-hing, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Mr KWONG Chi-kin and Miss TAM Heung-man voted for the motion.

Dr LUI Ming-wah, Mr Bernard CHAN, Mrs Sophie LEUNG, Dr Philip WONG, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Daniel LAM, Mr Jeffrey LAM and Mr Andrew LEUNG voted against the motion.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Miss CHAN Yuen-han, Mr CHAN Kam-lam, Mr LEUNG Yiu-chung, Mr Jasper TSANG, Dr YEUNG Sum, Mr LAU Kong-wah, Ms Emily LAU, Miss CHOY So-yuk, Mr Andrew CHENG, Mr TAM Yiu-chung, Mr Albert CHAN, Ms Audrey EU, Mr LEE Wing-tat, Mr LI Kwok-ying, Mr Alan LEONG, Mr LEUNG Kwok-hung, Mr CHEUNG Hok-ming, Mr Ronny TONG and Mr Albert CHENG voted for the motion.

Mr James TIEN and Mrs Selina CHOW 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, 20 were present, seven were in favour of the motion and 13 against it; while among the Members returned by geographical constituencies through direct elections, 27 were present, 24 were in favour of the motion 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 motion was negatived.

NEXT MEETING

PRESIDENT (in Cantonese): I now adjourn the Council until 3.00 pm tomorrow.

Adjourned accordingly at seven minutes past Eight o'clock.

Annex

CIVIL AVIATION (AMENDMENT) BILL 2005

COMMITTEE STAGE

Amendments to be moved by the Secretary for
Economic Development and Labour

| <u>Clause</u> | <u>Amendment Proposed</u> |
|---------------|---|
| 2 | <p>By deleting paragraph (a) and substituting -</p> <p>“(a) by repealing subsection (4) and substituting -</p> <p>“(4) Subject to subsection (5), in this section -</p> <p>(a) “owner” (機主), in relation to an aircraft, includes the operator of the aircraft; and</p> <p>(b) “operator” (經營人) means the person having the management of an aircraft for the time being or, in relation to a time, at that time.”;”.</p> |
| 2(b) | <p>(a) In the proposed section 8(5) (a) -</p> <p>(i) by adding “(“the lessor”)” after “such person”;</p> <p>(ii) by adding “(“the lessee”)” after “any</p> |

other person”.

- (b) By deleting the proposed section 8(5)(b) and (c) and substituting -

“(b) under the lease or arrangement, the lessee was responsible for ensuring the airworthiness of the aircraft; and

(c) no member of the crew of the aircraft was in the employment of the lessor.”.

Appendix 1

REQUEST FOR POST-MEETING AMENDMENTS

The Secretary for Financial Services and the Treasury requested the following post-meeting amendment in respect of a supplementary question to Question 1

Line 2, third paragraph, page 12 of the Confirmed version

To amend "MPFA" as "MPF schemes" (Translation)

(Please refer to line 3, second paragraph, page 3569 of this Translated version)

Appendix 2**REQUEST FOR POST-MEETING AMENDMENTS**

The Secretary for Housing, Planning and Lands requested the following post-meeting amendment in respect of a supplementary question to Question 3

Last line, fifth paragraph, page 27 of the Confirmed version

To amend "..... to 14." as "..... to 13." (Translation)

(Please refer to last line, third paragraph, page 3590 of this Translated version)

Appendix 3

REQUEST FOR POST-MEETING AMENDMENTS

The Secretary for Commerce, Industry and Technology requested the following post-meeting amendment in respect of a supplementary question to Question 5

Line 2, fifth paragraph, page 39 of the Confirmed version

To amend "such weeklies are" as "the issue of any such weeklies that may have problems is" (Translation)

(Please refer to line 10, third paragraph, page 3606 of this Translated version)

Appendix 4**REQUEST FOR POST-MEETING AMENDMENTS**

The Secretary for Commerce, Industry and Technology requested the following post-meeting amendment in respect of a supplementary question to Question 5

Line 2, fifth paragraph, page 40 of the Confirmed version

To amend "Appointing members of the public as adjudicators can assist us in reflecting" as "The main purpose of appointing members of the public as adjudicators is to reflect the" (Translation)

(Please refer to line 4, first paragraph, page 3609 of this Translated version)

Appendix 5**REQUEST FOR POST-MEETING AMENDMENTS**

The Secretary for Commerce, Industry and Technology requested the following post-meeting amendment in respect of a supplementary question to Question 5

Line 3, first paragraph, page 42 of the Confirmed version

To amend "If a certain magazine has already been classified as indecent or obscene," as "If a certain magazine has already been classified as indecent," (Translation)

(Please refer to line 5, last paragraph, page 3610 of this Translated version)

Appendix 6**REQUEST FOR POST-MEETING AMENDMENTS**

The Secretary for the Environment, Transport and Works requested the following post-meeting amendment in respect of a supplementary question to Question 6

Last line, sixth paragraph, page 49 of the Confirmed version

To amend "Finally inert waste is to be charged at \$25 per tonne." as "Finally inert waste is to be charged at \$27 per tonne." (Translation)

(Please refer to last line, second paragraph, page 3621 of this Translated version)

Appendix I**WRITTEN ANSWER****Written answer by the Secretary for the Environment, Transport and Works to Mr SIN Chung-kai's supplementary question to Question 6**

As regards the recovery rate of construction waste, attached in the Annex is the requested information for the past three years for Members' reference.

Annex

**Quantity of Construction Waste Disposed of and Recovered
(tonnes per day)**

| <i>Construction Waste</i> | <i>Year</i> | | |
|---|-----------------|-----------------|-----------------|
| | <i>2003</i> | <i>2004</i> | <i>2005</i> |
| Disposed of at Landfill | 6 728 (13%) | 6 595 (12%) | 6 560 (11%) |
| Received at Public Fill Reception Facilities suitable for reuse | 44 982 (87%) | 49 398 (88%) | 52 210 (89%) |
| Total | 51 710 | 55 993 | 58 770 |