

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 9 November 2005

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

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

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

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

THE HONOURABLE ALBERT CHAN WAI-YIP

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

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

THE HONOURABLE VINCENT FANG KANG, J.P.

THE HONOURABLE WONG KWOK-HING, M.H.

THE HONOURABLE LEE WING-TAT

THE HONOURABLE LI KWOK-YING, M.H.

DR THE HONOURABLE JOSEPH LEE KOK-LONG

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

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

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

PUBLIC OFFICERS ATTENDING:

THE HONOURABLE RAFAEL HUI SI-YAN, G.B.S., J.P.

THE CHIEF SECRETARY FOR ADMINISTRATION

THE HONOURABLE WONG YAN-LUNG, S.C., J.P.

THE SECRETARY FOR JUSTICE

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 STEPHEN LAM SUI-LUNG, J.P.

SECRETARY FOR CONSTITUTIONAL AFFAIRS

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

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>
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Tax Reserve Certificates (Rate of Interest) (No. 8) Notice 2005.....	194/2005
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Other Paper

No. 27 — Hong Kong Sports Development Board
Report for the period from 1.4.2004 to 30.9.2004

ORAL ANSWERS TO QUESTIONS

PRESIDENT (in Cantonese): Questions. First question.

Applications for Modification of Land Use

1. **MR ALBERT CHENG** (in Cantonese): *President, the China Motor Bus Company Limited (CMB) applied to the Administration earlier for modifying the lease of a site located on Kam Hong Street in North Point so as to change the permitted use from provision of staff quarters to commercial/residential use. In August this year, the Government and the CMB reached an agreement on the amount of the land premium payable. In this connection, will the Government inform this Council:*

- (a) *of the uses of the site since the CMB terminated its bus operation in 1998, and whether it has been left vacant since then;*
- (b) *given that the CMB has terminated its bus operation for many years, of the reasons for not resuming the land and putting it up for bidding by interested property developers; and*

- (c) *of the number of applications approved in the past 10 years for modifying the land use of a site from the provision of community or communal facilities to industrial/business or residential use, together with a list of these sites detailing their location, area and original permitted use, as well as the name of the grantee and the amount of land premium for each site?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese):

President, before replying to the question, I wish to provide Members with some information concerning government policy on the grant of such land in general and the subject site in particular. The policy of granting land by private treaty for the provision of "workers' housing" started in 1948. The purpose was to address the housing needs of workers, so as to facilitate post-war development of industries and meet the housing needs of the community at that time. Sites were granted to the companies in question for the provision of quarters for their staff and their family members at a premium of one third of the market value. The policy was fully terminated in 1980, and a total of 27 sites had been granted for the aforesaid purpose before then.

In 1984, the Government reviewed the aforesaid land use and considered that the development potential of most of the sites granted under the "Workers' Housing Scheme" had not been fully realized. Following deliberation, the then Governor in Council decided that for the purpose of making the optimal use of land, the relevant grantees should be allowed to redevelop their sites by applying to the Administration for lease modification, subject to fulfilling the following four principles in their respective cases:

- (i) the grantee should be prepared to include in the redevelopment communal facilities as required by the Government;
- (ii) rehousing arrangements for existing tenants, to the satisfaction of the Director of Lands and the Commissioner for Labour, will be the responsibility of the grantees;
- (iii) the modification premium will be charged on the basis of the difference between the fair market value of the site and the "before value", the latter should be one third of the updated residential value of the site; and

- (iv) an appropriate building covenant will be imposed. The building covenant period will take into account the likely time required to obtain vacant possession of the lot.

Simultaneously, the Director of Lands was authorized by the then Governor in Council to process applications for lease modifications involving sites designated for "Workers' Housing Scheme", provided that they comply with the abovementioned principles. Up to now, the Director of Lands has approved, in accordance with the said procedure, the lease modification and premium payment for 18 sites while secured the return of two other sites, under the "Workers' Housing Scheme".

The site of the staff quarters of the CMB is located on Kam Hong Street in North Point (Inland Lot No. 7105). The subject site was granted to the CMB in 1954 for the provision of quarters for its staff and their family members. My reply to the three-part question is as follows:

- (a) and (b)

The subject site continued to be used by the CMB as quarters for its staff and their family members until December 2003. In May 2003, the CMB applied to the Government for redevelopment of the site by way of lease modification. Under the policy set in 1984, the Director of Lands considered under the delegated authority and subsequently approved the application for lease modification for redevelopment purpose, on the basis of the established principles.

- (c) "Land for community or communal facilities" is a planning concept and such description is not used in land leases. The lease conditions would set out in clear terms the permitted uses of a site. For instance, the only permitted uses stated in the lease of the subject site are staff quarters. As regards cases similar to the subject case on Kam Hong Street, the Administration only approved a total of three cases of lease modification which involved the change of land use from the provision of "Workers' Housing Scheme" to other uses in the past 10 years. For details, please refer to the Annex.

Annex

Change of Land Use from "Workers' Housing Scheme"
to Residential/Commercial Use

Approved Applications for Lease Modification
from October 1995 to the Present

	<i>Location of the Site</i>	<i>Area</i>	<i>Original Use</i>	<i>Name of the Original Grantee</i>	<i>Amount of Land Premium Paid</i>
1	9-23 Kam Hong Street, 172-186 Java Road, 61-75 Marble Road (Inland Lot No. 7105)	1 660 sq m	Staff quarters	China Motor Bus Company Limited	\$568,300,000
2	220-222 Tai Kok Tsui Road, Tai Kok Tsui (Kowloon Inland Lot No. 11159)	3 357.7 sq m	Staff quarters	Yau Ma Tei Ferry Company Limited	\$390,160,000
3	145-151A Kau Pui Lung Road, To Kwa Wan (Kowloon Inland Lot No. 8152)	501.7 sq m	Staff quarters	Shui Hing Company Limited	\$52,400,000

MR ALBERT CHENG (in Cantonese): *President, the Secretary did not answer part (b) of the main question, that is, if the site granted was no longer used for the provision of "workers' housing", why did the Government not resume the site for open bidding according to the lease conditions, so as to meet the principle of fairness and impartiality?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): President, as I pointed out in the main reply, the Government had reviewed the policy in 1984. At that time, the then Governor in Council, in considering the potential of the land use of the sites, came to the view that it was necessary to fully realize the development potential of these sites. Therefore, the relevant grantees were given permission to redevelop their sites by applying for lease modification, subject to fulfilling the principles I mentioned just now. These principles were laid down at that time. After the policy had been endorsed, a letter was issued by the Government to each of the grantees explaining this new

policy. The grantees thus became aware that they could apply for lease modification according to this new policy laid down by the then Governor in Council, and applications are vetted and approved in accordance with the principles laid down at that time.

PRESIDENT (in Cantonese): There are altogether nine Members waiting for their turn to put supplementary questions, so will Members who have the opportunity to put supplementary questions be as concise as possible.

MR ALAN LEONG (in Cantonese): *President, in a meeting of the Panel on Planning, Lands and Works held in June, the Secretary said the Government was reviewing the policy of granting land by private treaty. Prior to the completion of the review, no land would be granted in this manner unless urgent situations arose. Would the Secretary please tell us whether the CMB site was included in the review? Why the site was granted before the completion of the review?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): President, Members may know that I did not discuss this issue with the relevant panel of the Legislative Council until this year, while the application for lease medication was made in 2003. By 2004, we had almost completed the examination of the application. Therefore, in terms of timing, the application had been lodged far earlier than the commitment I made in the panel this year.

MR ALBERT CHAN (in Cantonese): *President, the Secretary mentioned in reply to part (b) of the main question that the Director of Lands considered and subsequently approved the application under the authority delegated by the policy set in 1984 and on the basis of the established principles. Would these established principles be what we commonly phrased as "collusion between business and the Government" and "transfer of benefits"?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): President, I have listed in clear terms in my main reply the four principles which Members should have noted, so I will not repeat them. But I have to reiterate

that, as far as the changes in the policy is concerned, all grantees had been notified in writing of these four principles, so each and every grantee was aware of these changes.

MR HOWARD YOUNG (in Cantonese): *President, the Secretary said in the first paragraph that sites had been granted for the provision of quarters at a premium of one third of the market value; and stated subsequently in principle (iii) that the premium will be charged on the basis of the difference between the fair market value of the site and the "before value", and the latter should be one third of the updated residential value of the site. Are the two linked to each other? Would the Secretary please clarify whether the market value stated in the first paragraph refers to residential value, and whether the two are similar in value? What are the procedures used by the Government in evaluating the most updated market value of the site, so as to ensure that it is reasonable from the public's point of view and that it will not lead to a loss in public revenue?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): *President, the staff quarters mentioned here is surely residential in nature, so we have adopted the residential value of the site. However, we should note that there is not necessarily an absolute correlation between the two. The only point in common is the one-third proportion and their land values are of course different. Most of the market values of the sites at the time were that of the '50s. The then Governor in Council, in considering this matter in 1984, already covered the method of how to calculate the market values of the sites. To be fair, we listed in principle (iii) of the four principles the formula so that everyone will know what we were talking about. This formula will apply thereafter in calculating the premium in this respect, that is, according to the current market value or the "before value", while the "before value" should be one third of the updated residential value of the site. In other words, the modification premium will be the two-third difference in value.*

MR FREDERICK FUNG (in Cantonese): *President, in the four principles mentioned in the main reply, principle (ii) states that the rehousing arrangements for the staff have to be made to the satisfaction of the Government. As far as I know, the quality of the staff quarters of the bus company is better than that of the*

public housing estates, so what is the standard used here? Is it the standard of public housing, Housing Society public housing, Home Ownership Scheme estates, or private residential housing? Has the Government received any complaint in relation to these arrangements?

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): President, with regard to the level of satisfaction, we have first to consider whether the affected tenants accept the arrangements. If they do, the Director of Lands and the Commissioner for Labour will usually be satisfied with the arrangements. From the records that I have looked up, the CMB case in particular, we find that the affected tenants were satisfied with the terms offered by the grantee at that time and the Government has not received any complaint in this respect either.

DR YEUNG SUM (in Cantonese): *Madam President, as regards the review of the policy of private treaty grant, the Government stated that no further applications for lease medication would be granted before the completion of the review. Has this policy remained unchanged? In view of the present property market situation, does the Secretary find that the approval of the CMB application for change of land use from quarters to commercial land use by way of regrant premium payment will lead to a substantial loss in Treasury revenue?*

PRESIDENT (in Cantonese): Dr YEUNG Sum, you have put two supplementary questions, which of them would you want the Secretary to reply first?

DR YEUNG SUM (in Cantonese): *The latter one, I mean the second part.*

PRESIDENT (in Cantonese): Fine, thank you.

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): President, if the question is on whether a loss has incurred, the answer is

definitely negative because the premium is calculated according to the formula stated in principle (iii) of the four principles. The formula clearly demonstrates that we only charged a land premium of one third of the market value of the site at that time and the land premium payable now is the two-third difference in value, and that it is calculated with the updated market value, in which case, I do not think there is a loss.

MR MA LIK (in Cantonese): *President, in the review of the policy of granting land to these corporations, should a mechanism be established to facilitate the Government in recovering the sites without the need to adhere to the terms of the land leases if the franchise or nature of these corporations has changed or no longer exists?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): President, as I pointed out in the main reply, the review was completed in 1984. The consideration of the Government at the time may be different from what it may consider now. Members may recall that there was a pressing need for housing back then and land was scarce. The situation prompted the Government to consider utilizing the development potential of these sites. If the land use of these sites remained unchanged, their development potential could not be fully realized, which is a waste of resources. The considerations at that time were somewhat different from now. The decision at that time was to realize the potential and to ensure that, on the basis of the said principles and in consideration of the value of the sites, the Government would not suffer a loss in land revenue.

PRESIDENT (in Cantonese): We have spent more than 16 minutes on this question. Last supplementary question now.

MISS TAM HEUNG-MAN (in Cantonese): *President, in relation to the land leases that are about to expire, what are the criteria that the Administration would adopt in deciding the right of use of the land? For example, when the land is recovered, would its right of use be decided by way of open tender, land grant or requiring the owner of the right of use of the land to pay a regrant premium?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): President, if the question refers to the land leases that are about to expire, I do not think it applies to the present situation because the period of the land lease in this question has not yet expired. In fact, the nature of the sites in question is very narrow in scope, with only 27 sites being this type of land use. Of these 27 sites, most of them have already been changed to other types of land use with only a small portion left, but they do not involve the question of expiration. The President has already allowed me to set out the facts. I am afraid I do not know what else I can say in reply to this supplementary question.

PRESIDENT (in Cantonese): Second question.

Closure of Branches by Note-issuing Banks

2. **MR ALBERT CHAN** (in Cantonese): *President, I note that in recent years some note-issuing banks (NIBs) have closed their local branches in a number of public housing estates (PHEs). For instance, the Hongkong and Shanghai Banking Corporation Limited (HSBC) has closed its local branches in Lei Muk Shue Estate, Shek Wai Kok Estate, On Ting Estate, Yau Oi Estate and Tai O, and reduced the service hours of its local branch in Mui Wo. On the other hand, residents of some newly completed PHEs, such as those in Tin Shui Wai and Tung Chung, have repeatedly requested the HSBC to set up branches or teller machines in their estates, but such requests have been refused. As the reduction in the number of local branches by NIBs has caused great inconvenience to many people, especially recipients of Comprehensive Social Security Assistance (CSSA), will the Government inform this Council:*

- (a) *of the number of branches set up by each NIB in Hong Kong in each of the past five years, and whether these banks have an obligation to provide basic services for the public;*
- (b) *whether it will consider revoking the NIB status of banks if they keep scaling down the services of their local branches; if so, of the details; if not, the reasons for that; and*

- (c) *whether it will consider granting the NIB status to banks whose services can serve the needs and interests of the general public better than NIBs; if so, of the details; if not, the reasons for that?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President,

- (a) Based on the statistics of the Hong Kong Monetary Authority (HKMA), the total number of branches maintained by the three NIBs has decreased from 580 in January 2001 to 422 at present. This is mainly because the number of banking transactions carried out by customers through bank branches has decreased given the growing popularity of electronic banking services. In response to this development, banks have adjusted their branch networks.

The responsibility of the NIBs is to maintain an effective network for the distribution of banknotes so that banknotes issued by them can be distributed through the banking system in a speedy manner to meet the public's demand. As regards the provision of banking services, the NIBs are no different from other banks, in that such decisions are made on the basis of commercial considerations.

- (b) According to the Legal Tender Notes Issue Ordinance (Cap. 65) and the terms and conditions specified by the Financial Secretary, the main functions of the NIBs are to maintain the stability of Hong Kong's notes issuance operation and to ensure the stable supply of banknotes. The NIBs are responsible for the safekeeping and the handling of the withdrawal and the storage of banknotes so as to meet the demand of the public. The offer of branch services and the increase or decrease in the number of branches, on the other hand, are the commercial decisions of banks.
- (c) Currently, the three NIBs in Hong Kong are able to provide adequate and stable supply of banknotes through their distribution networks. We do not think that it is necessary to increase the number of NIBs.

Like other private sector organizations, banks operate according to commercial principles. At the same time, we believe that they will assume corporate social responsibilities and have due regard to the needs of the public. We encourage banks to fulfil their social responsibilities, but it is for individual organizations to decide on the specific means.

MR ALBERT CHAN (in Cantonese): *President, the reply given by the Government seems like one given by a representative of the banking sector, completely unbecoming of a government should have. President, I would like to seek your advice, for despite my main question asking the Secretary to give the number of branches set up by each NIB, the Secretary only provided the total number of branches of all NIBs instead of that of individual banks. I hope the Secretary will provide the number of branches of individual banks after the meeting, for this is very important.*

President, my follow-up question is about the last paragraph of the main reply, in which the Government stated that it would encourage banks to assume corporate social responsibilities. In my main question, I stated that many banks had closed their local branches causing inconvenience to the public. May I ask the Secretary, in view of the closure of local branches by many banks over the past five years, which denies the public access to banking services, if the Government has made any effort to encourage the banks concerned to provide the services? If it has not done so in the past, how will the Government, from today onwards, encourage the banks concerned to do so to ensure that suitable banking services are provided to the public, the grassroots in particular?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, not all NIBs will disclose in their annual reports the number of local branches and teller machines maintained by them. In order not to contravene the secrecy provision stipulated in the Banking Ordinance, please excuse us for not being able to provide the information requested by Mr CHAN.

I would like to talk about banking services. We all know that over the past few years, many changes have occurred in the provision of banking services. We used to walk into branches of banks to use the services there. But now, we can use teller machines. Besides, all kinds of services, ranging

from cash withdrawal, depositing, account enquiry and even the ordering of cheque books, can now be provided by teller machines. Moreover, many banks have now provided Internet banking services, and a number of banks have provided telephone banking services. The mode of operation of banks has already changed in many aspects. Therefore, just as I have said in my main reply earlier, though the number of local branches of banks has decreased, from the commercial perspective, competition in the banking sector is still keen. Really, banks are in abundance in Hong Kong, and they cannot but enhance their competitiveness. These banks therefore have to operate in accordance with commercial principles.

Mr CHAN asked earlier how the Government would encourage banks to assume their corporate social responsibilities, in this connection, we maintain close liaison with the top management of the banking sector. We do appreciate the problems faced by banks in commercial operation, but still, from time to time, we will reflect the need of the public to the top management. Take myself as an example. During my contacts with a number of large banks, I will remind them to address the needs of the public. Sometimes, despite the closure of some local branches of certain banks in a certain district, branches of other banks may be opened in the same district. Let me explain it to Mr CHAN with an example. Thirty years ago, when I was living in the Oi Man Estate, there were two branches of the NIBs and a branch of a non-NIB. However, the situation has changed now. At present, one of the two NIBs has set up a teller machine there, while two other banks have opened local branches there. In other words, some circumstances have changed. However, these are decisions based on commercial operation. The Government cannot stipulate what a bank has to do or that branches must be opened at certain locations, for such a practice is not consistent with the purpose of designating NIBs.

MR ALBERT CHAN (in Cantonese): *President, the Secretary has not answered my supplementary question. I asked him how appropriate services could be provided to the public, the grassroots in particular, but the Secretary has not answered how banks would provide services to the grassroots.*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, I do not understand what Mr CHAN was referring to

when he mentioned services for the so-called grassroots. As everyone should have access to banking services, I do not think that the services provided to the grassroots or that to Mr CHAN should be in anyway different. I, therefore, do not quite understand the point of that question. But, no matter how, all citizens are entitled to access to banking services.

PRESIDENT (in Cantonese): A total of 12 Members are waiting to raise their supplementary questions on this question.

MR JASPER TSANG (in Cantonese): *President, in part (a) of the main reply, the Secretary stated that the decrease in the number of branches of banks since 2001 was mainly due to the growing popularity of electronic banking services and the adjustment of branch networks by banks in response. May I ask the Secretary whether studies have been conducted to examine if customers residing in areas where branches of banks have been closed are indeed heavy users of electronic banking services? For as far as I know, in some areas where PHEs are clustered, branches of banks have been closed. But a lot of people had been seen queuing up for services during weekdays before those branches were subsequently closed. The decrease of the number of branches of banks apparently should not be attributed to the growing use of electronic banking services. As the Secretary pointed out in his main reply that this was the main reason for the decrease, what is the basis of his remark?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Frankly, no studies in this regard have been conducted. But as I said in the main reply, these are independent commercial decisions of banks, so they should have conducted their own studies, say on the closure or opening of branches, before making such decisions. I am not in a position to answer Mr TSANG's supplementary question from the point of view of a Policy Bureau or the HKMA. However, if Mr TSANG intended to follow up the issue, we may make arrangements for Mr TSANG to meet with the top management of the banks concerned to gain a further understanding of the situation.

MR TAM YIU-CHUNG (in Cantonese): *President, in the last paragraph of the main reply, the Government recognized that as banks operated according to*

commercial principle, they should at the same time assume corporate social responsibilities and address the needs of the public. However, this is not the case in reality. Take the case of remote areas, like the northern part of Tin Shui Wai, as an example. Banks have simply refused to open branches in those areas; they are not even willing to set up teller machines. In that case, that is, if banks fail to assume their corporate social responsibilities and the public are denied access to necessary banking services, will the Government which believes in the aforesaid principle consider following the practice of some overseas countries by providing similar services through post offices?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, the proposal made by Mr TAM was actually tried out in overseas countries. However, as far as I know, only a small number of post offices are now available in the territory. However, I will ask my colleagues to examine whether Mr TAM's proposal is feasible.

As far as I understand it, the public may now withdraw cash when they do shopping in supermarkets. For example, when they use their teller-machine cards to pay for the chewing gums, they may at the same time withdraw cash from their accounts. In fact, in Hong Kong, it is not difficult to make cash withdrawals, and some teller machines are even installed in convenience stores. I hope that through the meeting today, the top management of banks may hear the views of Members. In fact, I have discussed the issue with the top management of banks and reflected to them Members' concern about this issue. I hope that after the meeting today, the banking sector will pay more attention to this aspect and assume their corporate social responsibility.

MR LEUNG YIU-CHUNG (in Cantonese): *President, in the last paragraph of the main reply, the Secretary said that the needs of the public had to be addressed. In fact, it is most important that the needs of the elderly and those of CSSA recipients are catered for. Since they have to collect their payments at banks, if no branches of banks, or even teller machines, are found in the estates where they live, and they do not know how to use electronic banking services, they will have to travel a long way to collect their payments. The Secretary said that banks would address the needs of the public, but this is not the case in reality.*

May I ask the Secretary, when he answered Mr Albert CHAN's supplementary question on encouraging banks to assume their social responsibilities, what encouragement he meant? It turns out that the Secretary considered dining and chatting with the top management of banks is a way of encouragement. But, President, I would only regard these gatherings as a kind of chats or notification rather than encouragement. May I ask.....

PRESIDENT (in Cantonese): What do you want to ask?

MR LEUNG YIU-CHUNG (in Cantonese): *Secretary, when you used the word "encourage", what did you have in mind regarding the so-called "encouragement"? Should chatting be regarded as a way of encouragement? As far as I understand it, encouragement should be substantial, which may include the implementation of certain policies to assist banks in discharging their responsibilities. May I ask the Secretary to inform us of the specific methods, which are not contrary to the independent decisions of individual organizations, being used to encourage banks?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, encouragement cannot be made without communication. Therefore, the first thing we need to do is to establish communication. When I meet with the top management concerned, I have to communicate with them. So, will Mr LEUNG please refrain from saying that I must be dining with them whenever he speaks. This is not necessarily the case. Communication does not necessarily mean dining. We can have communication through chats, and we can chat when we meet. This is the first point I have to clarify. Please do not mistake me as someone fond of dinners or banquets. *(Laughter)* I am already overweight and do not have to eat much. I am indeed on diet.

Second, in respect of communication, we often tell banks that all large corporations need to assume social responsibilities. In fact, not only I say so, many members of society also say so. This is what Members, officials and members of the public will say. I do not necessarily have to offer something in

exchange to make any encouragement. We may tell the top executives concerned that these are duties everyone has to discharge, and that as a member of society, everyone should do so. I do not think that something must be offered in return to effect an encouragement. We just inform banks what they, being a member of society, should do. Mr LEUNG, I need not offer anything tangible to banks in exchange for their fulfillment of their social responsibilities. In other words, we will only encourage banks that, being a member of society, they have the social responsibilities to do so. Regarding this point, I am not the one who says so today, in fact, many Members have said that before. Therefore, I do not think that an encouragement must include the offer of anything tangible before it can be rendered as an encouragement. It is most important that these corporations are told that they have to discharge their responsibilities. In fact, many companies in Hong Kong have undertaken this responsibility. However, I believe, with Members expressing their concerns about this today, the top management of banks will have heard Members' views.

PRESIDENT (in Cantonese): Mr LEUNG Yiu-chung, which part of your question has not been answered by the Secretary?

MR LEUNG YIU-CHUNG (in Cantonese): *President, the Secretary has misunderstood my supplementary question. I am not asking him about the issue of communication and offers in return. My question is: Has any specific or concrete policy, which is not contrary to the government principle of respecting independent decisions of individual organizations, been put in place to encourage banks to improve their services?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, our policies are highly transparent. If Mr LEUNG considers our policies can yet encourage banks to assume their corporate social responsibilities, then, I may say that we do not have any policy in this respect. However, the whole community is surely passing on a message to the banking sector, and I thus consider the formulation of a policy is not necessary. If policies have to be put in place, it can no longer be regarded as an encouragement but enforcement of a policy indeed.

MR WONG KWOK-HING (in Cantonese): *President, according to the Secretary's main reply, the number of branches maintained by the three NIBs has been reduced by 158 over the past five years, at a rate of 27%. This has severely deprived PHE residents and those in remote areas of their access to banking services. May I ask the Secretary through the President that, in view of the present situation, whether the Government has any measures to assist PHE residents and those in remote areas to solve the problem of shortage of banking services? Will banks be required to open more branches upon the granting of licence as an additional condition for the granting of licence?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, Mr WONG, I hope you will understand that the opening of branches, just as I have said in my reply earlier, is commercial decisions of banks. However, competition in the banking sector in Hong Kong is actually very keen. During my conversations with the top management of banks, they all said that business is difficult, that they have to compete for customers, as well as deposits and loans to customers. Therefore, the locations of their branches and the number of branches to be opened are definitely decisions based on commercial consideration. I have already cited the example of Oi Man Estate earlier. I lived there 30 years ago. At that time, there were three branches, two opened by NIBs and one by a non-NIB. But, today, the situation has changed. The branches of the two NIBs have already been closed, but one of the NIBs has set up a teller machine there. On the other hand, two other branches have been opened by non-NIBs. This proves that where there are competition and business, banks will open branches. However, the Government cannot stipulate the number of branches to be opened by banks or that to become a NIB, a bank has to open branches in certain districts. For the functions and duties of a NIB and the opening of branches are two separate issues. President, will you please let me take this opportunity to explain the duties of a NIB.

In fact, being a NIB does not enjoy any advantage. First, a NIB has to deposit a certain amount of US dollars with the HKMA, which is not interest-earning. Then, it has to make arrangements for the printing cost of banknotes — the cost is paid by the HKMA, but a NIB has to undertake the

arrangements involved. A NIB is also responsible for the distribution of banknotes. On occasion where banknotes have to be demonetized, a NIB will have to assume full responsibility for the work. Therefore, we should not link the two issues together, saying that banks with NIB status should undertake the responsibility. If, just as Mr WONG has suggested, banks are required to open a certain number of branches upon the issuance of banking licences, it will be going against the principle of free market and free competition in Hong Kong. Thus, I hope Members will understand this.

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

MR WONG KWOK-HING (in Cantonese): *No, President, the Secretary has not answered how the Government would address the problem of shortage of banking services in remote areas and PHEs. I have already set out the relevant figures earlier, stating that branch services of banks have been reduced by 27% over the past five years, which means that residents have been denied banking services. The Secretary has not responded to this point.*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, just as I have said earlier, we have already reflected the issue to the top management of banks. If they consider operation in certain districts is profitable from a commercial point of view, they will certainly open branches there. However, Members have to understand that the mode of operation of banks has now changed, which I believe Dr David LI should know only too well, and a large number of teller machines are now available in Hong Kong. I also understand that Mr WONG has grave concern for the needs of residents of PHEs. If Members consider that branches of banks are necessary in certain areas, I am more than willing to reflect Members' views to the banks. I am always prepared to do that.

PRESIDENT (in Cantonese): We have spent more than 20 minutes on this question. Last supplementary question now.

DR FERNANDO CHEUNG (in Cantonese): *President, the Secretary said earlier that cash withdrawal has now become very convenient. Apparently, the Secretary has seldom considered the situation of people with disabilities or the elderly. It may not be easy for them to withdraw cash with their teller machine cards, nor can they easily gain access to electronic banking services on the Internet via computers. As far as I know, in overseas countries, if any bank intends to close its branch, public hearings will be held to gauge the views of the public. May I ask the Secretary, in case of possible closure of branches by banks in future, will the views of District Councils be first consulted and expression of views by the public be allowed via channels like public hearings?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): *President, I think Hong Kong is a free society, a society operates on commercial principles. I believe the approach mentioned by Dr CHEUNG just now may not necessarily be applicable to Hong Kong society today. Besides, I think that under the existing mode of operation, the best way to reflect the needs of people with disabilities and the elderly to the banks is via Members or the Government. We are more than willing to discuss views expressed by Members with the banks. I think this is a better approach as opposed to the holding of public hearings as suggested by Dr CHEUNG.*

DR FERNANDO CHEUNG (in Cantonese): *President, may I ask the Secretary to answer whether he will seek the views of District Councils?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): *President, I think I have already answered Dr CHEUNG's question, for I think the functions of District Councils are different. It is a matter of the relationship between a bank and its customers. I do not see why District Councils should be involved in such discussion.*

PRESIDENT (in Cantonese): *Third question.*

Public-private Partnership for Conservation Work

3. **MR CHEUNG HOK-MING** (in Cantonese): *President, in his policy address announced last month, the Chief Executive pointed out that for selected ecologically important areas, a pilot scheme involving management agreements and public-private partnership (PPP) would be carried out as a priority and that under the scheme, landowners would participate voluntarily and non-governmental organizations (NGOs) would provide the funding for conservation work. In this connection, will the Government inform this Council:*

- (a) *as the Environment and Conservation Fund (ECF) Committee has approved an allocation of \$4.6 million for the implementation of three pilot management agreement projects at Fung Yuen and Long Valley, of the respective amounts of funds committed in respect of such projects by the NGOs responsible for managing the land concerned;*
- (b) *of the implementation timetables for such pilot projects, and whether the authorities have any measures to monitor their progress; and*
- (c) *as an Inter-departmental Task Force is studying six PPP proposals, when the authorities expect such studies to be completed and whether they will brief the public on the evaluation work and results?*

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

- (a) The Government announced a new nature conservation policy in November 2004 to better achieve the nature conservation objectives, in particular to enhance the conservation of ecologically important sites which are in private ownership. Under the new policy, 12 priority sites have been identified for enhanced conservation by using some quantitative and scientific methods and they have been certified by the experts. The Administration undertook to implement a pilot scheme on two new measures, that is,

Management Agreements (MA) and PPP, to enhance conservation of these sites.

On 6 October, the ECF Committee approved an allocation of \$4.62 million to three NGOs, namely the Tai Po Environmental Association (TPEA), the Hong Kong Bird Watching Society (HKBWS) and the Conservancy Association (CA), for the implementation of three pilot MA projects at Fung Yuen and Long Valley. In addition to the ECF funding, the TPEA, HKBWS and CA will contribute about \$310,000, \$160,000 and \$390,000 respectively to their projects to meet part of the projects' expenditures, such as staff remuneration, administration cost and purchase of materials.

The three recipient organizations will also formulate different long-term measures to ensure the sustainability of the concerned MA projects, including organizing eco-tours and conservation education programmes, formulating sustainable habitat management strategies, launching fund-raising programmes and selling products, and so on.

- (b) All three projects will commence in the next two months and last for two years. The Agriculture, Fisheries and Conservation Department will closely monitor the implementation of these projects and join the relevant project advisory committees to directly advise on their implementation.

The recipient organizations also need to sign an agreement with the ECF and comply with the terms of the agreement, such as submitting statement of accounts regularly and carrying out procurement in accordance with specified procedures. Moreover, the recipient organizations have to submit progress reports to the Government once every three months to provide information on the progress and financial position of the projects. The ECF will disburse funds to the relevant organizations by instalments, subject to the satisfactory progress of the projects. The recipient organizations also have to submit completion reports to the Government within two months after completion of the projects.

- (c) The Government has set up an Inter-departmental Task Force to examine the six proposals submitted under the PPP Pilot Scheme. Owing to the complexity and variables involved in the Scheme, the time required for vetting the PPP proposals is longer than that for the MA Pilot Scheme. Upon completion of the vetting process, we will inform the public of our evaluation work and results as soon as possible.

MR CHEUNG HOK-MING (in Cantonese): *President, in the main reply, the Secretary clearly stated that among the 12 priority sites which had been identified for conservation, three had been granted to relevant organizations for that purpose and six were being examined by the Task Force. And of course, these do not represent all the sites which require conservation. Can the Government inform this Council whether other sites will be granted in a second conservation scheme after all these 12 sites have been granted and the conservation scheme in respect of the nine sites has been completed?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): President, I think Mr CHEUNG Hok-ming asked whether the remaining three out of the 12 sites in total would be included in another conservation scheme. At the moment, we do not have any plan to request other landowners to apply for the implementation of the PPP Pilot Scheme or the conservation scheme on their land as we have to give priority treatment to applications in relation to the nine sites. We have, in fact, allowed quite a long period of time for the landowners to submit applications. So, we will deal with those applications first and check whether the scheme is successful before deciding on the introduction of a second conservation scheme.

MS MIRIAM LAU (in Cantonese): *President, undoubtedly, the conservation scheme proposed by the three recipient NGOs is worth support. However, I would like to ask the Secretary: In respect of the PPP Pilot Scheme first introduced by the Government, does the private portion is restricted to NGOs only? Concerning the six PPP proposals now under scrutiny, are they all*

submitted by NGOs? Are there any proposals which are really submitted by private organizations or commercial enterprises so that sustainability is feasible through private resources because of their commercial value instead of relying on fund-raising activities?

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): President, some of the operators under the PPP Pilot Scheme are businessmen. In other words, corporations are involved in it. Among the applications filed, some are submitted by NGOs. There is no restriction on the status of the participants. They can be enterprises, private organizations or NGOs as long as they can implement PPP. For instance, limited development, be it development of land or other projects, to be taken place at ecologically less sensitive sites will be given consideration as long as it does not conflict with the conservation of the ecology.

As regards ecological protection, the applicants will explain in their reports how conservation work will be done in the ecologically important sites on the premise that conservation work will be carried out at those sites in accordance with our principle of sustainability. As Ms Miriam LAU said, it depends on whether the project is sustainable on its own. All applications must meet these two conditions before consideration will be given and applicants are allowed to participate in the projects. We do not care what organizations the applicants are.

MS MIRIAM LAU (in Cantonese): *President, the Secretary has not answered one point. Among the six applications now being examined, is there any one submitted by businessmen?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): President, all of them are submitted by businessmen.

DR RAYMOND HO (in Cantonese): *President, part (b) of the main question asks whether the authorities have any measures to monitor their progress.*

These projects are short in duration which may last for only two years. I would like to ask the Secretary: In case some projects remain outstanding after a specified period, will the Government require the responsible organizations to set up some other bodies which may be in a different entity to perform the work in the next stage? This is because conservation projects may need a longer period of time in some cases.

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): President, concerning the three recipient organizations, they have set out long-term measures in their MA Pilot Scheme and will organize a variety of activities. As Dr Raymond HO just said, conservation work has to be carried out on a sustained basis. So, funding for these two years is just the seed money, a start. Of course, during these two years, we hope that relevant organizations will introduce some projects which can serve the purpose of conservation on the one hand and generate income on the other. For instance, they may organize eco-tours and conservation education programmes to see whether these programmes can be self-financing and sustainable. Meanwhile, all these green groups have rich experience in fund-raising and these programmes need public support. Nevertheless, the ECF is not just one-off. If these programmes are proved to be successful, they will be encouraged to carry on.

MR LAU WONG-FAT (in Cantonese): *President, can the Government inform this Council whether the authorities have prepared some other conservation schemes which can be implemented as soon as the pilot scheme now in place has eventually been proved infeasible or the result is not satisfactory?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): President, the pilot scheme has a time limit. As I said just now, the seed project lasts for two years. We will review the effectiveness afterwards and, based on the findings of the review, consider how to deal with the ecologically important sites in private ownership in future. There is no backup plan for the time being.

DR KWOK KA-KI (in Cantonese): *President, just now the Secretary said that the authorities are now vetting six proposals which include applications submitted by private developers. I would like to know: When the Secretary mentioned vetting of applications, does it mean that the Government will report to the public only after it has consented and entered into agreements with relevant parties and no information will be disclosed beforehand?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): President, the six proposals under examination entail many issues including land use and transportation. So, when the criteria and result are available, we will initiate a discussion on the matter in the relevant committee so that Members can have an opportunity to understand how the projects will be implemented.

DR KWOK KA-KI (in Cantonese): *President, I hope the Secretary can answer clearly whether the Government will hold a discussion in the relevant committee before signing and entering into an agreement or after such a procedure.*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): President, since the project has to go through the statutory process, we cannot sign an agreement privately without anybody's knowledge. So, I think Dr Kwok Ka-ki needs not worry about it.

MR LAU KONG-WAH (in Cantonese): *President, if the Government considers that sustainable development is important to these conservation sites, it should formulate long-term planning in this regard. But now the two-year approach seems to be a wait-and-see approach. What should be done after these two years? Moreover, compared with the large area of these lands, the sites granted by the Government account for a very small portion. No one knows who will be responsible for the conservation of the large area of the neighbouring sites. In view of this, particularly for those three sites, is it true that the Government's planning is neither thorough nor comprehensive?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): President, in fact, many rural areas in Hong Kong, particularly those so-called conservation sites, are large in area and conservation work is not easy at all. However, please do not forget that many activities which are now ongoing at these sites have contributed to their ecological value. Conservation work there will not be undermined if these activities are allowed to continue. In implementing the Pilot Scheme, we hope that some elements can be introduced for enhancing the conservation work and generation of income for these sites. Through organizing eco-tours, for example, more people will understand the importance of conservation on the one hand and income can be generated for the owners of the conservation sites on the other. The area of the conservation sites we are now working on is relatively small because these projects are not straightforward. In foreign countries, there are many large conservation zones which have developed into the present state in a decade. So, I will examine the effectiveness of these three projects before deciding which approach will lead to a better result should the Scheme be expanded. Take the Ramsar site at Mai Po as an example. It is now a very large stretch of land but its development has gone through several decades. I think we have adopted a prudent approach.

MR ABRAHAM SHEK (in Cantonese): *President, I strongly support this Scheme because this is a win-win option. President, as this Scheme involves the land policy, may I ask the Secretary, if there is a conflict between the land policy and the Scheme, who will make the decision?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): President, any environmental protection policy always falls under the purview of many bureaux and cannot survive alone. In respect of land, economic or infrastructure issue, it will be closely related to the policies of other bureaux. At present, we have set up an Inter-departmental Task Force to look into the matter. Of course, if the problem cannot be resolved, the Chief Secretary for Administration will rule at the end of the day and he is now sitting in front of me. *(Laughter)*

PRESIDENT (in Cantonese): We have spent more than 16 minutes on this question. Last supplementary question now.

MISS TAM HEUNG-MAN (in Cantonese): *President, I would like to ask a question: When and on what criteria will the authorities review the effectiveness of the Scheme? Besides, will we be informed of the review result?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): *President, we will conduct a review of the Scheme after two or three years and will, of course, report the review result to the Legislative Council.*

PRESIDENT (in Cantonese): *Fourth question.*

Obstructing FEHD Staff for Law Enforcement

4. **MS AUDREY EU** (in Cantonese): *President, on 30 August this year, two health inspectors of the Food and Environmental Hygiene Department (FEHD) removed their uniform caps and epaulettes upon the request of the Hong Kong Disneyland (HKD) staff before entering the HKD to perform their duties. On 6 September, however, another health inspector rejected the same request when he performed duties at the HKD, and reported the incident to his supervisor. In this connection, will the Government inform this Council of:*

- (a) the existing legislation which provides that it is unlawful for a person to refuse or obstruct the entry of FEHD staff into premises for law enforcement purposes; and the usual practice of FEHD staff in such circumstances;*
- (b) the details on how the FEHD took the matter up with the HKD authorities after learning about the incidents and the follow-up actions taken; and*
- (c) whether the Administration has decided to initiate prosecution against the persons concerned, and the rationale for the decision?*

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

- (a) Under section 126 of the Public Health and Municipal Services Ordinance (Cap. 132), authorized public officers (Health Inspectors are such authorized enforcement officers, among others, of the FEHD) have a right to, on operational need, enter any premises where business is being carried on to perform their duties. Health Inspectors are empowered to enter restaurants for inspection by virtue of this Ordinance. According to our understanding, apart from the above incidents, there is no record of FEHD officers having been refused or obstructed by operators of licensed restaurants from entering the premises for executing their duties. If the enforcement officers of the FEHD are refused admission to any premises by any person, they may apply for a court warrant authorizing them to enter the premises to perform their duties. In addition, under section 139 of the Ordinance, any person who wilfully obstructs enforcement officers in the course of their duties shall be guilty of an offence.
- (b) After learning about the incidents, the Director of Food and Environmental Hygiene wrote to the management of the HKD on 9 September 2005 saying that he found these incidents unacceptable and expressed his grave concern, and also indicated that legal advice was being sought on whether the actions taken by the HKD staff concerned had contravened the Public Health and Municipal Services Ordinance. He also made it clear to the management of the HKD the statutory duties of the FEHD's enforcement officers in inspecting licensed food premises, and sought reassurance of the management of the HKD that such incidents would not occur again in future.

Since these incidents, the enforcement officers of the FEHD have conducted inspections to the food premises in the HKD and have not encountered similar situations.
- (c) The Director of Public Prosecutions has decided not to prosecute in respect of the incidents at the HKD after a comprehensive review. He has explained the reasons in the attached letter of 7 November 2005 in response to an enquiry.

律政司
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7 November 2005

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BY FAX & BY POST

Dear Sirs,

Disneyland

Your letter of 10 October 2005 refers.

Whilst I appreciate your concerns, I am satisfied, after a comprehensive review, that the advice given to the FEHD not to prosecute in respect of the incidents at Disneyland was correct.

On the facts, the possible offence to be engaged was conduct contrary to section 139 of the Public Health and Municipal Services Ordinance, Cap 132. This provides :

Any person who wilfully obstructs, resists, or uses abusive language to, any person acting in the execution of his duties under this Ordinance, or under any order or warrant made or issued thereunder, shall, in any case for which no other provision is made by this Ordinance, be guilty of an offence.

Therefore, to establish an offence against a suspect it is necessary to show, first, that there was an obstruction of the officer, second, that the officer was acting in the execution of his duties, and, third, that the obstruction occurred wilfully.

In its recent judgment (26 May 2005) in *HKSAR v Tam Lap-fai* [2005] 2 HKLRD 487, the Court of Final Appeal considered the issue of obstruction. Chan PJ said :

Whether particular conduct amounts to wilful obstruction of an officer in the due execution of his duty is always a matter of fact and degree. It is important to look at the facts of each case, including what the person has done and how it is done, what the officer is doing, and the effect of what the person has done on what the officer is doing. ... When common sense is applied, and I think it is important that common sense is applied, in this type of case, it is quite clear that the test does not intend to include conduct which may cause mere inconvenience to the officer or require him to expend only trifling additional effort.

Having indicated the relevant law, I will deal briefly with the facts of the two incidents, and touch upon the reasoning for not prosecuting.

On 30 August 2005, FEHD officials visited Disneyland for an inspection. They were asked by Disneyland staff to remove their caps and epaulettes. To this they agreed. The inspection was successfully conducted. This episode does not constitute criminal misconduct, not least because there was no wilful obstruction of the FEHD.

On 6 September 2005, an FEHD official visited Disneyland for an inspection by himself. He says that whilst conducting his inspection, Disneyland's Director of Security, Safety, Fire and Health Services (the Director) asked him to take off his cap and epaulettes in the public areas. He recalls that after he told the Director he had to carry out his inspection in full uniform, the

Director said he could not carry out his inspection. He therefore curtailed the inspection.

The recollection of the Director, however, is different. He says that he asked the FEHD official if he could remove the cap and badge before conducting a public inspection, as had happened on the previous occasion. This was simply a request, and at no stage did he refuse the inspector access to any part of the Resort, or object to the inspection. Having made a telephone call, the inspector said it was 'okay', and that he did not need to visit any further locations that day.

The version of the Director as to what occurred on this occasion is corroborated by Disneyland's Food Safety Inspector, who was present throughout the incident on 6 September 2005.

The position is therefore that there are two different and conflicting versions of events. The FEHD inspector provides one, while the Director and the Food Safety Inspector of Disneyland provide another. The final picture to emerge is obviously less than clear, and the possibility of misunderstanding on one side or the other cannot be excluded.

On the available evidence, therefore, it cannot be shown to the required standard that the Director intended to wilfully obstruct the official. That being so, the basic test for prosecution is simply not met. Before a prosecution can be started, there must exist at least a reasonable prospect of conviction. That is obviously lacking here.

At my request, the FEHD has reviewed the state of the evidence. As a result, it has become even more apparent that the original decision not to prosecute was correct.

Also at my request, a Senior Counsel, not involved in the original decision, has reviewed the case. The Senior Counsel has advised me that a prosecution cannot be justified.

I am completely satisfied that it would not be right to institute a prosecution in this case.

As the matter is put in *The Statement of Prosecution Policy and Practice* (2002), at paragraph 8.1 :

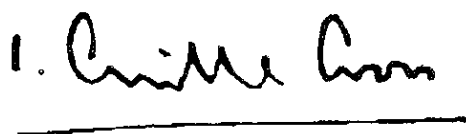
A prosecution should not be started or continued unless the prosecutor is satisfied that there is admissible, substantial and reliable evidence that a criminal offence known to the law has been committed by an identifiable person. The Secretary for Justice does not support the proposition that a bare prima facie case is enough to justify a decision to prosecute.

In light of the weakness of the evidence, it would obviously be contrary to established prosecution policy for me to authorise a prosecution of anyone in this case.

I understand that since these incidents occurred, FEHD officials have been conducting regular inspections at Disneyland, and that no problems have been encountered.

Thank you for drawing this matter to my attention.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'I. Grenville Cross', written over a horizontal line.

(I. Grenville Cross SC)

MS AUDREY EU (in Cantonese): *President, the appendix to the main reply is a letter from Mr I. Grenville CROSS, SC, Director of Public Prosecutions to three Honourable colleagues. Page 2 of the letter mentions that when the Secretary for Justice was considering whether or not to prosecute staff of the HKD, the main factor considered was whether or not that there was any wilful obstruction of FEHD staff in the execution of their duties. President, the letter also mentions two different and conflicting versions of events, one provided by the security staff of the HKD and the other by FEHD staff. President, even if the version of events given by the security staff of the HKD is taken, though he pointed out that he had not refused the entry of the Health Inspector concerned for the purpose of making an inspection and that only a request was made, but even if this was a request and not refusal of entry by FEHD staff into the HKD, it was clearly a wilful act. This is because it could not be an act done out of inadvertence or a failure to understand the circumstances in question, the speaker knew clearly what he was doing. The question here is: Did he or did he not obstruct FEHD staff in the execution of duties? I would like to ask the Secretary: Would a request made to FEHD staff to remove their uniform caps and epaulettes not considered as obstructing the execution of their duties? Currently when FEHD staff perform their duties, should they wear their uniform caps and epaulettes?*

PRESIDENT (in Cantonese): Which public officer will take this question?

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): President, I would like to answer the last question. All our enforcement officers are required to wear full uniform in performing their duties. The uniform is a symbol of their authority. Therefore, we have made this point clear to all management staff and the Director of FEHD has made it clear to his staff performing their duties that this is not acceptable. On the legal aspects, as Mr WONG, the Secretary for Justice, is in attendance, may I defer to him for a reply on this?

SECRETARY FOR JUSTICE (in Cantonese): Madam President, before giving a reply to the supplementary question raised by Ms Audrey EU, I would like to say something more on this decision.

On the question of whether or not any contravention of the law was made and whether or not prosecution should be initiated, two colleagues of mine in the Department of Justice had examined all the evidence in September and come to the view that there was not sufficient evidence to support a prosecution. Subsequently, three Honourable Members expressed concern about the incident and wrote a letter to the Director of Public Prosecutions demanding that a review be conducted of the decision. As the incident had attracted widespread public concern, the Director of Public Prosecutions undertook a review of the decision and after following up the incident with the FEHD and considering the relevant information, he was convinced that the decision not to initiate prosecution was correct. The grounds for the decision were given in detail in the letter dated 7 November. The Director of Public Prosecutions has explained to me why such a decision was made and I agreed. I hope Members can understand the reasons for this decision and public confidence in the criminal prosecution procedures would be enhanced consequently.

However, before answering the question raised by Ms EU, I would like to emphasize two points of principle. First, the information we have provided concerning the grounds for our decision not to initiate prosecution is in much greater detail than that provided under normal circumstances. Members may be aware that normally if we decide not to institute prosecution, the grounds for such a decision will not be set out in great detail. This is meant to pre-empt comments made by the media on the case in question in the absence of all the information concerned, as well as to protect the interest of the suspect. However, due to the following two reasons we decided that a detailed explanation be given in respect of this case. First, most facts of the case have been reported in public. Second, we appreciate the great public concern for this case.

As for the second point of principle, Ms EU may be very familiar with it though it may not be the case with other Members. As mentioned in the letter, when consideration is made to initiate prosecution or otherwise, each decision must be made based on the established prosecution standards and in no circumstances should the decision be subject to any pressure. In making a decision, the first thing to consider is whether or not the evidence at hand is sufficient to prove the commission of an offence. We will first take all factors — I stress, all factors — into consideration, including proof of the existence of intent. Then even if the necessary ingredients of an offence are found, a bare *prima facie* case is, generally speaking, not enough to warrant a

prosecution. Before a prosecution can start, there must exist at least reasonable prospects of conviction because it is not in the interest of public justice, nor indeed of the public purse, that weak, or borderline, cases be prosecuted.

When considering the sufficiency of evidence, we will have to examine if the evidence is admissible in Court and reliable, that is, whether the evidence given by a witness is credible, whether his memory is faulty and whether anything has been misunderstood, and especially with respect to intent and other evidence, whether there is any conflict. Members know very well that insofar as criminal cases are concerned, a conviction is only possible when the offence is proved beyond reasonable doubt. This is indeed a hard decision to make and it relies on the knowledge of the law and experience of the prosecutor concerned. This is a point of principle which I would like to emphasize.

Just now Ms EU has said that in this present case, there are two versions of events. She stressed in particular that even if what the Director of the HKD said is true, should the act in question be considered a wilful obstruction? The Director of Public Prosecutions cited a case in his letter and that is the case of *HKSAR v Tam Lap-fai* heard in the Court of Final Appeal in 2005. The judgement of that case reads: "Whether particular conduct amounts to wilful obstruction of an officer in the due execution of his duty is always a matter of fact and degree. It is important to look at the facts of each case, including what the person has done and how it is done, what the officer is doing, and the effect of what the person has done on what the officer is doing", and so on. As there is a difference in degree and there may be implications in many aspects, this is not a simple judgement. As to whether the version given by the Director of the HKD is true, after the Director of Public Prosecutions and a Senior Counsel not involved in the original decision had reviewed the decision, they concluded that a reasonable prospect of conviction was lacking here. Based on their experience and knowledge of the law, they were of the view that a prosecution was not justified.

With respect to the handling of this case, I wish to emphasize that our colleagues have acted with great prudence. In the first round, apart from two colleagues of mine who made the conclusion after studying the case, Mr I. Grenville CROSS who is a most experienced Senior Counsel in such matters, and another Senior Counsel not involved in the original decision — they both arrived at this conclusion. This conclusion was made while taking into account

all these facets in law and it was made with great prudence. As I see it, despite the existence of many contentious grounds which cannot be overlooked, given the need to enforce the established prosecution policy, I am satisfied that it would not be right to institute a prosecution in this case in the light of the weakness of the evidence available.

MS AUDREY EU (in Cantonese): *Notwithstanding the reply given by the Secretary for Justice and his detailed account of the factors considered in prosecution which as a matter of fact is very familiar to us as we have heard about it many times in the Chamber and we are well-versed in the contents of that book, there are certain parts in my question which remain unanswered. The act in question is obviously deliberate and it is not done out of inadvertence, carelessness or lack of knowledge. The Secretary in his reply has also pointed out that when FEHD staff perform their duties, they are required to wear uniform caps and epaulettes. If this is the case, even if a demand or request is made in all proprieties to the effect that officers can only perform their duties if they remove their uniform caps and epaulettes, would this not constitute a wilful obstruction of the officers in their execution of duties? President, this question, I am afraid, has not been answered.*

PRESIDENT (in Cantonese): Which public officer would take this question?

SECRETARY FOR JUSTICE (in Cantonese): Madam President, as I have stressed just now, the question of whether or not the act would constitute a wilful obstruction of officers in their execution of duties would involve complicated notions in law and one cannot say that an act would amount to wilful obstruction in law merely on the strength of a request made to the officers to remove their epaulettes. The reason why I have spent some time to cite the deliberations made by the Court of Final Appeal on a relevant case is I wish to make the point that each case must be considered on its own merits and in the light of the circumstances, including the acts performed at that time, the justifications and consequences, before judgement and common sense are applied in the determination of a just course. Three Senior Counsels including me have examined the case and considered it according to the relevant policy and we are satisfied that a prosecution is not justified.

PRESIDENT (in Cantonese): As more than 14 minutes have passed after the exchanges between Ms Audrey EU and the Secretary for Justice, I would therefore extend the time for this question as appropriate so that more Members can raise their supplementary questions.

MR FRED LI (in Cantonese): *President, with respect to page 3 in the Chinese version of the letter of reply from Mr I. Grenville CROSS, I would like to follow up the contents found in the third paragraph. Apparently, the two versions of the events are different and if the version given by FEHD staff is adopted, it will certainly be justified to institute a prosecution against the HKD for the case is very strong. Now the question is, Mr I. Grenville CROSS points out in his letter that at his request, the FEHD has reviewed the state of the evidence — this is because there are two versions of events and so the state of the evidence has to be reviewed — and as a result, it has become more apparent that the original decision not to prosecute was correct. Does this result mean that there are inaccuracies in the first version of events given by FEHD staff? According to the first version, there is strong evidence showing that the officers were obstructed in their execution of duties, but after this review, the result is that prosecution is not justified. May I ask the Secretary for Health, Welfare and Food and Secretary for Justice WONG Yan-lung what exactly the result is and why a decision is made not to prosecute after the review?*

PRESIDENT (in Cantonese): Which public officer would like to take this question?

SECRETARY FOR JUSTICE (in Cantonese): Madam President, perhaps I will take this. First of all, I wish to make a clarification as to what the result is. When consideration was given to the original decision in the first round, the two versions of events provided by colleagues from the FEHD and the Director of the HKD were contradictory. In such circumstances, the two colleagues who handled the case in the first round decided that sufficiency of evidence in that case was lacking. But when the decision was reviewed, Mr I. Grenville CROSS requested the FEHD to examine if other evidence pertinent to the case was available. In that connection, the FEHD pointed out that another person was on the spot when the incident took place and he was the HKD's Food Safety

Inspector. Therefore, we asked this Food Safety Inspector what had happened and his account corroborated the version of the Director. That is to say, the oral testimony he gave was consistent with that of the Director. Owing to this reason, as a result, it has become apparent that the original decision not to prosecute was correct.

MR WONG TING-KWONG (in Cantonese): *Secretary for Justice WONG Yan-lung has just talked about prosecution matters just now and in my opinion these are going in-depth into the case. Instead I would like to know more about the practice of the FEHD. Dr CHOW, the Secretary for Health, Welfare and Food, has said that the uniform is the symbol of their authority to take enforcement action. I think there must be some kind of guidelines in the Department for internal use on this. I am very surprised to learn that during the two incidents on 30 August and 6 September, after asking for instruction from their supervisors, what the FEHD staff did as a result on the HKD premises could be so different. Why? This is because one officer had to remove his cap and epaulette while the other could enter in his full uniform — though not for the purpose of performing duties. However, this was different from the instructions given by the Department.*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): These two incidents occurred separately and during the period the FEHD management were not aware of the incident which had taken place on 30 August. According to our records, these two colleagues went to the HKD on 30 August to investigate into a case of food poisoning. They wished to obtain samples as soon as possible for testing. That was why they resorted to their own way of solving the problem, in order that the required samples were obtained quickly and they could finish their work. They did not report the case to their superiors afterwards. It was only on 6 September that we learned of what had happened on 30 August indirectly. The Inspector who went to the HKD on 6 September for inspection was not one of the Inspectors in the earlier incident. He came from another unit and he was not unaware of the experience of his two colleagues on 30 August. Besides, the purpose of his visit to the HKD was to carry out routine inspection and if he could not enter the HKD, he could make arrangements for some other time. This would cause no delay to his work and so he chose not to perform his duties at once and only reported the matter to his supervisor. Therefore, these two events are separate.

MR LEE CHEUK-YAN (in Cantonese): *President, after hearing the remarks made by the Secretary for Justice, I cannot help but feel very worried about the rule of law in Hong Kong. His remarks give people an impression that he is heavily sided with the HKD. Just now in his reply, the Secretary for Justice has said that the oral testimony of one FEHD staff and two HKD employees were heard. The result is 2 to 1. So he cannot trust the Inspector from FEHD. In the first paragraph of page 3, it is mentioned: "The final picture to emerge is obviously less than clear, and the possibility of misunderstanding on one side or the other cannot be excluded." May I ask the Secretary what kind of misunderstanding there is? Since both parties have said that a request was made to remove the uniform caps and the epaulettes, then what kind of misunderstanding existed and if that is not obstruction, then what is it? I think the Secretary for Justice should also explain why the Inspectors from the FEHD are not trusted but instead the Director and Food Safety Inspector of the HKD are trusted? Does this not give people an impression that the authorities are totally on the side of the HKD?*

SECRETARY FOR JUSTICE (in Cantonese): Mr LEE Cheuk-yan's understanding in this respect is — if he does not mind my saying so — a bit exaggerated. In the first place, on the question of whether a request to remove uniform caps and epaulettes would amount to wilful obstruction as a ground for conviction, I have replied that the decision is made after considering the points of law and the facts. The five of us have carefully considered these and I do not wish to repeat the details now. However, before the incident on 6 September, a similar request was made on 30 August and it was complied with and was not challenged. This is also an important understanding. I would like to emphasize again that in the Court of Final Appeal case which I have earlier referred to, Justice CHAN, Permanent Judge in the Court of Final Appeal, said in the last sentence of his judgement: "it is quite clear that the test does not intend to include conduct which may cause mere inconvenience to the officer or require him to expend only trifling additional effort." I think that this also applies to the present case and I do not think I should dwell on that point any further.

As to whether our decision has been reached because of a 2 to 1 majority, I do not think this is the case. Our duty is to consider if this case is brought to the Court, whether the evidence available would lead to a reasonable prospect of conviction. What does matter is not whether it is the HKD or the FEHD or any other organization. This does not matter at all. It does not matter who is

involved either, for our decision is made only with regard to the sufficiency of the evidence in that case. This is the most important thing. If we find any contradictions or if the possibility of misunderstanding cannot be ruled out, then we would need to put in extra efforts to examine the case and arrive at a decision. Some people may say that the case may well be brought to the Court because there are conflicting versions of the events. I would like to stress that this is not a responsible course of action. This is because if we do not want to be queried or accused of favouring any party and so we just take the matter to the Court and have nothing to do with it once and for all, this would be an irresponsible act. We cannot pass the responsibility to the Court. Our responsibility is to make a fair, impartial and independent decision and if evidence is found to be sufficient to initiate a prosecution, then we would do our best to secure a conviction.

MR LEE CHEUK-YAN (in Cantonese): *The Secretary for Justice says that the possibility of misunderstanding cannot be ruled out. May I know who in fact has such a misunderstanding?*

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

SECRETARY FOR JUSTICE (in Cantonese): Members may look at the two conflicting versions of events. Many lawyers in attendance here have been to the courts of law and they will know that recollections of events may be faulty and there can also be misunderstanding of what is said and heard. So misunderstanding often happens and we must not rule out this possibility.

MR MARTIN LEE (in Cantonese): *Madam President, I worry very much that this decision would become an undesirable precedent. I am very grateful to the Secretary for Justice for providing to us detailed information this time. Secretaries for Justice in the past never gave so much information to the Legislative Council. However, I am afraid this precedent may lead to the following situation: In future when a FEHD officer wants to arrest a female hawker for selling cooked food and obstructing public access, the female hawker may say to the officer politely, "Mr Inspector, I do not object at all to your*

performing your duty, but I have a request and that is, would you mind taking off your cap as this is what a gentleman will do when he meets a lady?" Would the Secretary for Justice decide not to prosecute this lady hawker?

PRESIDENT (in Cantonese): Sorry, Mr LEE, your hypothetical supplementary question does not seem to comply with our Rules of Procedure. Do you have some other way of raising your supplementary question?

MR MARTIN LEE (in Cantonese): *Perhaps I will raise another supplementary question. The Secretary for Justice is right when he says that when each party has one version of the events of his own, it may be that one party is right or the other party is right. It happens often in the Court that it is hard to reach a decision without any cross-examination. In this case two versions exist, and based on my own experience, I do not know which party I should trust. This is because it is hard to trust any party without cross-examination. If we are to ask the Magistrates on this point, some of them will say that a party is guilty while some will say the other party is innocent. But a decision on this can only be made after cross-examining the witnesses. Now the Secretary for Justice has made a decision without cross-examining the witnesses, is this proper?*

SECRETARY FOR JUSTICE (in Cantonese): Madam President, Mr Martin LEE is so well-experienced and I think he knows very well how to evaluate the sufficiency of evidence given its particular degree of admissibility and I do not think he needs my advice. However, in such matters there is always a question of degree. But in terms of principle, if there are different versions of the events and if in our opinion there is no justifiable ground to institute a prosecution, then we are obliged not to initiate a prosecution when the case is weak. I can only emphasize that each case is different and if a decision can only be made after cross-examination, the implication will be all cases have to be decided in Court. I do not think this is how our system works, nor is it desirable because there are many other factors to be considered. The principles on this point and others which I have spoken about just now are well-elucidated by the former Secretaries for Justice or Attorney Generals over the years. I believe this is familiar to Mr LEE as well. Of course, given the different facts of each case, I do not think meaningful discussions can be held in the context of a hypothetical question like the one he was not permitted to raise earlier.

PRESIDENT (in Cantonese): We have spent a record-breaking 27 minutes on this question. In view of this, I will have to stop Members from raising further supplementaries in respect of this question.

PRESIDENT (in Cantonese): Fifth question.

Amendment of Basic Law

5. **MR LEUNG YIU-CHUNG** (in Cantonese): *President, while Article 159 of the Basic Law provides for the power of amendment of the Basic Law and the power to propose bills for such amendments, it does not clearly set out a specific amendment mechanism. Although the Government said in July 2001 that it would study, analyse and conduct extensive consultations on the matter, discuss with the Legislative Council and the Central Authorities, and then put forward the proposals, no specific proposal has been presented so far. In this connection, will the Government inform this Council:*

- (a) *of the details and progress of the study, analysis and consultations;*
- (b) *whether it will arrange for the Legislative Council to have exchanges and discussions with the National People's Congress (NPC) and the relevant authorities of the Central Government regarding this matter; if so, of the details of the arrangements; if not, the reasons for that; and*
- (c) *how it will ensure that the wishes of the Hong Kong people will be given due consideration and respect, and the principles of "one country, two systems" and "a high degree of autonomy" will be given effect in the formulation of such a mechanism?*

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, on the first part of the question raised by Mr LEUNG Yiu-chung, we have continued to study issues relating to Article 159 of the Basic Law and communicate with the relevant departments of the Central Authorities in the past few years. We will brief the Legislative Council Panel on Constitutional Affairs when we are in a position to do so.

As regards the second part of the question, we are of the view that at this stage there is no need to arrange for the Legislative Council to have exchanges and discussions with the NPC and the relevant departments of the Central Authorities on issues relating to Article 159 of the Basic Law, as we have relayed to the relevant departments of the Central Authorities in the past the views and concerns of Members expressed on this subject matter. If Members have any further comments on the issues, we are prepared to reflect them to the relevant departments of the Central Authorities.

As for the third part of the question, the various requirements prescribed in Article 159 of the Basic Law are themselves built-in safeguards to ensure that in the event that amendments are required to be made to the Basic Law, the views of the people in Hong Kong will be considered and the principles of "one country, two systems" and "high degree of autonomy" realized.

The provision stipulates that before a bill for amendments to the Basic Law proposed by the Hong Kong Special Administrative Region (SAR) is submitted to the NPC for consideration, the consent of two-thirds of the NPC Deputies of the Region, two-thirds of all the Legislative Council Members and the Chief Executive shall be obtained. The provision further provides that before an amendment bill is put on the agenda of the NPC, the Committee for the Basic Law of the SAR shall study it and submit its views. In discharging their constitutional obligations under Article 159 of the Basic Law, we trust that the above four relevant parties will consider carefully the views of the Hong Kong community. Furthermore, making amendments to the Basic Law is an important constitutional issue for Hong Kong. Naturally, there will be a lot of discussions within the local community and the SAR Government will in no doubt relay the full spectrum of views to the NPC and the relevant departments of the Central Authorities.

Article 159 of the Basic Law stipulates that no amendment to the Basic Law shall contravene the established basic policies of the People's Republic of China regarding Hong Kong. In accordance with the preamble and general principles set out in the Basic Law, the established basic policies of the Central Authorities regarding Hong Kong include the following: "one country, two systems" shall be implemented in the SAR; the socialist system and policies shall not be practised in Hong Kong; the SAR enjoys a high degree of autonomy under authorization; and the previous capitalist system and way of life shall remain

unchanged. Any amendments to the Basic Law that are in contravention with the above established basic policies cannot be made. These requirements ensure that the country's basic policies regarding Hong Kong will not be altered as a result of any amendments made to the Basic Law, thereby preserving the integrity of "one country, two systems" and "high degree of autonomy".

MR LEUNG YIU-CHUNG (in Cantonese): *President, more than five years have passed since July 2001. According to the reply furnished by the Secretary, the Government has been studying the issue during the past few years. But we have not heard of any result of their study. We have absolutely no knowledge of such a result.*

In fact, the Secretary said in July 2001 that the Government would conduct analysis and extensive consultation. So, can he inform us in detail what kinds of analysis and extensive consultation have been conducted? If not, can the Secretary tell us in detail why such actions have not been taken, and whether the relevant authorities of the Government will initiate a thorough investigation to find out why the relevant work has not been done over such a long period of time? Is it due to the negligence of duties of certain departments or certain senior officials, or whether it is because the Secretary does not want to do work in this regard?

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, the Government has all along been studying this subject internally, and we have maintained communication with the Central Government according to our progress of this study. So, the work has not come to a standstill.

We do appreciate the concern of Members for this issue. However, when compared with other items which are handled by us in conjunction with the Central Government, the urgency of the subject of amending the Basic Law is not so great. For example, we are processing the amendments to Annex I and Annex II to the Basic Law, and any issues that are related to the constitutional system will be dealt with according to their priorities and urgency. However, during the recent days, we have kept an interest in this subject, and whenever we have any opportunities, we would grasp them to communicate with the relevant departments of the Central Authorities. Once we have received their reply, we

shall brief the Legislative Council first. Of course, if the public has any opinion in this regard, we are ready to listen.

MR LEUNG YIU-CHUNG (in Cantonese): *President, when the Secretary replied just now, he said at the moment they were concerned about the amendments to Annex I and Annex II to the Basic Law. However, when I raised the supplementary question, I already asked specifically what the Government had done with the lapse of five years. We all know, the amendments to Annex I and Annex II to the Basic Law happened only during the past several months. As such, what has the Government done during the past five years?*

Besides, I have asked the Secretary just now whether the Government is unwilling to do the work? If the answer is in the negative, is the Government not duty-bound to investigate whether any department has been negligent in performing their duties? If the Government cannot come to any conclusive results after five years, will it consider such an endless procrastination acceptable?

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, when we undertake the work of amending the Basic Law, we must first of all communicate with the relevant departments of the Central Authorities and formulate the relevant procedures. Therefore, in undertaking the work in relation to this issue, we must first reach a common understanding with the relevant departments of the Central Authorities before the relevant procedures can be formulated. The stance and principle in respect of the Basic Law upheld by the relevant departments of the Central Authorities is very explicit, that is, the Basic Law is a constitutional document, so in order to maintain its stability and integrity, it will not be amended easily. Therefore, in undertaking work in this regard, they are also very prudent. Up till now, we still have not reached the stage that can allow us to discuss the relevant procedures with Members.

PRESIDENT (in Cantonese): There are altogether eight Members waiting for their turns to raise supplementaries. Will Members who have the chance to raise supplementaries please be as concise as possible.

MR CHIM PUI-CHUNG (in Cantonese): *President, the Secretary has specifically mentioned Article 159 of the Basic Law in his main reply, and said that the article is very explicit, and we also understand that the power of interpretation of the Basic Law is vested in the NPC.*

Recently, the SAR Government mentions the term of office, the method and format of the by-election of the Chief Executive in the Fifth Report of the Constitutional Development Task Force (the Fifth Report), has this contravened the provisions of the Basic Law? When has the SAR Government acquired the power of interpretation and the power to propose bills for amendment to the Basic Law? I hope the Secretary can explicitly tell the whole world and Hong Kong people about this, instead of just answering in an evasive manner because this is a solemn issue.

PRESIDENT (in Cantonese): Mr CHIM Pui-chung, actually in raising your supplementary question, you are asking the Secretary to clarify.....

(Mr CHIM Pui-chung remained standing)

PRESIDENT (in Cantonese): You may sit down first. Do you want the Secretary to clarify whether the present constitutional reform proposal is related to Article 159 of the Basic Law?

MR CHIM PUI-CHUNG (in Cantonese): *The Secretary has explicitly explained Article 159 of the Basic Law. But I personally think that the Fifth Report has violated Article 159 of the Basic Law. This is why I asked the Secretary for a clarification.*

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, Mr CHIM Pui-chung's questions are usually very tricky. But I shall try my best to give him an answer, see if I can accurately answer his supplementary question.

The proposal contained in the Fifth Report as well as the part on the several issues related to the Basic Law are formulated on the basis of our

understanding of the Basic Law, and we also believe that such an understanding is correct. In the course of compiling the Fifth Report, we communicated with the relevant departments of the Central Authorities. With regard to the issue raised by Mr CHIM Pui-chung, that the Fifth Report has touched on the issue of the Chief Executive election, we put the answer there only after communication with the relevant departments of the Central Authorities.

Besides, with regard to the term of office of the Chief Executive, as well as the issue that a Chief Executive returned in a by-election can only serve the remainder of the term and for one more term through re-election, our stance is very explicit, and the SAR Government and the relevant departments of the Central Government understand the viewpoints of each other. In addition, we are not interpreting the Basic Law; of course the power of interpretation is vested with the Standing Committee of the National People's Congress (NPCSC). We are just making use of the Fifth Report to make preparation for tabling the proposal, and in the meantime, we also address the issue of the term of office of the Chief Executive. This is all we have been trying to do. The SAR Government has not touched on NPCSC's power of interpretation of the Basic Law, as stipulated in Article 158 of the Basic Law, nor has it touched on issues related to amendment of the Basic Law as stipulated in Article 159.

MR CHIM PUI-CHUNG (in Cantonese): *President, although the Secretary has given a very clear explanation, my supplementary question is asking whether Article 159 of the Basic Law has been violated. This is because it is clearly stipulated in Article 159 that if the procedure involved has been violated, then it is tantamount to a violation of the Basic Law.*

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, regarding the proposal contained in the Fifth Report, we would of course carry out the work in complete compliance with the procedure of the Basic Law. Therefore, we shall formally table to the Legislative Council the amendments to the Annex I and Annex II to the Basic Law, and hope that we can gain the support of two-thirds of all the members of the Legislative Council, the consent from both the Chief Executive and the Central Authorities before such amendments are implemented. These procedures fully comply with those stipulated in the Basic Law and do not relate to Article 158 or Article 159 of the Basic Law.

MR LEE WING-TAT (in Cantonese): *President, regarding this issue, we have discussed it in both this Chamber and the Panel on Constitutional Affairs for four years. Therefore, regardless of whether the issue is studied by the Government or the Commission on Strategic Development (the Commission), I have already lost all my confidence because the past four years have lapsed in that manner.*

My supplementary question is very simple. Can Secretary Stephen LAM provide us with a timetable in this regard? When will the result of the study be forthcoming? Do we have to wait for another four years or do we have to wait until 2047?

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, the progress of the work cannot be determined by us unilaterally, because we have to discuss with the relevant departments of the Central Authorities and reach a consensus on the procedures. However, I can make it perfectly clear to Mr LEE Wing-tat that any issues that are put before us, be they major or otherwise, will be dealt with in a proactive manner. Besides, I hope that, after we have reached a consensus on the amendments to Annex I and Annex II to the Basic Law, we can have greater room for work, thereby enabling us to take this issue forward with the relevant departments of the Central Authorities.

MR LEE WING-TAT (in Cantonese): *President, the Secretary has not answered my simple supplementary question: Has a timetable in this regard been drawn up? Do we have to wait until 2047 before we can have the answer? This is a very simple supplementary question. If the Secretary thinks that we do not need to wait until 2047, then he can reply, "No." Otherwise, the Secretary may simply answer "Yes".*

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, I can explicitly answer Mr LEE Wing-tat that we definitely do not have to wait until 2047.

MR LEUNG KWOK-HUNG (in Cantonese): *President, it is clearly stipulated in Article 159 of the Basic Law that the power of amending the Basic Law shall*

be vested in the NPCSC and the SAR. Of course, we cannot exercise regulatory control over the NPCSC according to the Constitution of the People's Republic of China. However, before amendment bills are submitted to the NPC for deliberation, consent must be obtained from two-thirds of SAR Deputies to the NPC, two-thirds of all the Members of the Legislative Council and the Chief Executive of the SAR. Next, the amendment bills will be passed to the NPC delegation of the SAR for submission to the NPC. This is clearly stipulated in Article 159 of the Basic Law.

However, this situation has been distorted recently in the amendment of Annex I and Annex II to the Basic Law. This is because when the NPCSC interpreted the Basic Law last year, it distorted the situation stipulated in Annex I and Annex II to the Basic Law, that is, the amendment bills should first be passed by two-thirds of all the Members of the Legislative Council and agreed by the Chief Executive before they are submitted to the Central Authorities for approval. Secretary, which office are you assuming now? As the Secretary, how do you conciliate among Article 159 of the Basic Law, last year's interpretation of the Basic Law and the Fifth Report? The procedures have already been changed, right? I hope the Secretary can answer my supplementary question.

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, I am grateful to Mr LEUNG Kwok-hung for this supplementary question. In fact, my answer is very explicit, that is, when we amend Annex I and Annex II to the Basic Law in respect of the methods for conducting the two elections, we have acted in complete compliance with the provisions contained in Annex I and Annex II to the Basic Law, and at the same time, we have also acted in compliance with the "Interpretation" and "Decision" made by the NPCSC in April last year. The work of amending the methods for conducting the elections is not related to the amendment provisions contained in Article 159 of the Basic Law as this Article is only concerned with the amendment of articles in the main text of the Basic Law.

MR LEUNG KWOK-HUNG (in Cantonese): *I have a follow-up. Secretary Stephen LAM, insofar as your understanding is concerned — you are the official charged with the responsibility of handling matters related to the Basic Law — does your earlier reply mean to say that you will act according to Article 159 of the Basic Law, that is, regardless of any result we arrive at in our discussion on the Fifth Report in future, you will still act according to Article 159 of the Basic*

Law? Does your understanding mean that, if we cannot get the support from two-thirds of SAR's Deputies to the NPC, then we cannot amend the Annexes to the Basic Law?

PRESIDENT (in Cantonese): Secretary, you do not have to answer this one. Mr LEUNG Kwok-hung, please sit down. This is not a follow-up question because it is not part of your original supplementary question. You are only asking another question. You must wait for a second turn to raise that question. This is a rule of this Council, which I hope you will respect.

MR LEUNG KWOK-HUNG (in Cantonese): *No, my supplementary question is asking the Secretary how he can conciliate the three parts. The Secretary said that he could, but I cannot see how he can because*

PRESIDENT (in Cantonese): Then, you should read the Basic Law carefully. Please sit down.

MR LEUNG KWOK-HUNG (in Cantonese): *No. It is explicitly stipulated in Article 159 of the Basic Law that the amendment bills must gain the support of two-thirds of SAR's Deputies to the NPC. If issues that have been discussed by us have to be further decided by SAR Deputies to the NPC, how can the Secretary act according to the result of our discussion? He cannot do it.*

PRESIDENT (in Cantonese): Please sit down. This is not a question permitted by the Rules of Procedure to be raised by Members as a follow-up question. You may raise it on other occasions.

MS MARGARET NG (in Cantonese): *President, I would like to ask a question on the urgency issue. When Secretary Stephen LAM discussed the constitutional reform proposal, he said that the issue had to be studied very carefully, and that it was necessary to study how a bicameral system could eventually develop into election of the Legislative Council by universal suffrage. However, it entails an amendment to the Basic Law before a bicameral system can be implemented.*

So why should Secretary Stephen LAM think that there is no urgency in this regard? Does this show that the Government is of the view that the universal suffrage issue can be delayed and therefore the discussion on the bicameral system must be completed first, and then the discussion on how to amend the Basic Law will follow? Does the Secretary agree that some urgency is involved?

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, let me first interpret Ms Margaret NG's supplementary question. She said that we had proposed to adopt the bicameral system in order to address the changes that will occur in the Legislative Council in future. However, up till now, the SAR Government has not put forward such a proposal. All we have done is, in the Fourth and Fifth Reports,

MS MARGARET NG (in Cantonese): *I would like to elucidate now*

PRESIDENT (in Cantonese): One moment, please. You should observe the rules. Later on, I shall let you ask your follow-up question.

MS MARGARET NG (in Cantonese): *President, I would like to ask you a question. If the Secretary*

PRESIDENT (in Cantonese): Point of order?

MS MARGARET NG (in Cantonese): *Yes. Suppose the Secretary has misunderstood my question, that is, if he has heard my question wrongly, should I wait until he has finished answering it before I make an elucidation, or should I clarify it right away now? This is because he could give the wrong answer to my supplementary question.*

PRESIDENT (in Cantonese): I do not think that Members are allowed to make a request for elucidation during Question Time. This is not the case insofar as the

Rules of Procedure and the established practice are concerned. A Member can say that his or her question has been misunderstood only after the official has finished answering it.

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, I think I have understood Ms Margaret NG's supplementary question. I was about to explicitly state that the SAR Government has not proposed to chart the future development course of the Legislative Council by adopting the bicameral system. We mentioned it in the Fourth Report and the Fifth Report just because some members of the public had put forward such an opinion. In our subsequent discussions on the long-term development of the Legislative Council in future, this is a subject we can discuss. That is all.

In addition, I would like to tell Ms Margaret NG that we at the present time do not know how we can attain universal suffrage for the formation of the Legislative Council, nor do we know what kind of approach we should adopt. Therefore, at this stage, we are still discussing the major concept and the major principle. And we still have not come to the point of discussing how to amend the Annexes to the Basic Law, nor have we come to the stage of discussing whether it is necessary to make other amendments to the Basic Law.

MS MARGARET NG (in Cantonese): *May I make an elucidation now? I have never said that the bicameral system was proposed by the Government. It was just the Government, Secretary Stephen LAM in particular, that had said that the bicameral system was a possible solution that deserves further deliberation. But if it is necessary for us to deliberate the issue, then we have to start doing it, right? My supplementary question is: Such being the case, why does the Secretary think that the issue does not involve any urgency?*

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, in future, different items of work can be carried out in parallel. In the Commission, we shall do what we should do in order to identify a roadmap, particularly in exploring the mode we should adopt in achieving the goal of implementing universal suffrage in the formation of the Legislative Council. On the other hand, we should explore, in this course of evolution to that stage, how the functional constituency seats should be changed, for example. With

regard to the procedures for amending the Basic Law, of course we shall continue with our discussion with the relevant departments of the Central Authorities. Once the result of a certain stage of our work has become available, we shall give a briefing to the Legislative Council.

PRESIDENT (in Cantonese): We have spent more than 22 minutes on this question. Last supplementary.

MS EMILY LAU (in Cantonese): *President, in the second paragraph of the main reply, the Secretary said that at this stage there was no need to arrange for the Legislative Council to have exchanges and discussions with the NPC and the relevant departments of the Central Authorities because he had relayed our views to the relevant departments.*

What I would like to ask is: What kinds of views has the Secretary relayed to them? Besides, in any discussion on such a significant issue, why should there be no need for the Legislative Council and Deputies to the NPC to have any exchanges, negotiations and discussions with the Central Authorities? The Secretary simply relayed our comments made several years ago, and then he considers the job is done, is this so?

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, in 2001, we adequately conveyed all the viewpoints put forward to us by Legislative Council Members to the relevant departments of the Central Authorities. And with regard to the discussions on this subject held in the Legislative Council in 2001, we have also conveyed them to the relevant departments of the Central Authorities. Therefore, the relevant departments of the Central Authorities know clearly that Legislative Council Members are very concerned about the procedures for amending the Basic Law, and they also know that this issue has to be addressed. So later when we have progressed to the next stage, and in case Members would like to put forward some other opinions, we will be most willing to continue relaying them to the Central Authorities.

MS EMILY LAU (in Cantonese): *President, the Secretary has not answered my supplementary question at all. His answer was so simple and short. My*

supplementary question is: First, what has the Secretary conveyed to the Central Authorities? What were our most significant views that had been conveyed? Secondly, regarding the discussion on such a significant issue, why is it not necessary to make arrangements for us to have any negotiations, exchanges and discussions with the relevant departments?

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, first of all, we have conveyed to the Central Authorities the full spectrum of views we had received from Honourable Members in the Legislative Council. Secondly, under the provisions of the Basic Law, the SAR Government is charged with the responsibility of enforcing and implementing the Basic Law. Therefore, with regard to this subject matter, the Central Authorities are making use of us as the channel for conveying the views of the community of Hong Kong, including those of Legislative Council Members, on the procedures of amending the Basic Law.

MS EMILY LAU (in Cantonese): *President, the Secretary really has not answered my supplementary question at all. Can the Secretary give us a written reply? Or has the Secretary not brought the relevant reply with him to the Legislative Council? I am asking the Secretary what kinds of our views he has actually conveyed. This supplementary question is very simple. President, although you cannot order the Secretary to answer this question, you should understand what this supplementary question is all about. If the Secretary cannot answer this question now, please give us a reply in writing instead. Besides, he also needs to explain why he cannot let us have exchanges, communications and discussions with the relevant departments on such a significant issue.*

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, today I have already provided the Legislative Council with a written main reply. On this issue, I really do not have any supplementary information now.

PRESIDENT (in Cantonese): Last oral question. Mr LI Kwok-ying will raise this question on behalf of Miss CHOY So-yuk.

Regulation of Services Provided by Beauty Salons

6. **MR LI KWOK-YING** (in Cantonese): *President, regarding the regulation of services provided by beauty salons, will the Government inform this Council:*

- (a) *given that the Consumer Council received 50 complaints concerning intense pulsed light and laser cosmetic treatments in the first nine months of this year and, among these cases, after-effects such as colour change, blisters, burns and scars have appeared on the skins of 22 persons, whether it plans to regulate the provision of light-based cosmetic treatments by beauty salons, including the qualification requirements for practitioners; if so, of the details and timetable of such plans; if not, the reasons for that; and*
- (b) *whether it plans to regulate the provision by beauty salons of those services such as tattooing and ear-piercing which might cause pathogenic infections; if so, of the details of such plans; if not, the reasons for that?*

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

- (a) At present, there is no legislation specifically regulating the use of ordinary beauty treatment devices. However, devices like Intense Pulsed-Light (IPL) devices and lasers used in beauty parlours may be regarded as medical devices and regulated as such. Late last year, the Department of Health (DH) introduced an administrative control system for medical devices whereby control for the devices is classified into four classes based on their risk levels. Products conforming to requirements on safety and effectiveness will be listed. The devices, the manufacturers and the traders have to comply with requirements such as undertaking post market surveillance and reporting adverse incidents. The listing of high-risk devices commenced last year. It is expected that the second phase of the control system covering listing of medium-risk devices, including IPL devices and lasers, will commence at the end of the year or early next year.

Moreover, in the light of the risk level of improper use of certain medical devices, the DH proposes to restrict the use of selected devices to medical personnel, and/or personnel with a certain level of expertise. Under the existing administrative control system, it is proposed that only medical practitioners, dentists and registered health care professionals are allowed to operate high-powered lasers. Prior accreditation is required for non-registered health care personnel (such as beauticians) for the use of IPL devices, having regard to the presence of risk in the use of such devices. However, this control system will not cover intermediate and low-powered lasers in view of their relatively low level of hazard.

To dovetail with the proposed control system mentioned above, the DH set up in June 2004 a Working Group comprising representatives from the DH, Education and Manpower Bureau (the Bureau), Consumer Council, and Vocational Training Centre (VTC), as well as medical practitioners and beauticians. The Working Group agreed that an examination should be developed by the VTC to provide an avenue for IPL operators, including beauticians, to obtain accreditation. Operators will be regarded as trained practitioners if they pass the examination, and certificates will be granted to them. The ultimate objective is to ensure that IPL operators will have attained knowledge for safe use of IPL and to enhance better consumer protection. The VTC has developed a syllabus for examination and reference of prospective students and training institutions interested in organizing such training courses. The syllabus covers the basic principles on the use of IPL devices, anti-infection procedures and precautions in the use of IPL devices, consumers' rights, scenarios warranting referral to medical practitioners, and so on. The first examination is scheduled to be held in early 2006, with the availability of the first batch of accredited IPL-operating beauticians in mid-2006. These accredited beauticians will be encouraged to have their certificates displayed in their beauty salons for clients' identification.

We consider it of the utmost importance to enhance public education to promote people's awareness of the risk of laser and IPL cosmetic treatments, and educate the public to make an informed choice for

accredited service providers. In this connection, a series of publicity activities including distribution of leaflets and posters, interviews by magazines and provision of health education, and so on, will be launched by the DH next year to inform the public about some of the necessary facts about procedures using IPL and laser as well as the aforementioned accreditation examination.

The above administrative control system is the first step taken by the Administration to regulate the sale and use of medical devices. To take the system forward, the Administration will closely monitor and assess the use of IPL devices by beauty salon operators and its potential hazard to public health. A statutory control system will be introduced if necessary.

- (b) Some beauty salons surely provide ear-piercing and tattooing services. In fact, such services are also available through other channels. For example, jewellery and accessories retailers also provide ear-piercing service to customers. In view of the wide variety of service providers, we consider that it will be more effective to educate the public and the service providers about the dangers of ear-piercing and tattooing so that necessary precautions may be taken to prevent contracting blood-borne diseases.

Efforts have also been made by the Central Health Education Unit under the DH to arouse the awareness of the relevant practitioners about the prevention of blood-borne diseases through various means such as compilation and distribution of "Guidelines on Infection Control for Skin Penetration Practice" and organization of seminars.

The DH has also published information about the risk of tattooing and ear-piercing and the prevention of infection of blood and body fluids-borne diseases. For example, the public are reminded to make sure that all devices for tattooing and ear-piercing are thoroughly sterilized; and consumers are advised of the potential hazard of these services and to make an informed choice for such services. At the same time, the Bureau has incorporated the advice of the DH into its Guidelines for Schools, and the relevant health messages are also available on the DH's website.

MR LI KWOK-YING (in Cantonese): *President, the Secretary has mentioned several times in part (a) of the main reply the potential risks associated with the devices in question, and he is also aware that they would pose hazards to public health. Therefore, the Government will definitely draw up measures to control the operation of such devices in the industry. However, when I listened to the news report on the radio on my way to work this morning, I came to learn about the terrible experience of a victim who had been infected as a result of ear-piercing. I am not sure whether the Government has any data on the number of cases relating to infections caused by tattooing and ear-piercing.*

Furthermore, the Secretary mentioned education and the associated potential risks. Can the Government include warning message in the advertisements of beauty parlours and laser treatment, as in the case of "anti-smoking", for example, it is hazardous to health or vulnerable to infection, and so on. May I ask whether the Government can do the following two things: First, can it provide us with the number of infected cases? Second, is it possible to include warning message in the advertisements?

PRESIDENT (in Cantonese): Mr LI Kwok-ying, you have raised two supplementaries. You wish the Secretary to answer the latter one, right?

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Maybe I can give a brief response to the question about infection. As regards infection, there were 98 reported cases of patients contracting blood and body fluid-borne diseases, such as Hepatitis B, in 2003 territory-wide, and among them, eight patients have a medical history of receiving acupuncture treatment, tattooing or ear-piercing. In 2004, there were a total of 130 cases of Hepatitis B and one case of Hepatitis C, and among them, three patients shared similar medical history. We can see from this that the number of patients being infected through this possible channel is not very high, and it is even on the decrease.

MR WONG YUNG-KAN (in Cantonese): *President, in case problems arise in the operation of the machinery used by the beauty parlours, people who receive the service or patronize those parlours will no doubt suffer. Apart from*

granting accreditation to operators of such machinery, will the Government consider requiring them to take out insurance, that is, establishing an indemnity insurance system, which will at least provide an additional safeguard to people receiving the service, who may then claim compensation in case anything happens? Furthermore, in the long run, will the Government make reference to the experience of overseas countries and establish a registration system for beauticians?

PRESIDENT (in Cantonese): You have also raised two supplementaries. Do you wish the Secretary to answer the first or the second supplementary question?

MR WONG YUNG-KAN (in Cantonese): *He may answer the second supplementary question on insurance.*

PRESIDENT (in Cantonese): Sure.

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, we have yet to consider the registration of beauticians or the introduction of mandatory insurance requirement for the beauty industry. Any industry is obliged to gain an understanding of the risks it bears, so as to determine whether it is necessary to insure against risks associated with the services provided.

MR FRED LI (in Cantonese): *President, I asked the Secretary about the lack of safeguards for beauty products when he attended a meeting of the Legislative Council Panel on Economic Services. As regards beauty treatment devices, lasers and IPL devices used in beauty parlours are in fact only part of them, there are still many other devices which are not subject to any regulation.*

Will the Secretary consider the problem of the industry in conjunction with the Secretary for Economic Development and Labour? I think there are currently tens of thousands of people engaging in the beauty industry, and some of them even run their beauty parlours in residential premises, that is, at home.

Actually, as far as customers are concerned, no protection is in place, and neither do they know which beauty industry or beauty parlour has obtained bona fide professional qualification. Hence, numerous complaints and problems have emerged. Has the Government considered introducing comprehensive regulation on the beauty industry and examined the devices that must be used by professionals or can be operated by general workers, and whether it will bring up the issue for public consultation?

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, firstly, in respect of regulation, risk assessments will be conducted to determine the industry or devices to be subject to regulation. We think that those high-powered lasers must be subject to regulation, while overseas experience indicates that it is not easy to subject the relatively low-powered IPL devices to regulation. We should therefore carefully consider the circumstances under which regulation is required.

As regards those devices used for the provision of beauty or personal services, I believe that the making of informed choice or the making of suggestions to the Government should rest with the customers, otherwise nothing can be done. If the beauty industry is covered broadly under a special industry, there must be a clear definition of what the beauty industry is. For example, do people promoting cosmetics in some large department stores belong to the beauty industry? This is also a point to be considered. Therefore, we should have a clear understanding of the needs of customers before undertaking any study. Nevertheless, I will discuss the points raised by Honourable Members with Secretary Stephen IP in order to understand his views on the issue.

DR KWOK KA-KI (in Cantonese): *President, I feel very worried about the Secretary's main reply. In fact, our question is: Has the Secretary exercised any regulation? Yet, the Secretary's reply was training had just been provided, and the first batch of trained beauticians would be available by June next year. First, the Secretary has not mentioned whether or not he is willing to exercise any regulation; second, there have been 50 complaints about IPL in these nine months, and hence there will surely be more victims before the accreditation system is introduced. Can the Secretary promise not to allow untrained practitioners of the beauty industry to use devices that can harm people, such as*

lasers, until relevant legislative control is imposed and trained practitioners are available?

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): As I have said, whether or not regulation will be imposed is subject to the risk assessment result. Cases of complications arising from laser treatment or other after-effects on customers have been decreasing, and none was reported in 2004. But cases relating to IPL have increased slightly, which is probably a result of the more widespread use of IPL. Furthermore, we also see that customers must make informed decisions because their complaints, which often arise from the outcome of treatment falling short of their expectation, may not necessarily relate to the associated risks. In other words, complaints about scars or other problems are relatively few. The nature of complaints is, in many cases, associated with inflammation or the outcome of treatment falling short of the customers' expectation. I think it is not simply a matter of health, but the expectation of customers.

I believe that in order to give every citizen a better understanding of the matter, we have to rely on public education. If all citizens can have a good understanding of their own needs and take great care in their choice of services, I believe this kind of problem will diminish.

PRESIDENT (in Cantonese): We have spent more than 16 minutes on this question. Last supplementary question.

MR LEE CHEUK-YAN (in Cantonese): *President, it can be seen from the main reply: It is proposed that only medical practitioners, dentists and registered health care professionals are allowed to operate high-powered lasers. I think this will carry a potential risk. In fact, currently all beauticians use lasers, and they are probably more experienced than medical practitioners in this respect. Is it necessary that we have to come to a state where only medical practitioners are allowed to use lasers? I cannot imagine medical practitioners doing laser treatment on customers in beauty parlours. Will it give rise to any problem: Will the Government stifle the beauty industry by driving people in need of laser treatment to turn to medical practitioners? This may possibly result in over*

reliance on the medical profession. In the past, medical practitioners did not provide this kind of service, and yet it now becomes part of their services. I do not think this is necessary. Can the Secretary clarify whether there is any plan to allow only medical practitioners to provide laser treatment in the future?

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, Mr LEE Cheuk-yan should be aware of the different types of lasers available, both high-powered and low-powered. At present, low-powered lasers are commonly used by many beauty parlours, and I think the practice can continue. The so-called high-powered lasers may cause reflection of light rays while in use, thereby causing blindness to the operators or people receiving the treatment. Therefore, it is necessary to impose regulation and restrict the use of such devices to professionally trained persons. Even for medical practitioners, not all of them will use the devices. Generally speaking, only experts know how to use them. Ordinary medical practitioners will not spend over \$1 million to purchase lasers to provide this kind of service in their own clinics. Medical practitioners themselves are subject to professional regulation, and therefore the use of high-powered lasers by them should not be a cause for concern. Certainly, we will be aware of the associated risks involved, which may cause customers suffering when new technologies are introduced. The issue will be kept under close watch and will be followed up.

PRESIDENT (in Cantonese): Oral questions end here.

WRITTEN ANSWERS TO QUESTIONS

Medical Insurance Coverage

7. **DR KWOK KA-KI** (in Chinese): *President, it has been reported that there were cases in which existing local medical insurance providers were selective in accepting applications for insurance cover; and there are also complaints against insurance companies which set discriminatory terms and conditions in their medical insurance policies, and refuse to provide insurance cover for psychiatric patients and the chronically ill. In this connection, will the Government inform this Council:*

- (a) *of the number of insurance companies in Hong Kong which specialize in medical insurance and critical illness insurance at present, the coverage of the insurance policies concerned and the illnesses and medical services which fall outside such coverage; and the number of such companies which offer comprehensive medical insurance and accept applications for cover for all types of illnesses without setting any restrictive terms;*
- (b) *of the statistics on the risk assessment of medical insurance, including the number of psychiatric patients and the chronically ill admitted by public hospitals over the past three years, the average health care cost and amount of public funding involved, and the estimated expenses that might have incurred if such patients had received treatments in private hospitals; and*
- (c) *whether it will consider reviewing and enhancing the regulation of medical insurance coverage in order to recommend insurance scheme choices to the public more specifically when proposing practicable options for financing health care in future, so that the public may enjoy medical protection?*

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

- (a) "Medical insurance" and "critical illness insurance" are two different types of insurance. The former generally refers to insurance that provides medical cost coverage to an insured in the event of his illness while with the latter, an insured will be offered a fixed sum of compensation when confirmed to have contracted any specified serious illness. In Hong Kong, medical insurance is normally sold by insurers carrying on general insurance business under a stand-alone policy, or offered by insurers carrying on long-term business (that is, life insurance) in the form of a rider to a life insurance policy. Most of the critical illness insurances are sold by way of adding a rider as mentioned above by insurers carrying on long-term business. Such products, however, are also sold by some of the insurers carrying on general insurance business.

There are currently a total of 96 insurers (namely 29 long-term business insurers, 53 general business insurers and 14 composite insurers) authorized to provide critical illness insurances or medical insurances.

Coverage of medical insurance is determined by the terms and conditions of individual insurance policies. Generally, it may cover fees for hospitalization, surgeons, anaesthetists and operation rooms, and so on. For critical illness insurance, it normally restricts cover to about 30 to 40 types of serious illness, including fatal illnesses such as cancer, heart attack (myocardial infarction) and end stage renal failure.

At present, medical and critical illness insurances will generally contain a number of restrictive terms or exclusions. Common exclusions include pre-existing medical condition, congenital diseases, AIDS and engaging in dangerous activities. Whether insurers will accept applications for insurance from people with a specific illness would depend on individual insurers' underwriting policy in respect of the relevant risks.

- (b) The number of psychiatric patients admitted by public hospitals, the average cost of medical services provided to them, and the relevant total yearly expenditure by the Hospital Authority (HA) in the past three years are set out in the table below:

	<i>2002-03</i>	<i>2003-04</i>	<i>2004-05</i>
Number of psychiatric in-patients	13 940	13 819	14 763
Average cost per patient	\$135,909	\$138,198	\$122,484
Total cost of in-patient psychiatric services	\$1,985 M	\$1,910 M	\$1,808 M

The HA does not routinely collate statistics on the number of its chronic patients or related expenditure. Based on available data on the top 15 disease groups by principal diagnoses, it is estimated that around 200 000 chronic patients are admitted to hospitals for treatment each year. However, due to the great variety of clinical conditions and their varying complexity that may be involved in

these admissions, it is not possible to estimate accurately the amount of expenditure by the HA on treating these patients or the amount of expenses that may be incurred if they were treated in private hospitals.

- (c) The Health and Medical Development Advisory Committee (the Committee) published a discussion paper entitled "Building a Healthy Tomorrow" in July this year to discuss the future service delivery model for our health care system. Public consultation on the paper just ended on 31 October and we are now collating the views collected. The Committee will proceed to the next stage and study the issue of health care financing. The role to be played by medical insurance in financing options and the availability of other supporting arrangements, and so on, will be considered by the Committee.

At present, the Commissioner of Insurance does not have the statutory power to regulate the terms or premium of insurance products (including medical insurance products). That said, if the Committee considers that the feasibility of medical insurance as a future financing option merits further study, we will certainly discuss with the relevant sectors how medical insurance can be built into the whole financing package.

Provision of Escalators or Lifts in Old Public Housing Estates

8. **DR JOSEPH LEE** (in Chinese): *President, it has been reported that the Housing Authority (HA) has so far not provided lifts or escalators for access to some or all floor levels in the housing blocks of its old public housing estates aged under 40 years, nor has it inspected the facilities in those housing estates and reviewed the need for alteration or addition works to facilitate the mobility of the elderly and disabled residents in such housing blocks. In this connection, will the Government inform this Council:*

- (a) *of the names of the public housing estates in which no lifts have been installed for access to some or all floor levels in the housing blocks, the number of floor levels concerned, the districts where such housing estates are situated and the years of completion of those*

housing blocks; the number of public housing estates in which ramps or stepways have been provided, the length of the ramps and the number of stepways concerned; as well as the number of escalators available;

- (b) of the respective numbers of elderly persons and people having mobility problem (such as disabled persons, mentally retarded persons and chronic patients) living in the above housing estates; and*
- (c) why lifts and escalators have so far not been provided in those housing estates; and whether there are plans to install such facilities to meet the needs of the residents?*

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

- (a) At present, a total of 32 housing blocks in 11 aged public housing estates are not provided with lifts. The names of the housing estates, the numbers of storeys concerned, the districts where they are situated and the years of completion of the housing blocks are detailed at Annex.

Many public housing estates are built on hillside with some blocks situated on slopes. As a result, some of the access roads are sloping. The HA takes into account the topography and physical environment in designing appropriate access roads, stairs, lifts or escalators to facilitate the movement of residents to and from the buildings within the estate. In large housing estates, public transport linking different places in the estate is also available to facilitate residents to move about. The Housing Department has not kept systematic records of ramps and stairs for each housing estate. Hence, detailed counts of the numbers and length of ramps and the numbers of staircases and the steps involved are not readily available.

- (b) The numbers of elderly persons and disabled persons now living in public housing blocks without lifts are at Annex. In view of the

special needs of elderly and disabled residents, the Housing Department has all along been keeping close contacts with them so that timely and appropriate assistance can be provided as necessary. If non-provision of lifts causes inconvenience to their daily life, they are welcome to request transfer. The Housing Department will take prompt actions to follow up such applications.

- (c) Retrofitting lifts in completed public housing blocks involves complex engineering works, the major considerations being loading capacity of the building structure, availability of suitable space for the installation and the effect on underground public utilities. The HA will examine the technical feasibility of retrofitting lifts in these aged buildings during implementation of the "Total Maintenance Scheme" and the comprehensive structural investigation on housing estates aged 40 years and above. Subject to structural safety and technical feasibility, necessary works will be carried out through the Estate Improvement Programme as soon as practicable.

Annex

Public Housing Blocks Without Lifts

<i>District</i>	<i>Name of estate</i>	<i>Year of completion</i>	<i>Public housing blocks without lifts</i>		<i>Number of residents with special needs</i>		
			<i>No. of blocks</i>	<i>No. of storeys</i>	<i>No. of elderly residents</i>	<i>No. of disabled residents</i>	<i>No. of mentally retarded residents</i>
East Kowloon	Choi Hung	1963 to 1964	3	7	842	0	1
	Wo Lok	1962 to 1963	8	7	597	2	1
	Ping Shek	1971	2	7	200	0	0
	Shun On	1978	1	6	149	0	0
Sham Shui Po	Pak Tin	1975 to 1978	4	6 to 8	672	0	6
Kwai Tsing	Kwai Shing West	1976 to 1977	3	7	135	1	0
Tsuen Wan	Fuk Loi	1963 to 1967	5	7	848	1	2
	Lei Muk Shue (II)	1975	2	7 to 10	103	0	1
Sha Tin	Lek Yuen	1976	2	8	133	0	0
Tuen Mun	Tai Hing	1978	1	7	123	0	0
Yuen Long	Shui Pin Wai	1981	1	5	102	0	0

Wages for Workers of Contractors of The Link

9. **MR LEE WING-TAT** (in Chinese): *President, according to the internal guidelines issued in May 2004 by the Government, government departments and trading funds may consider a tender bid for service contracts (excluding construction services) which rely heavily on the deployment of non-skilled workers only if the monthly wage rates undertaken to be offered by the tenderer to such workers are not lower than the average market rates. Besides, The Link Management Limited (The Link) has taken over from the Housing Authority (HA) the day-to-day management of 180 retail and carparking facilities since 1 March this year. After the listing of The Link Real Estate Investment Trust (The Link REIT) in the next few months, The Link will become an independent private company and thus will not have to follow the above guidelines. In this connection, will the Government inform this Council:*

- (a) *among the non-skilled workers currently employed by contractors of The Link, of the number of workers whose monthly wage rates are higher than the average market rates, and the number of those with monthly wage rates lower than the average market rates, together with a breakdown by job type of the latter's average monthly wages; and*
- (b) *whether, after the listing of The Link REIT, The Link will be required to fulfil its corporate social responsibility by engaging only those contractors who offer wage rates not lower than the average market rates to their non-skilled workers; if not, of the justifications for that, and the other measures to ensure that the wages of such workers will not be lower than those offered to workers employed by contractors of government departments and trading funds?*

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

- (a) Before the listing of The Link REIT, The Link is the HA's wholly-owned subsidiary, and is responsible for the day-to-day management of the 180 retail and carparking facilities to be

divested. Before the listing, the relevant outsourced service contractors are still appointed by the HA. There is no contractor directly employed by The Link.

At present, these contractors employ some 6 200 non-skilled workers to serve the HA's retail and carparking facilities to be divested. They comprise about 4 600 security guards and about 1 600 cleansing staff. Among them, the new requirement stipulated by the Government since May 2004 for monthly wages for non-skilled workers has now covered about 65% of the security guards and about 96% of the cleansing staff.

As regards the other workers, the contracts of the relevant contractors were signed before mid-May 2004, when the new requirement had yet to be in place. Most of them do not provide for a requirement on wage rates. The HA therefore does not have the average figures of the monthly wages of these workers.

- (b) Upon the listing of The Link REIT, The Link will become a private company completely independent of the Government and the HA. Like other private companies in the market, The Link will decide on its own whether to require its contractors to offer wage rates not lower than the average market rates to their non-skilled workers. The Government will not interfere.

In his 2005-06 policy address, the Chief Executive appeals to the business community, in the spirit of corporate social responsibility, to follow the level of average monthly market wages announced by the Government in paying their non-skilled workers. We have extended that appeal to The Link. The Link has indicated that, in realizing its established business strategy and plan, the company will actively respond to the Government's appeal by taking appropriate measures. Such measures will include requiring the contractors to provide reasonable remuneration for their workers in order to provide quality service. The Link will conduct from time to time anonymous interviews with the workers of these contractors to better understand their actual situation and take follow-up action when necessary.

Academic Results of Students Majoring in Language-related Undergraduate Studies

10. **MR BERNARD CHAN** (in Chinese): *President, will the Government inform this Council of the average academic results in the Hong Kong Advanced Level Examination (HKALE) attained by the students who were admitted by University Grants Committee (UGC)-funded institutions in 2005 to read undergraduate programmes majoring in studies relating to Chinese Language or English Language, and the average academic results in the relevant language subjects in the Examination attained by the students of such programmes in the past three years?*

SECRETARY FOR EDUCATION AND MANPOWER (in Chinese): President, for students who applied through the Joint University Programmes Admissions System (JUPAS) and were later admitted to the UGC-funded undergraduate programmes majoring in studies relating to Chinese and English languages in 2005, their average HKALE results are set out at Annex A.

The average results in the relevant HKALE language subjects of students admitted to the same programmes in 2002, 2003 and 2004 are set out at Annex B.

University admission is not solely based on HKALE results, but on a number of factors. The considerations vary from institution to institution, or even from programme to programme. It is therefore inappropriate to compare the admission criteria of programmes using the information at the Annexes. Nor should the information be used to draw conclusions on the quality of students enrolled in the relevant programmes.

Explanatory Note

- (1) The Annexes only include the HKALE results of students admitted through JUPAS. This is because for JUPAS Sub-systems, non-academic achievements are more important considerations. Annex B includes only UGC-funded programmes that are still offered in the 2005-06 academic year.

- (2) The average HKALE results shown at the Annexes are obtained by converting the HKALE grades into numerical scores based on the following scale:

Advanced Level (AL) Subjects:

A = 10, B = 8, C = 6, D = 4, E = 2, other grades = 0

Advanced Supplementary Level (AS) Subjects:

A = 5, B = 4, C = 3, D = 2, E = 1, other grades = 0

- (3) Apart from the HKALE results in language subjects, the average results of the students concerned in other HKALE subjects are also presented. The latter is based on the best average score of each student, either in two AL subjects, or in one AL subject plus two AS subjects other than "Use of English" and "Chinese Language and Culture". As only subjects with the highest scores are taken, they do not necessarily include those specified in the departmental entrance requirement.
- (4) For the University of Hong Kong, as students of the Bachelor of Arts programme normally declare their major after the first year of study, only the average admission grades to the Bachelor of Arts programme are shown at the Annexes.
- (5) The Annexes do not cover The Hong Kong University of Science and Technology because the University does not offer any UGC-funded English and Chinese language undergraduate programmes.

Annex A

Average HKALE Results of Students Admitted to
UGC-funded English and Chinese Language Programmes in 2005

<i>Programme</i>	<i>Average HKALE Score of two Subjects</i>	<i>Average AS Use of English Score</i>	<i>Average AS Chinese Language and Culture Score</i>
<i>City University of Hong Kong</i>			
BA (Hons) English for Professional Communication	5.1	2.3	1.8
BA (Hons) Chinese	5.3	1.2	2.8

<i>Programme</i>	<i>Average HKALE Score of two Subjects</i>	<i>Average AS Use of English Score</i>	<i>Average AS Chinese Language and Culture Score</i>
<i>Hong Kong Baptist University</i>			
BA (Hons) Chinese Language and Literature	6.2	1.3	3.7
BA (Hons) English Language and Literature	3.9	3.0	2.2
BA (Hons) in English Language and Literature and BEd (Hons) in English Language Teaching	3.3	2.6	2.3
<i>Lingnan University</i>			
BA (Hons) Chinese	5.3	1.3	3.4
BA (Hons) Contemporary English Studies	3.8	2.8	2.5
BA (Hons) in Contemporary English and Education	2.8	2.5	2.0
<i>The Chinese University of Hong Kong</i>			
BA (Hons) Chinese Language and Literature	7.5	2.0	4.3
BA (Hons) English	5.0	3.7	3.3
BA (Hons) Language Education	4.9	2.4	3.5
- Chinese	5.4	2.0	3.8
- English	4.5	2.8	3.3
<i>The Hong Kong Institute of Education</i>			
BEd (Hons) (Languages) Programme - Chinese	3.6	1.3	3.1
BEd (Hons) (Languages) Programme - English	3.2	2.5	2.0
BEd (Hons) (Primary) Programme - Chinese	3.4	1.3	2.6
BEd (Hons) (Primary) Programme - English	2.9	2.2	1.9
<i>The Hong Kong Polytechnic University</i>			
BA (Hons) in Language Studies for the Professions	4.4	2.9	3.6

<i>Programme</i>	<i>Average HKALE Score of two Subjects</i>	<i>Average AS Use of English Score</i>	<i>Average AS Chinese Language and Culture Score</i>
<i>University of Hong Kong</i>			
Bachelor of Arts	7.0	2.8	3.2
BA and BEd in Language Education - English (double degree)	6.1	3.6	2.8
BEd in Language Education - Chinese Language and Literature	5.0	2.3	3.3
BEd in Language Education - English Language	5.4	2.7	2.1

Annex B

Average HKALE Language Scores of Students Admitted to
UGC-funded Programmes relating to Chinese Language or
English Language in 2002, 2003 and 2004

	<i>Average AS Use of English Score</i>			<i>Average AS Chinese Language and Culture Score</i>		
<i>Programme</i>	<i>2002</i>	<i>2003</i>	<i>2004</i>	<i>2002</i>	<i>2003</i>	<i>2004</i>
<i>City University of Hong Kong</i>						
BA (Hons) English for Professional Communication	2.79	2.39	2.54	1.66	1.96	1.86
BA (Hons) Chinese	1.11	1.25	1.44	3.34	2.36	4.09
<i>Hong Kong Baptist University</i>						
BA (Hons) Chinese Language and Literature	1.1	1.2	1.2	3.5	3.5	3.3
BA (Hons) English Language and Literature	2.8	2.8	2.9	2.5	2.3	2.2
BA (Hons) in English Language and Literature and BEd (Hons) in English Language Teaching	New Programme. First Intake in 2005-06					

	Average AS Use of English Score			Average AS Chinese Language and Culture Score		
Programme	2002	2003	2004	2002	2003	2004
Lingnan University						
BA (Hons) Chinese	1.20	1.19	1.26	2.68	2.97	2.84
BA (Hons) Contemporary English Studies	2.37	2.32	2.61	2.13	2.34	2.18
BA (Hons) in Contemporary English and Education	New Programme. First Intake in 2005-06					
The Chinese University of Hong Kong						
BA (Hons) Chinese Language and Literature	1.95	2.10	1.83	4.14	3.98	3.73
BA (Hons) English	3.73	3.77	3.68	3.34	3.42	3.38
BA (Hons) Language Education	2.67	2.67	2.56	3.86	3.61	3.17
- Chinese	2.37	2.32	1.93	4.05	3.86	3.64
- English	3.00	3.21	2.95	3.65	3.21	2.86
The Hong Kong Institute of Education						
BEd (Hons) (Languages) Programme - Chinese	1.5	1.6	1.3	3	3.3	2.5
BEd (Hons) (Languages) Programme - English	2.6	2.4	2.6	2.1	2.1	2.0
BEd (Hons) (Primary) Programme - Chinese	1.4	1.3	1.3	2.5	2.4	2.3
BEd (Hons) (Primary) Programme - English	2.2	2.2	2.3	1.9	1.9	1.8
The Hong Kong Polytechnic University						
BA (Hons) in Language Studies for the Professions	New Programme. First Intake in 2005-06					
University of Hong Kong						
Bachelor of Arts	2.82	2.92	2.82	2.93	3.02	3.10
BA and BEd in English Language Education	New Programme. First Intake in 2005-06					
BEd in Language Education - Chinese Language and Literature	2.24	2.15	2.09	3.53	3.15	2.91
BEd in Language Education - English Language	3.45	3.22	4.00	2.90	2.44	2.33

Immigration Clearance Difficulties Encountered by Holders of Hong Kong Travel Documents

11. **MS LI FUNG-YING** (in Chinese): *President, recently, I have received complaints from members of the public alleging that the immigration control officers in other countries or regions had found fault with them when they entered with Hong Kong travel documents on which only their years of birth but not the months and the days were shown. Regarding the use of Hong Kong travel documents, will the Government inform this Council of:*

- (a) *the current number of Hong Kong people whose Hong Kong travel documents only show their years of birth broken down by age, gender and type of travel documents;*
- (b) *the respective numbers of complaints or requests for assistance received from Hong Kong people who could not enter other countries or regions successfully because of problems in their Hong Kong travel documents in each of the past three years, broken down by country or region; the details of the complaints involved and the follow-up actions taken by the government departments concerned regarding such complaints, including whether they had enquired with the countries or regions concerned about the details of such complaints; and*
- (c) *the measures to prevent Hong Kong people from facing the same situation when entering other countries or regions?*

SECRETARY FOR SECURITY (in Chinese): President, the number of Hong Kong Special Administrative Region (SAR) passports and Documents of Identity for Visa Purposes (DIs) issued by the Immigration Department (ImmD) in the past three years is set out below:

<i>Type of Travel Document</i>	<i>Year</i>	<i>Number issued</i>
SAR Passport	2002	376 810
	2003	423 179
	2004	586 203
	2005*	379 327
	Total:	1 765 519

<i>Type of Travel Document</i>	<i>Year</i>	<i>Number issued</i>
DIs	2002	39 090
	2003	49 193
	2004	32 672
	2005*	41 606
	Total:	162 561

* (as at October 31)

In general, the SAR passports and DIs carry the exact date of birth of the holders. However, under a few circumstances (such as the holder can only provide information to prove his/her year of birth), the said documents will only show the holder's year of birth. The ImmD does not have statistics on SAR passports and DIs which show the year of birth of the holder only.

The ImmD does not have statistics on Hong Kong residents who could not enter other countries or territories successfully. As regards holders of SAR passport, they currently enjoy visa-free access to 134 countries or territories. We understand that the great majority of holders of SAR passport can enter these countries or territories without any problem.

Hong Kong residents who are abroad and need assistance may contact the local Chinese Embassy/Chinese Consulate General or call the 24-hour hotline of the "Assistance to Hong Kong Residents Unit" of the ImmD at (852) 1868. Upon receipt of such requests, the ImmD will contact the concerned person or related party to get a thorough understanding of the case. The ImmD will actively follow up the matter and render practical assistance to the concerned persons, having regard to the actual situation. If the relevant overseas authority needs to verify the authenticity of a particular SAR passport or DI, the ImmD has a mechanism in place that provides 24-hour service to enable overseas authorities to make immediate verification when necessary.

Review of Mechanism for Approving Disability Allowance

12. **MR ABRAHAM SHEK:** *President, it has been reported that 71 families with blind and visually impaired children, who had been overpaid the disability allowance (DA) as they had not reported their children's admission to special boarding school, have been asked to return the overpaid allowance. In one case, the parents of a visually impaired child had been overpaid \$160,000 in the*

past 12 years, and were asked to return that amount by a one-off payment or by instalments. In this connection, will the Government inform this Council whether:

- (a) it has thoroughly investigated each of the above cases to ascertain whether the DA applicants intended to cheat or the Social Welfare Department (SWD) should take the blame for its unclear application procedures;*
- (b) the SWD will conduct a comprehensive review of its mechanism for approving DA applications; if not, the reasons for that; and*
- (c) it has assessed the adverse impact of the repayment on the quality of life of the affected blind and visually impaired children, and whether it will consider waiving the repayment if there is adverse impact?*

SECRETARY FOR HEALTH, WELFARE AND FOOD: President,

- (a) The DA Scheme comprises the Normal Disability Allowance (NDA) and Higher Disability Allowance (HDA). The cases concerned involve overpayment of the HDA. To be eligible for the HDA, amongst other criteria, a recipient must not be receiving care in a government or subvented residential institution in order to avoid double benefits.

In handling each HDA application and subsequent reviews, the SWD explains the above eligibility criteria to the applicant, and determines the application on the basis of the information provided by the applicant as to whether or not he/she is living at home or has been admitted to a government or subvented residential institution. The applicant is also required to report to the SWD immediately any change in his/her circumstances, including admission to an institution.

Early this year, the SWD conducted a cross-checking exercise with the Education and Manpower Bureau. It was found that 71 HDA recipients had not reported their admission to the special boarding schools operated by the Education and Manpower Bureau to the

SWD. These special boarding schools are a kind of subvented residential institution. Moreover, the SWD has assessed the amount of overpayment involved, and has hitherto worked out arrangements for repayment by instalments with 61 recipients.

- (b) It has always been the SWD's practice to keep reviewing its services to recipients of various types of social welfare allowances, including the approving and reviewing procedures for the DA, and improvements will be introduced when required. For example, the SWD has recently updated its pamphlet on the DA Scheme to provide more information to applicants.
- (c) The DA is non-means-tested and funded by general revenue. It aims to provide a monthly allowance to meet special needs arising from disability. When handling these overpayment cases, the SWD staff will discuss with the applicant to agree on a reasonable repayment plan which will ensure that the recipient will not be put in a position in which he/she will be deprived of the basic needs. The requirement that applicants admitted to residential institutions or hospitals for residential care are only entitled to receive the NDA is to prevent double benefits and to ensure the proper use of public money.

People Without Tourist Guide Passes Serving as Tour Guides

13. **MISS CHAN YUEN-HAN** (in Chinese): *President, regarding the efforts to curb the reception of inbound tours by people without the local Tourist Guide Pass (the Pass), including tour escorts accompanying tour groups to Hong Kong, will the Government inform this Council:*

- (a) *of the legislation under which the departments concerned are empowered to check the documents of persons serving as tour guides and prosecute those without the Pass;*
- (b) *of the number of law-enforcement actions taken by the departments concerned over the past two years; and the respective numbers of persons arrested and prosecuted for serving as tour guides without the Pass; as well as the number of warnings issued by the Travel*

Industry Council of Hong Kong (TIC) to travel agents employing tour guides without the Pass;

- (c) whether it will consider enacting legislation to require travel agents to employ local tour guides with the Pass for the reception of inbound tours; if it will not, of the reasons for that; and*
- (d) whether it will consider assigning to one single department the work of issuing the Pass, regulating tour guides' work and taking law enforcement actions, so as to safeguard the quality of the service of tour guides?*

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

- (a) The TIC introduced in September 2002 the Tourist Guides Accreditation Scheme (the Scheme) which provides for the training, accreditation and issuance of the Pass for tourist guides. The TIC also issued directives on the Scheme, requiring travel agents to assign tourist guides with a valid Pass to receive inbound visitors from 1 July 2004 onwards; and anyone working as a tourist guide must have the Pass. The TIC, being the self-regulatory body of the travel trade, conducts spot checks according to the directives at places frequented by inbound tour groups to check if the tourist guides concerned are holding valid Passes.

Travel agents that are suspected to have violated the directives will be investigated by the Compliance Committee of the TIC, and disciplinary action will be taken against the travel agents concerned in accordance with the TIC's directives and Memorandum and Articles of Association. This may include warning and a fine. For repeated offenders, the TIC may suspend or revoke the membership of the travel agent concerned, which may lead to the suspension or revocation of the travel agent licence issued by the Registrar of Travel Agents. Cases involving tourist guides who are suspected to have violated the relevant directives will be handled by the Tourist Guide Deliberation Committee under the TIC. The Committee will decide on the disciplinary actions having regard to

the seriousness of each case. The TIC will refer cases involving fraud to the enforcement agencies for follow-up action.

According to section 41 of the Immigration Ordinance and section 2 of the Immigration Regulations, a visitor shall not take any employment, whether paid or unpaid; and any non-Hong Kong resident, who is not allowed to work in Hong Kong but is found working as a tourist guide (illegal tourist guide), has breached the condition of stay and is subject to prosecution. The Immigration Department (ImmD) may, in accordance with the Ordinance, examine a person at any time if there is reasonable cause to believe that such person is contravening or has contravened the condition of stay, and detain such person for inquiry purpose. Any person who has contravened a condition of stay shall be guilty of an offence and shall be liable on conviction to a fine of \$50,000 and imprisonment for two years.

According to section 17I of the Immigration Ordinance, if a travel agent is found to have employed a person who is not permitted to work in Hong Kong as a tourist guide, the travel agent commits an offence of employing a person who is not lawfully employable and shall be liable on conviction to a fine of \$350,000 and imprisonment for three years.

- (b) As the Scheme is a new scheme, the TIC has adopted a phased approach in its implementation.

At the early stage of the implementation of the Scheme, the TIC recognized that both the travel agents and tourist guides had not fully adapted to the new arrangement, and that the number of tourist guides who obtained the Pass in the first six months was only about 3 430, which could not fully meet market demand. During the period, while the TIC conducted spot checks from time to time, it mainly reminded and advised the travel agents who had breached the directives to take immediate actions to comply with the requirements.

In February 2005, the TIC announced that it would step up enforcement action with effect from 1 March 2005. During the

eight months between March and October 2005, the TIC conducted a total of 28 spot checks, covering a total of 215 inbound tour groups. According to the TIC, 26 tourist guides were found during the spot checks to have no valid Passes, but no illegal tourist guides were found. All the tourist guides without the Pass are Hong Kong residents. Most of the cases had been processed by the TIC. Among them, five travel agents (involving six tourist guides) were fined by the TIC for employing Hong Kong residents without valid Pass to undertake the duties of tourist guides; another 13 travel agents (involving 14 tourist guides) were warned by the TIC because the tourist guides they employed had only completed the required training but not the accreditation process. The remaining six cases are being processed by the TIC.

To further deter tourist guides without valid Passes and illegal tourist guides, government departments, including the Travel Agents Registry, the ImmD and Hong Kong Police Force, together with the TIC conducted four joint operations in August and September 2005. During the operations, 122 inbound tour groups were checked. There were five tourist guides (all of them Hong Kong residents) without a valid Pass; they have already completed the required training but not the accreditation procedures. The cases were referred to the TIC for follow-up.

The Government has not arrested or prosecuted any person as no illegal tourist guides were found in the spot checks and joint operations.

(c) and (d)

The current regulatory system for travel agents was established in 1988. It is a two-tier system whereby the licensing of travel agents is administered by the Travel Agents Registry of the Government of the Hong Kong Special Administrative Region and the regulation of the day-to-day operation of travel agents is conducted by the TIC.

The existing regulatory system has also served its regulatory functions effectively in ensuring the quality of inbound tour groups and in enhancing the professional status of the tourist guide trade.

Since the implementation of the Scheme from 1 July 2004, the TIC has been operating the Scheme smoothly with the support of the Government. In respect of training, accreditation and issuance of the Pass, some 9 000 serving tourist guides had been trained under the subsidy of the Government's Skills Upgrading Scheme. Among them, some 5 650 had completed the accreditation process and were granted the Pass. The Government will continue to provide subsidy through the Skills Upgrading Scheme so that the TIC can continue to provide training for those who wish to join the profession. Regarding enforcement, the TIC has sufficient experience as well as clear directives and an appeal mechanism for ensuring the effective implementation of the Scheme. Concerned government departments will also continue to render support to the TIC in its enforcement of the Scheme, where necessary.

Allowing the TIC to implement the Scheme in the form of self-regulation under the two-tier regulatory system is effective, in line with the policy of self-regulation by the trade and can ensure the quality of inbound tour groups and the tourist guides profession. We believe that it is not necessary for the Government to regulate tourist guides or to do so through legislation.

As to the problem of illegal tourist guides, its nature is similar to that of illegal workers being employed in other professions or industries. It should continue to be handled by the ImmD according to the Immigration Ordinance.

Review of Medical Fee Waiver Mechanism

14. **MR LI KWOK-YING** (in Chinese): *President, currently, patients of general out-patient clinics (GOPCs) who cannot afford the fees for health care services can apply for a fee waiver, but they are required to apply to the Medical Social Workers (MSWs) on each occasion. They have criticized that the arrangement not only causes inconvenience to needy patients, in particular the elderly persons, but also increases the workload of MSWs and results in a waste of resources. In this connection, will the Government inform this Council whether it will review the medical fee waiver mechanism and make improvements in this respect; if so, of the details; if not, the reasons for that?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Chinese): President, under the current medical fee waiver system, recipients of Comprehensive Social Security Assistance (CSSA) are exempted from paying any medical fees at public hospitals and clinics. Non-CSSA recipients, who require unscheduled medical attention such as attendance at a GOPC and have difficulty in paying the relevant medical charges, may apply for one-off waivers. Applications can be made with MSWs at public hospitals or nearby Family Service Centres of the Social Welfare Department. To cater for the special needs of frail elderly persons and persons with limited physical mobility, there are designated staff at each GOPC to assess their waiver applications.

Period waivers may be granted for patients requiring pre-scheduled medical services, such as specialist out-patient consultation, day hospital and community services. The maximum validity period of period waivers is usually six months, which may be extended to 12 months for chronically ill or elderly patients who require frequent use of medical services. The Hospital Authority (HA) is in the process of upgrading the information system at all GOPCs to support scheduled appointments for the follow-up on chronically ill patients. It is expected that the enhanced system will become fully operational by December 2005. The HA will take the necessary measures to facilitate the granting of period waivers for these GOPC appointments.

It is the Administration's policy to grant fee waivers on the basis of the medical needs of patients. Period waivers are given only to patients with confirmed need of follow-up medical care within a period of time. In the interest of ensuring the rational and proper use of medical resources, patients who require unscheduled medical attention are given one-off waivers. We are currently reviewing the medical fee waiver system, as part of our new round of review on public medical fees. Matters to be examined include the existing guidelines on one-off waivers.

Assistance Provided to Hong Kong People Doing Business on the Mainland

15. **MS EMILY LAU** (in Chinese): *President, regarding the assistance provided to Hong Kong people doing business in the Mainland, will the executive authorities inform this Council of the respective numbers of cases of Hong Kong*

businessmen seeking assistance which the Office of the Government of the Hong Kong Special Administrative Region (SAR) in Beijing (BJO) and the Hong Kong Economic and Trade Office in Guangdong (GDETO) of the SAR Government have referred to the relevant departments in the Mainland as well as the government departments and statutory bodies of the SAR in the past three years; the number of such cases that have been settled; the reasons for not settling the outstanding cases, and the other assistance that will be provided by the two Offices to the Hong Kong businessmen concerned?

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Chinese): President, requests for assistance from Hong Kong residents received by the BJO and the GDETO are largely related to loss of travel documents or monies, or commercial disputes and real estate in the Mainland, and so on.

Upon receipt of requests for assistance from Hong Kong residents that are related to business and trade, under current practice, the BJO and the GDETO will gather details of the case from assistance-seekers and offer practicable assistance, having regard to the nature and circumstances of the case as well as the requests made. If assistance from relevant mainland authorities is required, the BJO and the GDETO would communicate with the authorities through their established liaison networks, and refer the requests or complaints to the relevant authorities. We would also directly refer cases related to mainland trade/commercial policies and legal requirements, to relevant authorities for follow-up as appropriate. To date, the vast majority of requests for assistance are handled through referral to mainland authorities for follow-up.

Apart from referrals, we would also follow up cases in the light of their nature and experience gained in handling similar cases. This may entail the arrangement of meetings between assistance-seekers and relevant authorities, or handling direct, or co-ordinating with mainland authorities in following up the cases.

In general, we would not intervene into private commercial disputes. In following up requests for assistance, our mainland offices will abide by the "one country, two systems" principle, under which the SAR Government should not and could not interfere with the executive and judicial processes of the Mainland.

Assistance-seekers should also comply with relevant procedures and regulations of the Mainland in following up their cases and tackling relevant problems.

A small proportion of the cases would be referred to bureaux/departments of the SAR Government or statutory organizations for follow-up. For cases of private commercial disputes not involving authorities of the Mainland or the SAR, we would suggest assistance-seekers to resort to legal means for redress.

Requests for assistance from Hong Kong residents received by the BJO and the GDETO have been classified according to the nature of the requests and not the status of the assistance-seekers (for example, whether they are involved in business or other activities). The number of requests related to commercial disputes; real property development in the Mainland; administration, law enforcement and judicial agencies in the Mainland; or trade/commercial policies and legislation processed by the BJO in 2002, 2003 and 2004 with the aforesaid approaches are 393, 321 and 214 respectively. During the same periods, the GDETO has processed 15, 19 and 47 requests of a similar nature.

Generally speaking, mainland authorities have been co-operative and supportive to the work of the BJO and the GDETO, and have been taking proactive approaches in following up the referrals where possible. Regarding outcome of follow-up actions on cases referred, successful examples include the resolution of issues relating to certificates of origin for steel import, under the GDETO's assistance to businessmen from Hong Kong. This year, the GDETO also helped reflect views of the Hong Kong business sector on textile quotas. As for individual cases that have been processed by mainland authorities, assistance-seekers may raise further requests for follow-up actions. Hence, it is difficult to define whether cases have been fully "resolved". The BJO and the GDETO, upon receipt of further requests for assistance, would provide practicable assistance and follow up as appropriate.

Apart from requests related to commercial disputes and mainland administration or legislation, in the past three years, the BJO and the GDETO have also processed over 800 requests from Hong Kong residents for assistance, which are related to other issues including loss of travel documents or monies, injuries caused by accidents or death of relatives in the Mainland.

Mainlanders with Previous Convictions in Hong Kong Entering the Territory Again

16. **MR LAU KONG-WAH** (in Chinese): *President, under the notification mechanism set up by the law enforcement authorities of the Mainland and Hong Kong, the Immigration Department (ImmD) will pass to the mainland authorities information about mainlanders convicted on offences or breaching conditions of stay in Hong Kong, so that the authorities concerned may consider prohibiting these persons from coming to Hong Kong again within a certain period of time. In this connection, will the Government inform this Council:*

- (a) *of the number of mainlanders with previous convictions in Hong Kong who were convicted again in each of the past three years, after entering the territory again through legal or illegal means, together with a breakdown by category of the offences they last committed, as well as the average interval between the two most recent offences committed by them; and*
- (b) *whether it has discussed with the relevant mainland authorities the issuing of travel documents or endorsements to certain mainlanders to Hong Kong despite their repeated convictions in the territory; if so, of the outcome of the discussion?*

SECRETARY FOR SECURITY (in Chinese): President,

- (a) At present, we do not keep statistics regarding mainland visitors with previous convictions in Hong Kong and who were convicted again after entering Hong Kong again.
- (b) The Government of the Hong Kong Special Administrative Region and relevant mainland authorities have established mechanisms to prevent mainland visitors from breaching regulations or undertaking illegal activities in Hong Kong. The ImmD regularly provides the exit and entry department of the Mainland Public Security Authorities with the particulars of those persons who breach regulations or undertake illegal activities in Hong Kong, in order to enable the relevant mainland authorities to step up scrutiny of subsequent applications of those persons to visit Hong Kong. We

understand that in general, the mainland authorities would not approve applications for visit endorsement from those persons for periods ranging from two to five years, depending on the circumstances.

We are also aware of individual cases where the persons have applied for permits to visit Hong Kong with false particulars. We have reflected the situation to the mainland authorities and provided the authorities with relevant information for further follow-up actions.

Match-fixing

17. **MR FREDERICK FUNG** (in Chinese): *President, it has been reported that there were cases of match-fixing and the use of forbidden drugs by athletes in the 10th National Games. A player of the Hong Kong badminton team was wrongly ruled several times by the umpire in the Women's Singles Semi Final match and subsequently lost in the match, which seriously affected her performance in the remaining matches. She later gave up early in the match for the bronze medal in that event in protest of the unfair umpiring. In this connection, will the Government inform this Council:*

- (a) *whether it has enquired about the truth of above incident involving Hong Kong athletes; if the incident is true, whether it has discussed with the mainland authorities and lodged a complaint so as to uphold the spirit of fair play and doing one's best to win in sports competitions; if it has not discussed or complained, the reasons for that, and whether it is partly attributable to the Hong Kong authorities' tolerance of such match-fixing activities;*
- (b) *whether it has assessed the impacts of the incident on Hong Kong's athletes and the future development of sports; and*
- (c) *of the measures to prevent match-fixing and the use of forbidden drugs in sports competitions to be held in Hong Kong (for example, the equestrian events in the 2008 Beijing Olympic Games and the East Asian Games), in order to ensure that these competitions will be held in a fair and impartial manner?*

SECRETARY FOR HOME AFFAIRS (in Chinese): President, our response to the question asked by the Honourable Frederick NG is as follows:

- (a) The Organizing Committee of the Hong Kong Special Administrative Region (SAR) Delegation to the 10th National Games (the Organizing Committee) is responsible for the overall co-ordination with the respective National Sports Associations in Hong Kong to form the Delegation for taking part in the selected sports events in the 10th National Games. We have enquired with the Hong Kong Badminton Association (HKBA) about this incident. The HKBA revealed that after the Women's Singles' match in question, the coach of the Hong Kong team had lodged a verbal complaint to the organizer on the spot about the judgement. The organizer did not accept the complaint and upheld the match result. The Hong Kong team accepted the decision of the organizer and, in accordance with the usual practice, continued with the remaining competitions in the National Games. The badminton team had exercised their rights by lodging a complaint about this particular case although the complaint was eventually not accepted.
- (b) This is an isolated incident and should not have any adverse impact on our future sports development nor our athletes. In fact, the SAR badminton team has resumed normal training and has continued to take part in other international competitions after the 10th National Games.
- (c) To promote the Olympic spirit of fair play and to ensure a high standard of refereeing, international sports federations or regional sports federations would arrange for well respected and experienced referees to adjudicate at major international sports competitions. Moreover, referees and competition personnel are required to take an oath before the spectators that they will respect and follow all the rules and discharge their duties fairly and impartially in the spirit of true sportsmanship.

To further prevent athletes from taking prohibited drugs, the World Anti-Doping Agency (WADA) (an international body with participation of the International Olympic Committee) was set up in

1999. The WADA has since played an effective role in the fight against doping in sport. It is now a practice for major international sports competitions to have anti-doping departments to tackle doping practice. Similar arrangements will be adopted in the Equestrian Events of the 2008 Olympics and Paralympics as well as the 5th East Asian Games in 2009.

Statistics for Aided Schools

18. **MS AUDREY EU** (in Chinese): *President, will the Government inform this Council:*

- (a) *of the current respective average teacher-to-student ratios, class sizes, the number of teaching sessions and average working hours per teacher per week in aided secondary and primary schools; and*
- (b) *how the above figures compare to those in Hong Kong five years ago and the corresponding current figures in the United States, the United Kingdom, the Mainland, Taiwan and Singapore?*

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

- (a) The Education and Manpower Bureau conducts annual statistical surveys on the number of students, teachers and teaching periods per teacher. As data for the 2005-06 school year are still being compiled, only the statistics for the 2004-05 school year are available. In view of the fact that about 460 teaching posts were created in the primary schools for the implementation of specialized teaching in the 2005-06 school year and the number of additional Native-speaking English Teachers was also increased in the year, the overall teacher-to-student ratio for the 2005-06 school year should be higher than that of the 2004-05 school year. Similarly, the average number of teaching periods per teacher per week in the primary schools will also be lowered as compared with that of the 2004-05 school year.

The average teacher-to-student ratio, class size and number of teaching periods per teacher for aided primary and secondary schools in Hong Kong for the 2004-05 school year are tabulated below:

	<i>Aided primary school</i>	<i>Aided secondary school</i>
Average teacher-to-student ratio	1:19.1	1:18.1
Average class size	32.6	37.3
Average number of teaching periods per teacher per cycle	28	28
Average number of teaching hours per teacher per day	3.3	3.7

The above statistical survey has not covered the average working hours per teacher per week. Generally speaking, apart from performing their classroom teaching duties, teachers are required to take up other duties such as curriculum design, lesson preparation, assignment marking, student counselling, organizing extra-curricular activities, and so on. The time required for carrying out these duties may vary across schools, teachers, levels of study and time intervals concerned.

- (b) The average teacher-to-student ratio, class size and number of teaching periods per teacher per cycle in the 2004-05 school year as compared with the corresponding figures five years ago (that is, 1999-2000) are as follows:

	<i>Aided primary school</i>		<i>Aided secondary school</i>	
	<i>1999-2000</i>	<i>2004-05</i>	<i>1999-2000</i>	<i>2004-05</i>
Average teacher-to-student ratio	1:22.4	1:19.1	1:18.8	1:18.1
Average class size	33.6	32.6	37.3	37.3
Average number of teaching periods per teacher per cycle	30	28	29	28

According to the information available on the Internet, the respective average teacher-to-student ratios, class sizes and numbers of teaching hours per teacher per week in the United States, the United Kingdom, the Mainland, Taiwan and Singapore are as follows:

(1) Teacher-to-student ratio^{Note 1}

<i>Country/Area</i>	<i>Average teacher-to-student ratio</i>	
	<i>Primary school</i>	<i>Secondary school</i>
Hong Kong	1:19.1	1:18.1
the United States	1:15.5	1:15.5
the United Kingdom	1:20	1:14.8
Mainland	1:21.9	1:18.8 ^{Note 2}
Taiwan	1:18.3	1:16.5 ^{Note 2}
Singapore	1:24.3	1:19

(2) Class size^{Note 1}

<i>Country/Area</i>	<i>Average class size</i>	
	<i>Primary school</i>	<i>Secondary school</i>
Hong Kong	32.6	37.3
the United States	22	23.2
the United Kingdom	26	24.2
Mainland	34.4	57.1 ^{Note 2}
Taiwan	29.7	36.2 ^{Note 2}
Singapore	37.7	36.7

(3) Number of teaching hours^{Note 1}

<i>Country/Area</i>	<i>Average number of teaching hours per teacher per week</i>	
	<i>Primary school</i>	<i>Secondary school</i>
Hong Kong ^{Note 3}	16.3	18.7
the United States	31.6	31.2
the United Kingdom	21.8	19.1
Mainland	15 to 21	18 ^{Note 2}
Taiwan	14 to 17	14 to 17 ^{Note 2}
Singapore	19	18

Note 1

Sources:

- the United States: Education at a glance 2005, Organization for Economic Co-operation and Development Indicators: < <http://www.oecd.org/>> UNESCO, 2003>
- the United Kingdom: Education at a glance 2005, Organization for Economic Co-operation and Development Indicators: < <http://www.oecd.org/>> Teacher Workload Study, 2001, Extracts from the Pricewaterhouse Coopers interim report
- Mainland: Education at a glance 2005, Organization for Economic Co-operation and Development Indicators: < <http://www.oecd.org/>> "Opinion on the Evaluation and Employment of Primary and Secondary School Teachers", 1998 (Revised in 2005)
- Taiwan: Ministry of Education, Taiwan — < <http://www.edu.tw/>> , latest update — 2004 school year
"Basic Principles for Setting the Number of Teaching Periods for Teachers in Junior High Schools and Elementary Schools", 2003 (junior high schools: 18 to 22 periods, 45 minutes; elementary schools: 21 to 25 periods, 40 minutes)
- Singapore: Ministry of Education Singapore – Education Statistics Digest 2004
Primary: IPMA Report NIE-Exeter Joint Study Year Two January to December 2000
Secondary:
< http://thatjedi.myblogsite.com/blog/_archives/2005/8/20/1154147.html>

Note 2

In the case of the Mainland, "secondary school" refers to public junior and senior secondary schools, whereas in the case of Taiwan, it refers to public junior and senior high schools.

Note 3

Figures are calculated on the basis of a five-day cycle at a 35-minute period for the primary schools and a 40-minute period for the secondary schools in Hong Kong.

Raising Fares of Outlying Island Ferry Services

19. **MR LAU KONG-WAH** (in Chinese): *President, it has been reported that New World First Ferry Services Limited has recently applied to the Government to increase the fares of outlying island ferry services by an average of 9.4%. In this connection, will the Government inform this Council:*

- (a) *of the criteria it will adopt for vetting and approving the application, and whether it will consult this Council before making any decision;*
- (b) *whether it will consider taking measures to relieve the pressure of increases in ferry fares, such as by offering further tax concessions,*

and allowing more advertising space to be provided at ferry piers, and so on; and

- (c) *whether it will consider opening up the ferry routes concerned to other operators, with a view to promoting competition and relieving the pressure for increases in the fares of ferry services?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Chinese): President,

- (a) Fare adjustment of licensed ferry is subject to the approval of the Commissioner for Transport (C for T). The Transport Department (TD) is now carefully considering the application for fare adjustment submitted by New World First Ferry Services Limited. In assessing the application, the TD will take into consideration a number of factors which include:
- (1) financial performance of the ferry operator;
 - (2) service performance of the ferry operator;
 - (3) change in operating expenses;
 - (4) public affordability and acceptability to the proposed rate of fare increase; and
 - (5) whether there are alternative means for the operator to improve its financial performance, for example, adopting measures to cut cost or increase revenue.

The Administration appreciates public concern on ferry fare and will cautiously consider and balance all relevant factors before making a decision on the application. Since the majority of the passengers of the concerned ferry routes are residents of outlying islands, the TD will take into account views of the passengers from the outlying islands. The TD will also continue to gauge the opinions of the Legislative Council Members as well as the general public through various channels.

- (b) In order to assist the local ferry trade to facilitate the operation of ferry services, reduce their operating cost and relieve the pressure for fare increase, the Government has adopted a number of measures to provide indirect assistance to ferry operators. On increasing non-fare box revenue, the Government now allows ferry operators to put up advertisement on the rooftop of the piers and within the pier premises. Ferry operators can recruit clients to advertise within the piers having regard to market conditions in order to make good use of the areas within the piers to boost their advertising revenue. Ferry operators are also allowed to lease out areas within the piers that can be used for commercial activities. All non-fare box revenue thus generated needs to be ploughed back into ferry operation.

In terms of reducing the operating cost of ferry operators, the Government has taken up the structural maintenance of the piers, such as the fender system and lift and ramp system, since 1997-98. Ferry operators are only responsible for routine maintenance of minor facilities at the piers. This arrangement has helped operators to reduce operating expenses on pier maintenance. When a ferry operator is relocated to a newly constructed pier, the Government will charge the ferry operator the same rental it pays for the original pier which is cheaper. On duty concession, the most practicable and feasible solution lies with concession on fuel duty. As a matter of fact, the diesel used by vessels of ferry services is duty-free and this arrangement will continue.

The Administration will maintain dialogue with the ferry operators and assist them to cut cost and generate revenue as far as possible.

- (c) Regarding the proposal of introducing other operators to run the same routes with a view to promoting competition and reducing fare, we have to consider all relevant factors carefully. These include whether patronage is sufficient to support more operators plying the same route, whether the existing pier facilities are adequate to cater for an additional operator, passengers' expectation on the quality of services and the forecasted economic conditions.

Since the overall patronage of the outlying island ferry routes has been declining over the past five years while the operating cost has been on the increase due to external factors, the operation may be more difficult if additional operators were to be introduced to run the same routes. We therefore do not have plan to introduce other operators to operate the same routes for the time being.

Procurement of Environmentally-friendly Products by Government

20. **MISS CHOY SO-YUK** (in Chinese): *President, regarding the procurement of environmentally-friendly products by various government departments, will the Government inform this Council:*

- (a) *of the respective total values of environmentally-friendly products, that is, those conforming to the green product specifications, procured by each department in each of the past three years;*
- (b) *of the types of environmentally-friendly products procured by each department; and*
- (c) *whether it will set a target percentage of the total value of environmentally-friendly products to be procured in the total value of all procurements, together with an implementation timetable in this regard; if not, the reasons for that?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Chinese): President,

- (a) The majority of environmentally-friendly products procured by government departments are drawn from the unallocated stock held by the Government Logistics Department (GLD) and from the bulk contracts arranged by the GLD, such as recycled papers, stationery, and fuel oils. These environmentally-friendly products have incorporated most of the specifications recommended by the Consultancy Study on Environmentally Responsible Products

Specifications for Government Procurement Items commissioned by the Environmental Protection Department in 2000. According to the information provided by the GLD, they have awarded contracts for environmentally-friendly products with a value of about \$370.51 million (including contracts for fuel oils of about \$301 million), \$40.84 million and \$47.98 million for 2002, 2003 and 2004 respectively. Government departments will also procure environmentally-friendly products to meet their operational needs. As they do not record the value of procurement of environmentally-friendly products separately, such information is not available.

- (b) As mentioned in (a) above, the majority of environmentally-friendly products procured by government departments are drawn from the unallocated stock held by the GLD and from the bulk contracts arranged by the GLD. A list of these environmentally-friendly products is at Annex.

Environmentally-friendly products procured by government departments mainly include toner cartridges for printers, facsimile machines and photocopiers; rechargeable batteries and alkaline batteries, energy saving appliances and accessories such as refrigerators, lamp bulbs and fluorescent tubes.

- (c) As mentioned in (a) above, government departments do not record the value of procurement of environmentally-friendly products separately, information on the percentage of the total value of environmentally-friendly products procured by government departments as against their total value of all procurements is not available. Government departments will adhere to the green procurement policy and will as far as possible procure products with improved recyclability, higher recycled contents, reduced packaging, greater durability, greater energy efficiency and clean fuels. The Government will, based on the market availability, review the specifications of stores procured by government departments with a view to incorporating environmentally-friendly features.

Environmentally-Friendly Products

Paper photocopying white recycled A4
Paper photocopying white recycled A3
Recycled paper for printing
Paper envelope, various sizes
File jacket c/w lever arch mechanism
File box with lockspring for foolscap size paper
Paper toilet in roll
File jacket c/w 2-ring spring mechanism
Pencil recycled black lead HB
Pencil recycled black lead HB w/eraser
Pencil recycled dark blue
Pencil recycled red
Jumbo roll toilet paper
Paper towel (manifold)
Hand roll paper towel
Hydrocarbon lubricants and compound
Powder detergent in 25 kg bag
Cleansing powder, lavatory
Soap toilet liquid 5 litres/drum
Pen ball-pointed refillable — black
Refill for ball point pen — black
Pen ball-pointed refillable — red
Refill for ball point pen — red
Clutch pencil 0.5 mm (mechanical pencil)
Lead refill black HB 0.5 mm in pack of 12
Fluid correction typewriting white 20ml
Thinner for diluting correct fluid 20ml
Typewriting correction fluid pen
Fuel oils
LPG light bus
Small saloon car, hybrid system
Particulate removal device
Environmental-friendly process ink

BILLS**Second Reading of Bills****Resumption of Second Reading Debate on Bills**

PRESIDENT (in Cantonese): Bills. We will now resume the Second Reading debate on the Carriage by Air (Amendment) Bill 2005.

CARRIAGE BY AIR (AMENDMENT) BILL 2005**Resumption of debate on Second Reading which was moved on 22 June 2005**

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

MR HOWARD YOUNG: Madam President, first of all, I would like to declare that I am an Executive Committee Member of the Board of Airline Representatives Hong Kong, and am also an employee of the Cathay Pacific Airways.

Airlines in principle welcome the Carriage by Air (Amendment) Bill 2005 proposed by the Administration. The amendment eliminates outdated provisions and applies the Montreal Convention to Hong Kong to ensure that our aviation regulatory framework is in line with the international standards, rather than following a different set of regulations. The amendment can help to improve airlines' operating efficiency, and in fact is also vital for maintaining our status as an international and regional aviation hub.

The aviation industry has no objection to increasing the compensation level for passengers who die or are injured in aircraft accidents, and agrees that the cap limit should be reviewed every five years. In fact, many airlines have already for many years voluntarily increased the level of compensation. The trade in particular welcomes the recognition of electronic tickets. Electronic tickets will become more popular and will be used by airlines, therefore, the recognition of their statutory basis can strengthen public confidence in using electronic tickets.

However, the trade has raised its concern over the intention of implementing a Mandatory Advance Payment Scheme (the Scheme). Under the Scheme as proposed, airlines are required to make advance payments for those passengers who are injured or who die in aircraft accidents. Although the details of the Scheme will be dealt with by subsidiary legislation subsequently, the trade worries that once the Scheme is legislated for and if it imposes criminal sanctions on airlines which fail to make advance payments, it will increase the liability and operating risk of airlines. Under the present practice, most airlines are willing to make advance payments on a voluntary basis, and if not so, I understand that there is no objection to financial sanctions, but not criminal sanctions. Therefore, is it really necessary to introduce such a mandatory scheme in Hong Kong? The Scheme is not compulsory under the Montreal Convention, let alone the introduction of criminal sanctions. I hope the Director-General of Civil Aviation, who is empowered to work out the provisions, should have a detailed review of the issue and should conduct further consultation with the trade before the provisions are drafted.

Thank you, Madam President.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): If not, then does the Secretary for Economic Development and Labour wish to speak in reply?

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): President, we thank Mr YOUNG for his support of the Bill just now.

The Bill empowers the Government to make subsidiary legislation requiring airlines to make advance payments to air accident victims to meet their immediate economic needs. Mr YOUNG has expressed just now the concerns of airlines in this regard. The Government will conduct further consultation on the detailed design of the Scheme and introduce the subsidiary legislation at an appropriate time.

I would like to reinstate that the Bill is supported by the Legislative Council Panel on Economic Services, airline industry, Consumer Council, and trade organizations representing the travel industry, shippers and legal profession.

President, Members are invited to support the Bill.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the Carriage by Air (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): Carriage by Air (Amendment) Bill 2005.

Council went into Committee.

Committee Stage

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

CARRIAGE BY AIR (AMENDMENT) BILL 2005

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

CLERK (in Cantonese): Clauses 1 to 27.

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.

CARRIAGE BY AIR (AMENDMENT) BILL 2005

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

Carriage by Air (Amendment) 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 Carriage by Air (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): Carriage by Air (Amendment) Bill 2005.

MEMBERS' MOTIONS

PRESIDENT (in Cantonese): Members' motions. Two proposed resolutions under the Interpretation and General Clauses Ordinance to extend the period for amending subsidiary legislation.

First motion: Extension of the period for amending the Harmful Substances in Food (Amendment) Regulation 2005.

PROPOSED RESOLUTION UNDER THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE

MR FRED LI (in Cantonese): Madam President, I move that the motion under my name, as printed on the Agenda, be passed.

In the meeting of the House Committee on 7 October 2005, Members decided that a subcommittee be formed to study the Harmful Substances in Food (Amendment) Regulation 2005. In order that the Subcommittee will have ample time to report to the House Committee the results of its deliberations and to let Members consider whether or not amendments should be proposed, I move

a motion in my capacity as Chairman of the Subcommittee that the period for deliberating on the subsidiary legislation be extended to 30 November 2005.

Madam President, I urge Members to support my motion.

Mr Fred LI moved the following motion:

"RESOLVED that in relation to the Harmful Substances in Food (Amendment) Regulation 2005, published in the Gazette as Legal Notice No. 137 of 2005 and laid on the table of the Legislative Council on 12 October 2005, the period for amending subsidiary legislation referred to in section 34(2) of the Interpretation and General Clauses Ordinance (Cap. 1) be extended under section 34(4) of that Ordinance to the meeting of 30 November 2005."

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

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

PRESIDENT (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by

functional constituencies and those returned by geographical constituencies through direct elections, who are present. I declare the motion passed.

PRESIDENT (in Cantonese): Second motion: Extension of the period for amending the Closed Area (Hong Kong Ministerial Conference of World Trade Organization) Order.

PROPOSED RESOLUTION UNDER THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE

MS MIRIAM LAU (in Cantonese): Madam President, in my capacity as Chairman of the Subcommittee to study the Closed Area (Hong Kong Ministerial Conference of World Trade Organization) Order gazetted on 7 October 2005, I move the motion standing in my name on the Agenda.

As the Subcommittee is still in the process of scrutinizing the Order and will hold its next meeting on 10 November 2005, members agreed that I should move a motion to extend the scrutiny period of the Order to the Council meeting on 30 November 2005.

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

Ms Miriam LAU moved the following motion:

"RESOLVED that in relation to the Closed Area (Hong Kong Ministerial Conference of World Trade Organization) Order, published in the Gazette as Legal Notice No. 160 of 2005 and laid on the table of the Legislative Council on 12 October 2005, the period for amending subsidiary legislation referred to in section 34(2) of the Interpretation and General Clauses Ordinance (Cap. 1) be extended under section 34(4) of that Ordinance to the meeting of 30 November 2005."

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

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

PRESIDENT (in Cantonese): Two motions with no legislative effect. I have accepted the recommendations of the House Committee: the movers of these motions will each have up to 15 minutes for their speeches including their replies, and another five minutes to speak on the amendment; the mover of an amendment will have up to 10 minutes to speak; other Members will each have up to seven minutes for their speeches.

First motion: Minimum wage, standard working hours.

MINIMUM WAGE, STANDARD WORKING HOURS

MISS CHAN YUEN-HAN (in Cantonese): Madam President, although this question today has been repeatedly discussed by Members, I am afraid a quorum is not present in this Council at the moment. I hope more colleagues can listen to this debate. Thank you.

PRESIDENT (in Cantonese): Miss CHAN Yuen-han has indirectly requested us to count the quorum. After counting, I found that a quorum was not present. Will the Clerk please ring the bell to summon Members back to the Chamber.

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

PRESIDENT (in Cantonese): A quorum is now present. Miss CHAN Yuen-han may continue with her speech.

MISS CHAN YUEN-HAN (in Cantonese): Madam President, Honourable colleagues, although I have long since proposed questions of this kind for discussion in this Council, I still hope Members can participate and show their concern in this debate. I have therefore requested Members to return to the Chamber to listen to my speech. Perhaps the Agenda earlier had proceeded a bit too fast, so Members were not aware that the debate on the motion on "Minimum wage, standard working hours" had already started.

Madam President, I move that the motion printed on the Agenda be passed. This is the second time I propose a question on a "minimum wage" this year. Since I joined this Council in 1995, I have proposed countless discussions on this issue. This is already the 10th year since I joined this Council. With two years or so to go before this term ends, I really do not want to see, after the departure of Members like us from this Council, the Government can still not provide Hong Kong workers with a "minimum wage", the minimum livelihood protection they need. Therefore, through conducting the same motion debate year after year, I hope to arouse Members' concern and tell Members that Hong Kong is at a crossroads in the implementation of a minimum wage and it can brook no more delay.

Madam President, I believe Members are aware of a three-tier employment protection net proposed by the Hong Kong Federation of Trade Unions (FTU) earlier. The most important concept of the first tier is "minimum wage". At present, 370 000 people in Hong Kong are making a monthly income of less than \$5,000. This means that if they apply for Comprehensive Social Security Assistance (CSSA), the amount of financial assistance they

receive might be even higher than their income. However, they still insist on making money with their own hands by working hard in the labour market in order to be self-reliant. The hardship experienced by them in life is obvious. For instance, they would count every dollar and every cent spent on buying groceries in the market; they would count every cent when paying for their transportation expenses; and they would be extremely careful in spending their money. Very often, they experience great difficulty in meeting their expenses with their meagre income. They might even find it impossible to meet the deserved material needs of their offspring. If Members can pay personal visits to poorer districts or the gathering places of the general public, they will witness in the markets or other places mentioned by me a while ago how these people tighten their belts merely for the sake of saving a dollar or so.

Madam President, I have always believed that if a growing number of these people emerge in any society, the government of that particular society will have to offer those people a tool to help them survive. We have therefore raised the proposal of setting "minimum wage, standard working hours". It has always been the wish of some non-government organizations that I can propose motions on such issues as universal retirement protection, protection for people with disabilities, women issues, and so on. Very often, however, I can only apologize to them because I am still unable to urge the Government to legislate on labour protection. As I am still working in this Council, I will propose a similar motion again for debate.

Sometimes, I will be teased by Mr KWONG Chi-kin — actually, Members can continue with their meal while I am delivering my speech for they should have known a long time ago what I am going to say. My speeches are more or less the same — Mr KWONG has often teased me for repeating such a familiar motion. Personally, I have been taking part in the labour movement for more than three decades. Witnessing the livelihood hardship experienced by the workers, I find it necessary to continue doing so. In particular, I find that even the Chief Executive mentioned the issue of "minimum wage" recently. Moreover, there have been heated debates in the community on this issue. Nevertheless, all the arguments advanced by members of the community are just a repeat of what I have often heard over the past decade or so. Their arguments are, for instance, a minimum wage will lead to a job drain, a minimum wage will turn into a maximum wage, a minimum wage will not help eliminate poverty, the ultimate solution will still depend on upgrading the skills of workers, and so on. I really have no idea what this is all about.

Sometime earlier, Mr David ELDON from the Hong Kong General Chamber of Commerce (HKGCC) published an article, entitled "minimum wage and maximum working hours: a wolf in sheep's skin", in *The Bulletin*. I do not know on what occasion he made a remark like this. However, more than 80 countries in the world have already set up their own systems to protect people who have no bargaining power in the labour market, who have failed to secure employment even after repeated training and retraining. Even after repeated training, these people can still not secure a job that can enable them to support themselves. What was Mr ELDON talking about? After reading his article very carefully, I was greatly disappointed to find that his arguments were exactly the same as the trite arguments mentioned by me earlier. In response, my colleague sought to write an article to argue with him. I did have the same impulse of doing the same too.

Yesterday, I lobbied a group of people from the business sector for I desperately wished to hold discussions with all these chambers of commerce immediately. In my opinion, they should try to look at the matter raised by me from our stance. They should not keep repeating the issues which have already been resolved by other countries in the past decade or so. What is the point of bringing up those issues again? On the other hand, we also keep repeating our views and ideas year after year, as if we are talking to the air. Madam President, I have joined this Council for a decade. I have never requested to ring the bell to summon Members back to the Chamber to listen to my speech. I really do not want to talk to the air today. I hope Honourable colleagues — even more people — can understand the plight of the grassroots today.

In his article, Madam President, Mr ELDON raised objection to the setting of a "minimum wage" because he saw it perfectly natural for low-skilled workers to be paid a low rate. In his opinion, they must receive training if they wish to make more money and improve their lot. Of course, there is nothing I can say if Hong Kong workers are reluctant to attend training courses, for I have always supported the idea of skills upgrading. I once acted as a convenor for the catering industry to help its workers compete with our neighbours. When skill enhancement courses were launched by the Government a couple of years ago, these workers were even willing to attend enrichment courses conducted at well past eleven o'clock late in the evening, and this was even made a television programme at that time. Why were these workers prepared to attend the courses? Because they wished to keep upgrading their skills. As they had no bargaining power in the labour market, they were willing to undergo training to

upgrade their skills. Although workers of countless industries in Hong Kong are willing to undergo training and retraining, they can still not secure a job after retraining. I do not know whether Mr ELDON is aware of this situation. Is he aware that the workers are facing the plight that, despite their great efforts in studying, the market is still unable to absorb all of them? Is he really aware of this?

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

The saying that wage earners are reluctant to work hard is really cold-blooded. Let us look at the workers. Nowadays, they should not expect to be able to find a job earning a monthly income of \$4,000 to \$5,000 without working 12 to 13 hours daily. Moreover, I am talking about outsourced government jobs. These workers work even harder than me while I was a child labourer. When I worked as a child labourer, I could still attend evening school. How can these workers attend evening school nowadays? They simply cannot afford to do so. Despite the long hours they have spent, they will eventually find that they are open to exploitation in the labour market. If Members are interested in the plight of the workers, I can round up some workers of outsourced government work to talk with Members so that Members will find out what their actual situation is like. Are they not working hard? No. They are very hard working, even more so than me back in those years!

It is also said that, should a minimum wage be imposed, employers will either employ fewer staff or relocate jobs out of Hong Kong, thereby resulting in even fewer jobs. I would like to tell Honourable colleagues that we are now talking about those types of jobs which cannot be moved out of Hong Kong. And the labour sector, be the Federation of Hong Kong and Kowloon Labour Unions or the Hong Kong Confederation of Trade Unions (CTU), shares my view too. However, they dislike the wordings of my motion for my proposed motion is targeted merely at legislation for certain industries or types of jobs. Yet, several types of these jobs are considered to have suffered the most in present-day society.

Actually, it is not up to us to discuss jobs that can be relocated elsewhere. The Better Hong Kong Foundation has projected a drain of 100 000 jobs in the

next couple of years, including clerical posts. The future relocation of these posts will affect not only more than 300 000 grass-roots workers, but also clerical workers. Under globalization, many of the former jobs in Hong Kong have been relocated somewhere else. At present, only jobs related to cleaning, security, and so on, cannot be relocated. The displaced workers can only take up jobs in the retail sector, building management, and other types of jobs which cannot be relocated. Although job types that cannot be relocated out of Hong Kong may, on the contrary, carry bargaining power, it is unfortunate that wages have been suppressed to an exceedingly low level simply because there are too many unemployed people in the labour market. Frankly speaking, the workers I am talking about now are not doing the jobs that may probably be relocated out of Hong Kong, as all these job types, such as the catering, fashion and retail, cannot be relocated elsewhere and must be performed in Hong Kong.

Madam Deputy, while the minimum wage proposed by the FTU exceeds \$5,000, or an hourly rate of approximately \$25, the CTU proposes an hourly rate of approximately \$30. We do not consider the amounts a problem. The problem is, when I mentioned the amounts, my colleagues said to me, "Miss CHAN, the amount of wages paid by us is much higher than this". I am really very grateful to them. I am equally thankful to a colleague who told me the same thing today. However, I hope Members can understand that I am now talking about a group of workers paid an extremely low rate. In a discussion with a group of businessmen yesterday, I was promptly told that they were not the employers of the workers I was talking about before they knew what I was going to say. Actually, the workers mentioned by me did not work in their trades. I just wanted to ask them to consider by putting themselves in the shoes of grass-roots workers. The types of jobs mentioned by me might have nothing to do with the industries in which the majority of Members in this Chamber are employers. During a conversation with a friend of mine who works in the property sector, he said to me, "Miss CHAN, our management office will absolutely not allow such a low level of pay." I told him that, owing to the existence of outsourcing under certain circumstances, such a low level of pay was possible after repeated subcontracting.

I very much hope colleagues can understand that we are actually talking about protecting a group of workers who are forced to take up these jobs, or even accept jobs offering a monthly salary of some \$3,000, simply because they cannot find other jobs in Hong Kong. Our intention is to set a minimum wage

to provide them with the minimum protection in living. Mr David ELDON has raised another point, that a minimum wage might turn into a maximum wage. I do not want to dwell on this issue anymore. Actually, there have been lots of discussions on this. I cited the HKGCC (Mr ELDON being its Chairman) as an example because I want to ask the Government what it can do when even the HKGCC looks at the issue in this way. Secretary, what can you do?

Honourable colleagues, Hong Kong is a pluralistic society. I fully understand that there are bound to be objections in the community when a proposal like "minimum wage, standard working hours" is raised. I consider this not a problem. The problem is, although we should not blindly support any questions, we should not object without conducting an in-depth study. In particular, such a huge and representative chamber of commerce is going to raise objection. I hope members of the HKGCC can talk with the FTU. Mr ELDON or members of the HKGCC are also welcome to have a discussion with me to let me find out whether they really understand the problems we are talking about and let the HKGCC and me present some data for joint discussion.

I am extremely angered by another argument raised in objection to a minimum wage too. It is argued that CHAN Yuen-han, being a directly-elected Member, is only putting up a well-presented but useless political show today. "Ah Shek"¹ — I am extremely angry. They can insult me by saying anything I am not referring to you — but if it has always been their wish to insult the wage earners in the labour sector who are asking for "minimum wage, standard working hours", they have indeed gone too far. Now that they have raised the issue to a higher political plane without thoroughly understanding the matter, will their discussion be rational? Given the plight of the grassroots, why can we not look at the issue squarely? Actually, after repeated debates over the past year or so, I find that presently, some people in the business sector have raised some well-intentioned and positive views. They said to me, "Miss CHAN, we are prepared to talk." The business sector is willing to talk. I have always told the Secretary that they are willing to talk. I consider this a good thing. I welcome them to talk with us. I am also willing to open up myself in the hope that participants of the discussions can put themselves in the shoes of the workers as we go deeper into the matter to enable them to gain an understanding of what we are talking about.

¹ "Ah Shek" refers to Mr LAU Chin-shek.

Madam Deputy, after raising so many views, I would like to reiterate that, if the Government still tells me that any work must depend on the labour-management dialogue, then I believe I may never see this cause achieve any results after my departure from this Council, and even in my life. I have a dream that I can live to 80 years old. If I use my present age as the basis for calculation, it will take more than 20 years before I reach 80. If we continue with our discussion in this way and continue discussing with the Labour Advisory Board, I believe riots would have erupted before I die. By then, the Government will eventually have to do what it is told. Nevertheless, I do not want to see such riots happen.

Madam Deputy, what matters most now is the Government's attitude. I hope the Government can address this issue squarely. In the light of the hardship confronting Hong Kong at present, the Government must address the issue of "minimum wage, standard working hours". Insofar as Mr Andrew CHENG's amendment is concerned, I have told Mr CHENG that his proposed amendment is just common sense — it is simply impossible to legislate if only a minimum wage but not standard working hours is set: How can an employer require an employee to work 15 hours and pay him a mere \$6,000? The two must be examined in conjunction. I support Mr Andrew CHENG's proposal of looking at the matter in a more in-depth manner from the angle of working hours.

With these remarks, Madam Deputy, I hope further examination, or a more in-depth examination than the one made last year, can be conducted in this respect. Thank you.

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

"That, as the working conditions of the grass-roots workers are worsening, their wages are low and their working hours are long, the low-income population is still increasing despite Hong Kong's substantial economic growth last year, and as some low-income families have to even rely on Comprehensive Social Security Assistance payment to eke out a living, this Council suggests that, to enable the grass-roots workers to share the fruits of economic growth which they deserve, the Government should encourage employers to increase the pay and improve the fringe benefits for their employees and, at the same time, urges the Government to expeditiously:

- (a) legislate for a minimum wage to safeguard the most basic living standard of the workers, with priority accorded to individual low-income industries and jobs, so that employers of private enterprises are required to take on the social responsibility they should shoulder, so as to prevent them from shifting their business operating costs to the Government and thereby increasing the expenditure on social welfare; and
- (b) regulate the number of working hours, reasonable rest breaks during working hours and overtime allowance, so as to ensure that employees have sufficient time for rest and studies."

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

DEPUTY PRESIDENT (in Cantonese): Mr Andrew CHENG 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 Mr Andrew CHENG to speak and move his amendment.

MR ANDREW CHENG (in Cantonese): Madam Deputy, I move that Miss CHAN Yuen-han's motion be amended.

In a motion debate last year, I pointed out the existence of an increasingly sick work culture in Hong Kong. A recent study and survey conducted by some academics of The Chinese University of Hong Kong (CUHK) also point to the fact that Hong Kong's work culture has developed to such a state that working hours have come to be equated to work performance and abilities. In other words, when it is time to go home, colleagues would look at one another, and no one would dare to be the first one to leave because the one who does so would then be labelled by others behind his back as a "lazy bone" with poor efficiency. The CUHK academics responsible for this study and survey recently emphasized that this problem could not be ameliorated even by enacting legislation, should this work culture remain unchanged. I wish to say a few words on the egg-and-chicken issue in relation to this question. Should we first change the

culture before enacting legislation, or should we first enact legislation and improve the work culture by means of legislation afterwards?

Miss CHAN Yuen-han said earlier that my proposed amendment was purely common sense. I have prepared a private bill with respect to regulating standard working hours by way of legislation. I am now waiting for the President to give me permission to propose this private bill to this Council. Yet, I consider this more than a issue of common sense, it is rather an important legal basis. Therefore, I have to point out in particular that this culture is now affecting personal health, family and parent-child relations, and individuals' social circles. It will actually cost the productivity of society as a whole and personal health dearly and impose heavy burdens on them.

After referring to the record, I found that, as pointed out by Miss CHAN Yuen-han earlier, a similar motion or discussion was proposed years ago, in the former Legislative Council in June 1997. Miss CHAN and I have been colleagues for a decade. The original motion back then reads: "That this Council urges the Government to become a signatory to the Hours of Work Conventions, and to legislate as soon as possible to ensure that employees will receive reasonable reward for their overtime work." This was the first time I participated in a debate relating to labour matters in this Council. The motion was passed at that time. Even colleagues from the Democratic Alliance for Betterment of Hong Kong (DAB) voted in favour of the motion.

Three years later, after the reunification, Mr LAU Chin-shek proposed in June 2000 a similar motion, which was again passed by this Council. A Member at that time gave an excellent speech. Here are some of the viewpoints raised by the Member, "Unless we do not believe in science, in physiology, in the fact that the human body is affected by many external factors, then we must admit that when work has reached a certain extent, it will affect our health and efficiency." He then continued, "Why do we think that we should legislate on this issue? Will the enactment of legislation on this reduce our flexibility and make us less competitive? Things will just be the opposite of what we may expect. If employers rely on this infinite extension of working hours of their employees to meet production targets, then it will lead to a diminished incentive to raise productivity, efficiency of work and competitiveness. If we think that a certain amount of production can be achieved with workers working continuously for eight hours, and so if the workers work continuously for 16 hours, the amount of production can be doubled, then there will be no need for us

to bother about productivity and to make innovative changes to meet the needs of new economic developments. On the other hand, it is precisely because we have over-relied on the indefinite extension of working hours of the workers that impediments appear in our attempt to innovate and enhance productivity."

These arguments are remarkable. I seldom quote the words of Members of the DAB in my speeches. These views were actually expressed by Mr Jasper TSANG in a motion debate on 7 June 2000.

At that time, we and the DAB approved of Mr LAU Chin-shek's motion. Four years later, in October 2004, when Miss CHAN Yuen-han once again proposed a similar motion here, Members of the DAB began to show a different stand on this issue. While I have no intention to state that this has arisen out of disputes of views among different political parties, I very much hope that Members can discuss in a calm and rational manner in pursuit of a basis for improvement. Mr Jasper TSANG stated on that day, "We are still not entirely clear about all employees are barred from working overtime notwithstanding a mutual agreement between employers and employees. In this issue of legislating on maximum working hours, we have yet to form a clear idea. As such, we still consider it necessary to further explore the amendment moved by Mr Andrew CHENG (similar to the one moved by him today)." For this reason, Members of the DAB abstained at voting. Madam Deputy, I wish to add that, according to the private bill I intend to propose, employers and employees can, when necessary, enter into a mutual agreement to enable employees to work overtime. The misgivings and problems raised by Mr TSANG will therefore not exist.

Recently, in a newspaper article entitled "What sort of statutory working hours do we need", Mr TSANG advanced some arguments. He argued, "To prescribe statutory working hours by 'across-the-board' legislative means is contrary to market forces. From theory to practice, there is no compelling evidence supporting the effectiveness of doing so." However, I cannot see from some of the views expressed by the DAB at that time, as read out by me earlier, what changes our society and the market have experienced since 1997, 2000, and even now.

If we believe in physiology, as stated by Mr TSANG, then I believe both the vital and physiological aspects of our labour force have not experienced any substantial changes over the past couple of years. If such an act is described as

contrary to market forces, we should refer to what Mr TSANG said in 2000, "Some people may say that working hours should be determined by the free market, but the market is not omnipotent. If market forces can solve every problem there is, there will be no such things as the ban on child labour, and the enactment of labour legislation to protect occupational safety. Everything could then be left to the market." These words of his cannot be more correct. I hope Mr TSANG can clarify his position when he speaks later.

During the discussions in the past couple of years, the Democratic Party adopted a new position towards minimum wage by gradually accepting the setting of a minimum wage for all, as well as individual, jobs. While we have been insisting on the setting of maximum working hours, why does the DAB seem to be backtracking on the issue of maximum working hours?

In its platform, the DAB no longer insists on the implementation of universal suffrage in 2007 and 2008. Could it be the case that it no longer insists on maximum working hours? In 1995, a decade ago, our Motherland already passed the Labour Law of the People's Republic of China stipulating that the daily working hours should not exceed eight, and the average weekly working hours should not exceed 44. Given that we have reunited with our Motherland, Madam Deputy, we cannot enjoy universal suffrage because our Motherland does not have it. However, despite the entitlement to overtime pay of our compatriots in the Motherland and many people of capitalist societies, there is no such protection in Hong Kong.

It is my hope that this motion today can, through our rational debate, enable our compatriots at large and labour force understand that, with the passage of a decade, we are still getting nowhere, and the Secretary is still proposing to submit this issue to the Labour Advisory Board for discussion. Will maximum working hours, as with the timetable for universal suffrage, keep marking time without being given a timetable or a roadmap?

I hope this wish of mine and the private bill I will propose will no longer be hamstrung by Article 74 of the Basic Law. If the Chief Executive can really restore the pre-1997 system, my bill can at least be submitted to this Council for debate.

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

Mr Andrew CHENG moved the following amendment: (Translation)

"To delete "regulate" before "the number of working hours" and substitute with "enact law for regulating"; and to add "the basis for calculating" after "during working hours and"."

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

MR TOMMY CHEUNG (in Cantonese): Madam Deputy, recently, in the debate on the Motion of Thanks concerning the policy address, I said that since wages in Hong Kong are high, it is difficult for Hong Kong to compete with the Mainland. If a minimum wage and standard working hours are prescribed, it will only jack up wages, which are already at high levels, and will cause irrevocable damage to the catering industry. In his response, Mr LEE Cheuk-yan asked me not to consider wages to be the arch-enemy of bosses in the catering industry. I have to clarify that wages have never been the arch-enemy of employers operating restaurants. The great majority of employers operating restaurants have never deliberately suppressed the wages of their employees because employees are their partners and they are happy to offer reasonable wages to employees according to the free market rate.

However, if the Government sets a minimum wage and standard working hours rigidly by means of legislation, the increase in expenses on wages will inevitably lead to a chain reaction and drive up other expenses. To investors in restaurants, how possibly can this not be a scourge?

Just think about this: There are over 10 000 restaurants throughout Hong Kong and most of them are small-capital businesses. In order to save costs, a small restaurant can originally set the wage levels according to market conditions, for example, by hiring a woman living nearby to do the cleaning and dish-washing. However, if a minimum wage is set, the boss of the restaurant may have to raise the wage of the cleaning woman to an unaffordable level. If the wage of the cleaning woman after the increase is even higher than the waiters, then the wages of waiters and other employees working in more senior positions, including bar tenders, food picker and cooks may all have to be

increased. Consequently, labour insurance and the contributions to MPF schemes, which are calculated according to the amount of wages, will also increase correspondingly. In addition, since standard working hours have been prescribed, restaurants will also have to pay its employees overtime pay. Under such a chain reaction, the expenses on wages will increase enormously. How can the operators of these small restaurants possibly survive?

Restaurants in Hong Kong have to face many risks, including rent increases, weakened spending power, the public's preference to spend their money across the border, food safety incidents and rising prices. It is therefore necessary to control costs stringently and the slightest lapse will make it difficult to continue operation. Wages, just like rent, is an item of expense which the catering industry must control stringently. In particular, for Chinese restaurants, the expense on wages is often two to three times that of the rent. At present, rents in Hong Kong have taken a hike. Jacking up the wage level in Hong Kong further will only further increase the odds against operating restaurants and may even trigger another round of restaurant closures.

Miss CHAN Yuen-han holds the view that the proposals in this motion can ensure that workers at the grass-roots level share the fruits of economic growth, however, I have doubts about such a claim. As we all know, the working hours in restaurants are rather long and the business hours of many of them run from 11 am to 11 pm. If the standard working hours are set at eight hours per day, it is possible that restaurants will simply change most of the full-time jobs to casual ones to reduce costs. Take dish-washing as an example, the period in which dish-washing workers are required is mainly from 11 am to 2 pm or from noon to 3 pm, and perhaps from about 7 pm to 11 pm in the evening. Although the working hours seem to be very long, there is a rather long interim in which there is little work to do. If standard working hours are implemented, I believe restaurants will split one full-time job into two casual jobs in response to this change, so these cleaning workers will lose the protection given to full-time workers.

Just as a number of economists in Hong Kong have pointed out, setting a minimum wage will only make low-skilled workers lose their bargaining power further and it will become even more difficult for young people lacking experience to enter the trade. Put simply, doing so is to do someone a disservice out of good intentions.

I have said many times that if you were the boss and you have two job applicants to choose from, one of them being a slow worker and lacks experience, however, the upside is that he lives nearby, so it is not necessary to factor in the travelling expenses and he is willing to get lower wages; the other being a smarter person who is more experienced but lives in another district, so it is necessary to give him travelling expenses and it takes time for him to travel to work, so the wage that he asks for is also higher; in such circumstances, if the less capable person is willing to lower the wage that he asks for, he will be more competitive and you would give him a try.

However, given the rigid requirements of a minimum wage, people tottering at the margin of the labour market will no longer be able to negotiate with employers taking account of their personal circumstances. These people include elderly people, single parents and non-engaged youths. In the end, they will only lose out and join the unemployed ranks or even land on the CSSA safety net, such that the expenditure on social welfare has to be increased all the time.

On the face of it, any lobby for a minimum wage and standard working hours is to work for the interests of workers. However, in the long run, this will only damage the economy and reduce employment opportunities. Even a number of European countries which have been implementing such a policy are beginning to notice the demerits and consider changes. May I ask Members if they want to sacrifice the long-term interests of society to win a transient round of applause?

Not that I am oblivious of the problem of excessively low wages and excessively long hours of work of some grass-roots workers. However, the root of the problem is that, with the oversupply of low-skilled workers in Hong Kong, wages are adjusting downwards. The correct remedy for the problem is to formulate a policy on population and assist low-skilled workers in achieving transformation in the direction of development of the Hong Kong economy towards a knowledge-based economy. At the same time, it is necessary to enhance Hong Kong's competitiveness, create a favourable business environment to attract more investments and create more employment opportunities. In this way, the imbalance in the labour market in Hong Kong will gradually be addressed and put on the right track again. In that event, it would not be

necessary for anyone to make any appeal before bosses would improve the working conditions of employees of their own accord in order to retain them.

Madam Deputy, I wish to point out that had we prescribed the standard working hours and a minimum wage two years ago during the outbreak of SARS, it would have been very difficult for bosses in the catering industry to tide over that difficult time. During that period of time, apart from the support measures taken by the Government, employees were also often willing to extend their working hours and lower their wages, so that restaurants could tide over that very difficult period and everyone could keep their jobs or keep their investments intact. Therefore, I wish to point out that if we set a minimum wage and standard working hours through such hard-lined measures as administrative measures or legislation, this will only undermine the market adjustment mechanism. Should we meet any major challenge, this will only lead to a shipwreck and the loss of the people on it and we will lose more than we gain.

Madam Deputy, the catering industry and I both oppose Miss CHAN Yuen-han's original motion and Mr Andrew CHENG's amendment. Thank you.

MISS TAM HEUNG-MAN (in Cantonese): Madam Deputy, the Gini Coefficient that reflects the disparity of wealth is as high as 0.525 in Hong Kong, which is third place in the world and Hong Kong is faring only slightly better than two poor African nations. This fact tells us that the problem of disparity of wealth in Hong Kong has reached a critical state and requires urgent action. Furthermore, there is also no time to lose in helping the poor.

Talking about the problem of poverty, Members may immediately think that this is the work of the Commission on Poverty. Although I am not denying the functions served by the Commission on Poverty, if we want to solve the problem completely, should we not learn from Hong Kong's past successes? Back in those years, I was born in a squatter area and I lived in a resettlement area in my childhood. My parents supported their family of over a dozen members all on their own. Therefore, the best way to help the poor is to enable families whose members are able to work to become self-reliant. In order to make low-income families self-reliant, a minimum wage is perhaps one of the ways.

Although deflation has persisted for a number of years in Hong Kong, the cost of living is still high. In addition, since wages have dropped alongside with prices and the decrease in wages was sometimes even greater than that in prices, this has led to a decline in the quality of life of low-income families. Some people have no choice but to apply for Comprehensive Social Security Assistance (CSSA), while others still want to be self-reliant, even though life is increasingly difficult. Are we saying that these people who are willing to be self-reliant should be penalized by the so-called free market mechanism? To establish a minimum wage can safeguard the livelihood of people who are willing to be self-reliant and contribute to society and it is hoped that in this way, the pressure resulting from social welfare expenses borne by the authorities can also be relieved considerably. To establish a reasonable minimum wage is beneficial to public finance and the quality of life of low-income families.

On hearing me say this, some people may ask, "Miss TAM Heung-man, you are an accountant and I reckon you have studied economics before. You know that the most effective wealth distribution mechanism is 'big market, small government' and this is also the major factor contributing to the success of the Hong Kong economy. Why would you support the policy of prescribing a minimum wage which distorts the operation of the market?" It is true that economics tells us that the free market is the best mechanism for the distribution of wealth, however, it carries the assumption that the market is not subjected to any interference. Since the economy and market in Hong Kong are subjected to interference and monopolization, it cannot be considered a genuine free market. This situation has led to inequality in the distribution of wealth and has exacerbated the wealth gap problem. Therefore, we must find ways to rectify this problem.

After the outbreak of the Asian financial turmoil, the economic bubble in Hong Kong burst and Hong Kong entered a phase of extremely painful adjustment, with prices, wages and property prices falling significantly. Originally, had these sectors of the economy been allowed to self-adjust, the entire economic foundation of Hong Kong would have managed to resume its healthy development. However, in this economic adjustment, the SAR Government took measures to shore up the property market and reverse the trend of adjustment in the property market, as a result the wealth distribution in Hong Kong was tilted in favour of property owners, leading to an unreasonable distribution of wealth and upsetting the balance of the economic adjustment in Hong Kong, thus resulting in distortion of the market economy. In such

circumstances, we must restore the order governing the reasonable distribution of wealth and setting a minimum wage is a feasible option in restoring market order.

Madam Deputy, I stress that if the market is completely free from interference, a minimum wage should not and need not be implemented in Hong Kong. However, since the market in Hong Kong nowadays is not in a normal state, we should make the distribution of wealth more reasonable through the application of policies. As regards at what level the minimum wage should be set, further discussion is in order.

The issue of standard working hours also merits discussion. For some types of jobs, in particular, manual jobs, excessively long working hours may affect the mental and physical well-being of workers and may even lead to industrial accidents, thus affecting their personal safety. Take the accounting sector to which I belong as an example, some members in my sector relayed to me that each day, they have to work until 1 am or 2 am and even overnight, thus adversely affecting their efficiency at work, their pursuit of further professional studies and their mental and physical well-being.

Madam Deputy, last week, when I was distributing pamphlets concerning my work report at the doors of the four major accounting firms, I met a lady whose two daughters were both accountants. She complained to me that both of her daughters were having a hard time because they have to work until very late at night every day, so she was very worried about their health. This is a problem facing the accounting sector now and I believe excessively long working hours is a problem for any sector, so I hope that this problem will be addressed squarely.

However, I believe that it is not necessary to prescribe uniform standard working hours applicable to all trades. Rather, the working hours should vary according to the nature of the work in individual trades. In addition, we also have to address the issue of whether there is any pay for overtime work, otherwise, there is not much point in prescribing standard working hours.

Madam Deputy, I wish to stress that be it a minimum wage or standard working hours, they are all incentives that raise the work efficiency of employees and are definitely not initiatives pinpointing employers. Many overseas countries such as the United States and some North European countries have

already prescribed minimum wages and standard working hours and their competitiveness is by no means inferior to that of Hong Kong. We only have to set the wages and working hours at a reasonable level and I believe investors will not mind that and will continue to invest in Hong Kong. It is only when employees and employers can work hard together, co-operate and accommodate each other that Hong Kong will be stable and become a real paradise for businessmen.

I so submit. Thank you, Madam Deputy.

DR KWOK KA-KI (in Cantonese): Madam Deputy, when Miss CHAN Yuen-han spoke in moving the original motion, she said that the issue of "Minimum wage, standard working hours" had been discussed in the Legislative Council for more than once. However, it is regrettable that no matter for how many times this subject has been discussed, no matter how many Members have said that the Government must enact legislation to prescribe a minimum wage and standard working hours, the Government has remained indifferent all the same. In fact, we can see that in recent years, the proportion of people earning low incomes in the labour market has been on the increase. At present, there are 370 000 people earning a monthly income of less than \$5,000 in the working population in Hong Kong, 160 000 of whom are earning a monthly wage of less than \$3,000, and 18 000 of them have applied for Comprehensive Social Security Assistance (CSSA) for low-income earners. The issue of a minimum wage is not a purely economic issue but also a social issue. In fact, apart from enacting legislation, there is no other way to make employers or the business sector introduce changes out of goodwill.

I have heard some Honourable colleagues say that Hong Kong now has to compete with the Mainland and prescribing a minimum wage at this time may affect the investment environment in Hong Kong, and as a result, perhaps fewer people will set up factories in Hong Kong. I wish to point out that this is an absurd argument. If businessmen or factory owners want to go after the lowest wages, basically, no matter if a minimum wage is prescribed in Hong Kong or not, they will not set up their factories here. In fact, they have already removed everything that they wanted to and could possibly remove. At present, many jobs in Hong Kong society, in particular, non-skilled jobs, have to be done by long-time residents close to the poverty line and on the verge of having to apply

for CSSA. If we have no way of safeguarding their earnings from labour, they will only be pushed further towards a more difficult and more impoverished situation.

Although the Government has done a lot of work this year, including the establishment of a Commission on Poverty, it is not possible for Members to deny the claim that one of the causes of poverty is related to low income. I believe the establishment of the Commission on Poverty by the Government is merely a window-dressing exercise, more importantly, the Government totally lacks sincerity in dealing with matters such as setting a minimum wage for low-income workers. I also know that this year, several Honourable colleagues from the FTU had to endure a lot of accusations when working for the common good and they also struggled mentally for a long time when considering if they should support the nomination of Mr Donald TSANG as the Chief Executive. In the end, it was based on the Chief Executive's promise at that time to implement a minimum wage as soon as possible that they supported his nomination. I definitely hope that the Chief Executive can honour his promise because the people to whom he has to be accountable are not just those three Honourable colleagues from the FTU but the hundreds of thousands of people earning low incomes in Hong Kong and their family members. They are waiting for the Government to extend a helping hand and there is a need for the Government to do so.

Insofar as standard working hours are concerned, please do not think that this issue has to do with low-income earners only. Many front-line doctors, including some junior doctors and housemen, find that so far little improvement has been made with regard to their working hours. At present, the working hours of junior doctors in hospitals are 60 to 80 hours at a minimum and the median is 75 hours. While we want to provide quality medical services to the public, we also hope that all the people working in this health care system can provide treatment to patients in their best conditions after having rested sufficiently. However, I wish to tell Members that this is not the case in our health care system. Due to problems relating to resources and the system, many front-line doctors have to put up with a working environment in which no definite number of working hours is prescribed. This is totally unfair to the doctors, their family members and even their patients. Therefore, if standard working hours can be prescribed in future, as I have been hoping, workers in society who need adequate rest and whose work requires concentration, such as health care workers, will then be protected.

In fact, it is not the case that minimum wages have been prescribed only in Western countries or developed countries. If we look around Asia, we can see that the Ministry of Labour and Social Security on the Mainland announced in 2004 that the requirement of a minimum wage would be implemented country-wide and the criteria on wages have been clearly specified. The aim of this measure is to protect labourers in our country. In Asia, minimum wages have been prescribed in South Korea, Thailand and even Cambodia. Why is it that in Hong Kong, a developed area enjoying a high reputation, where at least the rich can make as much profits as they wish — no protection whatsoever is given to employees earning the lowest incomes? This is totally unjustifiable. In fact, I feel ashamed when this situation is contrasted with that in these Asian countries.

The most recent income survey on the total amount of wages and salaries conducted in June 2005 indicates that compared to last year, the average wage in 40% of the companies have dropped. If we discount the factor of price increases, the average wage of workers, in particular, that of low-income workers, has dropped by 0.9% as compared to that of the same period last year. We can see that not everyone in society can enjoy the fruits of economic development. This is precisely what we hope the Government will not overlook. We cannot possibly wait any further, nor should we accept any further delay by the Government. Since the Chief Executive undertook to begin the work on establishing a minimum wage and standard working hours when he assumed office, I believe there is no reason for the Government to procrastinate yet again at a time when we are about to attain our goal. I hope that the Government can work out a reasonable mechanism and timetable as soon as possible, so that two pieces of legislation which the Hong Kong public and many low-income people have long been yearning for can be implemented as soon as possible.

With these remarks, I support the original motion and the amendment. Thank you, Madam Deputy.

MR LAU CHIN-SHEK (in Cantonese): Madam Deputy, since the reunification, we have debated on legislating on the number of working hours and minimum wage almost annually. In the community, there are also discussions on this subject from time to time. But unfortunately, the quality of the discussions has

not been upgraded as a result of more discussions on the issue. The editorial of *Ming Pao* last Saturday serves as a very good example.

According to the editorial, Prof Arthur LI, the Secretary for Education and Manpower, told us a story that a doctor had been forced to break the law because he had to perform a surgery for more than 10 hours, thus showing that legislation on the maximum working hours was not feasible. I dare not say that I have studied all legislation on working hours of all countries. But I have referred to the legislation of dozens of countries and relevant international labour conventions, and found most of them have provided for exemption clauses, whereby rescue operations in case of emergency would be not be subjected to maximum working hours. Thus, there will not be a case where a doctor is considered to have breached the law just because he has to perform a surgery. Another common exemption clause is provided for *force majeure*. For instance, in case of a traffic accident which has led to serious congestion, a lorry driver will not be required by law to be off-duty when he has worked for the maximum number of hours. All this is just common sense. We can exercise our common sense to make judgement and will not consider that a doctor will be prevented from rescuing people by legislation on working hours even though we have not studied the relevant legislation in detail.

Madam Deputy, in previous debates, I have said time and again that frequent overtime work will not only affect the workers' physical health and productivity, but also eat into their spare time and affect their personal development and family life. If overtime work is too frequent, it will destroy human nature and turn people into slaves of work. Today, I am not going to repeat those points. Rather, in the remaining time, I would like to discuss some foreign experience and take a look at those regulations which are applicable to Hong Kong and more likely to be acceptable to both employers and employees.

Madam Deputy, almost every country has formulated legislation on the standard working hours which are usually calculated on the basis of a day or a week. For instance, in the Mainland, the maximum working hours are eight hours a day or 44 hours a week. Many people have confused the standard working hours with the maximum working hours. In France, for instance, some people say that their maximum working hours are 35 hours a week. In fact, 35 hours are their weekly standard working hours which have been implemented since 1 February 2000. Previously, it was 39 hours. And their maximum working hours have been set at 48 hours a week which are higher than

that in many European countries such as Estonia and Austria which have imposed a limit of 40 hours a week.

The most important effect of setting the standard working hours is in the calculation of overtime hours and overtime allowance. Some countries have set a limit on the overtime hours. In Taiwan, for instance, the maximum daily overtime is limited to four hours and the maximum monthly overtime is limited to 46 hours. Regarding overtime allowance, most of the countries have stipulated that it should be 125% to 150% of the normal wages and some countries have also allowed time-off in lieu of that.

Madam Deputy, I think it is particularly important in Hong Kong to have regulation stipulating that employers are required to pay overtime allowance to their employees. In Hong Kong, many employers have requested their employees to work overtime without recompense despite their hard work and this is just like enjoying a meal without making payment. According to the Census and Statistics Department, the value of the total productivity that has been taken from the workers without recompense is more than \$15 billion. To stipulate that the employers have to pay overtime allowance is not only fair but also provides an economic incentive to them to ponder whether their employees should be requested to work overtime indefinitely or additional hands be hired in order to achieve better cost-effectiveness.

Madam Deputy, some argue that to legislate on working hours will make enterprises lose their flexibility and do harm to the economy. I would like to point out that flexible arrangements have been provided for in many countries' legislation. One of the approaches is to allow the employers to calculate the standard working hours, overtime hours or maximum working hours on the basis of the average working hours in a period. For instance, in the European Union, enterprises are allowed to calculate the maximum working hours in a week on the basis of the average working hours in four months. Under such an arrangement, it can avoid long-term overtime work by workers on the one hand and cater for the seasonal needs of many industries on the other.

Another flexible arrangement is to allow trade unions or individual workers to enter into agreements with the employers in order to change part of the regulations governing working hours. For instance, in Norway, the maximum annual overtime is allowed to be increased from 200 hours a year to the maximum of 400 hours a year. In the United Kingdom, individual workers

are allowed to enter into agreements with employers in order to change the statutory maximum working hours.

Madam Deputy, to allow individual workers to enter into agreements with employers to the effect that some of the regulations on working hours do not apply to them will have the merits of increasing the employers' flexibility and providing protection to the employees who will then be able to choose their own working hours according to their own wishes and needs. However, some colleagues in the trade unions may worry that some employers may take advantage of such an arrangement and force their employees to enter into an agreement with them, thus rendering the legislation ineffective. Although I share the same worry, I do not think we should rule out the possibility of such an arrangement at this stage.

Madam Deputy, in the debate on the policy address two weeks ago, I mentioned that, before implementing the legislation on working hours, the Government, public organizations and enterprises shouldering social responsibility should try out the five-day week system first. This would enable the workers to have one extra day as their leisure time immediately, and at the same time, this would correct the strange phenomenon that some people were committed to excessive overtime work while some people were left idle. In doing so, enterprises would recruit additional hands again, thus creating more job opportunities. At that time, the Secretary said that he would give a detailed response to minimum wage and maximum working hours today. I hope the Secretary can also let us know his views on the five-day week system.

Thank you.

MS LI FUNG-YING (in Cantonese): Madam Deputy, today this Council is having another debate on the setting up of minimum wages and standard working hours, and this is the kind of topic which all Honourable colleagues are most familiar with. We have been discussing this topic both inside and outside the legislature for 10 years. Also, this is a difficult topic and it is not easy to find new arguments after so many discussions. I think it is time for a decision, rather than holding any more discussions.

Why has the Government still not made a decision? Is the request put forward by the labour sector unreasonable? No, it is not. In May last year,

the Government specified the wage levels of non-skilled workers offered by service contractors. And, last month, Mr Donald TSANG also mentioned in the policy address that this practice would be further promoted to subvented organizations and subvented schools. The Government has recognized the reasonable request of the labour sector by fine-tuning its policy. However, policy fine-tuning is insufficient as it cannot address the plight currently encountered by over 10 000 grass-roots workers who are working more than eight hours a day but earning less than \$5,000 per month, and neither is Mr Donald TSANG's call on the business community to follow government practices in the policy address. It is because the strongest opposition to the setting up of minimum wages and standard working hours comes from representatives of the business community in the Legislative Council.

Regarding the enactment of legislation on minimum wages and standard working hours, the Secretary for Economic Development and Labour has time and again reiterated that for any proposal relating to employees and employers with far-reaching implications on the development of the community and economy of Hong Kong, a consensus through consultation must be reached. Therefore, I have looked up all legislation relating to employees and employers with far-reaching implications on the development of the community and economy of Hong Kong. Were the legislation enacted only after a consensus between employees and employers had been reached? Actually, the so-called reasons such as adversely affecting economic development and undermining the competitiveness of Hong Kong have been the "all-fitting" arguments of the business sector against improvement of employees' rights, and can be applied to all legislation for the protection of workers without exception, ranging from those relating to employees' sickness allowance, maternity protection and long service payment, and so on. The business community's opposition to the setting up of minimum wages and standard working hours on the grounds that our competitiveness will be undermined and economic development being adversely affected is indeed absolutely expected. However, the reasoning is vulnerable in the face of reality. Today, if we look around the world, the provisions in question are found in nearly all economically advanced countries. I wish to cite one more example. In 1978, the Government decided to extend the free and compulsory education to Secondary Three and provide further subsidies to senior secondary education. At that time, there were diverse views in the community, and some Members of the former Legislative Council considered that such measure would result in a reduction in the number of

youngsters joining the labour market, thereby adversely affecting economic development. That situation is almost the same as the business community's opposition to the setting up of minimum wages and standard working hours. Fortunately, in the face of diverse views, the then Director of Education did not state that for proposals with far-reaching implications on the development of the community and economy of Hong Kong, a consensus through consultation must be reached. Instead, he acted bravely by pointing out that the Government was aware that no single reason could convince everyone. What should be done was therefore to strike a balance between the different viewpoints, and to make a judgement and assessment, so as to decide on the action to be taken for bringing about greater benefits to society.

Facts have confirmed that the introduction of nine-year free education was correct. At present, there is consensus in society that any child, whether rich or poor, should have the right to education. However, such a consensus had not been reached before the enactment of the relevant legislation, but only until afterwards.

Therefore, I believe that a similar reasoning should apply to the setting of minimum wages and standard hours. Who think it is reasonable to work for more than 10 hours a day but earning less than \$3,000 monthly? Economic recovery should have benefited the different strata of society. However, information provided by the Census and Statistics Department shows that the number of workers who have long working hours and low wages has not dropped in tandem with the upturn in the economy. Rather, the number has increased. In the second quarter of 2002, there were over 10 000 employees earning less than \$5,000 a month; it rose to 13 000-odd in 2003 and then over 14 000 in 2004. Who think it is reasonable?

Madam Deputy, any further delay by the Government in the enactment of legislation on minimum wages and standard working hours means more workers are subject to exploitation in the labour market. I believe society will certainly reach a consensus on minimum wages and standard hours, and yet definitely not before the enactment, but only until afterwards. I sincerely hope that the Government will take immediate actions and proceed with the relevant legislative exercise.

Thank you, Madam Deputy.

DR LUI MING-WAH (in Cantonese): Madam Deputy, setting a minimum wage and standard working hours has been the hottest issue in the labour sector during the past few years, and the Legislative Council has also debated on several motions on this subject, though none of them had been passed. Public opinions also oppose the proposal in general. As we examine the causes, we may find that once the Government proceeds to stipulate a minimum wage and standard working hours, the market mechanism of the Hong Kong labour market, the effectiveness of which has long been proven, will be jeopardized, and this will create an undesirable effect on the overall interests of society. Take Hong Kong as an example. The economy has been sliding since seven years ago: Enterprises have been operating under difficulties, the unemployment rate has been rising, staff wages keep dropping and their working hours keep extending. These are the ways of survival through which the various trades and their employees or even the entire economy have flexibly coped with the contingency and enhanced their competitiveness. In the past two years, as the economy has shown some improvement, our enterprises have expanded and boosted their investments. As a result, there are more job openings and remunerations of employees have started to rise. This is the natural law of automatic adjustment of the market, which cannot be changed by the wishful thinking of any people.

There are historical and practical reasons for the long working hours in Hong Kong. According to a survey conducted by The Chinese University of Hong Kong, the higher the post of an employee, the greater initiative he will have in extending his working hours. This could be a significant factor contributing to the prosperous development of Hong Kong during the past 50 years, one of the major components of the precious Hong Kong spirit. The situation in the European Union is very much similar to that of Hong Kong. Among the member states of the European Union, countries with longer working hours include Britain, Spain and Hungary, which all have better economic performance than countries with shorter working hours such as France, Denmark and Lithuania. In Asia, South Korea is the country with the longest working hours in the world. We can see that the strong economic growth of South Korea has far exceeded that of Taiwan, Singapore and Hong Kong. Therefore, if we want to see Hong Kong prosper once again, Hong Kong people must have the fighting spirit, the creative ideas and a hard-working attitude, so as to carry on giving full play to the Hong Kong spirit. Our aspirations will come true only if we can do this.

In short, there is only one objective for those who advocate for the prescription of a minimum wage and standard working hours, that is, fighting for the interests of the workers. This is because those who advocate for this cause think that the minimum wage can ensure that the workers can enjoy the minimum living standards, whereas the standard working hours can strike a balance between the work and life of the workers, thereby protecting the quality of their lives. This is a good intention which very much deserves our commendation. However, this is unrealistic. Why? This is because Hong Kong is a highly open city, so its commercial and industrial sectors have to face competition from all over the world. If "a minimum wage, standard working hours" are stipulated, it is tantamount to binding our own hands and undermining our own competitiveness. We shall lose our flexibility, and we shall strip our commercial and industrial sectors of their competitiveness. In order to survive, employers will have to cut their expenditure by dismissing employees or by increasing workload for the employees, or they may even be forced to close down their businesses, or relocate their operations to other places with better competitiveness. By then, who would ultimately suffer most? The workers. And on the other hand, even society as a whole will be subject to pressure from this aspect.

In fact, it would be the common aspiration of all Hong Kong people to live in peace and work with contentment and enjoy stability and prosperity of the territory. With regard to improving the quality of life of the working class and narrowing the wealth gap between the rich and the poor, we can never achieve such purposes simply by relying on enacting law to prescribe "a minimum wage, standard working hours". Only by making the entire society becoming wealthy can the salaried class share the fruits of success. This explains why I have, during the past seven years, been urging the Government to introduce effective measures for revitalizing the manufacturing industries, so as to promote economic development, create wealth, bring about more employment opportunities and improve the quality of lives of the people.

Thank you, Madam Deputy.

MS AUDREY EU (in Cantonese): Madam Deputy, I wish to comment from the perspective of lobbying for the interests of workers, which was mentioned by Dr LUI Ming-wah. He said in his speech just now that the motion on minimum wage and standard working hours is premised only on the interests of workers.

In all likelihood, he should have heard that I wanted to respond to his comments, however, he has now left his seat. *(Laughter)*

Madam Deputy, he mentioned the quality of life in the last part of his speech. In fact, this question today is related to the quality of life, to abiding by the law, to the health of the public and also to public interests.

I wish to first of all discuss this matter from the angle of abiding by the law. Last year, when I spoke on a motion on the same subject, I also pointed out that Article 39 of the Basic Law provides that the International Covenant on Economic, Social and Cultural Rights (ICESCR) shall remain in force and shall be implemented through the laws of Hong Kong. Article 7 of the ICESCR states clearly that all workers should be provided with a fair and reasonable remuneration which ensures, as a minimum, a decent living for themselves and their families. In fact, the question under discussion today has to do with a reasonable standard of living and the fundamental issue is compliance with the Basic Law.

The United Nations Commission on Human Rights has stressed that the ICESCR is legally binding and imposes a legal responsibility on its signatories. Unfortunately, the former Secretary for Justice, Ms Elsie LEUNG, believes that the provisions of the ICESCR only have a "promotion" effect in Hong Kong. Actually, if the Government has no intention of observing the provisions of the ICESCR, why is it necessary for us to adopt the ICESCR and put in place the Basic Law? Now that we have a new Secretary for Justice, I very much wish to understand his views on this matter.

The United Nations Commission on Human Rights had considered the implementation of the ICESCR in Hong Kong both before and after the reunification and on these two occasions, it also recommended that the labour policy in Hong Kong, including the prescription of a minimum wage, be reviewed. Unfortunately, the Government has turned a deaf ear to this and there is no sign indicating that the Government has any intention of implementing any policy in this regard.

When the Government submitted its first report on the implementation of the ICESCR in 2003, it admitted that "Excessive constraints on the labour market — such as maximum working hours and statutory overtime pay — would reduce that flexibility and increase labour costs. For these reasons, we do not

intend to legislate in these areas." In September last year, the Government said when responding to the same issue that if necessary, people on low-income or who were unemployed and their family members could apply for Comprehensive Social Security Assistance (CSSA).

What are the consequences? According to government statistics, in 2003, employees working for 50 hours or more per week and earning less than \$5,000 per month stood at 117 800 persons and compared with 2000, the increase was a drastic 117%. In addition, the number of people in low-income households, that is, households with an income below the median income, stood at 1.12 million and represents 16.5% of the population. A survey conducted by the Society for Community Organization found that the expenses on rent, health care, education and public utilities account for half of the monthly income of low-income families and 45% of them have to borrow money to get by.

Our Government also has to bear the bad consequences of disregarding the demand on prescribing a minimum wage. Despite the gradual recovery of the Hong Kong economy, according to the figures relating to CSSA, as at the end of March 2005, there are 296 688 CSSA cases, which is higher than the 271 893 cases in 2003. Meanwhile, the number of low-income CSSA cases has also increased significantly from 10 982 (4%) cases in 2003 to 16 902 cases (5.7%) at present, representing an increase of 54%.

From the above information and figures, it can be seen that if we do not introduce regulation in the form of a minimum wage, the Government and society is in fact subsidizing private organizations and the subsidy is becoming increasingly substantial. The Government and opponents of a minimum wage often stress that the business environment is very important to Hong Kong as a whole, however, what is the ultimate goal in the pursuit of a good business environment? It is to enable all people to benefit from a vibrant economy so that at the least, as long as people are willing to work hard, they can enjoy a reasonable standard of living, which is what Dr LUI Ming-wah calls the quality of life. However, precisely because we lack even the basic regulation on wages, some members of the public earning low incomes are in a quandary: on the one hand, they have to recognize the fact that even though they work very hard to earn money, they still cannot support their family; and on the other, they have to bear in mind that if they do not work, they will have to rely on CSSA in order to have sufficient money and time to take care of their family. Do we want to force them to make a choice?

In fact, a good business environment does not conflict with a minimum wage. As many Honourable colleagues have pointed out, over 80 countries, including some very advanced capitalist countries like the United States, the United Kingdom, Singapore, Japan, France, Netherlands, New Zealand and Australia, have all prescribed minimum wages, yet their economy have not run into a decline as a result.

In addition, I also wish to talk about the issue of standard working hours. The Department of Psychology of The Chinese University of Hong Kong interviewed 500 full-time employees in local private organizations at the beginning of this year to study the situation of working overtime among Hong Kong people and their views on overtime work. The study found that the median working hours of Hong Kong people is 50 hours per week, and this workload is on the high side. The amount of overtime work is on average six hours per week and eight days per month. Among the respondents who have ever worked overtime, close to 20%, that is, 18%, had to work overtime for 10 to 20 hours per week and 6% for as many as 20 hours.

These people do not consist only of low-income earners but also people in the managerial rank. In fact, this is detrimental to both society and our health. Why do I say that this is detrimental to society? Because everyone lacks the time to pursue further studies, moreover, companies also encounter problems because the wastage of employees is very high. Therefore, for the sake of society as a whole, we have to implement a minimum wage and maximum working hours, which have been discussed for many years. Thank you, Madam Deputy.

MR PATRICK LAU (in Cantonese): Madam Deputy, the issue of introducing legislation on minimum wage and standard working hours has been the subject of long-standing discussions in the community, and in this Council alone, it has been hotly debated on many occasions over the years. No common ground has been forged to cover a wide spectrum in society. I hope Miss CHAN Yuen-han would not have to wait until she is 80 years old before the motion can be passed. I think it is a good idea to have the Labour Advisory Board (LAB) which has a tripartite composition of representatives from the employers, employees and the Government to explore the issue of whether or not to enact legislation to regulate

wages and working hours and to gather public opinions on the issue. I hope that a specific direction can be mapped out and a decision be made.

While the study being conducted by the LAB is yet to complete, the Chief Executive has announced in his policy address that with respect to the current initiative to require government service contractors to ensure that the wages of their non-skilled workers are not lower than the market level, he plans to extend this arrangement to all public organizations and even to subvented organizations and subvented schools. The Chief Executive also appeals to the business community to take reference of the level of average monthly market wages announced by the Government in paying the non-skilled workers so that the grass-roots workers can be protected.

It is the Government's own wishful thinking that announcing the average market wages will protect the grass-roots workers, but as far as I know, after a mandatory requirement is imposed on the contractors of outsourced public services to give a minimum wage to the workers, the wage of some of these contract workers has not risen but fallen. The reason is that companies taking part in the tender exercise have all made this minimum wage as the highest wage level. The result is that workers who used to be paid a higher wage are forced to leave or accept a pay cut.

A good example of this is the watchmen hired by contractors of the Housing Department. Not only has their total wage been slashed, the shift system under which they work has been changed from a two-shift system to a three-shift system, with the result being that they are now paid for eight hours of work instead of 12 hours as in the past. Some of them who used to get about \$10,000 a month are now getting only a few thousand dollars. Therefore, when the authorities are thinking about whether to legislate to regulate minimum wage, they must also be very careful and approach the issue from a holistic perspective, putting in place the matching measures so as to avoid any undesirable outcome.

Madam Deputy, if law is really enacted to regulate minimum wage, should the level be pegged at the some \$3,000 a month like that paid to the foreign domestic helpers? If the minimum wage is set at a level higher than \$3,000 something, say, \$5,000, then should the wage of the foreign domestic helpers be raised to the same level as well? If not handled properly, this problem so caused may lead to a breach of the racial discrimination laws.

As for the standard working hours, my view is that the practical needs of every trade and industry should be considered and standards applicable to individual trade and industry should be adopted. There should be no across-the-board regulation of working hours by law applicable to all wage earners in Hong Kong. It is because working hours may be extremely erratic for some people, especially those who engage in creative work. They may be required to turn on their engines at full throttle on the spur of the moment when they are inspired. That is why architects often do their work at home. When we are taking part in a design contest, often we have to work non-stop 24 hours a day. Actually, those who are engaged in mental and creative work may even think about design in their dreams. How then can working hours be counted if their brains are turned on all the time?

In a modern society, creative industries have become emerging industries. With the advances in science and technology, more and more companies, especially the small and medium enterprises, will allow their staff to work at home. A flexi-hour system is adopted in the place of a nine-to-five working day. Therefore, in prescribing standard working hours, full account must be taken of this point in order that the measures devised will catch up with the new thinking and keep abreast of the times.

Now architectural designs are charged according to the estimated manpower and working hours needed. Madam Deputy, as far as I know, the legal profession to which you belong also adopts a similar charging scheme. For creative industries, I think that it would be more practicable to use standard hourly wages as a unit of such calculation. On the other hand, if legislation is enacted to regulate working hours and overtime pay, some unscrupulous employers will seek to evade their legal responsibility by forcing their employees to work at home after office hours. So for the wage earners, they will not be given 100% protection after all.

Madam Deputy, many countries and places have enacted legislation to enforce minimum wage and standard working hours and as many Honourable colleagues have mentioned earlier, some are successful while some are not. Successful examples in other places do not necessarily mean they can apply in Hong Kong. Therefore, while I support the idea that minimum wage and standard working hours should be set for some specific trades and industries, I must make it clear that there should be enough flexibility to dovetail with the

development of individual trades and industries. It would be ideal if adjustments are made by the market and flexible targets are set for different trades and industries, instead of imposing a universal standard by way of legislation which will impede economic activities in a free market. Thank you, Madam Deputy.

MR JASPER TSANG (in Cantonese): Madam Deputy, in the last debate on this subject, I spoke on behalf of the DAB and pointed out the position of the DAB, that is, we agree with setting a minimum wage for workers with the least bargaining power in some trades. After the debate on the last occasion, the DAB continued to conduct specific studies on this issue. In March this year, the DAB issued its first study report, which recommended that nine trades, the workers of which we consider to have lower bargaining power, should be chosen as test points for implementing a minimum wage. Concerning the level of this minimum wage, we made the proposal that it should be set at 50% of the average wages in these trades. According to the calculation at that time, the amount was \$5,250 per month. We do not consider this figure to be sacrosanct, however, we believe that it is necessary for employers and employees to adopt some sort of basis as the point of departure for their discussions, since we have also made reference to the way other countries and regions establish the criteria for minimum wages. Madam Deputy, throughout this process, the DAB has adhered to our usual position on the issue of setting a minimum wage, therefore, the DAB will continue to support Miss CHAN Yuen-han's motion today.

During the debate on the policy address, I promised Mr KWONG Chi-kin that I would not find the speech that I used in the last debate and read it out again. To me, this can be done easily because I could not find that speech. However, Mr Andrew CHENG has done for me what I did not manage to do. He found the speech delivered by me before and quoted its contents. I am grateful to Mr Andrew CHENG for using his own speaking time to read out at length the speech that I delivered in 2000. Initially, when Mr CHENG quoted from my speech, he did not point out that it was my speech. Listening to the speech, I wondered: Why is this piece of speech so well written? (*Laughter*) Its contents are still very persuasive and I believe that what was said then still holds.

(THE PRESIDENT resumed the Chair)

However, on the issue of working hours, I wish to respond to Ms Audrey EU because she said that minimum wages have been prescribed in over 80 places but no impact on these economies or any economic recession could be observed. This is not at all correct. Madam President, last Friday morning, I received two visitors from Finland and one of them raised the issue of minimum wage with me. He said that for long periods of time, minimum wages had been put in place in European countries and the need for setting minimum wages had never been queried. Ever since he was a child, a minimum wage has been prescribed in his country. However, they are now having a debate on the issue of a minimum wage because with the rise of the Asian economy, Europe is now facing many challenges. They find that the economic competitiveness of their country is declining, so there is now immense pressure on reducing the minimum wage. However, there is also a great deal of difficulty in doing so because, as we all know, the social security in north European countries, including Finland, is quite good. They are concerned that if the minimum wage is lowered, some people will turn to social security instead and these people will be driven out of the labour market. Why has such a problem arisen? Mr Andrew CHENG asked just now what changes or transformation had the social environment in Hong Kong, the physical stamina of its people and their physiology undergone. The answer is none. However, when we look at the experience of various countries throughout the world in which minimum wages and standard working hours or maximum working hours are implemented, we can see that a new phenomenon has emerged in the past few years and this new phenomenon is that, as I have said, people are beginning to argue over the issue of a minimum wage.

Concerning the issue of standard working hours, we have found some information pointing out that at present, in such countries as Germany, France and Belgium, there is also a great deal of controversy and the point of contention is the increase in the number of standard working hours. Why? Because economic problems have arisen in these countries and just as our friend from Finland said, Europe has now slipped into a situation of zero economic growth. With the economy in the doldrums, wages have decreased, although not yet to a level lower than the minimum wage because the minimum wage is the lowest wage level in society. However, generally speaking, wages and the hourly rate of wages have decreased. Workers are now earning less income and they are dissatisfied, so they are demanding that the working hours be extended. However, since there is the restriction of standard working hours, it is necessary to give overtime pay if the standard working hours are exceeded, however,

employers are unwilling to do so. Therefore, there is pressure in society demanding that the standard working hours be extended. In some European countries, trade unions and employers have even struck deals to extend the standard working hours without additional overtime pay, or to reduce the rate of overtime pay. Take France as an example, the rate of overtime pay has been reduced from the original 25% to 15% in exchange for longer working hours.

In addition, at some places, the maximum working hours have been increased. Take France as an example, a piece of legislation was passed in 2003 to increase the total hours of overtime work beyond the standard working hours from 130 hours a year to 180 hours, so that workers can work longer hours.

The reason for our reservations about legislating on standard working hours or maximum working hours is that, as I said in the debate on the last occasion, the proponent, that is, Mr Andrew CHENG, did not say clearly what the objective of the legislation is. Just now, I listened to him very attentively, unfortunately, he spent too much time reading out that excellent speech of mine and did not put forward his views, so Mr Albert HO can perhaps talk about this point later.

I do not understand whether it is due to economic reasons, that is, the need to protect the income of workers so that whenever the standard working hours are exceeded, they can ask for overtime pay, or due to considerations for the physical strength, health and safety of workers that Mr CHENG made his request. Insofar as the issue of health and safety is concerned, in all the countries that have prescribed maximum working hours, the so-called limit is by no means physical, so this is not a justification at all.

As regards the argument that standard working hours can protect workers' financial interests, Mr Andrew CHENG has only read out a line from my article that was published on Monday, moreover, he has quoted it out of context. Had he read out the whole passage, Members would have known why I said that this measure would not work.

MR JEFFREY LAM (in Cantonese): Madam President, today, we are once again discussing an issue that has often been the subject of our discussion but on

which no conclusion has ever been reached despite repeated discussions. On this issue of a minimum wage and maximum working hours, I believe we have voiced our opinions time and again. Before it was my turn to speak, I listened to the description of the situation of grass-roots workers cited by many Honourable colleagues in favour of the motion and they portrayed prescribing a minimum wage and standard working hours as a panacea that can raise the employment rate, solve the unemployment problem and deliver grass-roots workers from their plight. Is this really the case?

The content of the motion moved by Miss CHAN Yuen-han today is in fact little different from previous ones. When we examine any regulatory measure, we must do so just like looking at both sides of a coin. We must not be deceived by the sugar coating and be too pleased with it — Miss CHAN, we must look at the upside as well as the downside. Miss CHAN, I have all the respect for you and we will listen to your advice. However, we must also look clearly if any poison harmful to wage earners, bosses and even the economy as a whole is hidden therein.

Over the past year, Honourable colleagues from the Liberal Party and the business sector and I have done analyses in various meetings a number of times and formed the following views: a minimum wage will gradually become a "standard wage" and workers in a disadvantaged position will find it difficult to compete with young people having higher qualifications due to their low skills, education level or older age. In the end, it will be even more difficult for these people, whom we wish to help badly, to find jobs and they probably will have to survive on CSSA.

In addition, as we all know, over 98% of the companies in Hong Kong are small and medium enterprises. If the Government legislates on a minimum wage and maximum working hours, such that they can have little flexibility and their costs are driven up, they will then consider relocating to nearby places because the costs at those places are actually lower than those in Hong Kong. This will affect the confidence of investors in investing in Hong Kong. In that event, the Hong Kong economy will be dealt a serious blow.

The Hong Kong General Chamber of Commerce is a highly representative trade association and we will listen to the views from various quarters, no matter if they are assenting or dissenting views; and no matter if the views are

favourable or even detrimental to Hong Kong, we will still point it out. We will express views that are constructive to Hong Kong and balanced as far as we can.

Just now, Mr Jasper TSANG has mentioned the situation in France regarding the implementation of standard working hours. I wish to take this opportunity to point out again that in France, a series of problems have caused by the adoption of maximum working hours. Last year, a report prepared by a committee of the French Parliament pointed out that the limit of 35 working hours in France had led to economic losses of over US\$13 billion each year and workers' wages had remained at the same level for long periods of time and in some cases, wages had even decreased. A women's group in France also pointed out that the restriction on working hours had denied low-income women and single-parent mothers the opportunity to work overtime in return for more wages, thus directly making their lives more difficult and contributing to the unemployment rate of 22% among young people in France, which is one of the highest in the world. In contrast, in Britain, where no legislation prescribing working hours has been enacted, the rate of economic growth is one of the highest among European countries. Therefore, no matter if the examples are favorable or otherwise, we will still present them. We have to present to the public a picture, story or reality in which the favourable and unfavourable sides are presented in a balanced way, instead of just presenting the good or bad side.

It can be seen from the experience in Europe that although some people have described minimum wages and standard working hours as a silver bullet, will they actually be the nail in the coffin that pushes more low-skilled grass-roots workers towards unemployment and the CSSA net?

Madam President, here, I wish to reiterate one point, that is, Hong Kong is now an externally-oriented economy founded mainly on the service industries. Without the support of industrial production, it is necessary for us to possess enormous flexibility to counteract the fluctuations in the external economic environment. Any legislation regulating wages and working hours is tantamount to undermining our competitiveness in the international arena.

In view of the gradual economic upturn, the business sector has already taken appropriate measures to retain talents and improve the fringe benefits for employees. According to a recent pay trend survey, the rate of pay adjustment

next year will be the highest in recent years, so there is no need for this Council to exert political pressure on employers by means of a motion at all.

Now, let me to borrow a passage from the editorial of the *Hong Kong Economic Journal* on 18 July this year to conclude my speech, "Both maximum working hours and a minimum wage are the same to all 'wage earners' in that the better such 'protection' is, the better. However, the question is, in today's environment of global competition and given Hong Kong's highly externally-oriented economy, will any law to prescribe maximum working hours serve any practical purpose? In the end, will this do workers a service or disservice?"

Madam President, I urge Members not to do a disservice out of good intentions. We hope that all proposals and decisions will be beneficial to the Hong Kong public and the economy.

Madam President, I so submit.

DR JOSEPH LEE (in Cantonese): Madam President, as pointed out in today's motion, without any legislation to regulate standard working hours, the trend of local employees working overtime has become very serious. Today, what I want to point out is that overtime work has posed serious threats to the health of Hong Kong society as a whole, be it to the working population or the non-working population. It is as though a time-bomb were planted in the community and the health risks so triggered will be borne not just by grass-roots workers; society as a whole or companies will also have to pay a heavy price for this risk.

Working for long periods of time will drain one's physical and mental energy. This will cause premature wear and tear to the body, as though we were to treat a machine in wanton ways. In fact, overtime work will trigger all sorts of health risks and this point has been substantiated by many cases.

In Japanese society, a phenomenon known as killed by overtime has emerged. Studies conducted by experts show that cases of Japanese workers dying of cardio-vascular diseases such as stroke, acute heart failure, myocardial infarction and aorta rupture at the peak of their productivity are on the rise in

recent years. The studies also show that most of the deceased had a record of working overtime for long periods of time prior to their death. In 2002, a study conducted by the Kyushu University in Japan found that the likelihood of people who work for 60 hours per week suffering from heart diseases is two times as high as those who work for 40 hours per week.

A similar study in Canada also points out that people exposed to high risks from continuous overtime work, including both white-collar and blue-collar workers, will be more prone to unhealthy behaviour such as smoking, overweight and alcoholism and their risk of suffering from depression, hypertension and cardio-vascular diseases will also increase.

In addition, apart from affecting our physical health, overtime work also poses potential risks to society. If most of the time when we are awake is spent on work, it will not be possible to take part in other activities in life normally, such as interaction with one's family and social interaction, sex and sleep, leisure and sport, integration into one's community and volunteer work. This will lead to a lot of family and social problems, for example, family violence and marital and youth problems.

Madam President, although when analysed rationally, it is obvious that doing overtime work for long periods of time will affect the physical and mental health of employees, leading to a decline in their work efficiency, subconsciously, there is always a kind of irrational belief and obsession about work efficiency in the minds of both employers and employees. The former often want to judge the efficiency of the latter according to the length of their working hours in calculating whether the productivity of the company can be raised, whereas the latter use overtime work to prove their worth to the company. This culture of overtime work will only bring about a lose-lose situation for both employers and employees. Not only will it damage the physical and mental health of employees, there is also hardly any benefit to the companies in terms of productivity.

In fact, studies have shown that if people can have better control over their time after the introduction of standard working hours, people will feel more peaceful following such a change and this peacefulness can lead to higher productivity and give people more room to think slowly. In this way, people will be able to make well deliberated decisions in their work and the result is of course enhanced cost-effectiveness.

Therefore, introducing legislation to prescribe standard working hours, so that "wage earners" can have sufficient time for rest, will not just be beneficial to health and the prevention of diseases but will also enhance cost-effectiveness indirectly, so it is indeed the best way to bring about a win-win situation.

Madam President, recently, there are comments holding the view that since the reasonable maximum continuous working hours for various types of jobs vary greatly, it is therefore not possible to prescribe the so-called "maximum working hours" or "standard working hours" in an across-the-board fashion and doing so will be of limited use in protecting the health of employees and ensuring industrial safety. In view of such claims, I believe we have to define clearly the goal and original intention of the social campaign to enact legislation on standard working hours. The main point is that a person working in any type of job is not a machine the productivity of which can be adjusted arbitrarily because human beings are not machines and we cannot ask some people to work for 80 hours and others to work for 30 hours because all people have their physical limits. We will definitely not allow people working in certain types of jobs to receive no basic protection for their health due to any exemption in legislation. One of the basic goals of our proposal to legislate on the maximum working hours or standard working hours is to protect workers' fundamental well-being.

Madam President, although the Hong Kong economy is booming, some grassroots still cannot receive reasonable wages to meet their basic necessities of life. I believe that only by setting a minimum wage using the basic daily needs of the grassroots as the threshold can the only feasible benchmark be created for the Government in its formulation of a labour policy.

In fact, people are the most important assets of society. The Government, which stresses people-based governance frequently, has to examine what Hong Kong people need. Are standard working hours and a minimum wage the basic protections for workers, or are they excessive demands which have been ignored for a long time? Is it not necessary for a people-based Government to consider the principles governing matters of public interests, a harmonious society, the creation of a healthy city *vis-a-vis* the sectoral interests of the market, then screen, choose and strike a balance between them?

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

MR RONNY TONG (in Cantonese): President, it has been exactly a year since I joined this Council. During the previous discussion on the same question, I was pretty excited and expressed a lot of opinions. Just like how Mr Jasper TSANG described his own speech, I consider my previous speech very interesting too. At that time, I mentioned international responsibilities as Hong Kong was a signatory to the International Covenant on Economic, Social and Cultural Rights. I also mentioned constitutional obligation and the provisions of the Basic Law, as well as moral responsibilities. One year later, however, I find that we have returned to square one. This is indeed a complete cycle. We still have no idea what we have got.

I find the comments made by Mr Jasper TSANG earlier very appealing. However, I still have no idea whether or not he supports the motion after listening to what he said. Ms Audrey EU was talking about a system, not transient cost-effectiveness. The minimum wage level asked for by the labour sector is meant to safeguard the basic dignity of workers. It is merely a request to ensure that workers are able to eke out a living. This is not an excessive demand. It is definitely not a request made by lazy people or a request committing us to economic suicide, as described by the Liberal Party.

We can see from the latest figures that the number of people earning a monthly income below \$5,000 has risen from approximately 200 000 last year to 370 000 this year. When Financial Secretary Henry TANG came to this Council yesterday, he told us that, with the addition of some 200 000 people, the size of our workforce had expanded from around 3.1 million to 3.3 million, yet the number of taxpayers had fallen by more than 100 000. Many people in Hong Kong do wish to pay tax. These figures are excellent evidence showing that the economic revival is not at all helpful to low-income workers.

If a lack of a minimum wage and maximum working hours, as pointed out by Dr Joseph LEE, and the imposition of a minimum wage, as remarked by Mr Jeffrey LAM, are both fatal, I think people in the labour sector would rather die with than without the imposition of a minimum wage. To me, the reason is perfectly plain.

Why is it that the Government can still not come up with a decision after such lengthy discussion and with the support of the majority of Members during the last meeting? The Government's response is very simple — it is because no

consensus has been reached in the community and between both parties, that is, the labour and management sides. Although I do not belong to the labour sector, I am aware of this situation too. Is raising with the management side the proposal of setting a minimum wage tantamount to "negotiating with the tiger for its hide"? What kind of excuse is this? There is no such thing as absolute consensus in this world. Throughout history, no society has managed to reach an absolute consensus on any major subjects. In implementing policies, a responsible government should either secure the support of the majority of the people or act in a just manner.

President, being a barrister, I absolutely support the capitalist system. While I am no welfarist, I support the setting of a minimum wage because I consider the level requested by the labour sector absolutely just. On the contrary, the position and arguments of the opponents are unjust. The Government dares not offend the business sector not because there is no consensus in society, as argued by the Government. The real reason is that the Government is biased. Its action simply demonstrates its desire to secure the support of the business sector.

We will not have a just government if our government relies solely on the business sector. My friends in the labour sector, if you want to really strive for the rights you deserve, you should join the ranks of democrats. Only under an elected government can there be justice in society, and only when there is justice in society will you be able to get minimum wage protection. I earnestly hope my friends in the labour sector can consider whether they should join us as democrats and support universal suffrage.

After referring back to the previous voting record, I found that 38 Members had voted in support of the motion and 18 Members had voted against it. However, it turned out that the majority had to obey the minority. What kind of government is this? If we do have an elected government, such a voting result will be able to determine whether the government will implement the relevant policy. However, it is all because we have an undemocratic government, an undemocratic system and an unfair system that the minority have been able to overturn the views of the majority to implement unjust policies.

President, I absolutely support today's motion.

MR ANDREW LEUNG (in Cantonese): Madam President, the subject of minimum wage and standard working hours has been discussed here many times and each time when the subject is raised, Members would each voice out their own opinions and hold onto their own positions. A controversial subject like this should not be resolved by political means and what we should do is to study the subject in-depth and with a calmness of mind and arrive at a proposal that will have positive implications on the Hong Kong economy while also beneficial to the low-income group.

On the question of imposing a minimum wage, most economists do not agree to the idea. Prof Francis LUI, Director of the Centre for Economic Development at The Hong Kong University of Science and Technology, has pointed out that a minimum wage would only result in lower bargaining power for the low-income and low-skilled workers. As their wage is not commensurate with their productivity, employers may have to close down their business as they are denied a reasonable rate of return. Jobs will then be lost. This would produce a vicious cycle in that a minimum wage imposed will lead to an exodus of investors from Hong Kong and in the end it will mean the low-income and low-skilled workers losing their jobs.

There are many technical problems related to imposing a minimum wage. If an excessively low minimum wage is imposed, it would not be attractive enough to the low-skilled workers while it would be a pity if it is rejected. If an excessively high minimum wage is set, it would mean a host of negative implications to the economy. If it is pegged at the same level as the Comprehensive Social Security Assistance (CSSA) payments, those who are on the verge of falling into the safety net may lose all incentives to look for a job as it would not make any difference if they work or live on welfare. Moreover, work will have cost implications in the form of transport and meal expenses which may amount to some \$1,000 to \$2,000 a month. When these are taken from the wages, there will not be much left. It would not be surprising if they would choose to be on welfare.

If a minimum wage is pegged at a higher level to attract more people to work, then the burden of wage costs will fall onto the employers. In the face of keen global competition and the same from all quarters, if employers find it hard to run their business, they may relocate part of their production procedures to other places where costs are lower. Should jobs in Hong Kong be lost due to

this reason, it would be useless to have a minimum wage because no one will be there to benefit.

Therefore, if the minimum wage is set at a high level, some of the CSSA recipients will lose the incentive to work. Thus the setting up of a minimum wage will only backfire and offer no help to alleviating the problem of unemployment.

As costs of production climb, operation will be difficult. This applies especially to the small and medium enterprises (SMEs). Owners of SMEs are forced to shut down or hire less people to reduce costs, or they may resort to automation for some processes to reduce some manpower costs or even move some of the processes out of Hong Kong.

Let us look at the case of Britain and the United States, two countries where a minimum wage is imposed. As reported in British newspapers, British telephone service centres in India employ a total of more than 300 000 local employees. Likewise, 75% of the foreign services offered by the United States information technology companies are contracted out to India. If a minimum wage is introduced in Hong Kong, it is believed that Hong Kong will only follow the footsteps of Britain and the United States and more jobs than not will be lost to other places. This will only produce an adverse impact on the overall economy and the labour market. Members must therefore give serious thoughts to this.

The cause of low income is in fact a mismatch between the workforce and the work types. Now there are 230 000 people who have the ability to work but nevertheless they depend on CSSA payments. The cause for this is the relocation of production processes from Hong Kong northwards across the border and the situation is aggravated by globalization and the Asian financial turmoil, leaving the local economy severely battered during the past few years. Jobs available to the working class dwindled and income fell sharply. This especially applies to jobs requiring low levels of knowledge and skills.

In our opinion, the setting of a minimum wage will not help solve these problems at all. It cannot address the situation in society and will only bring false hopes to the grassroots. Thus setting a minimum wage will intensify conflicts and will only defeat its purpose.

Wages should be determined by market forces and in response to supply and demand. If labour is in short supply, wages will only be pushed upwards. But if there is an oversupply of labour, wages will only be pulled down. Thus, the best way to intervene is not to intervene at all and leave everything to the play of market forces and let wage levels be determined by the market.

We should be convinced that if the real help to wage earners lies in economic improvement so that employment can be given a boost. Employers, labour and the Government must all pitch in and work together to identify the problems faced by the low-income earners. Efforts must be concentrated on improving the economy and wage earners should be assisted by training to upgrade their skills in both the software and hardware sense in order that they can be redeployed in positions which may best give full play to their abilities. Consequently, low-skilled workers can survive in the face of economic transformation and not be displaced.

In fact, Hong Kong cannot afford to mind its own business and not bother about what is going on in the regional economy. Apart from engaging in a closer partnership with the Pearl River Delta and the Pan-Pearl River Delta Regions, efforts should be put in to foster healthy competition. Against the backdrop of global and regional competition, Hong Kong must enhance the competitiveness of its workforce. This will prevent Hong Kong from being marginalized within the core economic sphere of the Pan-Pearl River Delta Region.

Madam President, a controversial issue like the imposition of a minimum wage can be discussed in the Labour Advisory Board and also be studied in the newly-formed Commission on Strategic Development. Both the employers and the employees are in fact in the same boat insofar as this issue is concerned, hence they should help each other out by making a concerted effort to study the impact of minimum wage on the labour market in the long run. They should put aside their differences and adopt a neutral stand. They must use the data collected to back up their arguments and they should find out what persons are protected and what benefits there are once such legislation has come into force.

Given this oversupply of grass-roots workers, we should adopt a calm and positive mentality and exert efforts to enhance the skills of workers. We must stop blaming employers, accusing them of being unscrupulous and reaping

benefits by exploiting the workers. We believe most employers, especially those in the SMEs, would fulfil their social responsibilities and give the question of wage a fair deal.

With these remarks, I oppose the motion.

MR ALAN LEONG (in Cantonese): Madam President, in the first meeting of the Legislative Session last year, the topic of my first speech delivered in a motion debate of this Council was also the same as today. The motion was also moved by Miss CHAN Yuen-han, with an amendment by Mr Andrew CHENG. It was a motion on legislating to regulate wages and working hours.

As compared to last year, this year we have a Chief Executive who encourages the people of Hong Kong to raise three children in each family. However, when a person has to work more than 10 hours each day and when six hours of sleep and two hours of traffic and two hours of meals are taken away, just how much time is still left for the family? Do we still have the time and energy to give birth to kids? After kids are born, how much time do we still have to set aside for them and raise them up?

Madam President, the International Labour Organization has conducted a survey on the working hours of 48 places and it is found that in recent years there are only three places with workers working more than 2 000 hours each year and Hong Kong is in the third place, just after Thailand and Malaysia. In 2003, Hong Kong people worked an average of 2 398 hours. This means that workers were working 46 hours a week without any extra holidays all through the year. Assuming that employers had allowed their employees to take the statutory holidays, the number of working hours each week was simply staggering.

Madam President, given this large amount of figures on excessively long working hours of Hong Kong people and despite great amounts of studies with findings showing the harm done to the body and mind of the employees because of this reason, there are still people who put up heaps of specious argument to oppose the proposal to regulate working hours. One of such arguments is to cite examples from countries with standard working hours, saying that these countries are all thinking of raising the standard working hours in times of an economic downturn. This is meant to show that regulating the working hours is not desirable.

Such an attempt is in fact confusing the increase in working hours in times of need with the setting up of standard working hours and blurring the differences between the two. When a country adjusts its standard working hours in the light of its economic conditions, it does not mean that this particular country is negating the idea of regulating working hours. On the contrary, these countries have not abandoned their regulation of working hours due to economic reasons because the system is aimed at protecting the health and well-being of the workers and it has nothing to do with the shape of their economy. On top of this, at the same time when working hours are regulated, a statutory mechanism to adjust working hours will certainly be set up in order to protect the workers while also adapt to changes in the economic conditions.

Madam President, actually, similar arguments are put forward to oppose the setting up of a minimum wage. Someone says that some countries with a minimum wage will experience an economic downturn and foreign investment will pull out. But the point is the same as that about regulating working hours: provided that the cycle for wage adjustment will not become rigid and the adjustment mechanism will involve the tripartite participation of the Government, employers and employees, this will ensure a prompt response of the minimum wage level to the economic situation. Therefore, rarely do we hear countries abolish the minimum wage system due to economic reasons. So this argument does not really stand and it must never be offered as the justification for rejecting the imposition of a minimum wage.

Madam President, on the question of employer participation, some employer associations and personnel management bodies in Hong Kong will make proposals on the pay trend from time to time. Would this not be regarded as a kind of minimum wage figures from the employers? Of course, these figures are not laws for strict compliance. They are some loose suggestions. But definitely they are suggestions which many employers will follow. If employers are willing to endorse authoritative wage indicators due to economic reasons, then what is wrong with setting up indicators for the protection of workers' livelihood and for upholding social justice?

Actually, after the Second World War, places which have imposed a minimum wage all have a platform whereby employers and employees can take part on an equal basis to formulate wage levels, such as the National Collective Bargaining Commission of France, the Basic Wage Examination Committee in

Taiwan, and the Minimum Wage Commission in South Korea, and so on. In Japan, wages are even discussed directly in wage committees formed by employers and employees on a regional or trade basis. Employer groups which have all along been formulating wage indicators can take part in the wage-determination mechanism because this is only regularizing the established practice of the employer groups, while adding in the part of negotiations with the employees. The indicators formulated would of course become binding.

Madam President, six months ago the Government began to adopt some wage protection measure for workers of outsourced government services. This shows that the Government has finally realized that conditions of work are not just a question of contracts and wage levels fixed by supply and demand but it would also involve human dignity and social ethics. There are bound to be ups and downs in the economy, but the most important thing is that fair rules can be drawn up so that the three parties of the Government, the employers and the employees can play a part in adjusting wages and working hours according to the economic situation so that those who labour can make their contribution in dignity. Only by doing so can the economy of Hong Kong grow healthily and our society can take on a course of justice and benevolence.

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

MRS SELINA CHOW (in Cantonese): President, all along I have respected the views held by "Miss CHAN" on minimum wage and standard working hours, but I am afraid it would be difficult for me to come to any agreement or any consensus with her. I believe there is some difference between our basic beliefs. I would like to point out that "Miss CHAN" told us the reason for her moving the motion is everyone should have sympathy. There are many people in Hong Kong with a very low income and they lead a life of abject poverty. I do not think that we in the Liberal Party are lacking in sympathy for these people. We only think that imposing a minimum wage or even enacting legislation to this effect will not solve this problem of poverty.

We have strong belief in the free market. If the Government does anything to intervene in the free market or if law is enacted for such purpose in the name of the so-called social responsibility, we think that this would produce a grave impact on the economy as a whole. This is our belief. Of course, for

the poor people, we would agree completely that they should be assisted, for if not, the Liberal Party would not have set up a Poverty Fund and our chairman would not have joined the Commission on Poverty and our party members would not have joined the Legislative Council subcommittee on poverty. All this proves that we are very concerned about the poor people and we are sympathetic with them.

With respect to many of the proposals made, such as legislation to prescribe the minimum wage or standard working hours, we doubt if these can really fulfil the objectives which Members have talked about. Many scholars and our Honourable colleagues are of the view that it would not be possible. This is because, as "Miss CHAN" has said earlier, there are presently 370 000 people earning a monthly salary of less than \$5,000, but will the monthly salary of all these people increase to more than \$5,000 after \$5,000 is made the minimum wage? No. I think most of these 370 000 people may lose their jobs because their capabilities and skills will not meet the requirements. We should know that there is a limit to affordability in the market and if such a limit does not exist, then what the supporters of minimum wage think would be right. This is because if wage is to increase, then we can just pay more and that will be fine. But this is far from being the truth. There is a limit to market affordability. "Miss CHAN" has also said that many people are still unable to find a job even if they have undergone training, but will this problem be solved if a minimum wage is imposed? No, it will not.

On the issue of standard working hours, many Members have pointed out earlier that, to the labour sector, the present long working hours are certainly unfair to them and they must have some rest time. But I have also heard the view that the reality is not like this. The problem is just a question of an overtime time pay mechanism in that it is thought that the employees should work eight hours a day and any work done in excess should be compensated. The problem then becomes one about interests at stake. Then should the problem be approached from the perspective of health or from that of protecting the interests of employees? We must tell the difference between the two.

Of course, it is only natural for "Miss CHAN", "Brother Yan" and "Miss LI" to look at things from the perspective of the labour sector. It is perfectly reasonable and most natural and we would agree completely. However, when this issue is to be considered by this Council, we should approach it from a

holistic perspective and see what impact such a policy or law will create on society as a whole.

Many people say the imposition of a minimum wage and standard working hours will impact on the business sector, the employers and competitiveness. Putting such intellectual issues aside, let me just talk about the example cited by Mr Patrick LAU earlier. In the public housing estates, a two-shift system is adopted for watchmen and security guards with 12 hours in each shift. These people are earning a salary of \$7,500 on average. If the standard working hours are set at eight hours, then a three-shift system will have to be adopted. Then should we reduce their salary to \$5,000? Notwithstanding the increase in job opportunities, wages will fall. So some people will say no and they think that security guards should be given a minimum wage. But how much should it be? Since their original salary is \$7,500, then they should be paid \$7,500. But would this mean that residents of the public housing estates will bear the additional expense of \$7,500? No matter how much they pay, the burden of the residents will certainly increase. Is this the consensus so reached in our society? Can the residents afford it?

Let me cite another example. I know that drivers of minibuses are presently on a nine-hour shift. If the standard working hours are fixed at eight hours, wage costs will rise by 12.5% instantly. But is every passenger willing to pay the extra 12.5%? In my opinion, if we want to consider imposing a minimum wage and standard working hours, we must find out what effects these will have on society as a whole.

I would like to talk a bit about Mr Jasper TSANG. He is a Member of this Council whom I respect most because, in my opinion, he is the most eloquent speaker in debates. But today I must side with Mr Ronny TONG for the comments he has made. Why does he have to support this motion? Actually, he has said a lot and he should have some reservations about minimum wage and standard working hours. Perhaps he could just think about it because questions have been raised all over Europe in this regard. As for..... (*the buzzer sounded*)

MR KWONG CHI-KIN (in Cantonese): Madam President, regarding today's question on minimum wage and standard working hours, the Legislative Council has actually discussed it on many occasions during the past few years, in which

the Government, the labour sector and the business sector all held their own views. Mr Ronny TONG has said earlier that taking up the issue of minimum wage with the business sector is as futile as negotiating with a tiger for its hide. So I am not going to do that either. Perhaps I can discuss the situation of the Government in this regard, to see what kind of solutions it has in stock for tackling the issue, thus enabling us to understand why so far it has not been possible for minimum wage and standard working hours to be implemented in Hong Kong.

Madam President, in order to enact a law to implement minimum wage and standard working hours, the prerequisite is the Government must recognize that workers are now being exploited as their present wages are too low and working hours too long, and that necessitates an enactment of legislation to give them protection. Unfortunately, the Government's mentality on the issue of minimum wage and standard working hours can at best be described as having no stance, and if put in harsher terms, then it is "passing the buck" — letting the business sector and the labour sector take on each other in a deadly fight. At the end of the fierce battle, none of them will emerge as the winner. By then, the Government can close the case by saying that "no consensus has been reached", so "no action can be taken". This kind of *Tai Chi Boxing* (太極拳), or *Shadow Boxing*, is great for diverting the force of one attacker to ward off the assault of another. This exactly explains why the minimum wage has not been implemented to date.

The Government must be feeling smug at having performed such a clever stroke of *Tai Chi Boxing*. But it has failed to realize that its *Tai Chi Boxing* at the same time is also the *Seven Wounds Boxing*, which causes wounds to others as well as itself. On the one hand, the Government has tolerated the emergence of the people in working poverty. On the other hand, it has to shoulder the expenditure on welfare and assisting the poor. According to government statistics, low-income workers earning less than \$5,000 a month increased from 237 000 in 2001 to 372 000 in 2004, representing an increase of 12%. In other words, in every 10 wage earners, more than one is a low-income earner.

When the people cannot meet their basic living expenses with the money they earn from hard work, the only way out is to ask the Government for financial subsidies to help make ends meet. In fact, during the 10 years from 1995 to 2004, the number of low-income Comprehensive Social Security Assistance (CSSA) cases increased by 9.8 times, accounting for nearly 6% of all

the CSSA cases, and the relevant public spending in this regard also increased from \$97 million to over \$1.13 billion, with an increase of 11 times. Besides, coupled with welfare spending on the elderly and disabled, the Government's overall CSSA expenditure is as high as \$17.6 billion. If the incomes of workers keep dwindling, more workers will join the ranks of CSSA recipients, and the expenditure of the Government will be even higher. Is this what the Government wants to see? When the CSSA expenditure keeps going up, the Government may eventually have to introduce tax increases to the business sector. Again, is this what the business sector wants to see?

Recently, the Government has formulated a standard contract for its outsourced services. In this contract, it is stipulated that the basic monthly salary of non-skilled workers is roughly between \$4,500 and \$5,500. But why does the Government allow the existence of such low-income jobs in the market, with only \$3,000 or even \$2,000 or so a month? Unscrupulous employers know only too well that the Government would provide financial subsidies to low-income people, and that explains why they dare suppress workers' salaries to such a low level, and in effect, they are forcing the workers to apply for CSSA. In this way, they are making the Government pay \$1,000 to \$2,000 per worker as some sort of "subsidized income", and the Government is actually made to pay part of the salaries to the workers for these employers. So far, the Government has already paid \$1.1 billion for these employers. If the officials insist on not fixing a minimum wage, the situation will continue, thus wasting taxpayers' money.

Just now some Members said that all wages should be decided by the market. I wish to point out that, in the low-skilled labour market, what the people are facing is not perfect competition, nor is it a completely free market. Instead, it is a distorted market, one that is subsidized by the Government through low-income CSSA. Therefore, certain economic theories mentioned by some Members are also known to the labour sector. Please do not regard people of the labour sector as illiterate. But it transpires that the Government is providing some sort of subsidies to the present market, and it is a market subsidized by the Government. Some Hong Kong Federation of Trade Unions (FTU) researchers majoring in economics in the university have compiled a report, which has rightly pointed out the problem of subsidization by the Government. The Government is now facing two choices: It may either specify a minimum wage or it may carry on with solving the livelihood problem of low-income people by the provision of CSSA.

Earlier on, Mrs Selina CHOW challenged the practice of adopting standard working hours. Is the practice advocated for the protection of the health of the workers, so as to enable them to enjoy a quality life? Or is it just a mechanism for paying "overtime allowances"? Or is it an issue that is related to the interests of the workers? Madam President, in fact, these issues are interrelated. Mr LAU Chin-shek has explained it earlier. After a law on standard working hours has been enacted, then as far as the relevant provisions are concerned, workers will be entitled to overtime allowances for having worked overtime. Such allowances may be calculated at the rate of 1.25 times of his wages or even 1.5 times. Under such circumstances, employers will have to contemplate whether they are willing to pay for the overtime allowances at 1.25 or 1.5 times of the original salaries. Alternatively, after doing all the calculations, he may find that it is more cost-effective for him to recruit one additional worker than frequently requiring the existing staff to work overtime. In fact, this will in effect protect the health and quality of life of staff workers. The two issues are actually cogent.

Madam President, labour relation is like *Yin Yang Sword Movement* (兩儀劍法) as described in martial arts novels. The two sides of labour relation are comparable to the *Yin* and *Yang* forces, which are opposite forces, but they are also complementary. The two sides can give play to the greatest power if they can maintain a harmonious relationship. Therefore, the motion on minimum wage and standard working hours is not only about the interests of workers, but it will benefit both the employers and the Government. For this reason, I very much hope that this motion can have the support of both the business sector and the Government, and can be implemented as soon as possible.

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

MR LEUNG KWOK-HUNG (in Cantonese): President, during a debate last year, Mr Andrew LEUNG fiercely criticized us for behaving in the way we did for we only wanted ballots. This year, Mr LEUNG has made such a quick progress that he no longer said anything like that. Therefore, I will not scold him anymore.

On the other hand, I guess I have to apologize to Mr MA Lik because the furious remark "preferring meal coupons to ballots" he made the other day did

not originate from the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB). He was right — the remark was actually made by the Hong Kong Federation of Trade Unions (FTU). This is very strange indeed. So was the remark made by the FTU. At present, we have neither ballots nor meal coupons. What is more, we are crippled by a system like this. Was this remark made at that time wrong? People were advised to prefer meal coupons to ballots, and people not entitled to a ballot would be given a meal coupon instead. No, this was actually not the case. Moreover, a decade has already passed. My brother, even I do not have a clear idea because the DAB and the FTU are mutually complementary. Like the Chelsea football team, the DAB and the FTU keep taking turns to play in the game. With its strong fleet of substitutes, Chelsea will definitely be the winner. Sometimes, even referees give it a hand too.

What I wish to say is very simple. What has been proved today? What has been proved insofar as the labour sector is concerned? At times of economic prosperity, people will question why a minimum wage is required for the market should be able to make self-adjustments. At times of economic depression, however, wages will naturally be suppressed to an exceedingly low level. I do not wish to go on any longer, for both the labour and management sides have told of many miseries. How does this system operate? During an economic depression, we in the labour class will become the first to bear the brunt; during an economic recovery, the benefits to be shared will simply disappear. At times of economic revival, people do not care about workers. Therefore, the phenomenon of more and more people applying for CSSA and low-income earners seeing their wages slashed further will never come to an end. These data are simply self-evident.

How should the question be interpreted? A lot of other issues will be involved too. Mr Jasper TSANG once remarked that, without such a mechanism, it would be pointless to make legislation. May I ask Mr TSANG: What vote did you cast during the voting on collective bargaining? Why was it that you did not mention the need to put in place a mechanism at that time? This is like the comment you made about a table must have four legs. However, when someone suggested cutting off two legs from the table, you changed your position and said that the table was not really necessary. You also suggested removing one leg from all tables with three legs. May I ask you: What kind of person are you? Such demands as collective bargaining, minimum wage, standard working hours and unfair dismissal law are frequently mentioned by

people engaged in labour movements. Even people with just a little sense of social justice would make demands like these. However, you have not done so. You just keep removing the legs, saying that they are no good. As a table without legs will collapse and injure people, are you not letting the working class down?

I would like to turn to another subject about a poem written by Chairman MAO. In this poem, entitled "No need to break wind", there is a famous line — This is true. Madam President, please do not stop me. It comes from the poem "No need to break wind" written by Chairman MAO. Nowadays, there are simply too many people talking nonsense. A minimum wage is merely an indicator of a certain level of wage. Through their labour unions, workers in every industry can exercise their collective bargaining power to fight for higher wages. There is no need to fear. This is the only power they require. Some people will then ask: What happens when there is an economic recession? Economic depression is everyone's business. Everyone knows how to say something like this. Do Members really believe there is truly a *laissez-faire* market in this world? Has the United States not imposed restrictions on minimum wage or set up trade fortresses? Why is it that so many people still produce goods for illegal transshipment? Hence, those people who say that the world can rely entirely on market adjustments are insane. They are absolutely the kind of persons who will say there must be a moon when they see the sun.

This also reminds me of "The Red Lantern", a revolutionary model play, and it appeared that I was watching LI Yuhe (the character playing a typical Chinese man) saying: "Why could you act in this way? He does not take a man as a man at all". When I was a child, I would clap my hands whenever I saw the character read out this line. He was actually saying that the Japanese and Kuomintang had made life so miserable that the masses had to scrape a living by collecting cinders — this was the origin of the famous line "children of poor families would soon become the breadwinners". LI Tiemei was made to collect cinders and vegetable scraps. My brother, what era is it now? Are you still insisting on upholding your conviction and your criticisms? You really should not say you believe in it and insult it. If you do, Chairman MAO would have died with everlasting regret. All it boils down to is the system. Under this system, money can buy ballots. One will get even richer with more ballots, and poorer with fewer ballots. This is how this evil and corrupt system works. And yet you are going to uphold it.

Honourable colleagues, there are not many workers here today listening to the debate. I guess many of them are watching television because they are out of job — however, they might not be able to afford watching paid television for it is quite expensive too. I will give Members a very simple piece of advice. You must never trust the "blessing gangs" or con men who ask you to give up your rights in exchange for something. They will tell you that they will bring you good fortune and ask you to put all your dignity into a plastic bag. Then they will take away the bag and disappear. Every one of them will advise you not to make any noise and then you will receive something from "Grandpa". Chief Executive Donald TSANG was utterly speechless when he was asked a question during an interview by BBC. When he was asked what he would do to give Hong Kong people something, he replied that he had no idea. He said that he worked for the Central Authorities, as well as Hong Kong. This is exactly what this parliamentary assembly is doing at the moment — working for both the rich and the poor. Is it insane? This is actually very simple. Anyone who has studied politics knows that the higher the wages go, the less the management side can exploit. Hence, less profit will be made. This is a very simple theory.

Therefore, may I ask my brothers and sisters from the working class to remember stepping forward to fight for democracy. At the end of my previous speech, I said we would definitely win and would have democracy one day. This time, I am going to repeat the same thing. Moreover, it is even better this time. I was shooting the arrow at no target in the past. Now, we are going to propose 4 December. May I ask more than 3 million people from the working class to bear in mind who deprived us of our collective bargaining power, who told us that we would be hurting ourselves with a minimum wage, who told us that workers would be hurting themselves with standard working hours, and who said that it was good to have no unfair dismissal legislation. Please step forward and say, "No! No! No! We want democracy! We want no hunger! We want democracy! We want no hunger! We want democracy! We want no hunger!". These are the calls of human dignity. Even if someone tells us to shut up before we will be fed, we must never listen to him.

MR ALBERT HO (in Cantonese): Madam President, just now I heard a number of Members from the business sector voice their determination to safeguard our free market. Mrs Selina CHOW even suggested that we should not enact

legislation to interfere in the market. I really have no idea what sort of free market she was referring to? When she suggested there be no legislative interference, was she referring to the free market existed two centuries ago when Karl MARX wrote *Das Kapital*? Back then, a 12-year-old could work as a miner or be "traded" as a railway construction labourer. Was she referring to a free market like that?

The answer must be "no". What we are referring to is the free market today. For such a market to operate, there must be free transactions, free communications, fair competition and, very often, reciprocal or equitable bargaining powers. In our opinion, only such free market needs to be protected and cherished.

First, the purpose of the Government to interfere by enacting legislation is to prevent market imbalance and uphold freedom and fair competition. Many of our laws were enacted precisely to serve these purposes. Therefore, what sort of a free market was Mrs CHOW referring to? She should clarify her concept first. Instead of asking whether we should oppose legal interference, we should ask when and on what questions legal interference is called for, and how far such interference should go. Otherwise, it will no longer be meaningful to retain many of the laws relating to environmental protection and workers' safety.

Second, some people simply love to suggest relocating funds to places where there are more investment opportunities and cheaper wages on the ground that the labour sector in Hong Kong has stirred up so many troubles. However, is it not the case that the funds were already moved out of the territory a long time, or two decades, ago? Is it not true that enormous funds have moved northward over the past two decades? Is it because of the problem of wages that some investors have opted not to leave? No. They have to establish their roots in Hong Kong just because they cannot go away. Therefore, Members should not keep saying that these investors stay here because they are morally obliged to stay in Hong Kong.

Third, just now Mr Jasper TSANG stated that, even after listening to the speech delivered by Mr Andrew CHENG for quite a while, he still could not figure out how Mr CHENG justified the demands of the Democratic Party, particularly the justifications for supporting the enactment of legislation to impose standard working hours. I think this question has been discussed

repeatedly before, and it might not be necessary to repeat the arguments again in an excessively detailed manner. Anyhow, I have in my hand a study report published by the Democratic Party in August 2005. In addition to the Members' bills proposed by the Democratic Party, it also contains proposals on enacting legislation to regulate minimum wage and standard working hours, as well as some research data. Today, I am going to give it to Mr Jasper TSANG for free.

I certainly hope Members can join in the discussion. However, the issue of minimum wage has been discussed many times before. Actually, the issue of working hours is all about health, a most vital issue. It covers the health of employees, labour-management relations, the family life of employees, and even that of social atmosphere. Long working hours have very often caused industrial accidents. Need I say more? Several Members have also talked about family life. They have even pointed out that Hong Kong's declining birth rate and the average low frequency of Hong Kong people having sex are linked to excessively long working hours. I do not know whether there is really any connection between this phenomenon and excessively long working hours. Perhaps experts or the Secretary can shed some light on this later. Excessively long working hours definitely take their toll on family life: many manual workers cannot afford the time to care for their children; they may even have marital problems. The absence of a healthy working environment is indeed unacceptable to modern society.

I do not wish to describe this issue entirely as a matter of confrontation between the labour and management sides. I think the situation has not yet reached such a stage. Neither do I consider the labour-management relations like "negotiating with the tiger for its hide". The crux of the problem is that there will always be some influential groups capable of exercising their influence, because of their advantageous position, to impede the implementation of policies which might compromise their economic interest. Yet, those policies are considered by me to be conducive to society in general and, from a longer-term angle, even beneficial to both the labour and management sides. However, our system might not allow such discussion to achieve full result. The closed-door discussions conducted by the Labour Advisory Board (LAB) are entirely meaningless. As with the Commission on Strategic Development, the LAB will merely adopt a "delaying" tactic. This explains why the Chief Executive is so pleased to pass the universal suffrage timetable to the

Commission for study. There could only be one reason: delay. In short, this issue must be decided. Given the existence in this Council of a large number of elected Members and political parties representing different strata, this issue should at least be decided by this Council. At the same time, the Government should submit legislative proposals to this Council.

Lastly, under the International Covenant on Human Rights and the Basic Law, it is perfectly natural for workers to enjoy a minimum wage and standard working hours. We should feel sorry that we even have to beg for it as if it was a grace. A number of colleagues indicated earlier the significance of a democratic system. Therefore, I would like to appeal to friends in the labour sector again that democracy must be supported. I will give a flag to friends from the FTU, hoping they will join us on 4 December to fight for universal suffrage, a minimum wage and standard working hours. Thank you.

MR ALBERT CHAN (in Cantonese): President, the issue of a minimum wage is related to the conscience of a society. Conscience cannot be measured in money terms, nor can it be measured in terms of economic benefits. In this Chamber, a number of Members have said that we have discussed this issue repeatedly, in particular, it seems that Honourable colleagues from the Liberal Party are feeling rather fed up with this subject. The reason that this issue has been discussed and debated repeatedly is that this debate is related to social conscience. Since Members from the rich party voted against this question on each occasion, the policy on a minimum wage, which reflects the conscience of a society, cannot be implemented in Hong Kong, so we have to argue over it again and again.

Members of the rich party are making money again and again, however, they are never tired of it. Do they not count their money over and over? Their interests and profits keep increasing, so why are they not tired of it? They do not want to discuss this issue any further because each time after they had discussed it, they would probably feel ashamed when they woke up in the middle of the night, since the money that they made was made for them by the labourers they hired, who sweated and toiled for them. Of course, some of the members in the rich party may not be heartless employers, however, this system allows unscrupulous employers to engage in exploitation. Allowing such an unconscionable system to exist is a reflection of heartlessness and shows that there is a lack of social conscience.

We have been discussing a number of issues repeatedly, for example, such issues as poverty, corruption and the absence of democracy. So long as this issue of minimum wage is not resolved, I can assure Members from the rich party, Members opposing this motion and the Government that this issue will definitely continue to haunt the legislature and these people like a phantom that refuses to leave because Members who support justice and equality will definitely not sanction the absence of a minimum wage in Hong Kong forever.

In fact, it is pathetic not just for the legislature but also for Hong Kong to keep discussing this issue, and this is even a shame. Which so-called advanced and civilized society has failed to introduce a minimum wage? We came back from Taiwan only yesterday. There, we met Mr MA Ying-jeou and one Member asked him if a minimum wage had been introduced in Taiwan. He appeared to be very surprised that we would ask him such a question because a minimum wage has been prescribed in Taiwan for years. If any government, political party or political figure rejects a minimum wage, this only reflects that they have fallen behind the times and the trend in development. In terms of mindset, opposing a minimum wage is just like opposing the liberation of slaves in the United States more than a hundred years ago, is it not? People who can benefit from this system will surely not give up the system of their own accord. However, why should they oppose this reasonable system, which is being practiced at many places in the world? That is because if such a system is practised, their interests will surely be compromised, therefore, they would rather continue to exploit workers and condone the continued existence of this system which exploits employees rather than change it.

The American Civil War broke out over the liberation of slaves, did it not? The masters of the slaves were not willing to give up slavery of their own accord and were willing to do so only after they were defeated in war. There is not any likelihood that a war would break out in Hong Kong, nor will a revolution erupt. I have said many times in this legislature that if Hong Kong were like the countries in Southeast Asia, South America or Africa, a lot of riots would have occurred, would they not? A few days ago, a bomb went off in the office of a certain newspaper, however, that is not related to workers' rights. If Members look at those really backward countries, they will know that often, the oppression of workers led to an escalation of confrontation, finally resulting in a people's revolution. Such instances have occurred many times. However, such

objective conditions do not exist in Hong Kong. I do not mean that the people and workers do not want to stage a revolution but that in the past, Hong Kong was a colony, whereas the principle of "one country, two systems" is now practised here. With our powerful Motherland at our back, I believe no worker has the guts to foment a revolution. Moreover, most of the members of our trade unions are manipulated and controlled by the pro-communist or pro-Beijing camp.

Insofar as the pro-Beijing camp is concerned, I feel really disappointed with Mr Jasper TSANG. For many years, I have held him in high esteem. I think he is the most eloquent and persuasive person in this legislature and among the many leftists, he is the one with greater political wisdom. "Long Hair" has already said a lot and I am not going to repeat what he has said. The thing that leftists are best at is to work against the masses under the banner of working for the masses. I hope that he will not style himself as workers' representative to undermine the interests of workers.

If Hong Kong still refuses to set a minimum wage, I myself can only say that this is a typical example of collusion between the Government and businesses and these two parties are joining hands to exploit the interests of workers. A number of Members have said that the Government often claims that there is a lack of consensus, however, can we say that a consensus has been reached on the Fifth Report? However, they still did what they set out to do, did they not? When they awarded the contract on Container Terminal 9 to a consortium, had a consensus ever been reached? They just awarded it in the way they like, in violation of the wishes of Hong Kong people. Therefore, if this problem continues to exist, I believe that in the hearts of grass-roots members of the public, in particular, in the hearts of members of the public who support justice and hold any sense of social conscience, this Government will be considered to be biased in favour of the rich and powerful and unscrupulous employers. If the Government sanctions such a system, it will only prove that it condones the exploitation of employees by unscrupulous employers. Therefore, as long as the Government does not change this system and implement a minimum wage, I will still accuse the Government of colluding with the business sector, of joining hands with the business sector in exploiting the interests of employees.

I support today's motion and amendment.

DR FERNANDO CHEUNG (in Cantonese): President, I have a deep impression of this subject because last year, when I had just become a Member of the legislature, the very first motion was on setting a minimum wage and maximum working hours. The voting result at that time was that 38 persons were in favour of the motion, 18 were against it and one abstained. In any normal legislature, there is practically no need to discuss any further because the motion was passed. However, under the distorted political system in Hong Kong, even though a motion has been passed, it is not legally binding. Moreover, since it is necessary to vote in groups, even though the motion was supported by a majority of directly elected Members, the fact is that it was still negated eventually.

If we are not subject to the provision of Article 74 of the Basic Law, which makes it practically impossible for Members to propose any Members' bill, it will be possible for us to prescribe a minimum wage and standard working hours by way of a Members' bill and make it legally binding. In that way, a minimum wage and standard working hours would have already been implemented in Hong Kong nowadays.

So far, in our discussions, representatives of the business sector still put forth the so-called school of free economy as its doctrine to stave off such a basic demand in society. They still maintain that the self-adjusting market mechanism can solve all problems. If that is really the case, basically there is no need for us to have any so-called labour laws, to enact legislation to ban child labour, to enact legislation to give employees paid leave and all issues can be resolved by relying on the market mechanism.

If the market is really so sacrosanct and if the market economy is the only principle underlying social policies, basically there is no need for us to do so many things. However, it is obvious that at present, it is the market that violates the basic dignity of people. The prescription of a minimum wage and standard working hours is not an economic issue but a moral issue.

We say that this is a moral issue because although the development of our society has surpassed that of Britain and is catching up fast with the United States — the Financial Secretary said just now that our per capita income is US\$24,000 per year which is one of the highest among various world economies — we still find that a group of people is working very hard but the wages that they earn cannot meet the basic needs of living. If we look at the

figures for last year, we will know that there are 200 000 wage earners working for over 35 hours per week but whose income is less than \$5,000. There are 200 000 people working full time whose salary is below \$5,000 and 130 000 people whose income is below \$3,000.

Can Members imagine that 130 000 wage earners are working full time but the wages that they take home are less than \$3,000? Is this not a shame? Is this not intolerable? I want to pose this question to our friends in the Government or the business sector: Do they find this acceptable in terms of moral and to their conscience? Wage earners work full time for their employers but the wages that they take home do not even reach \$3,000, so what sort of spiel are those employers delivering? This situation has persisted for so many years and the rationale behind the proposal is so simple, however, they are still behaving in this way. How can they possibly sleep at night? How do they treat their own children? How can they explain to their next generation? This is a basic moral issue.

The Government has not given any protection to the grassroots and the group with the lowest income in society either. The talk of a self-adjusting market mechanism is all nonsense. Honourable Members, there are still hundreds of thousands of such wage earners, so is this not too much? What sort of society is Hong Kong? This is a world financial centre and a world city in Asia, so how can we possibly tolerate that there are hundreds of thousands of wage earners who work for more than 35 hours per week but take home less than \$3,000? I did not make these figures up myself and they are provided by the Census and Statistics Department.

President, although the Government says that it wants to help the poor, that it wants to encourage members of the public to become self-reliant and believes that employment is the best solution to the problem of poverty, I really do not understand why, at the same time, we are sanctioning the fact that hundreds of thousands of wage earners are getting wages of less than \$3,000 per month. What sort of rationale is the Government presenting? What is the logic of all this?

In overseas countries, there are also discussions on helping the poor and to do so through employment. However, minimum wages and standard working hours are prescribed in these countries. This is a basic system that any civilized society should put in place to prevent market failure. If the free market is

allowed a free rein and the strong are allowed to prey on the weak, is our society going to wipe out the old, weak and handicapped? I really do not understand.

Since we can pass the foregoing moral judgement on the issue of a minimum wage, the same applies to the issue of working hours. At present, the working hours of wage earners are already far too long. Recently, a trade union interviewed 400 professional drivers and half of the respondents said that they had to work for more than 10 hours each day. Professional drivers have to work for more than 10 hours each day and they do not have the time to do exercise, so a lot of drivers are suffering from such problems as sciatica and gastric problems.

The Hong Kong Federation of Youth Groups has recently set up a hotline. In 2004, it received more than 3 000 requests for assistance from people who felt lonely; of these, 70% were primary school students. Some of them wanted to talk to counsellors until their parents would go off work because their parents had to work for long hours. What sort of phenomenon is this? If even today, we still consider that there is no need to prescribe a minimum wage for society and there is no need to impose regulation on maximum working hours, I hope Members will consider who will actually be the winners and who will be the losers? The conclusion cannot be more obvious.

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

MR HOWARD YOUNG (in Cantonese): Madam President, the question on "minimum wage, maximum working hours" was discussed right at the beginning of the pervious Legislative Session. During the discussion, I pointed out in unequivocal terms that the prescription of minimum wage and standard working hours was not applicable to every company in every industry. At least, the tourism industry, represented by me, generally considers the imposition of minimum wage and maximum working hours unnecessary and objects to increased interference with operators. Furthermore, as Hong Kong economy has just gradually picked up, business operators in Hong Kong are still faced with a lot of uncertainties, such as avian flu, rising interest rates, high oil prices, exorbitant rents, and so on.

To legislate for the imposition of minimum wage and maximum working hours across the board will go against the principle of free economy upheld in

Hong Kong all along. The territory's competitive edge will unavoidably be undermined should wages no longer be adjusted naturally according to the socio-economic conditions and the supply and demand situation of the labour market. Frankly speaking, the average wages of employees in Hong Kong are already higher than those of our neighbours. The imposition of a minimum wage, thereby further pushing wages higher, will only be counter-productive. This will in turn lead to rising operating costs of small and medium enterprises (SMEs) and dampen the desire of foreign capital to start up business in Hong Kong.

Although I did raise this point in the Motion of Thanks for the policy address not long ago, today I hope to reiterate that what I am going to say does not directly relate, but is somewhat relevant, to a minimum wage, and that is, the Government's appeal for industries to make reference to the concept of the median wage or average wage is illogical and inflexible. Moreover, the pay trends in the market cannot be truly reflected too.

Another concern about the implementation of a minimum wage is that it might eventually turn into a maximum wage. Not only is there no guarantee that employees will receive handsome wages commensurate with their good performance, there will be rising operating pressure on employers as well. After salaries are raised, while capable employers might still be able to offset the raises by reducing the number of employees or the amount of training expenses, employers who are unable to cope can only wind up their businesses. With fewer and fewer jobs available, employees will eventually find that their losses outweigh their gains. Moreover, it is not helpful at all to enhancing their benefits and job opportunities.

Despite the improvement in our economy and the constant rise in the numbers of inbound and outbound travellers, travel agencies are still facing a lot of operational hardships. I once issued to more than 1 000 travel agencies across the territory a questionnaire on whether the Government should legislate on minimum wage. Nearly 70% of the responding travel agencies considered it unnecessary for the tourism industry to impose a minimum wage, for even doing so would not help bring their employees better wages. They also felt that the level of wages in Hong Kong should be decided freely by the market and subject to self-adjustment. Rigidly imposing an inflexible minimum wage will only result in higher operating costs, particularly for SMEs, and certain people might

lose their jobs in the end. Under the principle of free economy, the Government should keep its interference to the minimum.

Tourism is a service industry. On top of the basic salaries, the earnings of tour guides, tour leaders or air ticket salespersons are mostly subject to a commission system. Under this system, rewards will be offered according to performance, where more work brings more pay. In general, the overall pay matches the market's reasonable standard, and there should be no problem in meeting basic living expenses. Experienced tour guides and tour leaders can get even higher pay, particularly during peak seasons. However, after the imposition of a minimum wage, if not properly dealt with, the minimum wage will turn into a maximum wage. As a result, there will be less motivation for the staff and the standard of their service will naturally decline too. For these reasons, it is not suitable to impose a minimum wage in the service-oriented tourism industry.

We have also examined why some travel agencies support the idea of imposing a minimum wage. Their argument is that certain companies are known to have deducted the pay of tour guides and tour leaders. I believe these companies are but a handful of black sheep. In this respect, the Government should address the problem by possibly stepping up supervision through putting in place an effective complaint mechanism to protect employees from unreasonable pay deduction.

Employees, particularly good ones, have a vital part to play in the services sector. Now that the tourism industry is in desperate need of talents, and every employer is trying to retain their talented staff too. Therefore, when travel agencies are doing brisk business and making money, they will be willing to share the gains with their employees by paying out bonuses as a reward for the latter's efforts. Companies which can afford might even offer pay rises to boost the morale of their staff and increase bonuses to enhance their staff's sense of belonging so that they will work even harder.

As regards the imposition of the so-called standard working hours and reasonable rest breaks during working hours to ensure that employees get sufficient rest and have spare time to pursue studies, as I pointed out in the previous debate, how can we guarantee that the desired effect can be achieved? If the employees take up part-time jobs after work for more income, it will be

useless to regulate their working hours. In the end, the regulation of working hours cannot do anything to achieve the goal of enabling the employees to pursue studies and take rest. Dr Fernando CHEUNG mentioned earlier that many professional drivers had to work more than 10 hours every day. If this Council meeting cannot adjourn at seven o'clock this evening, I believe we will have worked for more than 10 hours too.

It is very difficult too for the tourism industry to regulate working hours for there are peak and non-peak seasons. For example, the Lunar New Year, Easter, Christmas and summer holidays are peak seasons for outbound travellers. During these holidays, it is extremely normal for tour guides to work overtime and receive tour groups one after another. They are accustomed to making money during the peak seasons and keep it for the non-peak seasons. The imposition of maximum working hours will, on the contrary, affect their income and livelihood.

Hong Kong's success of being an international financial hub today is attributed to the principle of free economy upheld all through the years. The imposition of a minimum wage and regulation of working hours, contrary to this principle, will not only undermine our competitive edge but also give rise to such social issues as illegal labour without necessarily improving employees' pay and benefits.

Madam President, I so submit.

MR LEUNG YIU-CHUNG (in Cantonese): President, I recall that during the first meeting held last year by the Legislative Council of the new term, Miss CHAN Yuen-han and I coincidentally made the same remark that this Council was revisiting old issues again. We made exactly the same remark because both of us happened to rehash an old motion which had been discussed over the years. While the motion proposed by Miss CHAN concerned the setting of maximum working hours and a minimum wage, the one proposed by me concerned the offer of concessionary fares to people with a disability.

Given the distorted nature of our parliamentary system, as pointed out by Dr Fernando CHEUNG, I believe the practice of revisiting old issues will not end today. I guess this phenomenon will probably reappear next year — though I certainly do not wish to see this happen again.

Nonetheless, President, I believe both Miss CHAN and I will not give up our conviction and spirit. I also believe she will not give up any opportunity of proposing a similar motion again in the next Session should the result be unsatisfactory. Neither will I. I believe we can be persistent mainly because we are convinced that we must hold onto our convictions at seeing such unfairness and inequality in society. Otherwise, the problems can never be resolved.

We feel that society is obliged to take care of the disadvantaged and grass-roots workers. What are the main reasons? It is because they are living in an environment without any protection. It will be pitiable, and shameful indeed, for this Council to neglect them and the Government to refuse taking proactive actions.

Why should the Government be mentioned specifically? Members should be aware that there will easily be confrontation between the labour and management sides on this issue. Their positions in disputes might not be the same too. This explains why the Government has to come into this and play a role. The Government should assume the role to lead both parties to tackle this problem. However, in the course of discussion over the years, the Government's attitude has regrettably not changed at all — it is still acting with indifference without actively addressing the problem. Why must I criticize the Government so harshly? I remember previously, particularly last year, a number of Members and I made exactly the same remark that should this issue be handed over to the Labour Advisory Board (LAB) for discussion, there will definitely be no result and the LAB will definitely keep delaying. Now that a year has passed, President, the fact is right before us. The result is just as expected. What consensus has the LAB reached? The answer is very simple — to continue with the study and consultation. In this way, one year is gone.

Fine, when it comes to public consultation, what has the Government done? It has merely left a blank space on its website to allow people interested in expressing their opinions to fill in their personal data and make their views known. Yet, the Government has given no specific details as to what kind of views it wish to solicit. It has even failed to provide any directional or informational data. Will Members not feel a bit sorry for this? Insofar as this issue is concerned, what the Government has always wanted to do is to sit on one

side watching the discussion to go on and, at most, provide a platform for discussion. But what platform is it? There is nothing at all. This is our cause of concern and anxiety.

The Government must deliberate, study or investigate what negative impact a minimum wage and long working hours will produce on society as a whole. Only in doing so can meaningful results be achieved. However, the Government has not made any efforts in this respect. Actually, many labour groups and front-line workers have kept saying that long working hours will easily lead to fatigue. It will in turn easily lead to industrial accidents which will create a greater demand for social resources, such as rising medical spending. Furthermore, industrial accidents will give rise to a lot of sequelae. For instance, the families and the future financial position of the injured workers will be affected. In addition, the economy as a whole will be affected. Enterprises will be adversely affected if there are numerous accidents because they will too incur losses as a result of worker injuries.

In addition to these problems, there are, as pointed out by Mr Albert HO, other health problems as well, including the well-being of family life. President, in discussing education issues, the Government will very often advocate the so-called parent-child education. But how can parent-child education be possible when the working hours of the employees are so long? Is the Government saying one thing but doing another? In the opinion of educationalists, the occurrence of so many youth problems nowadays is, to a very large extent, attributable to the lack of time for parents to attend to their children or to be by their sides when they grow up. This problem is even more serious. However, has the Government conducted any studies in this respect? Has any guiding and directional discussion been conducted? Again, the Government has completely failed to deliver.

The consequences will be very serious and that is, society will have to pay a social cost. Why did the Government not consider these issues? I believe the outcome of discussion would not be the same had the Government presented all these problems. It is a great pity that the Government has completely failed to deliver. On the issues of working hours and wages, I think the Government should not indulge in its wishful thinking that it can maintain a neutral position by merely asking the public to express ideas without stating its own position. In this way, the problems will never be resolved. Instead, the Government should

look at the matter from the angle of society as a whole. Exceedingly long working hours and low wages will cost the Government dearly. For instance, more expenditure on CSSA, health care and education will be required. Perhaps more prisons have to be built too. Why is the Government unwilling to discuss these social problems? Other than requesting Members to express their views, the Government has done nothing at all. Of course, Members should express their views. But what will happen in the end? President, although I am no prophet, I can predict that "divergence of views" will be the final conclusion of the Government — full stop. Members might as well take their time discussing further.

Therefore, I would like to ask Miss CHAN Yuen-han to keep up her efforts. Anyway, the same question will be proposed again next year. President, the revisiting of old issues will just go on and on without an end.....
(the buzzer sounded)

President, I so submit. Thank you.

MR VINCENT FANG (in Cantonese): Madam President, last year when after I had been returned to this Council, the first piece of work I submitted as a Member of this Council was a speech delivered in the motion debate on minimum wage and maximum working hours. Now more than a year has passed, Miss CHAN Yuen-han is proposing the same motion again and a minor change has been made to the expression "maximum working hours" which is rephrased as "standard working hours". In my opinion, what the labour sector has been talking about all these years is only regulation and the arguments advanced actually carry little practical significance.

I must admit that in certain trades, some people are getting a relatively low reward and such trades include those which do not require any skills and instead would require more labour, such as security guards and cleaners.

The main reason why wages are low in these trades is the mismatch between the working population and the types of work available in Hong Kong. There are some people in the workforce who have a difficult time looking for a job. This is because the types of work they used to be doing have been relocated to the Mainland and these people may lack the skills to switch to other

trades and they may be somewhat advanced in their age. Some of these people are new arrivals to Hong Kong and they may have a low level of skills and knowledge of Hong Kong society. Then there are the housewives who want to rejoin the labour market. Due to all these constraints, these people may find themselves in an unfavourable position when they look for a job and their bargaining power may be weakened.

But can legislation on a standard or so-called "minimum wage" be able to ensure a reasonable wage for these people? Are we justified in destroying all of a sudden the advantage of a free economy which has underpinned our society for so long just because there happens to be a small number of employers who are not law-abiding?

An Honourable colleague has suggested setting the minimum hourly wage at \$25. As far as I know, the hourly wage of domestic helpers is at least \$50 currently. But why is the hourly wage of some ordinary cleaners only some \$20? The reason is a difference in skills between the two. Once minimum wage legislation is enacted, employers may take the minimum wage rate as the bottomline for wages. Who then will be the victims?

There are differences in the wage system in various trades and industries. In the retail trade to which I belong, the system commonly adopted is that of a basic salary plus commission. The basic salary of companies in the retail trade is usually higher than the basic salary suggested by Honourable colleagues.

Moreover, it would be a passive action to take if a mandatory basic wage level is set as a safeguard. Instead of making the workers march on the same spot and making progress out of their reach, it would be more positive to help these grassroots workers to add value to themselves, thus equipping them to earn more money.

In the retail trade, for example, a salesperson who speaks only Cantonese will certainly earn a different salary than another who speaks many languages. There are even differences in the prospects of switching to other trades between the two.

I mentioned in the policy address debate that there was an increasingly noticeable tendency among employees in the retail trade to change jobs. The

main reason is that there are some international retail brands trying to fill niches in the Hong Kong market and they require teams of experienced sales personnel. The other reason is that there has been a boom in the retail market and in order to serve the growing number of tourists, many companies are expanding their business as they envisage rosy prospects. As a result, more staff are needed and front-line salespersons are in high demand and so their salary rises.

To offer a positive solution to the problem, the Government should target the surplus workforce caused by the economic restructuring of the territory and devise effective training programmes on that will facilitate job switch meet market needs.

An example of this is the large number of workers in the poultry stalls and transportation workers who are forced out of work because the Government's revocation of live poultry licences. Yesterday, my office got a request for help from the merchandisers for live pigs. These people in the trade were beginning to worry that after the Government had revoked the licences of pig farms later, many of them would become unemployed. They thought that the Government had the responsibility to provide retraining to them as appropriate to enable them to re-enter the job market. For if not, they would only end up joining the unemployed ranks.

As for proposals on standard working hours, regulating the number of working hours and offering overtime allowance, the aim of all these is to enable employees to get more pay. But these proposals will not guarantee that the employees will have the rest and opportunities to pursue further studies which they deserve.

I always emphasize that good employees are the assets of their boss. If the employees work too hard and fall sick as a result, it is the boss who will incur losses. If the employees are willing to pursue further studies and add value, it is the boss who will benefit in the end. I think employers are smart enough to make the right choice.

Another thing which I would like to point out is that in July the Trade and Industry Department suspended the applications for the SME Training Fund for small and medium enterprises (SMEs). Ever since the introduction of the Fund, it has been very popular with the SMEs. Many employees have benefited from

the Fund. I hope the Government can give serious thoughts to re-launching this kind of funds as they will benefit both the employers and employees in Hong Kong.

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

MR FREDERICK FUNG (in Cantonese): President, the Government issued a statement saying that it could not understand the move made by this Council two weeks ago to veto, for the second time, a Motion of Thanks with respect to the policy address. Actually, I consider it perfectly logical and natural for this Council to act in that way. Even if we ignore the failure of constitutional reform to meet public aspirations, as stated in the policy address, such topics of great concern to the public as helping the needy, minimum wage, and so on, are merely a rehash of old ideas. The Government's whirlwind and routine inspection of programmes ongoing has merely reflected its lack of direction and determination in improving the livelihood of low-income earners.

The replacement of "Mr TUNG" by "Mr TSANG" has apparently brought Hong Kong society a ray of hope, as evident in the higher popularity enjoyed by Mr TSANG. However, the size of the poor population in Hong Kong society still exceeds 1.2 million, with nearly 300 000 people suffering from working poverty working day and night without adequate rest. Worst of all, they can neither feed themselves nor support their families with their meagre income. Some people have even been excluded by mainstream society and failed entirely to benefit from the recent economic growth. On the contrary, the inflation resulted from the economic growth has further aggravated their hardship. Failing to respond to the plight of these people, the Government's policy address has, on the contrary, merely reiterated that their livelihood will be improved with a robust economy. This is actually a tactic of the Government to divert people's attention.

President, I believe Members for and against minimum wage and standard working hours have already made their position quite clear in this Chamber by presenting different proof to substantiate their own arguments. I have also quoted many researches and examples to prove that minimum wage is practically feasible, and that the majority of more advanced and developed economies have

already implemented minimum wages. On the whole, the opposition side has often used trite excuses and spiel theories of free economy, such as interference in the free market, impact on the business environment, uselessness in boosting employment, and so on, to oppose the imposition of a minimum wage and standard working hours as a matter of course. I actually do not wish to repeat these arguments. However, I find that Members seem to have had in their mind an absolute standard to evaluate this social policy and that is, whether the free market is operating freely and whether businessmen can do whatever they want. Why are the opponents always controlled by this way of thinking and bogged down in these short-sighted and narrow points of views? A more in-depth analysis shows that this is precisely caused by the difference in the underlying sense of value between the proponents and opponents. What ultimately do we care for? Should the short-term economic benefit for businessmen, the rights of individuals, human rights, freedom or basic livelihood be protected? Is the so-called free market such a great goal that we would rather tolerate some unreasonable phenomena in silence for the sake of avoiding interference in the free market? Even though some people of the lower stratum work most of the time every day, they are still unable to feed their families. Despite the economic prosperity enjoyed by Hong Kong with its GDP reaching US\$23,000 or HK\$180,000 a year and its citizens earning such a high monthly income of \$15,000 on average per person, why are some people still living in poverty even though they work round the clock? Is our society caring and just, as described by the Government?

Actually, the Chief Executive has in this policy address talked about certain values. However, the content of the part on the so-called cherishing family values is extremely vague. In addition to pointing out that the Government will continue to enhance family cohesion with effective policies, it is also reiterated that a number of counselling programmes, services, and so on, are offered at present. A question the public cannot help asking is: Is it the case that the Government simply cannot see that many of the family problems nowadays stem from the fact that constant work and overtime have made it entirely impossible for family members to have time for communication? According to statistics, the median working hours of employees in Hong Kong are 48, whereas over 40% of the employees work more than 50 hours weekly, with 793 000 of them even working more than 60 hours. What is more, some low-skilled workers can simply not make enough money to sustain the basic livelihood of their families.

President, despite its calls for cherishing family values, the Government has in actuality not faced squarely the causes of family problems. Its proposals are all remedial measures. Is this an act of cherishing family values? Actually, time is what our families precisely need. Because of the lack of it, it is impossible for family members to communicate and care for one another. Without the protection of basic livelihood, how can there be harmony and cohesion in families? Is it really the case that the Government does not understand such a simple rationale that it takes time to foster family ties?

Furthermore, the need to promote primary care was also raised in the health care reform consultation concluded at the end of last month. In short, primary care refers to the provision in the living environment of individuals of sustainable, comprehensive and holistic health care, as well as the conduct of fundamental prevention and building of a healthy way of living for the citizens. President, I believe no Member who is present here will object to this major direction. Yet, on the other hand, faced with exceedingly long working hours, the people simply do not have any chance to build up a solid family support system, not to mention having time to rest and exercise and to build up such an important pillar as mental health, so how can they foster a healthy way of living? In the final analysis, I believe the Government is still at its wits' end with the health care reform.

President, not only are the policies implemented by the Government, be they the health care reform policy or the initiatives proposed in the policy address, not carefully conceived, but they are poorly co-ordinated. Worse still, the kind of thinking underlining these policies is devoid of respect and care for the value of man. President, I believe care for man is vital to these social policies. In particular, the formulation of minimum wage and standard working hours is by no means a cosmetic gesture, nor is it just a heap of "ice-cold" figures of economic growth. Instead, it does reflect that, behind the prosperity, millions of workers are still working exceedingly long hours with blood and tears, and suffering endless mental and physical torture every day. Moreover, these workers, numbered at hundreds of thousands, can simply not support themselves or their children and families with their meagre income.

With these remarks, President, I support the motion.

MR JAMES TIEN (in Cantonese): President, regarding the debates on minimum wage and maximum working hours, I have looked up last year's record for the details of the discussion and the comments made by other colleagues to see if they will come up with new ideas this year to prevent the debates in this Council from rehashing the old issues as commented by some colleagues.

Actually, there are hardly any new arguments. The arguments advanced by both sides are more or less the same as those last year. Probably because they look at the matter from a very narrow angle, Members representing the labour sector consider that the interests of wage earners can be protected through the imposition of a minimum wage. The business sector, on the contrary, has all along adopted a more macroscopic perspective which is similar to the position stated by Chairman David ELDON on behalf of the Hong Kong General Chamber of Commerce (HKGCC), as pointed out by Miss CHAN Yuen-han in moving her motion earlier. Of course, apart from being the incumbent Chairman of the HKGCC, Mr David ELDON was formerly Chairman of the Hongkong and Shanghai Banking Corporation Limited (HSBC). With a global portfolio covering dozens of countries, the HSBC operates like a foreign economy. Among these countries, some have a minimum wage, but some do not; likewise, some have GST, and some do not. Mr ELDON should have seen a great variety of economic models. Given his years of experience of working in the HSBC, many of us from the business sector believe he will have a more specific or unique view on these major policies.

Regarding the proposal of imposing a minimum wage in Hong Kong, can we simply say that proponents of the proposal are safeguarding the interest of workers and opponents are safeguarding the interest of employers, or directly-elected Members who support the proposal are safeguarding the interest of wage earners and functional constituency Members, particularly those from the commercial and industrial functional constituencies, who object to the proposal, are safeguarding the interest of the business sector? Not necessarily.

In my opinion, this issue should be examined from the angle of general interests. Hong Kong is different from many other places. Despite its extremely small size, it has a population of 7 million. Unlike such countries as the United States, where there are oilfields and agricultural land, and even mineral ores in certain areas, Hong Kong has no resources whatsoever. What

we have is only a population of 7 million, with the vast majority of them being Chinese. They are either employees or employers. One of the reasons for the imposition of a minimum wage in the United States is that there are black people, considered to be ethnic minorities, in the country's population. But why does the unemployment rate of black Americans in the south remain at more than 10%, and why is the unemployment rate of young black Americans even higher than 30%? Despite the imposition of a minimum wage, why can the interest of employees in the United States still not be safeguarded?

Although it sounds like the interest of a small group of people in the lowest social stratum can be protected by a minimum wage, what I described earlier, for reasons unknown, has actually happened very often. Is the imposition of a minimum wage precisely the reason for some employers in the United States to hire a certain kind of people while excluding the young black Americans, who are considered to be ethnic minorities? Of course, these people will not starve to death for they may receive dole from their government.

More than 90% of the population in Hong Kong are Chinese. The number of people of other ethnic groups is relatively small. Should a minimum wage be really imposed, the employers will choose the employees they prefer. Will they prefer new immigrants? I did raise a similar problem with new immigrants last year. One of the reasons might be linked to the daily quota of 150 for family reunion. As years go by, a large number of poorly-educated people have gained entry into Hong Kong. However, they can only take up jobs at the more elementary level. Their wages are also close to the minimum wage level of approximately \$5,000 or \$6,000.

Under such circumstances, why has our unemployment rate fallen from 6.7% last year to 5.5% at present? According to the information provided by the Government, during the period from July to September this year, our workforce reached a historical new height of 3.6 million, 100 000 more than last year. Will it be possible that the lowest stratum is subject to the most pressure because of the 100 000 additional job-seekers? I guess this might be relevant to a certain extent. However, I have also noticed that fewer and fewer people are coming to Hong Kong under the daily quota of 150 for family reunion. In other words, most of those who wish to come to Hong Kong have already done so. As the number of people coming to Hong Kong for family reunion will continue to fall in the next couple of years, the number of low-income earners entering the labour market will drop too. Should the unemployment rate continue to decline

in the coming two years, the financial position of the low-income earners will definitely be improved.

I pointed out last year that when inflation rate exceeded 10% during the '90s, employees were, more often than not, given a pay rise in excess of 10%. However, they still complained that the pay increases were inadequate. With the unemployment rate standing between 2% and 3% at that time, all employees could choose employers they preferred. The situation at that time was most favourable for employees. Not only could they choose employers, they could always switch jobs when they found their pay rises not big enough. The present situation is still far from that — with our employment rate remaining at 5.5% and our economy growing at a rate of 4% to 5%, the room for pay increases is still limited. However, insofar as the business environment as a whole is concerned, enhancing our competitive edge to enable more job-seekers to choose employers would be far better than specifying a minimum wage.

I also raised a question last year as to why so many overseas places had imposed a minimum wage. From the angle of foreign capital, Hong Kong should question this idea too. While many overseas and Southeast Asian countries adopt a floating currency system, Hong Kong currency is linked with the US dollar. For foreign capital, therefore, a Hong Kong dollar minimum wage is no different to a US dollar minimum wage. For some countries, such as Indonesia, Malaysia, and so on, their currency values will fall when they start losing their competitive edge. Their minimum wages are actually constantly changing. Our hands and feet are somehow tied in this respect.

Actually, for an economy as a whole, a minimum wage has a bearing on both the employers and employees. Taxation and other welfare issues are involved as well. Although Honourable colleagues have expressed a lot of views today and the labour sector's arguments, from the overall philosophy of the business sector, are not groundless, the arguments put forward by this side are somehow more convincing. Thank you, President.

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

MR LEE WING-TAT (in Cantonese): President, actually I had wanted to let Mrs Sophie LEUNG speak before me.

President, after listening to the speeches of many Honourable colleagues, I would like to make some responses. I hope this debate would not evolve into one in which the labour sector accuses the commercial and industrial sectors of being unscrupulous, and the commercial and industrial sectors criticizing the labour sector's demand for being unreasonable.

President, I find it just a matter of policy options. Earlier on, I have listened to the speeches of Mrs Selina CHOW and Mr James TIEN very attentively. Mrs Selina CHOW said that if a minimum wage is prescribed, the existing two-shift arrangement of security guards will be changed to a three-shift one, and property owners and residents will have to pay more in wage expenditure; if the working hours of a minibus driver is reduced from nine to eight, passengers will have to pay more in bus fares. In fact, this is a matter of choice and decision. I am not saying that the issue she has identified is not true. It is true indeed. However, this is exactly like what we said a decade or two ago when we advocated democracy. If a decision is made in a democratic manner, it may take a longer time, whereas a decision can be made quicker if it is made only by one person.

However, as our society has progressed to the present stage, are we prepared to devote more social resources to certain issues? With regard to the examples cited by Mrs Selina CHOW just now, I do not disagree to all of them. In other words, the implementation of a minimum wage may lead to the emergence of certain situations. But a consensus must be reached in society, that is, we must be prepared to devote more resources to such situations. This is exactly the same as the case of advocating democracy. When Mr James TIEN supports the introduction of universal suffrage in 2012, does he think that it would not entail any additional resources? The election alone would require more money to facilitate the actual operation. However, the question we are most eager to ask is: What are the most fundamental issues at stake? With regard to the issue of a minimum wage, the pro-democracy camp supports the prescription of a minimum wage in certain trades and industries because we should provide the most basic protection to these hard-working citizens and workers.

The second question is — Mrs Selina CHOW has mentioned this point to which I also agree — the prescription of a minimum wage will produce a displacement effect, that is, after a minimum wage is introduced, those who have

a lower bargaining power in the labour market will become unemployed. The reason is very simple. At present, the security guard could be a middle-aged man, an elderly man or even a middle-aged woman. But if the salary of the post of a security guard is increased to \$6,000 a month, a young man will be recruited to fill it. The young man will replace the original incumbent. This is a replacement process. If the people understand that such a process will take place, and we also accept this, then actually this is not a problem because in terms of the number of posts, it is only a one-to-one exchange.

However, we must consider the problems that may emerge as a consequence. How should we take care of the workers who have weaker competitiveness in the labour market, and who are older and less educated? This is another labour policy issue, that is, how we can identify ways of providing retraining to these people — Mrs Selina CHOW is smiling now. This problem should be tackled by the Government. Even without a minimum wage, these people should have a job. When we hear that a man aged 50, despite his strong desire for work, has to apply for CSSA because he cannot make any money, we would not find this very funny. In fact, if he wants to earn a living through labour but eventually he fails because he cannot get a job, this is indeed not a good sign at all for society.

I do not disagree with what Mr James TIEN and Mrs Selina CHOW have said, but the issues we have raised do not just involve the discussion of certain details, unless they can prove to us that upon the formulation of a minimum wage, a fundamental and destructive impact will be caused to our economic development. Yet, so far we have not heard of any such impact. Even if such impact does exist, it should have taken place in other countries which have implemented minimum wages. But I have not seen such a phenomenon.

The Democratic Party conducted a long-term survey in 1999. We commissioned a professor of the University of Hong Kong to conduct a survey. The findings showed that, even if a minimum wage was prescribed, it could not solve all the problems. Therefore, the prescription of a minimum wage does not imply the removal of the employment problem. The two issues are not related. However, the implementation of a minimum wage will lead to a displacement effect. This is true. And this will make it more difficult for disadvantaged workers to find a job, and this is true as well. Although we find this policy involving a hard choice, we still support it. This is because as our

society has progressed to the present stage, if we do not make a decision now, we can go on debating the issue for another five years or even 10 years, and at the end of it, we may still be unable to make a decision.

Therefore, I hope the Liberal Party or friends in the commercial and industrial sectors can support the idea of moving one step forward, so that we can put forward some concrete issues for discussion. Of course, as I have said just now, this policy may make society spend more resources. However, if a consensus on this can be reached in society, I do not think this is a problem.

During the past few weeks, many riots had taken place in France. I am not going to bring up this issue for discussion. I just wish to drive home a point in mentioning this example. With regard to hidden social problems, we must make early preparations for tackling them. As we can see now, we must pay a price in setting a minimum wage in the short term. But if this price can prevent the emergence of some long-term problems, it is a price worth paying. In the riots that had taken place in France, some people belonging to certain ethnic minority groups said that they had not received adequate care, and as a result, over 20% of the young people had become unemployed. If our society is willing to devote more resources now, it will spend more in the short run. However, in the long term, this will help alleviate the social tension and conflict between the working class and the more affluent class in society.

With regard to free trade and globalization, the Democratic Party is supportive. However, we also know that if we do not ameliorate various problems such as the widening wealth gap and environmental pollution, and so on, they will become some time bombs. Therefore, as the Liberal Party supports the implementation of universal suffrage in 2012, it can also take one step forward on this issue.

In fact, will this move bring about a destructive effect on the economy, thus making them unwilling to take one step forward? I think this is a good starting point for reaching a social consensus. I hope in future the Commission on Strategic Development (the Commission) can present their "homework" in one year by prescribing a minimum wage and starting to work out concrete proposals on details in various aspects as well as the social commitments we have to make. The Commission should put forward such concrete proposals, instead of just playing the Government's old tune of leaving further discussions to the

employers and the employees, and then close the file. I think this will never achieve any concrete results. Thank you, Madam President.

MRS SOPHIE LEUNG (in Cantonese): President, insofar as this question is concerned, I suppose Members can somehow explain to their voters when they go back today because every point made by Members seems to be very reasonable. It sounds valid to their voters too. However, if all Members are right, who is really right?

On this issue, why is it that, as pointed out by Mr Frederick FUNG — it should be Mr LEUNG Yiu-chung, not Mr Frederick FUNG — we have to revisit the same issues several years in a row? Despite the disapproval of some Members, others insist on doing this. Has it ever occurred to Members that we might be looking at this issue in a lopsided manner?

Mr LEE Wing-tat said earlier that if the Liberal Party supports direct election, perhaps it may take two more steps to support this proposal. Yet, the crux of the problem is that not every task can be accomplished simply by taking a few more steps. I do wish to render support to many issues. However, how can I render my support when I see that something is always missing in the proposals? From the angle of society as a whole — I see that a number of Members, including Mr LEE Wing-tat, did not object to our proposal of conducting more in-depth studies — we must do so before we can really find out the weaknesses of our society.

A number of Members mentioned earlier that some low-skilled workers, owing to their low competitiveness, are forced to take up toilsome jobs and work exceedingly long hours. I feel very uncomfortable on hearing this too. However, we cannot, for this reason, force certain employers to give up their fortunes and share them with others, or else they will be considered to be unscrupulous. I have joined this Council for such a long time. I have repeatedly objected to using the word "unscrupulous" to condemn anyone. No one deserves to be labelled in this way. Nor should we act in this manner. We are obliged to rectify any acts of distortion in society. In fact, every one of us is obliged to do so.

We should examine whether there is a serious structural problem with our economy. Actually, we have discussed this topic before, but have we

conducted any in-depth studies? While a lot of Members do not wish to do so, some fear that we might be held responsible once we conduct in-depth studies on certain matters. However, the problem can never be resolved should we refuse to look at this matter squarely.

It is precisely owing to this structural problem that our economy is currently not active at all. As an inactive economy can hardly support a labour force at numerous levels, Members will therefore hear many complaints about difficulty in recruiting people. As complained by Mr Vincent FANG earlier, his sector is experiencing difficulties in recruitment. Recruiting native Cantonese speakers is already very difficult, not to mention someone who can speak a variety of languages. The fact is, in addition to his industry, many other industries are facing the same problem too.

Today, many colleagues are delivering their speeches on the moral high ground. However, I feel that they seem to have no knowledge at all of what people's livelihood is. Neither do they understand the plight of the employers of small and medium enterprises who are really looking for workers to help them. Honourable Members, this is part of our livelihood too. How can these people possibly have no knowledge of it? However, they just keep shouting on the moral high ground. To what extent do they know about labour matters? I know that someone is receiving \$50,000 or \$60,000 from the Government. I am not referring to someone in this Council. I believe the person knows whom I am talking about.

I feel that we really have to carry out in-depth studies. Neither the officials nor the Government should avoid doing this. Nor should they consider the act of conducting such studies to be tantamount to an admission that they failed to study this structural problem thoroughly in the past. Let us present the problem for examination. We can certainly refute our previous convictions, why not? For the sake of millions of citizens, for the sake of those people standing on the moral high ground to fight for the citizens, we must conduct in-depth studies.

Our lack of an active economy is attributed to our failure to study our structural problem. I have once pointed out in this Council our serious problem with inflation in the past two decades. However, we lack the momentum to introduce new industries to endure inflation. Our economy collapsed after the occurrence of the financial turmoil and other problems. In the process, workers

have completely lost their momentum. Moreover, they have failed to realize what competitive edge really means to them, nor have they acquired new skills and a new mindset. This explains why our workers have turned into something like this today.

Even if training is offered, these workers still lack the necessary mindset. They simply cannot keep up with the hardware training they receive. We can only help them by spearheading skills upgrading. I very much agree with a number of Members who said that the workers have to work very hard to make a living. As the living index remains high, they may have to work two or three jobs before they can support their families. However, is it justified for us to blame the employers? Like the workers, the employers are also an abandoned group in society. Their competitiveness has similarly been suppressed to the lowest point. I hope Members can understand that this is why they cannot afford higher wages.

Another reason for us to conduct studies is that some Europe Union countries have already turned back. Why? Has anyone asked this question? Has there been any research on this? There is also another point that I have once mentioned here, President, and that is, the overall trend now is towards just in time employment rather than employment on permanent monthly pay terms. What should we do?

Therefore, while Honourable Members can have an easy conscience for they will be able to explain to their voters today, I hope they can come down from the high ground to look at the matter purely from the angle of the people, rather than keep standing on the moral high ground and forget everything about people's livelihood.

Thank you, President.

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

MR ALBERT CHENG (in Cantonese): President, today there are two motion debates in the Legislative Council, which show a marked contrast in the positions held by different political parties. The first motion debate is about the minimum wage issue and the second one is on the democracy issue.

With regard to a minimum wage, parties supporting the Government may have to hold themselves accountable to their bosses behind the scene or their voters. So they will definitely cast their votes to oppose the motion in this Chamber. Otherwise, they will have a hard time in giving a good explanation to their sponsors after having received so much money from the latter. As Members of the pro-democracy camp, we shall declare our stance when we participate in the debate on Mr Ronny TONG's motion. Actually, is it really necessary for us, the 25 Members, the so-called Members from the pro-democracy camp (I tremble slightly when democracy is mentioned), to declare our stance?

The Legislative Council meeting of today is very crucial. During the past few days, I have had some discussions with Members of different backgrounds. One of the Members said that he doubted the fairness in the present ballot system of allocating slots of motion debates in the Legislative Council. He queried why it was so coincidental that two sensitive issues, that is, the minimum wage issue and democracy issue, can both be allocated the motion debate slots on the same day. I think such a remark is an insult to the Legislative Council Secretariat. I believe the President can tell everyone that the present ballot system of allocating motion slots is the fairest method.

Last year, when I first joined the motion debates of this Council, the President ruled that I had made an offensive remark, and eventually I withdrew the remark of describing some people as "shameless". Today, though I have learned the lesson from last year's experience, I would still use the word "shameless". However, I will not use it to offend Honourable colleagues again. Only that I have heard so many shameless and specious comments. The issue of a minimum wage and standard working hours is related to justice. All men are equal.

A Legislative Council Member said that, if standard working hours were already in place, is it true that we would have worked overtime by the time this meeting is adjourned since we would have held this meeting for more than 12 hours? Does he not feel ashamed for having said something like that? In stipulating standard working hours, we are offering protection to the most basic types of jobs and the grass-roots workers, and it is not providing protection to Honourable Members.

Someone says that, as the prescription of a minimum wage can solve the unemployment problem, how come the problem still cannot be solved. The minimum wage is not for solving the unemployment problem. Why should you think that the prescription of a minimum wage can solve the unemployment problem? Putting a minimum wage in place is just to ensure the provision of a fair deal for the people.

Someone even says something — I find it hard to express it properly, and I feel ashamed for having to say it — something related to the so-called free economy or market economy. But a free economy or a market economy does not mean exploitation. Earlier on, Mrs Sophie LEUNG said that all of us had to go back and be accountable to our voters. This is correct. Today, representatives of the labour sector, social welfare sector and the Frontier have put forward many theories on the minimum wage and standard working hours. The minimum wage is not invented today by the Legislative Council or by Mr LEE Cheuk-yan, Miss CHAN Yuen-han or Mr Andrew CHENG — I do not know why Mr Andrew CHENG is not in the Chamber now. He proposes the amendment, but he is not in the Chamber now. The minimum wage is not a new invention, it has been implemented for a very long time in Western countries. Regarding a free economy or a market economy, the largest market economy in the world can be found in the United States. So is there any problem with the United States now? Not that I know of. With the exception of the continued exportation of obnoxious trades to poor countries, what other problems can we find in the United States?

Why do we have all the arguments today? I would like to put forward a new point of view. With regard to a minimum wage and standard working hours, our representatives from the labour sector have expounded these subjects very clearly. There is no need for me to repeat their points. They must have spoken much better than I do in this regard. However, we have overlooked one point. Why are Members representing the commercial and industrial sectors so keen on arguing about this subject matter? Why are they so shameless? Why should they raise their objection so speciously? Are they not human beings? Do they not have any conscience? Yes, they do. All Honourable colleagues are gifted with conscience. They are all human beings. But they have to hold themselves accountable to their voters. Who are their voters? Capitalists and property developers. It is exactly the interests of property developers that they have to safeguard.

What is the largest component of operating costs in running a business in Hong Kong? We may raise this question with employers in small and medium enterprises (SMEs), whom Mrs Sophie LEUNG has described as "having a plight": What is the largest item of their expenditure? For a couple operating a shop selling peanuts, the largest single item of expenditure is the rent, not the wages. My dear friends, after paying the rent, of course, they have to exploit the workers. The logic is as simple as that. So, our friends from the labour sector, do not be so naïve. What is at stake is not the minimum wage, but how to protect the interests of property developers; how to safeguard the high land premium policy so as to enable them to carry on with profiteering. Nowhere in the world, except in Hong Kong, can we find property developers whose wealth can be compared to that of the national treasury.

Today, property developers have dominated the market, such that we have to pay expensive rents or we have to use a large part of our salaries to pay monthly instalments for our homes. The first thing I would like to tell property developers is: When workers cannot afford to buy a flat in instalments or to rent a flat no matter how hard they work, do you find this advantageous to you? May I ask property developers to read Karl MARX's *Das Kapital*. Or if you find the theories in *Das Kapital* too sophisticated for you, you must have heard of the case of Henry FORD, or his vehicle plants — everyone must have watched the scenes in Charlie CHAPLIN's film. Why did he pay such high wages to his workers in the vehicle plants? Because he wanted to make them work without any worries, and that they could afford buying a Ford after getting their pay. If our workers do not have enough money, how can they pay the rents? How can they pay their electricity bills? How can they have the money to shop at the Park 'N Shop or the Wellcome supermarkets? If someone wants to protect the interests of the property developers, they should let the workers earn some money, so that the workers can continue to be exploited. This must be better than exploiting them to exhaustion. Therefore, I support the motion. Thank you, President.

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

MR ABRAHAM SHEK (in Cantonese): President, Mr Albert CHENG's speech made us feel that Hong Kong was a place in the Dark Age, and Hong Kong

seemed to be in a situation similar to that of Europe in the 18th century when a revolution was about to break out. However, Hong Kong is in fact one of the most open places in the world, the freest place. Has any riot taken place in Hong Kong because its workers were exploited? Have any property developers made workers lose their jobs? If the economy of Hong Kong has not revived today, and property developers do not launch new flats onto the market for sale, then it will deal a major blow to our economy as a whole.

The property sector is a major driving force for our economy. It will drive our entire economy on the road of revival. Please do not politicize this subject and divide society into different factions. What we need now is a harmonious society. We are here discussing the interests of workers. Regardless of whether Members come from the commercial and industrial sectors, or the labour sector, all of us need to think about the issue from the perspective of the workers. Instead of just fighting for their interests, we should discuss how to solve the problems. We should not adopt a hostile stance, and we should not use some special wordings to criticize a person or a group of persons, and we certainly cannot get any benefits or successfully fight for the interests of the workers by taking such actions. It does not work. We should discuss the issue with a calm mind. If Members think that there are sufficient justifications for lobbying for setting the minimum wage, they can patiently explain this to everyone. In fact, people operating businesses are bearing certain costs. If they lose money, how can they carry on with the operations? Mrs Sophie LEUNG has also mentioned this point just now.

In this Chamber, we should pragmatically identify a feasible solution to the problem. Many Honourable colleagues have presented their views in a most touching manner. For example, Miss CHAN has spoken very sincerely. And Mr James TIEN has also conveyed to us his viewpoint. In politics, we should learn how to reconcile. We held debates on this subject for the first year and the second year, and we can go on debating the same subject even in the third year. Anyway, the Government will get the message some day. In fact, the Government has already done a lot of work in making the wages in many organizations not lower than certain figures. I think we should discuss this issue here with a calm mind, which would be more desirable than using certain wordings to criticize property developers and industrialists. Thank you, President.

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

MR LEE CHEUK-YAN (in Cantonese): President, I agree with Mr Abraham SHEK's earlier remark that Hong Kong is now in the Dark Age. *(Laughter)* It is really very dark now. If Members say that we are not in the Dark Age now, I think they should reassess the situation in Hong Kong carefully. Of course, the Government will definitely disagree with this because it is only mindful of promoting harmony, but it has never formulated any policies for achieving harmony in society. Let us consider this: A worker has to work very long hours until 11.00 pm or even midnight, is this not the Dark Age for him? It is indeed very "dark", from seven o'clock in the morning to twelve o'clock in the midnight. This is absolutely "dark", because there is not any daylight when he goes off work. A radio programme once broadcast over Radio Television Hong Kong was about the story of a couple. They could hardly meet each other because both of them had to work 12 hours a day, one on day shift and the other night shift. So they could only meet each other a few times in a year. Is this not the Dark Age?

President, if we ignore the existence of such a situation, do we have to wait until a riot has really broken out before we are willing to do something about it, just as Mr Abraham SHEK said? We very much hope to achieve harmony in society. However, social harmony has to be achieved on the basis of justice and care. If we do not have any justice and care, and the people do not have enough food to feed themselves, not enough clothing to keep themselves warm, and are in poverty, how can we have any harmony in society? Today, as we support the formulation of a minimum wage, we are actually helping the Government. We hope that, even in a society with an undemocratic political system, the number of confrontations can be minimized. In a society with an undemocratic system, the people do not have votes to cast. So they have a lot of grievances. People often say that everything is fine as long as they can make enough money to feed themselves. But now, the people cannot even make enough money to do this. In fact, we are really helping the Government out of good intentions — that we hope to maintain society in a state that would not give rise to any major chaos, or that it would lead to the emergence of a relatively harmonious society, or at least a society that would allow everyone to make

enough money to feed themselves. Sometimes, I find myself really "shameful" in saying something like that — as if I am "begging for food". Mr Rafael HUI once said that he had to "beg for votes". Now it seems that we are "begging for food", and I feel ashamed. In fact, what is the big deal about setting a minimum wage? Over 100 countries in the world have prescribed respective minimum wages. According to Mr Albert CHENG, in the '30s, President of the United States Franklin ROOSEVELT proposed, in view of the poverty problem in the country, the formulation of a minimum wage during his term of office. It is indeed no big deal.

Earlier on, a lot of theories were cited to say that a minimum wage would distort the free market. May I ask those free market advocates why they should uphold the free market? Why should they worship the free market? When the free market cannot adequately feed the people, why should they bother to advocate it? If the economy cannot adequately feed the people, why should they bother to strive for economic growth? What is the purpose of striving for economic growth? Why should we have a government? Ultimately, a government should be established for striving for the welfare of the people, in order to provide them with adequate food and a living with dignity. I feel that the rationale for a minimum wage is very straightforward. It may be said that setting a minimum wage would violate the principles of free market. But I think there is no problem with this allegation because many other cases have already violated such principles. The sex discrimination law has violated them, so has the legislation against child labour as well as certain commercial and industrial legislation. It is all because there are problems with the free market.

In fact, human beings should be attached with the greatest importance. You are a human being, so are the workers. President, they are no vegetables, nor are they some fish. Each and every one of us is a person with dignity. We cannot degrade these human beings as some vegetables or some seafood, the prices of which can fluctuate and change every day, and eventually they can drop to as low as \$10-odd an hour — the McDonald's is still paying \$15 an hour to its staff, a well-known fact to everyone. Human beings are living beings with intelligence and dignity. If they are forced to accept such low wages, it is actually a kind of humiliation to them. I know if I carry on discussing this, Mrs Sophie LEUNG will say that we are on the moral high ground. When she delivered her speech just now, I wonder if it was a Freudian slip on her part as

she said, "Are you going to ask the employers to share their family fortunes with you?" Please do not say that. We have never thought of asking the employers to share their family fortunes with us. We just want to be able to feed ourselves, but the employers are thinking that we want to ask them to share their family fortunes with us. Mr Andrew LEUNG said that after a minimum wage has been formulated, ultimately the wages are still paid by the employers. Of course, this should be the case. Or do you expect employers can employ workers without paying any money? But right now, to a certain extent, employers really do not have to pay any money for employing workers. Why? It is because the low-income Comprehensive Social Security Assistance (CSSA) is in place, so they will simply let the low-income CSSA make the payment, and everything is fine with them. Five years ago, only 10 000 persons had applied for low-income CSSA, but now the figure has gone up to 17 000 persons. Currently the Government has been subsidizing

PRESIDENT (in Cantonese): Mrs Sophie LEUNG, do you have a point of order?

MRS SOPHIE LEUNG (in Cantonese): Yes, because he has misunderstood my remark just now.

PRESIDENT (in Cantonese): If he has misunderstood your remark, please sit down first. After he has finished delivering his speech, I shall let you make the clarification.

MRS SOPHIE LEUNG (in Cantonese): Thank you, President.

PRESIDENT (in Cantonese): Mr LEE Cheuk-yan, please continue.

MR LEE CHEUK-YAN (in Cantonese): President, the Government is actually subsidizing employers who pay his staff low wages. Is this fair? President,

the minimum wage we are fighting for is really no big deal, if it is viewed from an international perspective.

Another point I would like to discuss is the working hours. Many people would commend Mr Jasper TSANG for his outstanding debating talent. But I feel that just now he was just arguing in a cunning manner by twisting the logic. After listening to his speech, I still cannot understand why he supported legislating for this cause in 2000, but today, in 2005, he suddenly makes a volte-face to oppose enacting law on this. I really do not understand why. If he opposes legislating for this cause, how can he support Miss CHAN Yuen-han's original motion? If the proposal to enact law is opposed, then Miss CHAN Yuen-han's original motion will not work because if we do not enact law to exercise regulatory control over working hours, the objective can never be achieved. Therefore, I do not understand why Mr Jasper TSANG has made a volte-face. The only explanation is, after the Hong Kong Progressive Alliance (HKPA) has merged with the original DAB, Mr TSANG has to do this in order to protect the DAB. I believe it must be those people who are causing the trouble — *(laughter)* Will you please clarify this? It should have been possible for the motion to be passed, but why are there people unwilling to let it get passed? Have they made a volte-face? A political party should have its own stance. If it has made a decision in the past, it should not reverse it easily. If the party reverses the decision because it has regretted for having made a mistake and would like to rectify it, then it is fine. But now, it is changing for the worse.

President, with regard to working hours, someone has asked whether we are fighting for the benefits or the health of workers. I have made it very clear, that we are not purely fighting for their interests; it has something to do with issues related to the health and the family of workers. Therefore, apart from fighting for overtime allowances, I think it is necessary for us to regulate the maximum working hours as well because we do not want to see employees keep working overtime in order to make more money, thus sacrificing their family life. After all, we still need to pay attention to our own health. Thank you, President.

PRESIDENT (in Cantonese): Mrs Sophie LEUNG, please clarify the part of your earlier speech which has been misunderstood.

MRS SOPHIE LEUNG (in Cantonese): Yes, he had really distorted what I meant. What I meant by "sharing the family fortunes" of the employers was, since workers' salaries must be paid under any circumstances, and if all the money earned by an employer had been used up, then he may need to take out some money from his own pocket and share it among the workers.

Thank you, President.

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

MR TAM YIU-CHUNG (in Cantonese): President, I would like to make a clarification on behalf of Mr Jasper TSANG now.

In fact, today the DAB clearly supports Miss CHAN Yuen-han's original motion. This attitude is the same as the one we held last year. However, Mr Jasper TSANG has just quoted some remarks from his friends. Recently, he had met with some friends from Europe, especially some who had come from Finland. These friends had some experience in this regard. So he shared such experience with Members and explored this issue. We support Miss CHAN Yuen-han's original motion.

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

MR WONG KWOK-HING (in Cantonese): President, many Honourable colleagues said that there was no novelty in today's debate. Yet, I do think there was certain originality in today's debate, which at least has reflected that we Members of the FTU and the labour sector are still fighting for this cause persistently, and we shall go on doing this until our goal has been reached. Besides, during the past year, that is, from the time the motion was proposed last year to the present, we do not feel that we have made no progress at all, though the progress has only been a very small step forward.

In preparation of today's debate, I have brought along a souvenir — a table presented by me in the Legislative Council this year, in which I have unfolded 14

sins that existed in government outsourced services. Being the largest employer, the Government had eventually introduced with some reluctance a model standard contract on 1 April this year, due to the existence of such scandals in its outsourced system. With regard to the cases of suppression of workers' wages in outsourced projects, the document here has specified them as \$2,100 per month. The Government found the situation intolerable. Therefore, with effect from 1 April, a standard contract system has been adopted in all government outsourced services. The Government thought that by doing so it had done the right thing. Next, when Mr Donald TSANG ran for the office of the Chief Executive, he undertook to us that, by the end of the year, he would introduce the standard contract system in public and subsidized organizations. Since the standard contract is so good, why does the Government not implement it in non-government, non-public, non-subsidized organizations for those professions and job types that are most helpless and that have the least bargaining power, for example, security guards and cleaners? Why should there be double standards? Earlier on, 11 Members have spoken to oppose the formulation of a minimum wage and standard working hours. Why should you have double standards? The reasons put forward by such Members are very cruel, mean and unsympathetic. I do not wish to repeat them; I simply do not want to waste our time.

Honourable colleagues, the Census and Statistics Department has pointed out that there are 370 000 persons earning less than \$5,000 a month, and among them, 160 000 persons are earning a monthly salary of less than \$3,000, which is even lower than the Comprehensive Social Security Assistance (CSSA) payment. This is a realistic issue. Can we ignore it, or avoid it? Regarding their predicament, is it not necessary for the Legislative Council to be held partly responsible? What can the Government do about it?

Honourable colleagues, I have received a lot of requests for assistance and complaints. One of the cases was lodged by a cleaning worker by the name Ah Ho. When she came to see me, she had brought with her an apple and a bun. I would like to share with Members her story. She works in the New Territories. Her lunch is usually an apple and a bun, which cost between \$3 and \$4. In her family of five, her husband had suffered a stroke and had to apply for CSSA and eventually has to live in an elderly's home. She still has three young children. How does she make the ends meet? All her children are wearing old clothing and old shoes donated by others. Ah Ho's son said to her, "Let us apply for the CSSA, so that we can have new school bags." Ah Ho told

his son, "I can still earn a living with my own hands. I would like to work as long as I can. We do not need the CSSA." Dear Honourable Members and dear senior government officials, for such a good worker, I think the Government should award her a medal. She has acted in such a considerate manner, preferring earning her own living in a dignified manner to relying on CSSA. But what is our present system? In certain jobs, one can earn as little as several thousand dollars a month, which is insufficient for feeding a family. Is our system forcing the people to apply for CSSA? Is our society really so merciless? In the face of such situations, we do not have to conduct any analysis, nor is it necessary for us to consult any so-called experts. All of you are persons with conscience. Can you do some soul-searching and ask yourselves what you are thinking right now?

Honourable colleagues, during the past few days, I have been seeing a very good Oxfam advertisement in Mass Transit Railway stations. I would like to quote the details of this advertisement in order to illustrate the rationale to all of us. The caption of this advertisement says, "The wage should be adequate for the needs of a family". It is related to a remark made by Pope John Paul II. I hope those religious Catholics — Catholics who oppose minimum wage and standard working hours — can listen to this. I also hope that the Chief Executive, Mr Donald TSANG, can listen to this too because he is a Catholic. This remark was, "A reasonable wage should be adequate for establishing and suitably maintaining a family, and it should protect its future." If the Chief Executive does not listen to our words, it would be fine. But please listen to what the late Pope had said.

Honourable Members, finally I would like to say this, if the labour relation has deteriorated to such a state that the employees have already sold all their working capability and yet they still cannot feed themselves and support the continued existence of their next generations, the labour conflict thus formed will evolve into fierce confrontation. If the social system has degraded to such an extent that members of this society cannot maintain their livelihood and reproduce their offspring, then eventually such a social system will definitely collapse. History has proved the truth of this point. I hope the Government can listen to this.

PRESIDENT (in Cantonese): Your speaking time is up. Does any other Member wish to speak?

MR CHIM PUI-CHUNG (in Cantonese): President, I personally support the original motion. But I think the three Members from the FTU should tell voters of their sector why they had nominated Mr Donald TSANG when he ran for the office of the Chief Executive. Only through explaining this clearly to their sector can they make others understand the points they have mentioned earlier. This is because, as a matter of fact, the way in which the Government has acted is contrary to the interests of their sector. Therefore, they should explain this very clearly.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): If not, I will now call upon Miss CHAN Yuen-han to speak on Mr Andrew CHENG's amendment.

MISS CHAN YUEN-HAN (in Cantonese): Madam President, as Mr CHIM Pui-chung has requested us to give an explanation, I hope the time I used on responding to him now will not be counted as part of my speaking time.

Madam President, may I ask if this is acceptable?

PRESIDENT (in Cantonese): What did you say?

MISS CHAN YUEN-HAN (in Cantonese): Since Mr CHIM Pui-chung has just mentioned our names, can I respond to him now?

PRESIDENT (in Cantonese): You may now include your response in your speech, but you will not be given any extra speaking time. I am sorry, Miss CHAN.

MISS CHAN YUEN-HAN (in Cantonese): It does not matter. I just wish to seek some kind of exemption as far as the rules are concerned, as in the case of Mrs Sophie LEUNG. However, it does not matter. I am now going to give my response now.

The situation was like this. If Donald TSANG, who was running in the election of the office of the Chief Executive, did not agree to include the discussion and implementation of a minimum wage and standard working hours in his government policies, we would not give him the votes. He said that he had mentioned this subject in his platform. However, we thought that it was not enough because items on the platform might not be implemented after all. We had a fierce debate over this issue. Finally, Donald TSANG agreed to include this subject in the subjects for deliberation by the Commission on Strategic Development (the Commission). So today, he said he would appoint me to the Commission, I guess by doing so he is living up to his own promise. He should gradually proceed with the relevant discussions. Madam President, thank you for allowing me to speak on this point.

With regard to Mr Andrew CHENG's amendment, the FTU is supportive. This is because when we are taking up the issue of a minimum wage on behalf of workers who can least protect themselves or those who do not have any bargaining power, we must at the same time take up the issue of standard working hours. Otherwise, all the efforts would be futile. If a minimum wage is stipulated, and the employers give the workers \$7,000 a month, but if they ask them to work for 16 hours a day, then the whole thing would become totally meaningless. So the two issues must be discussed together as related issues.

When Mr Andrew CHENG mentioned another level of standard working hours, he was at the same time highlighting some problems faced by people not belonging to the grass-roots level. In fact, people working in different fields and professions, such as the information technology field, clerical work, banking and property estate sectors, are also working very long hours. This is a problem on another level. Therefore, basing on this reason, we also support Mr Andrew CHENG's amendment.

Madam President, the outcome of today's debate is within my own expectation. In fact, all the speeches are presented with the same old viewpoints. However, though the viewpoints are the same old ones, I am still grateful to the Chairman of the Liberal Party for specifically returning to the

Chamber to listen to my speech. James, the remarks you made today have improved slightly over those of last year. (*Laughter*) Last year, when Mr TIEN was delivering his speech, it seemed that the idea was totally impossible. But this year, he asked if we should consider the idea in the light of certain work types. I am not sure whether he would really consider the idea, but his colleagues in the Party have expressed much worse viewpoints. Besides, as they delivered their speeches, they were just repeating the points already made last year. Mr Tommy CHEUNG said that employers would naturally award pay rises to their employees if the economy has improved. But even if employers are willing to introduce pay rises, why on earth should they award such pay rises to employees with no bargaining power? The employer may award pay rises to those workers whom he has recruited from the labour market at even lower prices. Some other people may say that different trades and professions will have their own characteristics, so we should not impose restrictions on the working hours. In fact, countries which have already stipulated maximum wages (sic) and standard working hours have already formulated a lot of rules and regulations in this regard. We may study such rules and regulations for our own reference. The crucial question remains: Are we willing to start discussing the core issues of this subject?

Mr Andrew LEUNG quoted the views of some academics in saying that, upon the formulation of a minimum wage, many jobs will be drained away. Madam President, as I said at the outset, in fact those jobs we are referring to, such as the caretakers of buildings, car park security guards, retail salespersons, restaurants workers, cleaning workers and environmental protection workers, and so on, cannot be drained away any further. Where else can such jobs be drained away? So, frankly speaking, I think we need to be more realistic before we can really do our best to find out how such issues can be solved.

Madam President, today, outside the Legislative Council Building, many labour organizations have come to voice their support for the motion moved by me. But have you realized that the flag of FTU is missing among such organizations? In fact, they did not turn up simply because I had deliberately asked them not to. Today, I want to have a calm debate, and I also hope that the entire society can discuss this issue calmly. If we want to put up a stronger show of force today, I can mobilize a lot of people to support this motion. However, I really want everyone to discuss this issue in a calm manner. Do not quote extreme cases or specious theories to substantiate arguments. Do not

quote examples out of their original contexts, nor should you misinterpret certain facts. Take the case of a foreign domestic helper as an example. Her salary is of course not only \$3,000 or so. The employer has to provide the domestic helper with food, accommodation, air passage, MPF contribution, and so on, am I correct, Professor? When we do the calculation realistically, we will realize that an employer has to pay in respect of a domestic helper over \$8,000 a month on average.

Frankly speaking, we often feel sad about this: In Hong Kong, there is a minimum wage for even the foreign domestic helpers, but why is there not one for local workers? Countless local domestic helpers have asked me this question. If we are willing to discuss the issue in greater depth, we should not keep on discussing those specious items, nor should we stay at those proposals that have already been discussed many times before and already solved. Even Mr Alan LEONG said that we should first establish some standards, such as adopting 35 hours as the starting point. Later on, we may examine whether we need to adjust the scale upwards from 35 hours, then we can conduct a review based on the standard of 35 hours, though this does not mean that we have done away with the highest working hours. After discussing the ceiling of working hours at 30-odd hours, now the next issue we should discuss is whether the ceiling should be set at 40 hours. But now, an ordinary worker in Hong Kong usually works 50 to 60 hours, or even 70 hours. This is exactly the issue that we should be discussing. However, if we do not even discuss this, how can we discuss such issues as the health of workers? How can we discuss the pursuit of a quality life? Unfortunately, Mr LEE is not in the Chamber now.

Very often, we hope that everyone can enjoy a good life and a harmonious atmosphere in society. But somehow some people just intend to trigger off some social contradictions. I agree with Mr LEE Cheuk-yan in saying that, in a strict sense, we are now assisting the entire society in building up a foundation of harmony. If the grass-roots people are suppressed, and eventually they cannot survive, then riots will definitely erupt in society, as Mr WONG Kwok-hing said — I am not sure if he was quoting the words of either Karl MARX or Friedrich ENGELS as the conclusion of his speech. However, the riots will not be caused by us, but the Government and the commercial and industrial sectors.

Madam President, I would like to express my gratitude to over 30 Honourable colleagues for participating in my motion debate today. As the

issue has evolved to the situation today, I implore the Government not to evade the problem between the workers and the commercial and industrial sectors. All the relevant issues have already been clearly identified here. I hope the Government can go straight to the core issues and lead the entire society to discuss them, instead of beating around the bush, saying that any discussion can start only after a consensus has been reached between the employers and the employees. Otherwise, in the Commission, I will have to put forward my.....

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): Madam President, first of all, I am grateful to Miss CHAN Yuen-han for moving today's motion and to Members for the valuable views they expressed on "minimum wage, standard working hours" just now. Miss CHAN also moved a motion on "Minimum wage, standard working hours" last October. At that time, I also made a fairly detailed analysis on the complexity and controversial nature of this subject. Today, I am not going to repeat my remarks made on the last occasion, therefore, Miss CHAN will not hear my explanations on why the proposal has not been implemented. I am not going to repeat that. I just wish to take this opportunity today to explain to Members the work that the Government has done and some material progress in exploring this important issue and protecting the wages of workers at the grass-roots level.

The Government has always been very concerned about labour interests. We understand that although the economic situation in Hong Kong has already seen some improvement, some members of the public at the grass-roots level still face difficulties in finding employment. The Government of the Hong Kong Special Administrative Region (SAR) took an important step in protecting the wages of grass-roots workers in May last year. I trust that Members all know that I am referring to the initiative taken by the Government in May last year to mandate that all contractors of outsourced government services must ensure that the wages paid to their non-skilled workers are not lower than the average market level for the relevant industry or occupation by making reference to the Quarterly Report of Wage and Payroll Statistics published by the Census and Statistics Department (C&SD). For example, in the survey conducted by the C&SD in the second quarter of this year, the average monthly wage of a cleaner was \$4,976, while that for a security guard on eight-hour shift was on average \$5,817.

On 13 October last year, immediately after the Legislative Council had a debate on the issue of "minimum wage, maximum working hours", the Labour Advisory Board (LAB) started to study and discuss the relevant issue in December and a total of four meetings have been held so far.

Throughout this process of investigation, the LAB has objectively analyzed the pros and cons of implementing a minimum wage and standard working hours. It has also made reference to the views of internationally renowned scholars on this subject. The LAB has also conducted studies on the situation in Hong Kong, including the income level and working hours of local employees and employees of certain sectors such as the cleansing, security and catering sectors, as well as the distribution of lower-income people in terms of their trades, occupations, education level, age, and so on, in order to collect the fundamental statistics and to understand the crux of the problem more comprehensively. Moreover, the LAB has also made reference to the arrangements of other economies, including the Mainland, the United Kingdom, the United States, Canada, Japan, South Korea, Singapore, India, Australia, France, Germany, Finland and Ireland, on wages and working hours. Among these places, some have only implemented either a minimum wage or maximum working hours. There are also places where regulation on both has been introduced. The mode of regulation includes legislation or administrative arrangements. Regarding the levels of wages and working hours, at some places, different levels of wages or working hours are prescribed for different sectors while at others, the wage level is determined on a regional basis. The LAB has also made preliminary evaluations on the impact of a minimum wage and standard working hours system on labour costs and on the number of employees affected according to different assumptions.

The LAB will continue with the research in this regard, including studying further the impact of implementing a minimum wage and standard working hours on the labour costs of the cleansing, security and catering sectors. In fact, I have heard Members say earlier on that it is necessary for us to study these problems further.

In the past, the LAB has also studied this issue of minimum wage and standard working hours from various perspectives. On the one hand, it has looked into the actual situation in Hong Kong, and on the other, it has also made reference to overseas experience. This study is making steady progress. In

fact, the Government has to do a lot of preparatory work for each meeting of the LAB by collecting relevant information for members' reference and discussion. Just now, some Members said that referring this matter to the LAB for discussion might cause delays to the whole matter. I definitely cannot agree with this. As I have said, the study that we are conducting to collect data and information is essential. Whether it is for discussion by the LAB or for future discussions at some other venues, the information that we have collected and the studies that we have conducted will certainly not be wasted. These are the groundwork that we must do. Therefore, I believe we should allow the LAB adequate time to continue with its study. Of course, we also hope that a proposal acceptable to all can be worked out.

While the LAB continues with its study on this issue of "minimum wage, standard working hours", in the past year, the Government has also been promoting the wage arrangements for non-skilled workers and perfecting its matching measures. Just as Mr WONG Kwok-hing has said earlier on, we are targeting contracts on outsourced government services and will step up law enforcement actions against various types of improper conduct that deprive workers of their statutory rights, including using all sorts of pretexts to deduct workers' wages. To this end, in April this year, we introduced a standard employment contract designed for outsourced government services and made it mandatory for contractors to enter into contracts with the non-skilled workers hired by them. The contract clearly specifies the major work conditions, including the wage per month, the number of working hours and the method of wage payment, in order to eradicate the practice of contractors paying their workers wages lower than that stated in the tender documents. In the first three quarters of this year, labour inspectors have carried out more than 600 inspections on contractors of government services, representing a 90% increase year-on-year. During the same period, the numbers of successful prosecutions and convictions through the issue of summons by the Labour Department have also seen a drastic 18-fold increase compared to the whole of last year. All departments in charge of procurement will take measures to ensure that workers know their own rights and are prepared to lodge complaints if necessary, closely monitor the performance of their service contractors and also follow up any case of exploitation of workers expeditiously.

In order to provide better protection to more grass-roots workers, we have successfully extended the arrangements on the wage rates of outsourced government services to various public organizations. Thirty-two public

organizations in Hong Kong that make use of this type of outsourced services, including the Hospital Authority and the tertiary institutions under the University Grants Committee, have all indicated that they will follow the Government's practice. It is estimated that if the workers protected by government contracts are included, about 25 000 grass-roots workers are benefiting from this measure. In order to extend the coverage of this measure, we also wrote to 382 subvented organizations and 1 139 subsidized schools in September to encourage them to follow the Government's practice and pay wages to non-skilled workers at the market rate. We will receive their reply at the end of this month.

In his policy address last month, the Chief Executive also called on the business community to follow the Government's practice and pay non-skilled workers wages close to the market level. We have also written to various major trade associations and employer associations to appeal to them to encourage their members to support this move voluntarily. We have also contacted individual organizations to encourage them to follow the Government's practice and the response from many of them are quite positive.

Madam President, the working hours of Members in this Chamber, just like mine, are all very long. I agree that excessively long working hours will have certain impacts on the physical and mental well-being of employees, as well as on their family and social lives. As some Members have pointed out, stipulations on working hours can be made out of various considerations, such as economic ones and the need to protect the health and safety of employees. Members also pointed out that working hours and wages are closely related and they are interactive. When considering a minimum wage, it is necessary to study it together with the issue of maximum working hours and it would be difficult to separate them. The amount of wages is often dependent on the number of working hours and it is not possible to judge simply from the figures.

Just now, Mr Andrew CHENG said that he intended to propose a Member's bill on working hours and overtime pay. The Government will make an assessment in accordance with Article 74 of the Basic Law to examine if the bill to be proposed by Mr CHENG relates to public expenditure, the political structure, the operation of the Government or government policy.

Madam President, I wish to point out that the Government has been working on this issue of "minimum wage, standard working hours" over the past year. On the one hand, the LAB is currently conducting a study and holding

in-depth discussions on this subject, striving to work out a proposal acceptable to both employers and employees. On the other hand, at the same time as all parties are having discussions on the need to introduce legislation to regulate wages, the Government is also actively taking pragmatic measures by promoting an average market wage to protect non-skilled workers at the grass-roots level and gradually extend this practice to other public organizations, non-governmental organizations and private companies. I hope Members will agree that on this issue, the Government is by no means marking time but has been really doing its work and making real progress. Of course, we hope that as we continue to encourage other trades and private companies to join us, more and more people will follow our practice.

The issues raised in the discussions of the LAB and in various sectors of society, for example, what the meaning of "non-skilled workers" is, which trades have the greatest need for protection of their workers, what workers can be considered to be "grass-roots workers having no bargaining power", whether a minimum wage and maximum working hours can provide appropriate protection to these people, and even whether making reference to the average wage as the criterion for a minimum wage will lead to a continual increase in average wage, and so on, have in fact underscored the controversial nature of "minimum wage, standard working hours" and also explained why it is necessary for us to refer this issue to the LAB for in-depth discussion.

In fact, this year, the International Monetary Fund also pointed out after discussions on the economy and fiscal situation of Hong Kong that it supported the conduct of an open discussion on whether legislation should be introduced on a statutory minimum wage and standard working hours in Hong Kong. At this stage, we believe that we should allow the LAB and the three parties, including employees, employers and the Government, to probe into this matter in a pragmatic and prudent manner and work out proposals acceptable to all.

Just now, a Member queried if the Government wanted to drag its feet by referring this matter to the LAB, and given that the Government had said that it was necessary to reach a consensus, would a consensus ever be possible. I think some Members believe that on matters of labour, the interests of employers and those of employees are always at odds with one another and their positions are always opposed to one another. I also wish to point out here that I used to be the Commissioner for Labour and the Chairman of the LAB. From my experience, although both sides seem to be opposed to one another on matters of

labour, in fact, both sides can often reach consensus on a lot of matters after discussions, after which legislative proposals can be tabled to the Legislative Council. In the past, there were quite a number of such examples. I personally believe that in the final analysis, it is necessary for all parties to study and discuss this matter thoroughly. Be it at the level of the LAB or at meetings of a higher level, I believe it would still be necessary for us to study the issues raised just now in a more in-depth manner and identify solutions by working together. Just like Members, I also hope that we need not discuss this issue any further next year. I hope that in future, the three parties, including the Government, employees and employers, can work hand in hand and resolve this issue with concerted efforts.

Thank you, Madam President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the amendment, moved by Mr Andrew CHENG to Miss CHAN Yuen-han's motion, be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Mr Andrew CHENG rose to claim a division.

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

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

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

Functional Constituencies:

Ms Margaret NG, Mr CHEUNG Man-kwong, Ms LI Fung-ying, Mr WONG Kwok-hing, Dr Joseph LEE, Dr KWOK Ka-ki, Dr Fernando CHEUNG and Mr KWONG Chi-kin voted for the amendment.

Dr Raymond HO, Dr David LI, Dr LUI Ming-wah, 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, Mr Andrew LEUNG and Mr Patrick LAU voted against the amendment.

Mr WONG Yung-kan, Mr CHIM Pui-chung and 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, Mr LAU Chin-shek, Ms Emily LAU, Mr Andrew CHENG, Mr Albert CHAN, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Mr Alan LEONG, Mr LEUNG Kwok-hung, Mr Ronny TONG and Mr Albert CHENG voted for the amendment.

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

Mr Jasper TSANG, Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr LI Kwok-ying, Mr MA Lik 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, 26 were present, eight were in favour of the amendment, 15

against it and three abstained; while among the Members returned by geographical constituencies through direct elections, 28 were present, 19 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): Miss CHAN Yuen-han, you may now reply and you have 17 seconds.

MISS CHAN YUEN-HAN (in Cantonese): Madam President, I would like to extend my thanks to over 30 colleagues for having spoken in this motion debate. I hope the Government can look at the issue clearly now, and instead of passing the buck to the Labour Advisory Board, it can come up with some practical solutions to the problem. I also hope that the commercial and industrial sectors can listen to the voices of the grassroots. In fact, this problem is not the so-called "sugar-coated cannonball". However, if we do not make efforts to solve it, the problem may really become a cannonball that can explode anytime. Thank you.

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

(Members raised their hands)

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

(Members raised their hands)

Dr YEUNG Sum rose to claim a division.

PRESIDENT (in Cantonese): Dr YEUNG Sum has claimed a division. The division bell will ring for three minutes, after which the division will start.

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

PRESIDENT (in Cantonese): Will Members please check their votes. If there are no queries

(Mr Tommy CHEUNG appeared to have gestured to raise questions)

PRESIDENT (in Cantonese): Mr Tommy CHEUNG, is it true that there are no more questions?

(Mr Tommy CHEUNG waved his hand to indicate that he had no more questions)

PRESIDENT (in Cantonese): Fine. Voting shall now stop and the result will be displayed.

Functional Constituencies:

Ms Margaret NG, Mr CHEUNG Man-kwong, Mr WONG Yung-kan, Ms LI Fung-ying, Mr WONG Kwok-hing, Dr Joseph LEE, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Mr CHIM Pui-chung, Mr KWONG Chi-kin and Miss TAM Heung-man voted for the motion.

Dr Raymond HO, Dr David LI, Dr LUI Ming-wah, 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, Mr Andrew LEUNG and Mr Patrick LAU 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 LEUNG Yiu-chung, Mr Jasper TSANG, Dr YEUNG Sum, Mr LAU Chin-shek, Mr LAU Kong-wah, Ms Emily LAU, Mr

Andrew CHENG, Mr TAM Yiu-chung, Mr Albert CHAN, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Mr LI Kwok-ying, Mr MA Lik, 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, 26 were present, 11 were in favour of the motion and 15 against it; while among the Members returned by geographical constituencies through direct elections, 28 were present, 25 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.

PRESIDENT (in Cantonese): Second motion: Constitutional reform proposal.

CONSTITUTIONAL REFORM PROPOSAL

MR RONNY TONG (in Cantonese): President, 364 days ago (one day short of a year ago), at about the same time, I proposed a motion in this Chamber, hoping that arrangements can be made for all Members of the Legislative Council to meet with the Central Authorities, so as to discuss the issue of universal suffrage in 2007 and 2008. Certainly, the motion was eventually negatived, and I said then that the outcome was anticipated and saddening.

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

Today, that is, a year later, I have been lucky to be again selected and given a time slot to propose a motion on the same topic on almost the same day

and at about the same time. But compared with last year's motion, this year's can actually be described as mild and practical, as described by Mr Rafael HUI. Yet, it appears that this year's motion has been treated with much indifference. Why is it that nobody is willing to propose amendments to my motion? And the President also said that it would be unnecessary to prepare for dinner, for the meeting could be adjourned at 8.00 pm tonight. Does it mean that nobody will wish to speak? (*Laughter*) But fortunately, the President still let us place orders for rice with roast goose from Yung Kee, and this makes the situation a bit better. I hope we can have a debate here today. It is not my wish to see that Members dare not speak because the situation is perilous and so, they had better hold their breath and keep quiet. I hope that through this debate, Hong Kong people will gain a bit more understanding of the constitutional reform proposal. While we have pointed out the shortcomings of the constitutional reform proposal, supporters of the Government should agree that in their view, the constitutional reform proposal has merits too. This will enable us to have a healthy and harmonious discussion on this issue.

In history, there may be coincidences insofar as failures are concerned, but failures should not be repeated, for their repetition means retrogression. I reckon that this motion today is 99% more likely to be negated than otherwise. But I believe if Secretary Stephen LAM and the Government do not listen carefully to the views of colleagues on the constitutional reform proposal, I can assert that on the same day six weeks later, the Government's constitutional reform proposal will be negated.

Under "one country, two systems", Hong Kong has been reunited with the Motherland for 10 years. It is most undesirable that our Chief Executive is returned by a small circle which heavily relies on the business community. A Chief Executive who is returned by a small circle can only rely on the support of a small circle. Under this system, the Chief Executive, who has arrogated all powers to himself, will detach himself from the public and rely heavily on the business sector. As a result, aspiring people outside this small circle would refrain from taking part in politics because of this governance system. A small-circle government that is weak and listens only to the views of a particular sector is an inevitable product of this unfair political system. In striving for universal suffrage, our basic objective is to have a truly executive-led government, and a truly executive-led government must have the acceptance and recognition of all Hong Kong people.

A Chief Executive returned by a small circle can only rely on the talents in this small circle. When the Chief Executive himself does not have the mandate of the people, his team of aides will not have the mandate of the people either, and this is entirely not conducive to improving the quality of governance.

However, when we strive for universal suffrage, the most important point is to build a fairer society. We had just debated the motion on setting a minimum wage. The motion was nevertheless negated, and this is a strange phenomenon under an unfair system. Only when there is a democratic government that we can be certain that a change of government will regularly be effected in the light of changes in the mainstream public opinions in society. Only in this way can society be considered truly harmonious, civilized and democratic.

On the contrary, the objective of constitutional reform is not to create political benefits and make it convenient for political businessmen to conduct their political dealings and even control the outcome of elections. But this is exactly the primary effect of the proposal made in the Fifth Report.

Let me first briefly talk about the Election Committee. In the Government's constitutional reform proposal, apart from the Fourth Sector which is composed of the Legislative Council, District Councils (DCs), the National People's Congress and the Chinese People's Political Consultative Conference, the number of members of the other three traditional Sectors can increase by 100 each proportionally. Under the present proposal, the narrow electorate base of the Sectors to which these 300 new members belong will remain unchanged. But the proportional increase in the number of members means that the number of their representatives will increase. In other words, the Government's constitutional reform proposal has, for no reason at all, given more stakes to these Sectors for them to engage in political dealings in the small circle. The number of their votes will increase considerably, but are these democratic votes?

Moreover, the constitutional reform proposal proposes an increase of 102 appointed members. That is to say, the proposal has given the Chief Executive additional strength to control elections. The Fifth Report has entirely evaded the problem of uneven distribution of seats raised by us. For instance, the agriculture and fisheries subsector with only 100-odd organizations has 40 seats,

but the education subsector with an electorate base of 100 000 electors has 20 seats only. If these 300 seats are increased proportionally, the advantage of the agriculture and fisheries subsector will increase by many more folds than the other subsectors. That is to say, the Government is condoning an unfair system to continue to be unfair.

Under such an unfair framework, although the Government has proposed to increase 400 directly-elected members, it would be useless in any case. For these 400 directly-elected members out of 1 600 members, what democratic role can they play? In general, I think this reform still cannot get rid of its "bogus-democracy" nature.

The situation of the Legislative Council is even simpler. The five new functional constituency seats will be returned from a group of people including DC members appointed by the Chief Executive. That is an attempt to control the outcome of elections through executive intervention and distortion of public aspirations. This is a manifestation of blatant executive intervention in democratic elections.

The Government has recently refused to draw up a timetable on constitutional reform on the pretext of a lack of consensus in society and this, I think, is puzzling. Just take a look at some information and we can see that a consensus has long existed. In May last year when the Constitutional Development Task Force published the Third Report, and if I am not wrong, colleagues from the Liberal Party — but no member of the Liberal Party is in the Chamber now — already took the lead to put forward a proposal to the Government, suggesting that universal suffrage be implemented no earlier than 2012 and no later than 2017. In the 2004 Legislative Council elections, in order to counteract the democratic camp, the DAB also supported the implementation of universal suffrage in 2012, and surprisingly enough, that was not accepted only by the democratic camp. What we ask for now is just a clear timetable. On this issue, all major political parties actually shared the same view and that is, if universal suffrage would not be implemented in 2007 and 2008, all the political parties would support its implementation in 2012. While amendments can be made to a party platform, social consensus can never be wiped off or covered up.

Hong Kong people have waited for democracy for more than 20 years. Regrettably, our patience in this long wait has not brought any reasonable return to us. Insofar as constitutional development is concerned, the Basic Law has

imposed the restriction that the constitutional system can be reviewed only once every five years. If we accept this proposal which violates fundamental principles of democracy, Hong Kong people will first have to wait for another five bitter years, but more importantly, if we cannot secure 40 votes five years later, that is, if the democratic camp cannot secure 40 votes, this proposal would unlikely be overthrown and in that case, this anti-democracy proposal would stand, because the Standing Committee of the National People's Congress has already stated that if changes cannot be made to the system, the old system will continue. Now, the Government has not provided a timetable to us, and it means that the Government can do whatever it likes once the proposal is endorsed because this proposal, once passed, may continue to apply until 2047, and we do not know when it could be reversed. Is this political gamble worth playing?

Like the Victoria Harbour, the future of democracy is shrouded in misty rain and haze with grim prospects. We cannot see the day of universal suffrage. Hong Kong people can only put up with the rejection of dual elections by universal suffrage in 2007 and 2008 helplessly. As I pointed out in the editorial of the latest issue of *A45*, we will strive for universal suffrage, and in striving for it, we do not plead like Mr Rafael HUI did, and we do not yell and shout as "Long Hair" did. This is only an aspiration of a dignified Hong Kong citizen who has his head raised and who stands upright. We want universal suffrage as soon as possible. If universal suffrage is impossible for the two elections in 2007 and 2008, why cannot there be dual elections by universal suffrage in 2012? Can the Government tell us why? The Government wants us to give up our aspiration for universal suffrage and accept this proposal which runs counter to democracy, and to accept it for five years and five years and another five years, idling away time. Is this worthwhile? I think this is a matter of conscience. I hope Members in this Chamber, being representatives of Hong Kong people, will ask themselves: Is this proposal worthy of support? Thank you.

Mr Ronny TONG moved the following motion: (Translation)

"That this Council considers that the Hong Kong Special Administrative Region (HKSAR) Government is responsible for putting forward a constitutional reform proposal that is acceptable to Hong Kong citizens and which encompasses concrete democratization processes; such proposal should not confer upon the appointed District Council members

the rights to select the Chief Executive or elect Members of the Legislative Council; furthermore, the HKSAR Government is also responsible for setting out in its proposal a roadmap and a timetable for achieving universal suffrage as well as the relevant details of the elections."

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

DR KWOK KA-KI (in Cantonese): Madam Deputy, Mr Ronny TONG said just now that many colleagues had predicted that this meeting today could be adjourned early, and there is a reason for his saying so. We all know that disregarding what proposal on constitutional reform is put forward by colleagues from the democratic camp in this Chamber, it is, in fact, predictable that the proposal will invariably be negated in the vote.

But today, I very much hope to take this opportunity to make an appeal to those colleagues who will vote against this motion. I urge them to think about it carefully. In fact, during the elections last year, apart from Members of the democratic camp, the Liberal Party, the DAB and other colleagues did call on the Government of the Hong Kong Special Administrative Region (SAR) to implement universal suffrage in 2012. However, the proposal made in the Fifth Report is completely silent on the implementation of universal suffrage in 2012. There is neither a roadmap nor timetable. Nor is there a single word about achieving universal suffrage in 2012. Why have these colleagues who insisted on universal suffrage in 2012 raised no queries at all and even accepted the proposal in its entirety?

Recently, the discussion in the community has been very anti-intellectual, for the discussion no longer focused on the shortcomings of this ridiculous Fifth Report or how it had failed to respond to the people. Rather, the entire discussion focused only on hearsay, rumour, and reports that are completely meaningless, such as "catching the hidden spy". Certainly, we all know that the Government has done a great deal and played a lot of tricks. The media, particularly pro-government newspapers, have also played tricks, reporting hearsay or rumour about the Legislative Council all the time. I think this is saddening to Hong Kong people, and it is also saddening to the media.

I do not know what have Hong Kong people done wrong in asking for such a low degree of democracy only? But it seems that they have now asked for a bit more and that is, they have asked for a bit more in respect of the Fifth Report, such as asking for a timetable, and this is described as untimely, not knowing which side the bread is buttered and standing in others' way. At first, some people were very worried when they asked for a timetable and roadmap, because once they put forward their demand, they might repeat the mistake made by Mr Martin LEE before. Mr Martin LEE, who is not in the Chamber now, had once suggested to talk about universal suffrage in 2012 instead of 2007 and 2008. The next day a pro-government newspaper reported in bold prints under a big headline that there was a split in the democratic camp and that the democratic camp had given up the fight for universal suffrage in 2007 and 2008.

It is precisely because colleagues of the democratic camp consider it necessary to look at the issue rationally that they no longer insist on rigid requirements in respect of the time or put forward demands that are considered untimely. Now that we are asking for a timetable; and we are asking the Government and Mr TSANG to discuss this with the Central Authorities (everyone knows that the Central Authorities are the boss) on behalf of all the people of Hong Kong, but even these demands are considered unacceptable. The Fifth Report is entirely monolithic, which leaves no room for discussion. What have we done wrong? Why is it wrong to ask for discussion to be conducted or to ask for changes be made in the future? Why must we accept it in its entirety? There has been no discussion whatsoever on these issues in the community.

There should be basically no precondition in respect of the provision of a timetable, particularly a timetable on constitutional development. Certainly, we very much hope that there will be an election in 2012, and we would like the Government to tell us how to arrive at an electoral method for the election in 2012. But the Government has even rejected such a humble demand and worse still, it has been slinging mud at our demand continuously. Secretary Stephen LAM may know only too well about this. He has played a lot of tricks in the media, and he may find it very interesting reading these reports. But being a member of the Hong Kong community, I think this is a tragedy.

In fact, if we do not strive for this demand, basically there will not be hope of getting universal suffrage in the future. In this Fifth Report, what is there worthy of keeping? I really can find nothing. First, the report does not provide a direction for increasing the number of functional constituencies.

District Councils (DCs) are, in fact, a small circle. I have worked in a DC for 11 years, and I know that this is really a small circle. When members of the public voted for me to become a DC member, they did not give me a mandate to join the Legislative Council election in this capacity. Nor did they give me a mandate to contest the election of the Chief Executive. Members of the public hoped that I can properly deal with the district affairs and properly address the livelihood issues in the district. I know this point very clearly. I dare not transgress my authority, and I see no reason for me to transgress my authority, fulfilling hopes that the public have never thought that they would pin on me. However, the Government has made use of distorted facts to invent a so-called proposal on DC election and what is more, it is going to put it to a divine niche, calling it a democratic proposal. But where is democracy? Where is progress?

Bishop Joseph ZEN has told many stories about hiking, and these stories are really apt analogies. He also talked about "touring round the garden". Indeed, the Government is "leading us on a tour round the garden". It does not talk about universal suffrage in 2007 and 2008, and it only talks about whether there should be appointed seats, but basically, appointed seats should not be discussed any further. But should the focus be put on the abolition of appointed seats in the future, Members would have to accept it. I wonder if the Government now intends to put on stage a play written, directed and performed by the Government itself. But I would like to make a prediction: If the Government thinks that this can be an opportunity for it to back out with good grace, that is, if it thinks that colleagues of the democratic camp would accept the proposal if it can just randomly dispose of something in the proposal, I must tell the Government that this is just its own wishful thinking. I think that Members, including those who will vote against the motion, must think twice and should not accept the proposal made in the Government's Fifth Report, because we, including colleagues from the DAB, have said before that this proposal runs counter to the direction of achieving universal suffrage in 2012, and it is also impossible to achieve the objective through this proposal.

I support Mr Ronny TONG's motion. Thank you, Madam Deputy.

MR MA LIK (in Cantonese): Madam Deputy, first of all, I wish to clarify the position of the DAB on direct election in 2012. We said that we have to create the conditions to strive for its implementation in 2012. So, please do not cite

our views out of context, saying that we had called for its implementation in 2012.

The DAB considers the Government's constitutional reform proposal acceptable. Recently, many opinion surveys have shown that, disregarding the differences in the views on universal suffrage, quite a large proportion of people accept the proposal put forward by the Government. Of course, different people may have different interpretations of the findings of these surveys, but I believe these surveys have adequately reflected a clear aspiration of the people and that is, they do not wish to see constitutional development to remain stagnant. If the Government's proposal gives people the impression that there will not be substantive progress in democratization, I think the proposal would not have commanded such a degree of acceptance by the public.

Mr Ronny TONG's motion considers that DC members should not be given the rights to select the Chief Executive and to elect Members of the Legislative Council. This, we think, is unfair to them.

Under the Government's proposal, the future functions of the DCs will be enhanced, but it is another question as to how the DC system will be changed in future. But under the existing system, appointed DC members are a legitimate component of DCs. If the existing DCs will become a new constituent of the Election Committee (EC), the DCs should be treated as an integral whole. All DC members have the same duties and bear the same responsibilities. We do not wish to see conflicts and even discrimination among DC members, for this will only jeopardize the work of DCs. The view of the DAB on appointed DC members is that their number can be reduced gradually in due course.

In fact, when the existing elected DC members were returned, the voters did not know that these members would have the new role of joining the EC to select the Chief Executive in 2007. Why do we not disband the existing DCs and re-elect the DCs in the light of their new constitutional function? It is because we all know that reform should proceed on the basis of the existing system, not with the objective of overturning the original system. Such being the case, all DC members should be given equal treatment, and only in this way can it be sensible and reasonable.

Mr Ronny TONG's motion also considers that the Government is responsible for setting out in the constitutional reform proposal a roadmap and a

timetable for achieving universal suffrage. We think that various sectors of the community should conduct studies of the roadmap and the timetable. I believe the Commission on Strategic Development can also provide a venue for this, and all the more we should endeavour to create the conditions for achieving universal suffrage early. However, I wish to point out that under the Basic Law, Hong Kong shall move towards universal suffrage in the light of the actual situation in Hong Kong. If this provision is not just empty talk, then it means that even though a timetable is drawn up, Hong Kong may still need to adjust the pace of achieving universal suffrage in accordance with the actual situation.

On the other hand, we consider it impracticable to bundle the constitutional reform proposal for 2007 and 2008 with the timetable on universal suffrage together. Firstly, views on the timetable are diverse in the community, and Mr Ronny TONG may hold that it is unacceptable to implement universal suffrage at any time other than in 2012. So, asking the Government to provide a timetable only will give rise to greater contentions on the timetable for achieving universal suffrage and besides, it will not be of much help to addressing the practical issue of the constitutional arrangements for 2007 and 2008.

Secondly, in its interpretation on the two Annexes to the Basic Law last year, the Standing Committee of the National People's Congress (NPCSC) explained that with regard to the methods for selecting the Chief Executives and for forming the Legislative Council for the terms subsequent to the year 2007, the Chief Executive shall make a report to the NPCSC as regards whether there is a need to make an amendment; and the NPCSC shall, in accordance with the provisions of the Basic Law, make a determination in the light of the actual situation in Hong Kong and in accordance with the principle of gradual and orderly progress.

If, as suggested by Mr Ronny TONG's motion, the SAR Government will provide a timetable on universal suffrage in the constitutional reform proposal to set out that, say, the Chief Executive shall be returned by universal suffrage in 2012, it would mean that the SAR Government will have to make a determination on whether there is a need to amend the method for selecting the Chief Executive in 2012 and how the amendment should be made. Insofar as this approach is concerned, even if members of the public do not question whether it is in line with the NPCSC's interpretation, they will challenge the actual legal effects of this so-called timetable. In the end, this might only be an undertaking that can never be fulfilled.

Earlier on, Mr Ronny TONG spoke at great length on the inadequacies of the constitutional reform proposal or what he considered to be unacceptable. Certainly, I think nobody would think that the Government's proposal is perfect, but as the proposal has a certain degree of support in the community, I believe it can also have the support of the Central Government and it can practically promote democracy. So, we hope that this proposal can be passed. We do not believe that members of the public would prefer stagnancy to moving one step ahead for substantive development. We are even more worried that if everyone tries to bargain with the Government, the proposal would be like an embankment such that if somebody takes one piece of brick from it and some other people take one piece of stone from it, the entire proposal would only collapse eventually.

The Government said that there is no room for bargaining insofar as the proposal is concerned. We think that in order to take forward a complicated reform, this is what must be done. We have chosen not to bargain with the Government because we wish to consider the issue from a broader perspective and hope that the constitutional system can step forward to achieve substantive democratic development. We do not wish to gamble. Nor do we wish that we could obtain nothing for the future.

Mr Ronny TONG's motion considers that the Government is responsible for setting out in the proposal the relevant details of the elections. We think that this will enable the public to understand more clearly the Government's proposal and provide a better basis for discussion. It is because some people said that the Government has, on the one hand, stated that there is no room for bargaining in the proposal, but it has, on the other hand, allowed room for manoeuvre in respect of the details of the elections. Quoting Mr Ronny TONG, a newspaper reported that the Government had already prepared four back-up proposals. We have no inside news. Nor do we know how accurate this is. But I hope that the Government can clarify this.

Indeed, Madam Deputy, it is now a critical moment in the constitutional development of Hong Kong. Whether the constitutional reform can proceed amid difficulties depends on whether the Government has a clear position and whether it can resolutely uphold its position. If the Government's position is unequivocal or wavering, I am afraid that it will be difficult to rally the greatest support. Thank you, Madam Deputy.

MR MARTIN LEE (in Cantonese): Madam Deputy, the Government now said that the Fifth Report is a big step forward. It is a lie.

I remember a proverb that I was taught when I was small: Learning is like sailing against the current — either you keep progressing or you keep falling behind. Some colleagues of the democratic camp said that what the Government has done is retrogression. The Government nevertheless said that we are wrong and that it has not retrogressed. According to that proverb, ".....either you keep progressing or you keep falling behind ", which I was taught when I was small as I said just now, is the Government making any progress? The arrangement as provided for in Annex II to the Basic Law is very clear. There shall be 20 directly-elected seats in the first term of the Legislative Council. Then, there shall be 24 and 30 directly-elected seats in the second and third terms respectively. What is the situation now? If things go on as they are now, the total number of Legislative Council Members will still be 60. But the Government now proposes an increase of five seats each. Is this progress? At most, we can only say that the Government is moving sideways. This time around, five seats are to be increased each, making a total of 10. What about the next time? Will the number be further increased by 10? Then, another 10 seats will be increased next time; this is all that the Government would do at most. Madam Deputy, if the number keeps on increasing like this, the Legislative Council would have no idea about how seating could be arranged for Members. So, I think we really must move elsewhere soon. If not, I do not know what we should do. We just cannot occupy the seats of government officials. Would we have to sit in the loft up there?

As we all know, the NPCSC, without conducting any consultation whatsoever among Hong Kong people, rejected universal suffrage for the two elections in 2007 and 2008 on 26 April last year. All that the Government has to do is to admit this point honestly. As the NPCSC thinks that the 30:30 ratio cannot be changed, the Government therefore used this as an excuse to propose an increase of five seats each and has even deceived Hong Kong people by saying that this is a step forward. As a matter of fact, where is this step forward? The objective of setting out a timetable does not even exist now. When the Basic Law was promulgated in 1990, our objective was initially 2007, that is, our objective was that the Chief Executive and Members of the Legislative Council be returned by universal suffrage in 2007. Later, this was deferred for one year given the existence of the Provisional Legislative Council, and that is why there

is this objective of dual elections by universal suffrage in 2007 and 2008. Now, there is not even a timetable. Where is our direction? We are just moving sideways now. Is moving sideways equivalent to progress? The Government has only made a big step sideways. When it makes another big step this way, the objective would only be farther and farther away.

Madam Deputy, I went uphill for morning exercises at 6.00 am today and I walked at fast speed, making big strides one after another. But half an hour later, I returned to the same place where I had started. Now, the Government is only giving us the runaround. In fact, all it needs to do is to tell Hong Kong people honestly that this is the decision of the Central Authorities and that there is nothing we can do. I saw yesterday the hard talk made by the Chief Executive, Donald TSANG, in Britain recently and he was virtually saying this in his speech. Why does the Government not be a bit more honest? Why can he be so honest with foreigners while trying to deceive Hong Kong people? Mr MA Lik holds that there cannot be a timetable, or else there would be an undertaking that could not be fulfilled. In fact, there is already an unfulfilled undertaking now, that is, dual elections by universal suffrage in 2007 and 2008. In spite of this, the Government should at least provide a more realistic timetable to me. If the Government considers that even 2012 is not feasible, it can suggest a time. Mr XU Chongde also mentioned that it should be about 40 years later. The Government may as well suggest a year and see if it is accepted by Hong Kong people and see if Chief Executive Donald TSANG still dares to conduct overseas visits!

Under such circumstances, the Government cannot refuse to provide a timetable. We must have a goal in life, and the ultimate goal is universal suffrage. Now, the Government has refused to tell us the future direction, and it has even wiped off the date that was set originally. I heard some Members of the democratic camp (at least one) say that if the Government can loosen up a bit and drop the proposal of incorporating all District Council members into the Election Committee, he would bring it up for further discussion in his party. I very much would like to tell this Member that he must not give the public an impression that his party, in so doing, aims only to fight for one more seat in the Legislative Council. If his party will cause Hong Kong people to be completely denied the direction of democracy only to gain one more seat for the party in return, how can he be accountable to his voters and how can he claim to be a Member of the democratic camp? These are all trivial matters; the timetable is the most important.

In fact, this timetable was already there as early as in 1990 upon the promulgation of the Basic Law. Even if we no longer mention universal suffrage in 2007 and 2008, and if the goal can be achieved only in 2012, there would be 22 years in the interim! Is there any country in the world with universal suffrage as its ultimate goal that has to wait for 22 years before it can achieve the goal? Secretary, I did put this question to you before, but you did not give me an answer then. I hope you can give me an answer now. Can you find any precedent in which the people have to wait for 22 years? Universal suffrage should be implemented given that its merits are already recognized. But why should we wait for so many years? Even if the goal of universal suffrage can be achieved in 2012, it would still take 22 years. Is there any such country in the world? Is it that we Chinese have a born weakness, that is, while the people of all the continents in the world can achieve democracy very quickly, the Chinese people in Hong Kong are the only exception, for we cannot have democracy even though we have waited for 22 years? How can we ever feel proud of ourselves?

(THE PRESIDENT resumed the Chair)

In fact, there is now plenty of time to make preparations. If the goal is 2012, there will still be seven years for us to make preparations. The youngest Member of the Legislative Council, namely Mr Bernard CHAN, is over 40 years of age and he is qualified to become the Chief Executive. When a person has worked for seven years in a district, disregarding which district it is in Hong Kong, how can anyone who see him every day not recognize him? Dozens of home visits can also be conducted, and is that not enough? There will still be seven years of time, and it will be enough even for him to contest the election of the Chief Executive.

If this motion today is negatived, how can we face up to the people of Hong Kong? What do we think Hong Kong people are? However, like Mr Ronny TONG, I reckon that the motion cannot be passed. So, I wish to make use of this opportunity to provoke Hong Kong people and get on their nerves, so that they will become as angry as they were during the enactment of legislation on Article 23 of the Basic Law when they had finally taken to the streets to make known their stance. See you in the Victoria Park on 4 December!

DR RAYMOND HO: Madam President, the future method of selecting the Chief Executive is only one among the many issues concerning the future constitutional development in Hong Kong. The future method for forming the Legislative Council is another major issue. In order to study the issues and gauge the views of the public, the Government established the Constitutional Development Task Force (the Task Force) in 2004. Following publishing four reports last year, the Task Force made public the Fifth Report last month together with its proposals, which is the focus of this motion debate.

In order to ascertain the views of my constituents on the proposals, I am in the process of carrying out a general consultation in the form of a questionnaire. I am therefore not yet, at this point in time, able to give an affirmative conclusion of the majority views of my constituents on the Government's proposals.

In the meantime, I would like to share with you some of my thoughts and the points expressed by some of my constituents regarding the Government's proposals.

As I have remarked at a meeting of the Panel on Constitutional Affairs the other day, I am pondering over the need of a timetable for our future constitutional development. Just like entering into a race, would it be better if one can work out the strategy right from the start with the knowledge of where the finishing line is? You may wish to know that striving for electing the Chief Executive in 2012 by universal suffrage was among the pledges I made to my constituents in my election platform during the 2004 Legislative Council election. I sincerely hope that the Government will take an open attitude with regard to the question of timetable.

Back to the Government's proposals on the method for selecting the Chief Executive in 2007, it is suggested that the Election Committee will also include all the 529 appointed and elected District Council members. Several engineers have told me that they have doubts on the legitimacy of the arrangement. This is particularly so for elected District Council members as their existing duties do not include the selection of the Chief Executive. Voters cast their votes in 2003 simply did not know at that time that their elected District Council representatives would assume this new function in 2007. Ironically, appointed District Council members do not have the same problem as the Government could simply include the new function into their terms of reference.

Regarding the method for forming the Legislative Council in 2008, the Government proposes to increase the number of seats from 60 at present to 70 in 2008. All the five newly added Functional Constituency seats will be returned through election by District Council members among themselves while another five additional seats be Geographical Constituencies.

Again, some of my constituents raised doubts on whether the changes are in compliance with the provision of the Annex II to the Basic Law: "Method for the Formation of the Legislative Council of the Hong Kong Special Administrative Region and Its Voting Procedures". Section 3 of the Annex refers specifically to (I quote) "the method for forming the Legislative Council of the Hong Kong Special Administrative Region and its procedures for voting on bills and motions after 2007," (unquote) but it does not include the expansion of the Legislative Council seats.

On the formation of the Legislative Council, our ultimate aim is surely the election of all the Members of the Legislative Council by universal suffrage as stipulated in Article 68 of the Basic Law. But its full implementation must be achieved according to the principles of "gradual and orderly progress" and "actual situation" as stipulated in the same provision of the Basic Law.

Before the full adoption of the universal suffrage in the Legislative Council elections, the Functional Constituencies have their worth of existence. Besides providing their expert advice on related subjects, the Functional Constituency representatives tend to offer more balanced views on a wide range of issues based on their professional opinions and experience rather than politically inclined considerations sometimes. Moreover, they provide an avenue for professionals to voice their views on the important issues affecting the future of Hong Kong. At present, voices of professionals are not fully represented, even at the district level, at least according to my experience in helping out two candidates with engineering professional background in recent District Council by-elections. One was successfully elected in Kwun Tong while the other one contesting in Southern District on the Hong Kong Island lost upon drawing lots because of equal votes. Compared with candidates affiliated to political parties, independent professional candidates have to fight an uphill battle in their electioneering.

I understand that the restrictive number of the Functional Constituency voters have always been the main point of contention. To address the issue, I am of the opinion that electorate base of the Functional Constituencies should be broadened to enhance their representatives. In fact, I am asking engineering constituents' views on my suggestion to include Graduate Members and Associate Members of the Hong Kong Institution of Engineers (HKIE) in the Engineering Functional Constituency electorate. There are about 4 000 and 2 000 members for these two classes of members respectively. The number of eligible voters currently stands at 11 000, which could be increased to about 20 000 or more with the suggested changes.

I believe that their inclusion in the electorate is justified for the reason that the HKIE is a statutory qualifying body which is mutually recognized by other related international professional bodies and is a member of all the relevant important international organizations. And also, there are stringent requirements in both academic qualifications, training and professional experiences for Graduate Members as well as Associate Members.

With these remarks, I so submit. Thank you, Madam President.

DR JOSEPH LEE (in Cantonese): Madam President, with regard to the constitutional development in Hong Kong, the Government has the duty to put forward a constitutional reform proposal that is acceptable to Hong Kong citizens and which encompasses concrete democratization processes. But insofar as the proposal made in the Fifth Report of the Constitutional Development Task Force is concerned, we do not see that it is acceptable to the people. Nor do we see that it encompasses concrete democratization processes.

Government-appointed District Council (DC) members should not be given the rights to select the Chief Executive or elect Members of the Legislative Council. This is not to drive a wedge between appointed and elected DC members or create a situation in which they have different rights. The reason is that DCs, being district organizations, are responsible for residents' welfare, environmental improvement works and the promotion of recreational, cultural and community activities in the districts. Why should residents not elect suitable persons to be their representatives according to their own needs or preferences but leave it to the Chief Executive to appoint their representatives?

In fact, the Government should abolish the appointment system of DCs, so that all the seats are directly elected, thus enabling the voices of the people to be brought into the DCs direct. In this way, the room for democracy can be broadened in Hong Kong.

The Government must not think that the elements of democracy can be enhanced purely by increasing the number of Members of the Legislative Council or that of members of the Election Committee for the selection of the Chief Executive. An increase in number is not tantamount to an enhancement in quality. The Government must broaden the representativeness of parliamentary assemblies rather than just increasing the seats in them. In this connection, the Government must abolish all corporate votes and broaden the electorate base of the Election Committee. Only these are initiatives that will achieve democracy.

We do not see any timetable or roadmap for achieving universal suffrage in the Government's constitutional reform proposal. The Government should directly set out in the Fifth Report a roadmap and a timetable, explaining clearly the details and arrangements involved, and also when universal suffrage is expected to be achieved, so that Hong Kong people will know how democracy, to which we have long aspired, will be achieved in a "gradual and orderly manner". In that case, Hong Kong people would accept the contents of the Government's proposal, for we could then substantively and clearly see the future of Hong Kong.

Madam President, we are prepared to establish communication with the Government to show it the needs and aspirations of Hong Kong, so that we can work in concert to seek consensus. Just that there are only two months for discussion, and as it is indeed necessary to make amendments to the proposal put forward by the Government, I am afraid that it is very difficult for us to accept the proposal, unless the Government proposes some breakthrough amendments. Otherwise, there will be some degree of difficulty for this proposal to be endorsed by us. Could it be that the Government would like Hong Kong people to come forth again and resort to actions to manifest their aspiration for democracy?

Why do we ask for democracy? It is only because we love Hong Kong, and we wish to do Hong Kong service. We have never opposed everything proposed by the Government. Only that the Government does not understand

us. But even if the Government knows what we need, the Government still cannot give it to us. What it can give us is not what we need.

So, we hope that democratization can be taken forward and make good progress in the constitutional system of Hong Kong. For this reason, I support Mr Ronny TONG's motion. The Government has the duty to set out a roadmap and a timetable for achieving universal suffrage in the proposal to facilitate the early realization of universal suffrage in Hong Kong.

Madam President, I so submit.

MR LEUNG KWOK-HUNG (in Cantonese): President, I remember that when I talked about the report on constitutional reform last time, I said that I had had a dream. Today, I will talk about what my dream was.

In my drowsiness, I see a smiling woman coming in sprightly steps towards me. Her hairstyle has changed and it is no longer like a broomstick that everyone used to be able to recognize instantly. She is no longer wearing dark sunglasses and her clothes are no longer brightly coloured. I finally recognize her as that very unfortunate salesperson. Prior to her departure, she was still holding 23 bottles of sugar-coated poison and saying with a smile, "I know a lot of people in the Central Authorities. Goodbye for now." There are still some food morsels at the corners of her mouth because many rich and powerful people have thrown farewell banquets for her. Her red lips seem flushed from talking too much, so people can notice that they are pouting.

The build of this lady is really light and it looks as though she were drifting in the air like a phantom. Many impeccably groomed and dressed ladies and gentlemen in suits are following her, carrying their leather accessories. They are all carrying a similar article in their hands, that is, brightly coloured briefcases. Many articles have been put into these briefcases and some of them have fallen out. One of them looks like a box of facial tissues and have the words "Basic Law" inscribed on it. Maybe it has been used too often by this group of ladies and gentlemen, so it is inadvertently left lying around. These ladies and gentlemen can be divided into two groups, with a group of three taking the lead and the other 11 following and they are referred to as "the three corpses and 11 souls". The people in the group behind the three are lined up according to their seniority, with seven leading and eight following. When they go past

some passers-by, they quickly take out some gift vouchers and hand them to these passers-by. These gift vouchers can be used to claim candies. The larger vouchers are known as 426 and the smaller ones, District Councils. There are also others called timetable and roadmaps and they are all the in brands. After December, gifts can be redeemed with those vouchers. Where can one redeem the gifts? Not to worry. If you look up, you will see that grandest building called the Commission on Strategic Development and that is the place. If one is worried that there may not be enough gifts, no worries. Bring along your shoe-cream and shoe-brush, you can then join this lucky draw in which there is always something for everyone.

In front of this group of people, there is a gentleman. He is wearing a suit and a bowtie and he looks very smart. He opens his arms and laughs happily to all the people described just now. He has a book with the title *The Prince* in his pocket, in which it is written, "A prince, especially a new one, cannot observe all those things for which men are esteemed, being often forced, in order to maintain the state, to act contrary to fidelity, friendship, humanity, and religion." As I look on, I feel scared and just like the scenes in the animal farm depicted by George ORWELL, the faces of people are beginning to change. Finally, I woke up.

Members, in fact, there is a sequel to this dream. I also had another dream. In it, I see 60 people sitting together. Of these people, 25 of them are sitting and sipping coffee in a cafe called the Rubber Stamp. Then someone says "Hey, it is now time. Let's pay the bill." Then, a lot of hustle and bustle ensues. That person then says, "Hey, if you do not promise me, I will treat you as not having money to pay the bill and will call the police to arrest you all." I notice that those 25 persons all appear to be very frightened. Some want to find an excuse to get away, for example, by telling others that they have forgotten to bring their wallets, while others say that it is only a misunderstanding and they did not intend to come and have coffee, that they never thought about coming here and other people have chosen them to come here, so they are very sorry about this. In fact, they do not have to conduct themselves like that.

Today, we have discussed the issue of a minimum wage and maximum working hours — I have nearly forgotten to take out this broken rice bowl — under this rotten system, we, who originally represent the majority, have become the minority. Today, they are serving us some leftovers; moreover, they are serving them to us in broken bowls. To those 25 customers of the cafe, if you

want to eat the leftovers, you have to stick your head into the bowl, however, you will hurt your mouth easily. You are already so happy even though you have only been offered leftovers, just like the pigs in George ORWELL's work. There are 35 other customers of the cafe who say laughingly, "I have already told you. Do you think that getting into this Rubber Stamp is easy? It was our boss who told us to come in. We will definitely act together and see what the 25 of you can do."

Members, I have told my story. Finally, I can see a scene, that is, on 4 December, before the lucky draw, all of a sudden, nearly 100 000 people take to the streets, saying, "I do not want any candies. I want to be myself. I do not want any candies, I want democracy." This garment that I am wearing was given to me by others on 1 July 2003. I will wear it on 4 December this year. I hope that all people who bought this garment that year will wear it and join the rally for democracy, telling people that they do not want candies but to be themselves.

MR BERNARD CHAN: Madam President, I do not disagree with the spirit of this motion. I would definitely like to see a constitutional reform package that is acceptable to the people of Hong Kong. And I would like to see it contain concrete moves towards universal suffrage.

I agree that the inclusion of appointed District Council members in the current proposal makes the package less democratic. And I agree that a timetable would help enormously, if it can assure the people of Hong Kong that we will reach our goal.

However, the motion is making a mistake. It is claiming that the Government of the Hong Kong Special Administrative Region (SAR) has the responsibility to propose greater reforms than we have in the proposed package. The problem is, the SAR Government does not have the right to do that. We cannot go further than what the Central People's Government will allow.

Several members of the Administration have described the Government's proposals as a "major" step forward, or a "significant" step forward. Not everyone agrees. And perhaps, if we are to be honest, it may be an exaggeration.

But let us be honest about something else. It is also going too far to claim that the proposals are a step "backwards", or a step "sideways", or "pointless".

This package does take us forward. It might not go as far as many people would like. The proposed changes are incremental rather than revolutionary. But they are real. And the point is that we are not allowed to go further at this stage.

I can understand why some people are disappointed with this package. Many would say that the appointed members are a hangover from the past. I do not think anyone believes that appointees belong to elected bodies in the long-term future. But the fact is that the appointed members are a part of the system at the moment, and they have the same duties and responsibilities as their elected counterparts.

This motion does not mention it, but some people would criticize this package because it will leave a significant element of indirect election in the system. No one can deny that. However, the pro-democrats must admit that these proposals do significantly open up participation in indirect elections for additional Legislative Council and Election Committee seats.

And these seats have a much broader base than most of the current Election Committee and Functional Constituencies. There are no additional 'small circles' under these proposals.

And as for the issue of a timetable, it brings us back to the basic problem. Beijing is not addressing that at the moment, and there is not much we can do about it.

I know a significant number of my colleagues in this Council are thinking of opposing these proposals. I hope they think very carefully about what the people of Hong Kong want. Yes, the majority might prefer bigger steps towards full democracy. But do they want to turn down the chance to take these smaller steps in the same direction? I think that is extremely unlikely. Remember, this is not the end of the process.

I have conducted a survey among contacts of mine in the insurance industry. It is not a scientific poll, but I think these people are a fair cross-section of middle class, management-level people in the private sector.

Only 8% felt that these proposals go too far towards universal suffrage, while 36% felt that they should go further. The majority, 56% of the total, felt it was about right, or it was better than nothing.

And then I asked a very simple question — "do you want to see this package passed in the Legislative Council, or be rejected?" And nearly 80% of the respondents said they wanted to see it passed, even if they were not completely happy with it. I think that is a very important figure, because I am positive it reflects feeling throughout the community.

Maybe the majority of the people want something that goes further — but they do want this package to pass.

If we do accept this package, even if we are not totally satisfied with it, we have a much better chance of moving further ahead next time.

Beijing is not inflexible on the subject of political reform in Hong Kong. It is not close-minded. The leadership realizes that a broader-based, more inclusive system is important for harmony here. The recent visit of all Legislative Council Members to Guangdong, including pro-democrats who had been banned from the Mainland, shows that Beijing recognizes this.

However, the Central Government has some specific concerns, which we must all consider. Whether you agree with it or not, Beijing is not confident that Hong Kong will get better government under more democracy. They are afraid that it would mean more bickering and less harmony.

Madam President, if we want universal suffrage sooner rather than later, we must ask what we can do to make the Central Government more confident. Accepting this package as the best we can have at this stage, even if we would prefer something better, would be a good way to start.

Thank you.

MS MARGARET NG (in Cantonese): President, Mr Ronny TONG's motion, which calls for a timetable and a roadmap for achieving universal suffrage, is in conformity with the wish of 70% of the people.

At a seminar on the constitutional reform proposal last Monday, Ms Gladys LI, SC, who represented the Article 45 Concern Group, raised a legal question: Should the Government's constitutional reform proposal be consistent with Article 25 of the International Covenant on Civil and Political Rights (ICCPR)? Article 25 of the ICCPR protects the basic right of citizens to participate in public affairs. Under Article 39 of the Basic Law, the Government of the Hong Kong Special Administrative Region (SAR) must implement the provisions of the ICCPR through the laws. Obviously, laws that provide for the elections of the Chief Executive and Members of the Legislative Council should have regard to the requirements in Article 25 of the ICCPR.

Articles 45 and 68 of the Basic Law provide that the Government has the duty to put forward a proposal which will ultimately "achieve universal suffrage". We oppose the proposal made in the Fifth Report of the Constitutional Development Task Force because it does not "move towards universal suffrage". To "move towards universal suffrage" or "achieve universal suffrage", we must have a correct definition of "universal suffrage" first. Without a correctly defined goal of "universal suffrage", this proposal will only "tour us around the garden" aimlessly, wasting time and letting slip opportunities, and is not worthy of our support.

Article 25 of the ICCPR provides a clear and solid definition on "universal suffrage". It says, "Every citizen shall have the right and the opportunity, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status and without unreasonable restrictions to take part in the conduct of public affairs, directly or through freely chosen representatives, and to vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors.....". It defines the meaning of election by universal and equal suffrage.

Functional constituency seats are returned in elections based on social class and status, and this obviously does not meet the requirements of the ICCPR. The elections of the Chief Executive, the Election Committee and the Legislative Council are all subject to the influence of functional constituencies. In order to "move towards universal suffrage", at least it is necessary to distinctly reduce, with a clear direction and in a well-planned manner, such

elections of an unequal and discriminatory nature. Nevertheless, the Government's proposal does not serve this purpose at all.

Take the election of the Chief Executive as an example. The number of seats to be returned by functional constituencies will be increased rather than decreased. The ratio of the total membership to the number of subscribers required will remain completely unchanged; and while the number of elected DC members will be increased, the number of appointed DC members will also be increased substantially. Appointed DC members absolutely are not "freely chosen representatives" of the people.

With regard to the proposals relating to the Legislative Council, there is no increase in the actual strength that draws on direct geographical constituency elections. In the meantime, the so-called "functional constituency" in which 529 DC members will elect among themselves six Members of the Legislative Council will, on the one hand, constitute the newest round of election in the smallest coterie and, on the other, beg the question of whether it represents district interests or the interest of this "constituency" of DC members? In fact, whichever answer it is, it is still illogical. Mr Bernard CHAN said earlier that there would be no question of adding small circles. In fact, the present situation is that in this small circle, that is, in this smallest coterie, 529 people can already return six people.

On these issues, the Government has all along been evasive, refusing to give us an answer. The attitude of the Government is that Article 25 of the ICCPR does not apply to the SAR. At the seminar which I mentioned earlier, Secretary Stephen LAM even said that functional constituencies are considered constitutional and legitimate in a judgement made by the Court in Hong Kong. But he has apparently misunderstood the case. The case that he had referred to was the "LEE Miu-ling" case in 1995, and the judgement passed by the Court did not support that functional constituency elections are compatible with the ICCPR. Rather, the judgement said that functional constituency seats were expressly permitted in the Letters Patent before the reunification, and under the colonial system, the Letters Patent had an overriding status in law. But after the reunification, the Basic Law has been implemented and the situation has since been completely different.

The Human Rights Committee under the ICCPR has given a detailed explanation of Article 25, stating to the effect that this article requires that each

vote cast by voters shall carry roughly equal weight and that no discrimination should be caused to any type of voters. In 1995, the Human Rights Committee even made direct criticisms of the functional constituency elections in Hong Kong (and I quote): "The Committee considers that the electoral system in Hong Kong does not meet the requirements of Articles 2, 3, 25 and 26 of the Covenant..... the election of functional constituencies, which gives undue weight to the views of the business community, discriminates among voters on the basis of property and functions. This clearly constitutes a violation of Articles 2, paragraph 1, 25 (b) and 26."

To "move towards universal suffrage", the representation of functional constituencies in the existing system must be truly and significantly reduced. However, the Government's proposal has no intention whatsoever to put the ICCPR into practice and for this reason, this Council should resolutely oppose this proposal.

President, I so submit.

DR FERNANDO CHEUNG (in Cantonese): President, the Chief Executive, Mr Donald TSANG, appears to have resumed his old job as a salesman recently, for he has been hard selling his proposal to people everywhere, highly commending his proposal which he considers to be meritorious. He even threatened that should the democratic camp vote down this proposal, the constitutional system would remain stagnant. If we vote down this proposal, I think the reason for us to vote it down is that we have to tell the Central Authorities in Beijing and Hong Kong people that Hong Kong people can say "No" to an undemocratic constitutional reform proposal. Hong Kong people may not necessarily accept any kind of constitutional reform. If a constitutional reform proposal will only tour us around the garden and take us on a stroll aimlessly, rather than leading us to democracy and to universal suffrage, Hong Kong people can say "No".

Last Wednesday, in reply to Mr CHEUNG Man-kwong's question, Secretary Stephen LAM said that views were diverse in the community on the timetable for achieving universal suffrage and that it would be difficult to reach a consensus in a short space of time. While these words still ring in our ears, the results of an opinion survey published by the Hong Kong Institute of Asia-Pacific

Studies of The Chinese University of Hong Kong last Thursday have precisely refuted this argument of Secretary Stephen LAM. The survey found that about 34% of the respondents considered that universal suffrage should be implemented for the two elections in 2007 and 2008, and close to 35% considered that it should be implemented in 2012. In other words, a total of 70% of the respondents hoped that universal suffrage can be implemented as soon as possible in 2012 or earlier. Moreover, 65% of the respondents considered that the Government should draw up at this stage a timetable for achieving universal suffrage.

The survey also found that less than 40% of the respondents supported the inclusion of appointed DC members in the Election Committee for selecting the Chief Executive, and less than 40% of the respondents supported that appointed DC members be given the right to vote and elect their representatives to the Legislative Council. According to Secretary Stephen LAM's logic, members of the public appeared to have divergent views on the Government's proposal, and given such divergent public views, should Secretary LAM not withdraw the Government's proposal?

I remember that on the day the Government announced the constitutional reform proposal, before members of the public had fully understood and digested the contents of the proposal, the Chief Secretary for Administration said right away that according to some opinion polls conducted by the Administration beforehand, the proposal was widely supported by the public. However, as members of the public began to gain a better understanding of the contents of the proposal, the opinion surveys conducted recently have proven that what Chief Secretary Rafael HUI had said is less and less tenable. But if the Government maintains that its views are correct and that members of the public support this proposal of the Government, then I would like to challenge the Government. Can the authorities hold a referendum and put this proposal to a vote by the people using "one person, one vote"? Or do the authorities dare to conduct an opinion survey to ascertain if members of the public truly support this proposal at large or do they ask for the implementation of universal suffrage at an earlier time?

We also proposed the conduct of a referendum in the last Session of the Legislative Council, but the Government ruled it out, saying that there is no such provision in the Basic Law. If this was ruled out because the Basic Law does

not provide for it, then why did the Government conduct those opinion polls before the constitutional reform proposal was published, and since the Government could conduct those surveys, this is proof that the Government can do it if it is willing. Therefore, there is no reason for the authorities to deny members of the public the opportunity to express their wish by way of a referendum.

While I have joined the Legislative Council for a year or so only, this is already the fifth time that I have taken part in a debate on the constitutional reform. In fact, over the past eight years since the reunification of Hong Kong, arguments over the constitutional system have never ceased in the community. We can see clearly that this closed political system that we have now is already riddled with problems. The Chief Executive was returned only by a handful of bigwigs, and the disadvantaged is in no position at all to exert any influence on government administration. As a result, livelihood issues have consistently been neglected, and the powers of the Chief Executive are not subject to any checks and balances by the people. That is why we have seen collusion between the Government and business, and we have seen Hong Kong's fair and open systems being shattered, and we have even seen acts undermining the rule of law. The people insist on their demand for democracy not because they like to confront the Central Authorities. That is entirely not the intention of the people. They only hope that Hong Kong society can operate more smoothly and the Government will be accountable to the people.

Mr TONG's motion only asks that the Government be responsible to put forward a constitutional reform proposal that is acceptable to Hong Kong citizens and which encompasses concrete democratization processes, and that the proposal should not confer upon the appointed DC members the rights to select the Chief Executive or elect Members of the Legislative Council. The motion also asks that the Government be responsible for setting out in the proposal a roadmap and a timetable for achieving universal suffrage. All these are humble, reasonable demands. Without a timetable for achieving universal suffrage, I believe that there will still be continuous disputes over next year's Election Committee for selecting the Chief Executive and the arrangements after 2007 and 2008. If the Chief Executive wishes to see harmony and stability in society, could he, on behalf of Hong Kong citizens, make long-term plans for universal suffrage, so that we know that a democratic constitutional system will materialize soon and various sectors of the community can make preparations for universal suffrage. If the Government resolutely refuses to draw up a

timetable for achieving universal suffrage, even if the authorities are willing to withdraw the system whereby appointed DC members are given the right to elect as suggested in its proposal, we will still absolutely oppose this proposal.

I speak in support of Mr Ronny TONG's motion. Thank you, President.

MR JAMES TIEN (in Cantonese): Madam President, after the Government published the Fifth Report of the Constitutional Development Task Force, we have expressed our views on it. We think that as the 60 Members of this Council are responsible for handling a great many issues in Hong Kong and they have to take part in various panels and scrutinize bills, a shortage of manpower has, therefore, existed. So, we support the part about increasing the number of Members to 70 in the proposal. Certainly, on the premise of increasing the number of Members to 70, the interpretation of the National People's Congress considered that the number of Members returned by direct elections and those by functional constituency elections should be the same and so, we support that 35 Members shall be returned by direct elections and the other 35 Members by functional constituency elections.

In respect of functional constituencies, the Liberal Party has already expressed its views. From the perspective of balanced participation, we consider that one or two seats should be allocated to the industrial and business sector, one or two seats to professionals, and one or two seats to the locals. However, the Government now thinks that the traditional functional constituencies are in conflict with the direction of gradual and orderly progress. If we look at it from the direction of gradual and orderly progress, we should enable more people who are returned by democratic elections to join the Legislative Council. The Government also mentioned that of those 500 DC members, 100 are appointed DC members, close to 100 come from the industrial and business sector and 80 are professionals. So, I think from the perspectives of balanced participation, gradual and orderly progress and the actual situation, this proposal is desirable. Certainly, we still have to explain to the functional constituencies representing the industrial and business sector the initial expectations and the changes made by the Government in its proposal. Since we consider balanced participation and gradual and orderly progress necessary, we think that this proposal is more democratic and more in line with the principle of gradual and orderly progress. It also gives us room for achieving balanced participation and so, it merits our support. As far as I understand it, so far,

most Members returned by functional constituency elections, including Members of the Liberal Party who have affiliations with the industrial and business sector, think that this proposal is still acceptable although it may not be our first choice. So, we will actively take part in it and throw weight behind it.

Mr Ronny TONG pointed out in the motion that appointed DC members should not be given the right to select the Chief Executive. In this respect, many opinion polls have been conducted in the community, and the Liberal Party has also conducted opinion polls in this connection. As at 31 October — my apology, Madam President, it should be as at yesterday, that is, 8 November, we have conducted an opinion survey for nine days. Let me read out the first question in it to preclude people from querying the questions asked by us and alleging that we had put across a wrong message to the interviewees. Our question is: Do you agree that the Government should allow all DC members, whether they be elected or appointed members, to join the Election Committee in 2007, so that they can take part in the selection of the Chief Executive? Results showed that 1 540 people agreed and 730 disagreed, or 53.2% agreed and 25.1% disagreed. The ratio of people who agreed with it to those who disagreed is 2:1.

Incidentally, let me also read out the second question in the opinion survey conducted by us: Do you agree that appointed DC members be allowed to contest the five newly added functional constituency seats in the Legislative Council? The result was that 1 281 people (44%) agreed and 760 people (26%) disagreed. While the figures are slightly lower than those cited earlier, we can see clearly that it was 44% against 26%. As to whether appointed DC members can vote in the selection of the Chief Executive and in the election of those five seats for the DC functional constituency in the Legislative Council in 2007 and 2008 respectively, we think that members of the public have, in fact, explicitly expressed their supportive views on these proposals. I hope that Mr Ronny TONG, sponsor of this motion, as well as Members of the democratic camp will listen to members of the community. They are, in fact, concerned about this issue, but they think that the rights of appointed DC members to select the Chief Executive and elect Members of the Legislative Council may not necessarily have to be taken away.

Moreover, in respect of the timetable, the Liberal Party has already expressed its views. We think that we must do our part properly. We consider that the Chief Executive shall be returned by universal suffrage in 2012

subject to nominations by a nomination committee, but we think that the Legislative Council should not abolish in 2012 all the 30 seats, or 35 seats by then, of traditional functional constituencies in one go and turn them into directly-elected seats. I think there are some difference between the Legislative Council election and the selection of the Chief Executive. It is because there are, after all, so many Members in the Legislative Council and under the principle of gradual and orderly progress, we should gradually cut the traditional functional constituency seats and increase directly-elected seats. Even if it is decided then that the number of seats will be increased without cutting the seats of traditional functional constituencies, we can still increase the number of DC seats using the existing approach of including elements of universal suffrage in the functional constituency. We think that we should not put into the proposal everything in very specific terms. Of course, we need to understand that the Government does have difficulties, and the Central Government has their view on the timetable too. I think the Central Government may not necessarily refuse to name a timetable, but if we ask that they must tell us their timetable today, this is not what they plan to do.

I personally have some worries too. Will it be in the best interest of Hong Kong people if they really tell us their timetable? If the timetable which is provided under coercion sets out a date later than that as demanded by us, would the people be even more disappointed? Now, we should first do our job properly and perhaps by 2010, the Central Government will think that the actual situation in Hong Kong is already mature. We do have this expectation. The Liberal Party will take part in the DC elections in 2007 by all means, so that in the 2008 Legislative Council elections, there can be more participation by people from political parties representing the convictions of the industrial and business sector, thereby balancing the views of the community on various aspects and hence achieving balanced participation. I hope that the Central Government will support the election of the Chief Executive by universal suffrage in 2012. Thank you, Madam President.

MR ALBERT HO (in Cantonese): Madam President, I believe when the Government asked us to change our position and support the constitutional reform proposal, one of the reasons — as Mr James TIEN also said earlier — is to ask us to heed public opinions. They said that many people now support the Government's proposal. But I must stress one point here. Under what circumstance was the opinion poll conducted? The circumstance that I am

questioning is one in which the public or the interviewees had no choice at all. The National People's Congress gave us a birdcage. We are trapped inside this cage, and there is little room for us to fly around. Such being the case, do the people accept this proposal? Many people were made to give a response helplessly under such a circumstance. The Hong Kong Institute of Asia-Pacific Studies of The Chinese University of Hong Kong (CUHK) has categorized the supporters of the Government's proposal in this opinion poll and found that half of the people only barely accepted the proposal. "Barely" means that they accepted the proposal helplessly under a situation where they had no choice at all.

Madam President, I think this opinion poll is not a true representation of public opinions. The clearest and truest public opinions were those collected before the Government published the Third Report. It clearly reflected that over 60% of the people supported universal suffrage in 2007 and 2008, and only this is the true public opinion. The current proposal is too far away from public sentiments, and this reason alone is already sufficient for us to think that the proposal made in the Fifth Report should be rejected. We do not have to be entangled in whether there is any small improvement in this proposal, whether the development will remain stagnant and even whether it represents retrogression. We do not have to argue over this, because the proposal is indeed very, very far away from the true public opinion.

Why should we accept this proposal? A more important question (or an equally important question) is: Will we be misled if we accept this proposal? Or will we mislead the public into thinking that this is a big step towards a democratic constitutional system and that we will continuously move ahead step by step? If we accept this proposal now and accept that this is a big step forward and that we will be progressing in small steps in future, when can we achieve the goal of full universal suffrage as provided for in the Basic Law and which is also the common aspiration of the people?

Certainly, this proposal seems to have included slightly more democratic representation on the surface, but let us look at it more closely. The functional constituency elections will completely follow the old model, which is entirely anti-democracy, and the newly added functional constituency seats will include appointed members. The most ridiculous and outrageous thing about this system of appointment is that it allows vote planting by the Chief Executive, and it also allows the Chief Executive to appoint some people who will in turn select

him to be the Chief Executive. Although the number of members of the new Election Committee will increase by 800, some 300 members will join the Election Committee in the old way, and another 100-odd members will be appointed by the Chief Executive. How can such a system be construed as progress? This is downright retrogression and violation of some principles mentioned in Annex I to the Basic Law and that is, if some organizations can return members in a democratic manner, the principles of equity and openness should be adopted as far as possible. The current proposal has completely neglected this minimum requirement as stipulated in the Basic Law.

Madam President, many colleagues said that a consensus is lacking. How can a consensus be lacking? In fact, back in the 2000 election, did the three largest political parties not put forth very clearly their aspiration for the implementation of universal suffrage in 2007 and 2008? Only that some political parties have now backed away under pressure. Such being the case, we will never be able to reach a consensus. Even if a consensus can be reached, when the bill is finally put to the vote before passage, they could still "kneel down" and in that case, can we reach the so-called consensus that we have been seeking to reach?

I have to make one more point. If we rely on the so-called public opinions expressed only at a certain point in time and in a mood of sheer helplessness, this is not only unfair and unjust, but will neglect the fact as reflected in the opinion poll of CUHK that many people are calling for a timetable for achieving universal suffrage, because 60% to 70% of the people support that a timetable on universal suffrage be provided. Why does the Government not accept this mainstream public opinion? Why do we just selectively say that public opinions seem to consider the proposal in the Fifth Report quite acceptable?

Madam President, during the last debate on the policy address, Mr Jasper TSANG made some remarks. Regrettably, I was not there and so, I could not respond to him immediately. Later, I read his remarks, and I wish to take this opportunity today to give a response. Although he is not in this Chamber, I believe he may still hear me upstairs, and he is welcome to give a response later. He always said that political talents are lacking. I think these remarks of his are not just defamation against himself. They are even like a dagger piercing through the heart of the DAB, and the underlying intention is also to pierce through the heart of the Democratic Party and the heart of Article 45 Concern

Group. Mr Jasper TSANG described everyone as incompetent, and no one is considered a talent in his view. He was actually sacrificing his own political party, the DAB, first. I saw that they have put up many beautiful posters at MTR stations, telling the people that they are a political party with prospects, and their members include those in the industrial and business sector such as Ann CHIANG, and also a former Director of a government department. However, Mr Jasper TSANG's earlier remarks mean that when he looked into the mirror, he found that even they themselves are not up to the mark. Can he, having made those remarks, face up to his fellow members of his party? In fact, how can it be true that talents are lacking in Hong Kong? It is true that the Democratic Party does not have as many seats as we had before, but we are proud that the total number of members of the democratic camp has increased. Madam President, we absolutely have the conditions required.

MR PATRICK LAU (in Cantonese): Madam President, there are always many voices in the community and also in this Chamber telling us that functional constituency Members are returned by small-circle election and so, they are only concerned about the interest of members of the small circle. However, people who have constantly paid attention to my speeches should have noticed that this is not the case for me. I will not support a government policy as long as I think that it will put public interest in jeopardy.

A key point of Mr TONG's original motion is that it questions the arrangements concerning the rights of appointed DC members in the constitutional reform proposal. But as a functional constituency Member representing professionals, I have misgivings and reservations about whether the newly added functional constituency seats should all be allocated to DC members. The crux of the question is: How should we prove that DC members can play the role of representing a functional constituency in the parliamentary assembly? Even if we can truly reach a consensus that DC members should be defined as representatives of a functional constituency, should we also consider opening up some functional constituency seats to professions which are not included as functional constituencies at present? This is worthy of our detailed studies.

Moreover, I support in principle the proposal of developing a bicameral system which I have heard of from various channels. I very much agree with the checks and balances principle advocated by MONTESQUIEU, a French

thinker during the Enlightenment in the 18th century. It is not difficult for us to notice that the bicameral system is a tendency of constitutional development in many democratic countries, including Britain, France, Germany and the United States. We should make more reference to their systems when we plan the constitutional reform. For example, assuming that a bicameral system will be implemented in Hong Kong in the future, there can be a division of labour between the Upper and Lower Houses in respect of their functions. In Germany, the Lower House or the Bundestag has the specific responsibilities of identifying the direction of policies through the enactment of legislation, whereas the Upper House or the Bundesrat is responsible for detailed legislative regulation. This is conducive to upgrading the quality of legislation and coping with the increasingly complex and diversified work of the legislature.

Madam President, I know that on hearing the term "bicameral system", many people may ask impromptu if my intention is to retain functional constituencies in this Council, in an attempt to prolong privileges and impede universal suffrage. Here, I must first make it clear that functional constituencies are definitely not a privileged class, so to speak. Frankly speaking, from my experience, it is more difficult to canvass votes from voters in functional constituencies than colleagues representing geographical constituencies canvassing votes on the street or by paying door-to-door visits to tenants in buildings, because one just does not know where to find the voters, let alone the difficulties in establishing daily communication and liaison with the trades or industries.

As for the view that the bicameral system will impede universal suffrage, my response is: Who said that universal suffrage is definitely ruled out in the Upper House? The electoral system of the Senate in the United States is the best example of the election of members to the Upper House by universal suffrage. Many of the various proposals collected by the Hong Kong Government during the consultation on the constitutional reform proposal are also worthy reference. For instance, the functional seats of the Upper House can be retained in the future, and the method for returning these seats is that voters in the industry will first nominate a list of candidates for all voters in the territory to vote to elect their functional constituency representatives. Certainly, this is only one of the proposals on constitutional reform. I cited this as an example because I always support the principle of fair participation. So, I hope that in future elections, there will not be the case in which one person has

one vote but the other has two or three votes. Each person may as well be given two votes. This approach is also worthy of consideration.

Madam President, some colleagues will certainly ask me why I have invariably sought to retain functional constituency seats in the Legislative Council. In fact, I have already given the answer. I have regard not only to the interest of the small circle. Professionals may be accustomed to analyzing issues from all sorts of angles, particularly when it is necessary to have regard to public interest in their work. So, they are often more objective and more inclined to considering issues from a broader perspective. Functional constituency elections will ensure that people with such training in their thinking and analytical power have the opportunity to give play to their expertise in the parliamentary assembly and to bring independent insights to the parliamentary assembly. I believe this will benefit the development of parliamentary politics and the community of Hong Kong as well.

Concerning the demand that the Government has the duty to set out in the constitutional reform proposal a roadmap and a timetable for achieving universal suffrage and also the relevant details of the elections, I agree with it in principle, because a correct direction should be identified for any detailed plan. Having said that, however, I hope that Members will carefully consider whether it is worthwhile to give up easily the constitutional reform proposal in its entirety only to set out the direction and the details of elections in advance. So, I think Members should think clearly whether this proposal can, in general, help us "move one step forward" in the development towards a democratic system. If the answer is affirmative, then we must not let slip this small step.

Finally, I sincerely hope that a relationship underpinned by mutual trust will be built up between Members of this Council and the Government, so that Members can focus their attention on making concerted efforts for democratization in Hong Kong in an efficient and judicious manner.

Thank you, Madam President.

MR FREDERICK FUNG (in Cantonese): President, "Tell me, am I going to see the day of universal suffrage?" This is an advertisement placed in various major newspapers on 28 October. It was a clear, concise and forceful question

asked by a 78-year-old elderly citizen. It thoroughly expressed the difficulties encountered by Hong Kong people in striving for democracy and revealed the helplessness and sorrow felt by Hong Kong people for the future of democracy.

President, "striving for the well-being of the people" and "people-based governance" are slogans of the Chief Executive, Mr TSANG, in his administration. But has he ever listened to the people's voices concerning the constitutional system, or has he simply turned a deaf ear to them? Recently, the Chief Executive, Mr TSANG, has continued with his visit to the United States, making great efforts to promote his constitutional reform proposal which he considered desirable by his own definition. He even said that the proposal had the support of the majority of Hong Kong people, turning a blind eye to the fallacy of the "birdcaged" opinion poll which he had conducted.

Facts speak louder than sophistry. Just take a look at the results of opinion polls on constitutional reform published by *Ming Pao* and The Chinese University of Hong Kong (CUHK) and we will find that close to 65% of the respondents called for the drawing up of a timetable for achieving universal suffrage, and 70% of the respondents supported the implementation of universal suffrage in 2007 and 2008 or in 2012. According to the results of the survey conducted by *Ming Pao*, 32.68% of the respondents considered the Government's proposal more appropriate, but 25.1% did not agree to confer upon appointed DC members the right to vote although they supported the Government's proposal. As for the election of the Legislative Council, 42.53% of the respondents did not support that DC members including appointed members shall elect among themselves their representatives to the Legislative Council, and only 34.81% of the respondents supported the proposal. Even though there were 60% of the respondents supporting the Government's proposal according to the survey results of CUHK, we found that nearly 65% of these supporters said that they had "accepted it out of no choice" and "did not have much feeling". President, what message did the opinion surveys convey? Do the majority of people support his constitutional reform proposal, as the Chief Executive has said, or do they actually support universal suffrage? Or do they ask for the drawing up of a timetable and clearly have reservations about the appointment system? President, it is more saddening to see that the people are aspiring to universal suffrage, but they feel helpless and frustrated by the restraints imposed on them.

These opinion surveys have put across a very clear message. Where is that majority support for the Government's proposal mentioned by Chief Executive Donald TSANG? Even if I made unreserved concessions by conducting a survey in completely the same way as in the Government's "birdcaged opinion poll", and if the respondents are asked five of the relevant questions in it, *Ming Pao* found that the degree of public support for the Government's proposal still dropped some 10% to 44%. The Government has refused to recognize the results of these opinion surveys. It is even unwilling to reformulate the proposal in response to the results of these opinion surveys. What is the point of opinion surveys?

President, I support the motion proposed by Mr Ronny TONG today, which clearly states that the Government should put forward a constitutional reform proposal that is acceptable to the people and which encompasses concrete democratization processes, and also draw up a timetable and a roadmap for achieving universal suffrage, and in particular, the anti-democracy appointment system should be scrapped. During the policy debate at the end of last month, I spoke on the absurdities and the anti-democracy elements of the appointment system, and I tried to review the Fifth Report of the Constitutional Development Task Force and the policy address in the context of the general direction of the overall constitutional development in Hong Kong. Five principles were stressed in the review: First, to substantially increase the democratic representation in the existing electoral systems; second, to formulate a timetable and a roadmap towards universal suffrage; third, to nurture the development of party politics and cultivate political talents; fourth, to reform the Government's mode of governance; and fifth, to devolve the powers of district administration and reform the consultative framework.

The proposal made in the Report is apparently too narrow and inconsistent with these five principles. The contents of the Report differ very greatly indeed from the aspiration of the majority of people for universal suffrage, revealing a serious gap between them. As a result, the social harmony deliberately created by the Government earlier is now burnt up. Subsequently, confrontations have emerged in society and worse still, social confrontations have been intensifying and yet, the Government has turned a blind eye to all this. Could it be that the Government really has to drive all the people to take to the streets on 4 December for it to feel happy and satisfactory? I believe Hong Kong people

have now given in to such extent that they can give in no more. They know only too well that the chances of getting universal suffrage in 2007 and 2008 are slim, and all they wish is a clear timetable and a roadmap for universal suffrage. What is wrong with this?

The Hong Kong Association for Democracy and People's Livelihood and I believe that under the principle of compliance with the provisions of the Basic Law, the Government is absolutely in a position to put forward a constitutional reform proposal which encompasses genuine sincerity and concrete democratization processes so long as it can fully utilize all the leeway available for progress, rather than just putting forward this DC proposal which is neither here nor there and conferring on the Chief Executive the power to control the newly added members of the Election Committee and seats in the Legislative Council. In fact, even if the appointment system is scrapped and a timetable and a roadmap on universal suffrage provided, I cannot see that these will constitute a violation of the Basic Law and the decision of the NPCSC on 26 April. On the contrary, earlier on there were comments that if the element of an appointment system is injected into the Election Committee, it might not be consistent with para 3 of Annex I to the Basic Law, which provides that "The delimitation of the various sectors, the organizations in each sector eligible to return Election Committee members and the number of such members returned by each of these organizations shall be prescribed by an electoral law enacted by the Hong Kong Special Administrative Region in accordance with the principles of democracy and openness". I believe a sober-minded, normal adult cannot interpret an appointment system which is undemocratic and which does not go through any election process as fulfilling the principles of democracy and openness. If the Government insists on forcing it through, it would naturally give rise to judicial review and in the end, would it be necessary again to seek an interpretation from the NPCSC? Madam President, I think neither the Government nor the community of Hong Kong can bear such a risk.

Therefore, the Government must think twice, and after the publication of the Fifth Report, it must seriously get to understand the views of the people, so that society would not be plunged into confrontations and the gap between public aspirations for universal suffrage and the reality would be narrowed. It must clearly draw up a timetable and a roadmap for achieving universal suffrage, in order to tell the community when universal suffrage will be realized, formulate

afresh a constitutional reform proposal which encompasses concrete democratization processes and abolish the undemocratic appointment system.

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

MR LEUNG YIU-CHUNG (in Cantonese): President, as we have always criticized, the Fifth Report of the Constitutional Development Task Force is marked by "three no's" — no universal suffrage, no timeframe and no roadmap. Basically, this so-called constitutional reform package only contains a number of changes to patch up the existing political system, but it is claimed that a stride has been made. And, while referring to this "stride", the Government even goes so far as to tell us that we will have to mark time if we do not pass the proposed package, and that we in the democratic camp, especially the pro-democracy Members holding 25 votes, will go down in history as sinners.

President, before arguing about whether any people will go down in history as sinners, we must ask ourselves honestly whether this package is truly democratic. President, when some rough calculations tell us that while there are as many as 3 207 000 electors in Hong Kong, only 1 600 of them are qualified to select the Chief Executive, will Members still think that this is a democratic electoral system, one which respects public opinions?

What is more, if the Government still wants to retain or even increase the existing number of functional sectors, corporate votes and appointed DC members for the purpose of selecting the Chief Executive, will Members still think that the proposed package can increase democratic participation? President, the package cannot lead to any increase in democratic elements. Quite the contrary, it will thwart our future constitutional reform and bring more difficulties in the process. Why? First, the number of people with vested interests will increase as a result of the expansion described above, so the package will in fact lead to more difficulties when we try to abolish the "rights" of these people in the future. Second, even if the interpretation given by the National People's Congress on 26 April last year already rules out the introduction of universal suffrage in 2007 and 2008, the Government needs not put forward such a conservative constitutional reform package still. The

Government still has plenty of room for manoeuvre. Why has it refused to do anything?

The Chief Secretary for Administration remarked that he had to beg the democratic camp to vote for the package. President, why does he not expand the room for democracy, introduce more democratic elements in the package and then do the opposite — beg the 35 Members not belonging to the democratic camp for votes, or even beg the Central Authorities for support? Why does he shift this so-called historical responsibility entirely to our side, instead of holding the other side responsible? I think he has really turned the logic around. Even if any people are really to be held as sinners in history, I do not think that all of us, the 25 Members in the democratic camp, should be the sinners. Instead, the Government should be so regarded because it has failed to discharge its responsibility of sustaining the fight for democracy.

In connection with this constitutional reform package, we observe that the Government has repeatedly emphasized that the package has been formulated on the basis of public opinions, and that all of us, the 25 pro-democracy Members, should render our support. President, even if we disregard all doubts for the time being and accept the claim that the package is genuinely based on public opinions, we must still query whether the Government is also prepared to adhere to public opinions in the formulation of any policies or changes in the future. If this is going to be the case, will it make the findings of all its future opinion surveys as the basis for government policies? Will the Government do so? Is this its established guideline?

Since the completion of the government survey this time around, many colleagues have been questioning the trend it indicates; not only this, they have also been questioning whether the Government has avowed to follow public opinions simply because the indicated trend seems to answer what it has in mind. If this is really the case, the Government must listen to public opinions and conduct opinion polls in whatever it does in the future.

I of course do not want the Government to do so because as I have mentioned, colleagues do think that the methodology of the Government's opinion poll is biased. The so-called public opinions are created by conscious efforts to suit the predetermined inclination of the Government. As a result, they are not genuine public opinions and must not be treated as such. This is

not to speak of the fact that nowadays, there is in fact a very simple way to gauge public opinions, one which will not involve any arguments about whether an opinion poll is fair, equitable and reasonable. This is the most scientific approach — a referendum. If the Government really takes public opinions seriously, it should follow them. There will be no more need for any meaningless disputes, nor do we need to insist. Just conduct a referendum and we will all know the outcome. Whatever the outcome of a referendum, I dare say that all the 25 pro-democracy Members will abide by it. Therefore, even if the Government still claims that its package is supported by public opinions, we need not go on arguing. Just conduct a referendum! This is the most appropriate, most complete and least controversial approach.

President, the subjects of the debate today are a timetable and a roadmap. Actually, the timetable we ask for is very simple. The introduction of universal suffrage in 2007 and 2008 is our timetable. The reason is that, for many years, we have been making it very clear that this is our aspiration. We have been waiting for a very long time. In 2007, it will be 10 years after the reunification. Why do people still think that the wait is not long enough? Do we really have to wait until 2047, as mentioned by the Secretary when replying to Mr LEE Wing-tat's question earlier today? If yes, it will be extremely miserable. This is certainly not the meaning of "unchanged for 50 years". The Government talks about gradual and orderly progress, but if no change can be made even after a long lapse of 10 years, what is the point of waiting for 40 years or 50 years? This is nothing but an excuse. Actually, the Government has already set the timeframe at 2047, so it has said that we will have to wait until 2047.

As a matter of fact, the development of democracy in Hong Kong has had a history of more than 10 years. President, after all the experiences over the past 10 years, our development of democracy is still required to follow gradual and orderly progress, but we have already attained maturity in terms of both experience and exposure. And, we are ready for universal suffrage, not only for electing Legislative Council Members but also for selecting the Chief Executive.

President, I so submit.

MR TAM HEUNG-MAN (in Cantonese): Madam President, since Chief Secretary for Administration Rafael HUI released the Fifth Report of the

Constitutional Development Task Force here three weeks ago, we have already discussed the issue of constitutional development more than once here. I believe government officials know very clearly Members' aspiration for and position on constitutional development. So, I hope that government officials can respond to some questions today.

Just take a close look at the Government's proposal and we will have many questions about it. Certain parts of the proposal even made us question whether the proposal put forward by the Government of the Hong Kong Special Administrative Region (SAR) is in conflict with the Basic Law. If this is really the case, will the authorities make appropriate amendments or will they again turn to the Standing Committee of the National People's Congress to seek an interpretation of the Basic Law?

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

Under the Basic Law, the constitutional system in Hong Kong shall develop in accordance with the principle of gradual and orderly progress, with the ultimate aim of achieving full universal suffrage. In other words, proposals on the election of the Chief Executive and the Legislative Council for each term must move in the direction of universal suffrage, and there should be substantive increase in democratic representation. But in the Government's proposal, I do not see elements that are in line with gradual and orderly progress.

Madam Deputy, I would first talk about the fact that there is no "orderly" element in the proposal. In putting forward its proposal, the Government categorically refused to provide a timetable and a roadmap for achieving universal suffrage. That is, the Government is unwilling to propose the procedures for achieving universal suffrage. What are the stages that we have to go through in order to achieve universal suffrage? At this stage, we do not know what plans the Government has. Such being the case, is it not that there is no "order" for us to go by insofar as constitutional development is concerned? If so, what is there for us to talk about gradual and orderly progress!

Let me draw an analogy. Today, we are like waiting at the bus stop for a bus, of which the destination is universal suffrage. Driving a bus with no vehicle number but only the words "District Council proposal" written on it,

Chief Secretary Rafael HUI pulled by at the bus stop and invited us to get on the bus. We asked Chief Secretary Rafael HUI, "Our destination is universal suffrage, and it seems wrong to ride on this bus of "District Council proposal". Chief Secretary Rafael HUI said, "Get on the bus first. After that, you can go to the next stop, and we will talk about it when we come to the next stop." We asked him then what would happen when we arrived at the next stop? He could not tell. Then how can we have the confidence to get on the bus? How do we know that we will not be "sold out" after getting on the bus?

Madam Deputy, even Annexes I and II to the Basic Law have provided for a timetable and a roadmap. The Election Committee was developed from 400 members to 800 members; there are also changes in the allocation of the Legislative Council seats, and provisions are expressly made on how and when changes are made. But why Chief Secretary Rafael HUI has made a major retrogression today by not putting forward even the proposals on the election of the Chief Executive and the Legislative Council for the next term? What does it mean?

Chief Secretary Rafael HUI said that a timetable can be drawn up only when the conditions are ripe. But without a timetable, will the conditions ripen automatically? A timetable is basically a crucial factor in facilitating the ripening of the conditions. For example, insofar as government policies are concerned, if there is no timetable, will Members believe that our government officials will carry out their work on their own initiative? Even if they are willing to do so, will the policies formulated be sound policies? If the Central Government or the SAR Government basically does not wish to implement universal suffrage in Hong Kong, they might as well tell Hong Kong people about this honestly. Otherwise, please put forward a timetable and a roadmap, so that we can work for it in an orderly manner.

Madam Deputy, even if I am willing to make unreserved concession and just look at the word "gradual", I can still point out that the Government's proposal may be in conflict with the Basic Law. Does the Government really think that its proposal truly encompasses democratic representation to take forward constitutional development in Hong Kong? According to the proposals on the election of the Legislative Council in Annex II to the Basic Law, in the election of each term of the Legislative Council, the proportion of directly-elected geographical constituency seats in the total number of Legislative

Council seats will increase. Let us consider such increase as democratic representation. But what is happening now? The ratio between functional constituency seats and directly-elected geographical constituency seats will remain unchanged. In other words, the people will not be able to exert any greater influence on this Council. Then, where is the gradual progress?

The proposals made by the Government on the election of the Legislative Council cannot in the least be considered as embodying increased democratic representation. If the Government tells us that the electorate base of functional constituencies will be considerably broadened in the Legislative Council election in 2008 to the effect that an overwhelming majority of voters in employment will have two votes, then I would consider the proposal as having substantively increased democratic representation and a manifestation of gradual progress.

Madam Deputy, the constitutional reform proposal put forward by the Government currently has not shown us the way to make orderly progress and does not encompass the slightest bit of substantive progress. We have every reason indeed to question whether the Government's proposal can fully meet the requirement of gradual and orderly progress in the Basic Law. Finally, I would like to end my speech with a remark made by the former British Prime Minister, Mrs Margaret THATCHER, in the Parliament. In the '80s when I was studying in Britain, Britain was faced with many demonstrations by MPs of the Labour Party, resulting in economic recession in Britain. At that time, Mrs THATCHER made a famous remark in the Parliament. She said, "You can turn, but the lady is not for turning". Faced with this proposal, I can tell you that I definitely will not be turning.

With these remarks, I support Mr Ronny TONG's motion. Thank you, Madam Deputy.

MR JEFFREY LAM (in Cantonese): Madam Deputy, when I was a child, I was told a story about a farmer who found a goose that laid golden eggs. In order to make the goose lay golden eggs more quickly, the farmer kept on forcing the goose to eat every day, and finally, such a precious goose was fed to death by the farmer. I believe Members must have also listened to this story before. The moral of this story can be applied to everything. It can be applied to the agenda of our constitutional reform.

To Hong Kong people, constitutional reform does not come easily. It is as precious as the golden goose in the story, and universal suffrage is like the golden egg. "Natural labour" is the prerequisite for a golden egg to be laid, and natural labour requires patience. The goose must be fed and reared slowly in order for it to lay a good, beautiful golden egg.

Now, the constitutional reform proposal has just been put on the table. If we immediately ask for universal suffrage, it is like continuously feeding the goose to make it lay golden eggs as soon as we get hold of the goose. In the end, both the goose and the golden eggs will be gone, and we would be the only ones to suffer.

In all fairness, is this constitutional reform proposal completely devoid of merits? Many opinion surveys have told us that this constitutional reform proposal is acceptable and agreeable to members of the public in general. Many people also did not say that they would not accept the proposal if a timetable for achieving universal suffrage is not proposed.

Like many Hong Kong citizens, I also hope to see that Hong Kong can move towards democracy gradually with the ultimate aim of achieving universal suffrage. However, we must always work in a gradual and orderly manner, and only when we move on steadily step by step can it be considered pragmatic.

Now, the Government has made the first step by putting forward a constitutional reform proposal. But as soon as it is published, some people immediately criticized it for not being democratic enough and demanded that the proposal of including appointed DC members as members of the Election Committee to select the Chief Executive be abolished. They also called on the Government to immediately draw up a timetable for achieving universal suffrage and urge members of the public to take to the streets to put up a fight.

Madam Deputy, as Master WONG Fei-hung always said, "Everything goes well in harmonious families while problematic families caught in endless quarrels". This is also one of my mottos. Recently, the atmosphere in the community has been harmonious, which is quite rarely seen in Hong Kong, but now, some people are lightly taking to the streets for processions and demonstrations. This is indeed the last thing that many Hong Kong people would wish to see.

I do appreciate that we are now fighting for a long-term cause with very important implications. But let us think about this carefully. Is this the one-and-only-one opportunity for constitutional reform? Is it that we only have one single opportunity to express our aspirations? Is putting up a fight to express our aspirations the only and last option available to us?

I have never ever heard the Government say that this constitutional reform proposal is the one-and-only-one proposal. I only heard Ms Margaret NG say "yes, yes, yes" in front of me. But I have not heard the Government say so. So, this may only be the view of some people. On the contrary, the Government has clearly stated that there will still be room for discussion and improvement in future. This is absolutely not a critical moment where the people must resort to a rebellion to resist the suppression of the Government. What we are discussing now is not something over which a decision could be made in a short time. Rather, it is a major issue that will affect the future of the community of Hong Kong as a whole. So, we must not adopt a confrontational attitude towards the Government. I think this Government is one that is willing to establish communication and conduct discussion with us.

Here, Madam Deputy, I wish to tell a story again. Many students like to draw up a timetable for their revision when the examination draws near. They will write down when they will study and when to take a rest. But more often than not, these timetables eventually cannot be followed as planned. In the end, students still have to rush with their revision and burn the midnight oil a few days before the examination. It is because they did not plan carefully enough and their way of thinking is not mature enough. For this reason, their timetables eventually become impractical even though they look grand and perfect on the surface.

Instead of drawing up a timetable hastily and setting an implausible timetable, I think it is better to spend more time urging various sectors of the community to communicate more with the Government. Drawing up a practical and concrete timetable only when all sides are fully prepared is the most desirable approach that will truly benefit Hong Kong.

Madam Deputy, I so submit.

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

DR LUI MING-WAH (in Cantonese): Madam Deputy, the constitutional reform package recently announced by the Government proposes an increase in the number of Legislative Council seats and a great expansion of the Election Committee for selecting the Chief Executive. It can be described as an adjustment in response to the demand of various social sectors for democratization, a move in line with the prevalent situation. It should thus be accepted by Hong Kong people.

This motion on "Constitutional reform proposal" can be summarized as three points:

First, appointed DC members should not enjoy the right to elect the Chief Executive and Legislative Council Members. Second, there should be a roadmap for universal suffrage. Third, there should be a timetable for universal suffrage. But I want to add one more point, a fourth point — the five additional functional constituency seats should be allocated to DC members, the small and medium enterprise sector which employs large numbers of workers, the salon and beautician sector, the Chinese medicine profession and the Hong Kong Chinese Enterprises Association comprising many large enterprises, with one seat for each of them.

The principle underlying the composition of the Legislative Council is to ensure the participation of different social sectors and strata in the political discussions and deliberations and legislative work, so that the voices and advice of all sectors can be extensively reflected. This is balanced participation, something which will in turn maintain the stability of society as a whole. However, under the constitutional reform proposal of the Government, DCs, which are all political organizations, are surprisingly placed side by side with industrial and commercial organizations and professional bodies. And, the five additional functional constituency seats are all allocated to them. This runs counter to the original intent of establishing functional constituencies and is extremely puzzling. In case the five additional functional constituency seats are allocated to DCs, then even though the five Members elected from among DC members will in a way be indirectly returned through democratic elections and this may help increase the democratic elements of the legislature, these five Members will be unable to safeguard the interests of the industrial and commercial sector and the professions because of their varying backgrounds. This is not balanced participation and is not in conformity with the spirit of the

Basic Law. Worse still, the political beam balance will also be tipped. The Government must think twice.

Besides, under the Basic Law, Hong Kong shall ultimately introduce universal suffrage for the election of the Chief Executive and Legislative Council Members in the light of the actual situation and in accordance with the principle of gradual and orderly progress. In view of this, it makes sense to request the Government to put forward a roadmap and timetable for the introduction of universal suffrage. The reason is that one should rightly be concerned about the further progress of democratization in Hong Kong if the allocation of all the additional functional constituency seats to DCs is considered a big step forward in democratization. The prospects will be very worrying if Hong Kong has to grope its way in the process.

Madam Deputy, Hong Kong must continue to progress along the path of democratization, but several major principles must be considered. These principles are expounded clearly in the White Paper on Building of Political Democracy in China issued by the State Council: "..... the political system a country adopts and the road to democracy it takes must be in conformity with the conditions of that country" and "because situations differ from one country to another, the paths the people of different countries take to win and develop democracy are different". After more than a hundred years of development, Hong Kong is now thriving economically, with a solid foundation of the rule of law. Hong Kong people enjoy a high degree of freedom and various human rights, but they are not quite so familiar with democracy. Consequently, we must thoroughly consider the consequences that a speedier democratization process may produce on social stability and harmony as well as economic development. What is more, one must not forget that Hong Kong is just a Special Administrative Region (SAR) of China. That being the case, any constitutional reform must require the consent of the Central Government and the SAR Government cannot possibly make any decision on its own. For this reason, I am inclined to sympathize with the SAR Government's situation because at this moment, it is totally impossible for it to put forward any roadmap and timetable. One of the major reasons for this is that the political environment in Hong Kong is highly complex and there are many uncertainties surrounding the actual situation in the future. I can thus appreciate that it is indeed very hard to make any decision now. In that sense, although the constitutional reform proposal of the Government is not entirely satisfactory to

everybody, it should still be considered a stride in the process of democratization.

Thank you, Madam Deputy.

DR YEUNG SUM (in Cantonese): Madam Deputy, I trust the Secretary, in giving his reply later on, will also quote this latest opinion poll conducted by CUHK.

There is no doubt that 60% of the respondents in this latest opinion poll of CUHK supported the constitutional reform proposal — we must not overlook the fact that 70% of the respondents wanted a timetable at the same time, though. In any case, the Government must not be over-delighted because if we study the findings closely, we will notice that only 30% of those who supported the proposal did so gladly without any hesitation. The rest of these respondents accepted the proposal simply out of reluctance. I therefore hope that the Government can really study these findings very carefully. Only 30% out of the 60% who supported the proposal did so gladly without any hesitation. The rest were forced to do so out of reluctance.

I sometimes think that the Government, the Chief Executive, the general public and many Members all seem to have resigned to fate. Admittedly, Hong Kong is no independent state but just a SAR under Chinese sovereignty. For this reason, it is indeed true that very often, we cannot determine the course of our constitutional development all on our own. However, as Chinese people who live in Hong Kong and who care about their families and country, we should always advocate an attitude of self-betterment.

It is truly very difficult to implement "one country, two systems" because we must strike a balance between Hong Kong and the Central Authorities. The task is especially difficult as the latter's experience in democracy, opening and the rule of law is extremely limited. However, it is precisely due to this reason that people committed to the well-being of Hong Kong, or people who have any vision of a better Hong Kong, should stand up for what they really think. BA Jin has already passed away, but he is still fondly remembered for speaking his mind in his latter years. I wish to take this opportunity to call upon the people of Hong Kong to reconsider their position and voice their opposition if they think that they are forced to accept the constitutional reform proposal out of

reluctance. They need not feel so helpless because things may not necessarily turn out that way ultimately. I believe that as long as we can speak our mind and give the Central Authorities a clear account of the reasons for our opposition, the position of the Central Authorities may not necessarily be totally unchangeable.

If this regressive proposal is accepted — I do not need to dwell on why it is regressive because many friends in the democratic camp have talked enough about this — if this regressive proposal is accepted, I think there will be four dangers. First, the governance of the SAR Government will be dealt a serious blow. The Government aspires to strong governance and the Central Authorities likewise want the SAR Government to improve its governance, which is why Mr TUNG Chee-hwa has been replaced. However, if Hong Kong people really accept this proposal out of reluctance, the governing authority of the Government will be seriously impacted. There will certainly be countless many applications for judicial review to challenge the part of the proposal on District Councils. In that case, how can the Government achieve strong governance?

We can notice that over the past seven or eight years after the reunification, it has been very difficult for the Government to achieve strong governance basically due to the lack of legitimacy, or recognition from the people. The Government can never be sure whether the reforms or new ideas it puts before the Legislative Council can be passed. If we force ourselves to accept this regressive proposal out of reluctance, we will further damage or deal another blow to the prestige or ability of governance of the Government.

Second, the liberalization or democratization of society will sustain further impacts. Madam Deputy, Hong Kong has gradually become more and more liberalized as a society since the 1980s. Young people brought up in the 1980s, when compared with people like us who participated in the student movements of the 1970s, may be very different, or, precisely, they may embrace such core values as an open society, liberties and the rule of law much more dearly than we do. Having to accept the part of the reform proposal on District Councils will certainly be a great setback for young people brought up in the 1980s. Even if we do not talk about any succession problem for the time being, we can still be sure that this will pose an unprecedented setback for Hong Kong on its road to democracy, liberalization and a mature civil society.

Third, the development of "one country, two systems" will also sustain a further blow. As I have just mentioned, "one country, two systems" presents a very momentous turning point in the history of both Hong Kong and our country. But it is no easy task to implement this concept. Each and every one of us should be concerned about our own society, and whenever any problems emerge, we must all step forward and speak our minds. It is only in this way that "one country, two systems" can stand any chance of successful implementation. If, however, we always allow our hands to be tied by the realities, if we never have any courage to break away from the various limitations and if we accept everything unconditionally even before testing the water temperature, then I must ask Members whether they regard patriotism as blind adherence to the policies of the Central Authorities. If this is what patriotism really means, I must say that there will be no future for both Hong Kong and our country. All of us will thus be reduced to mere handmaidens having no souls and no character of our own or simply the tools of the Government. I believe that there should not be, and will never be, any citizens of such quality in Hong Kong.

Another point, Madam Deputy, is that if we really accept such a regressive proposal out of reluctance, we will miss a very significant turning point in peaceful cross-strait reunification. How can the people of Taiwan have any confidence in the successful implementation of "one country, two systems" when they see that although 60% to 70% of Hong Kong people ask for the introduction of universal suffrage in 2007 and 2008, the present constitutional reform proposal simply ignores such a demand and worse still, people are not even permitted to mention or discuss the formulation of a reasonable timetable for that?

For this reason, I hereby make an appeal for actions to all Hong Kong people, and if they happen to learn of my appeal either when listening to the live broadcast on television or the radio now, or when they read the papers tomorrow, they are requested to grasp the opportunity on 4 December. For the well-being of ourselves, of Hong Kong, of our country and of our children, we must all step forward in a peaceful and restrained manner and voice our demand for a reasonable timetable on universal suffrage. Although the introduction of universal suffrage in 2007 and 2008 has been ruled out, we should not give up. We should continue to come forth and speak our mind boldly. To me, it is only reasonable and not at all out of line for us to demand a timetable on such election.

The pan-democratic camp is just a powerless minority and our voices are not yet strong enough. Therefore, on 4 December, all Hong Kong people must join the march, bringing along the old and young ones of their families. We must speak our minds in a peaceful, orderly and restrained manner, so that the Central Authorities can hear our voices. I believe that the Central Authorities will listen to us.

Thank you, Madam Deputy.

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

MR LEE WING-TAT (in Cantonese): Madam Deputy, many colleagues have spoken on this topic quite a number of times and I also wish to respond to the recent remarks made by Chief Secretary for Administration Rafael HUI and Secretary for Constitutional Affairs Stephen LAM.

First, several times in District Councils, the Chief Secretary for Administration said, "You people are all the time clamouring for a timetable. But where are you heading for anyway? What kind of outcome do you intend to achieve?" When asked by the Government what outcome we want to achieve by demanding democracy, I am frankly very puzzled. The answer is very simple. Democracy is a right that everyone should enjoy.

Second, I suppose by stating this question, he was actually asking, "Will democracy make life any better in Hong Kong? Where do you want to lead Hong Kong to?" As a matter of fact, discussions of such nature can be dated back to as early as one to two decades ago. Mr Jeffrey LAM said that we should seek gradual and orderly progress and he also advised us not to be radical, not to aim at instant success. But when I was as young as 29, I already discussed these issues with Mr James TIEN, and I am already 49 now. Mr Jeffrey LAM did not take part in any such activities, but I can tell him that even at that time, democracy was already regarded as the scourge, much in the same way as it is being regarded now. The Government has long since been questioning us where we are heading for and what we intend to achieve in terms of democracy.

Actually, even when there is democracy in Hong Kong, the most that will happen is that people can exercise their right to elect their own representatives and replace the government in a peaceful manner. I fail to see how the commercial and industrial sector, the professional sectors or even ordinary people will be adversely affected by the introduction of democracy in a place as mature as Hong Kong. Admittedly, once the people of Hong Kong can enjoy democracy and the right to democratic elections, the commercial and industrial sector may have to spend more time on understanding the needs of society and lobbying political parties or people's representatives in the legislature. But this is in fact something they should always do, something which is far better than having no need for any lobbying, or worse still, making "secret reports" in Beijing.

Consequently, in response to the Chief Secretary for Administration's oft-repeated question of what we actually expect from the introduction of democracy in Hong Kong, we would like to reply that what we expect is all predictable: society will be peaceful as usual; the commercial and industrial sector can continue to make money; and, social conflicts will be reduced. We know only too well that if the leaders elected by ourselves can perform well, there is every reason for us to be delighted, but if they fail to do so, we can no longer blame the Central Government for preordaining any candidates. We know that we can only blame ourselves, and that the only thing we can do is to replace the leaders concerned four or five years later. There will actually be very few problems in the process.

I sometimes hear the Chief Secretary for Administration and the Secretary for Constitutional Affairs talk about all sorts of considerations: the possibility of a bicameral system, whether there is any "braking" mechanism, ways of preventing what has recently happened in Western societies, that is, the emergence of "tax and spend parties" after the introduction of universal suffrage, and so on. All these were the problems much dreaded by people in the 1970s and 1980s. But will they emerge after the introduction of universal suffrage in Hong Kong? Not at all likely, I must say. To begin with, universal suffrage is to be introduced alongside the establishment of a nominating committee. As we all know, even if universal suffrage is introduced in 2012, the people are not supposed to nominate 100 candidates directly. Rather, all candidates must be nominated by a nominating committee. Second, I notice from my own analysis that the spectrum of political parties in Hong Kong is in fact very narrow. I

have not counted "Long Hair" in, of course. I have in mind three political parties, and even if the Article 45 Concern Group is also counted in, there will at most be four political parties only. Or, perhaps, The Alliance should be counted in as well, for it is also a significant political party. The policy spectrum of these four or five parties is very narrow, similar to that of the Democratic Party and Republican Party of the United States. There is in fact very little variation.

For this reason, some news commentators are of the view that all political parties in Hong Kong must reposition themselves after the introduction of universal suffrage because their views and positions on certain policy areas are not much different — you are nodding, so I hope you also agree with me. That being the case, why should the Government still be worried? I have the impression that both the Central Government and the commercial and industrial sector are often worried about uncertain outcomes and unpredictable results. On my part, I have great confidence in the wisdom of electors in Hong Kong. They hold different standards for electing Legislative Council Members and the Chief Executive. They also know that electing a ruling party and choosing a political party to reflect people's opinions should be two different matters. I therefore think that any worries in these respects are largely unwarranted.

What is more, given the present circumstances, the soonest possible date for the introduction of universal suffrage under any timetable can only be 2012. In other words, the Government will at least have seven years for preparations. And, one must not forget that there will also be a hurdle, namely, a nominating committee, an institution that can minimize the incidence of uncertainties at every stage. For this reason, even after prolonged consideration, I still fail to see why the Government and the Central Government should refuse to put forward a timetable.

(THE PRESIDENT resumed the Chair)

There are two motion debates today. The three Members belonging to the FTU are not present now. But I really wish to give them my advice. Very often, we can see how trade unionists agitate for the interests of workers — I also do the same, incidentally. But we must bear in mind that the most powerless

people in society are ordinary workers. The Members belonging to the FTU will shout themselves hoarse only when discussing trade union and labour issues (I must thank Mr WONG Kwok-hing for doing so, though), but during all discussions on democratization, they will remain absolutely silent. This is simply not enough. I hope Mr WONG Kwok-hing will agree with me. Who are the most powerless people in society? Naturally not property developers, nor those wealthy people who can contact Donald TSANG directly on the phone. The most powerless people, as rightly pointed out by Mr WONG Kwok-hing just now, are best exemplified by Ah Ho, whose lunch at work is just an apple plus a simple bun. The most powerless people are those who must work 12 hours a day for a monthly wage of some \$3,000. I really cannot understand one thing. The Members belonging to the FTU always shout themselves hoarse for the well-being of workers, but they at the same time oppose democratization. Why? I frankly cannot understand why the FTU always remains silent on these motion topics or even abstains from voting. I hope that as the new representative of the FTU, Mr WONG Kwok-hing can lobby those Members who were once representatives of the FTU.

As a matter of fact, in the absence of a democratic political system, it will be very difficult to protect the interests of ordinary workers. This of course does not mean that a democratic political system can always provide comprehensive protection to workers' interests. But upon comparison, a democratic political system is always better able to protect workers, the most powerless people. If the FTU and those who champion the interests of workers always try to evade this topic, they will at most be able to fight for half, or one quarter, or even less than one quarter, of workers' interests. I always think that a democratic political system is most beneficial to workers. Thank you, President.

MR ABRAHAM SHEK: Madam President, democracy is not the ideal form of government, but despite its inadequacies, it is still the best to have, and democracy is here to stay. In this light, that is why under Article 68 of the Basic Law, we are to have a legislature returned by the people and of the people through universal suffrage as the ultimate goal.

The question we are facing is not about democracy, but about the timing, essence and form of procedural steps leading to universal suffrage. Beyond the

wildest imagination, who would have thought that the people's choice — in the name of Donald TSANG — is to be our Chief Executive? If this could happen and had happened, what could stop the pan-democratic camp's dream of having a democratic legislature from happening?

The Central Government truly adheres to the Basic Law, allowing Hong Kong to administer Hong Kong under the principle of "one country, two systems". So, I am sure it has not only heard your voices and the voices of those whom you represent, but has also acceded to many of your demands. The Central Government has played its part and is prepared to extend its helping hand to enable us to achieve our social and political goals.

So, what is the stumbling block which would obstruct the 60 of us in this Chamber from marching into the Valley of Hope in search of democracy? The stumbling block lies with us: Our mutual mistrust, our disagreement and our division. Let us put aside our differences and find common grounds to work out a system which is a win-win one and acceptable to all. Politics, as some say, is the art of compromise, but I say it is the game of the possible. In this spirit, I invite my colleagues to accept the Constitutional Development Task Force's Fifth Report as a gift to the people of Hong Kong in achieving a realistic step towards democracy.

I must confess that initially, I found the legislative proposal of the Fifth Report hard to swallow, with five new seats allocated to the District Councils instead of to the genuine representatives of the Functional Constituencies. For me, it is against the spirit of balanced participation of the community and the interpretation of the National People's Congress on 26 April this year. However, upon further pondering and putting aside personal feelings, I believe this Report, with its proposal, is a big step towards achieving democracy under a gradual procedure. I reluctantly give my support to this Report.

As for those who wish to abolish the appointment system for the District Councils, I argue that these incumbents all originate from a wide variety of professions and trades. Their knowledge can often complement the other District Councillors returned by geographical constituencies, thus rounding out the functions of the District Councils and can better serve the community. Appointments are also in full compliance with the District Councils Ordinance, which is a crucial part of the constitution. If the system were to be abolished as proposed by this motion today, it would immediately affect work at the district

level. However, if the Constitutional Development Task Force's Fifth Report is passed, more professional talents would be invited to take part in the District Councils election. The eventual result is that the quality of District Councillors would be upgraded, and the community would benefit. In general, I do not oppose reducing the number of appointed District Councillors or abolishing the appointment system over time in an orderly manner. But at present, there is a genuine need to preserve them.

Regarding the issue of timetable for universal suffrage, I can understand why some people favour it, but politics must also be pragmatic and realistic to the present political circumstances which we are facing. Our Chief Executive has laboured much on why a timetable is not possible. I fully concur with his view and believe this would be a subject of fruitful discussion after the presently tabled constitutional package is passed. With these words, I oppose the motion.

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

MS EMILY LAU (in Cantonese): President, here comes another debate. Anyway, it is still nice to have this debate. When it finishes, everybody can just cast his or her vote by pressing the button. That way, there will be no need for anyone to guess the distribution of votes over and over again in response to journalists' requests. Frankly, it really gets very boring to repeat the guessing game over and over again. And, apart from being boring, this will also exert immense pressure on some colleagues. President, in this connection, you may also be subjected to heavy pressure. But, fortunately, you are really something and I believe Mrs Margaret THATCHER's nickname is also an apt description of you — I mean, there should thus be two Iron Ladies.

I hope that everybody can obey the rules of the game and refrain from exerting any irritating or unnecessary pressure on others. Of course, some will say that politics are by nature annoying and this explains precisely why politics have come to be regarded as so very filthy. But I still hope that politics can also be open and aboveboard.

President, I very much hope that "one country, two systems", "a high degree of autonomy" and "Hong Kong people ruling Hong Kong" can survive the tempest this time around. I am certainly aware of the great powers of the

Central Authorities, but I still hope that they can allow more room for discussions among Hong Kong people. Last year, the Central Authorities already stepped in suddenly and expressly disallowed us to hold any discussions. What is the point of doing this again? Why do they want to oppress people springing from the selfsame root, so to speak? President, I am just a nonentity, but I very much hope that instead of resorting to so many manoeuvres, the SAR Government and the Central Government can give Members more room, so that they can all cast their votes according to their conscience, ideals and principles.

The so-called mainstream package before us now is indeed very ridiculous. As a matter of fact, there has long since been a mainstream package in Hong Kong, namely, the implementation of universal suffrage in 2007 and 2008. However, it is now said that this will not be possible and worse still, some Hong Kong people are even forced to express support for the Government's package. If we care to conduct a fair and impartial survey again, it will be best to conduct a referendum. And, the turnout in the march on 4 December will also give us a clear idea of the real situation. But I must say that even when people take to the streets, they are certainly not being confrontational as described by Mr Jeffrey LAM, who has also talked about something like a scorched-earth fight. President, a march in the streets is just a march in the streets and nobody wants any scorched-earth fight. Some have also remarked that we must ensure the smooth laying of this very egg of constitutional reform. Mr LEE Wing-tat has been talking about democracy for 20 years. But no egg whatsoever has been laid so far. Well, if one is lucky, one may well have become a grandfather after all this time. *(Laughter)* How can anyone still talk about ensuring the smooth laying of the egg? President, it is really possible for one to be a grandfather at the age of 49.

The remarks of Dr LUI Ming-wah are even more ridiculous and absurd. According to him, what is going on will rock the political equilibrium. Honourable Members, as a matter of fact, the political equilibrium has long since been rocked already. A political equilibrium can only be possible when all the 3 million or so electors can cast their votes. But now, the right to vote is restricted to a handful of plutocrats and those working for them. What else can this be if it is not usurpation? If this is not usurpation, then I must do something to make it happen, President. Actually, in all democracies, every vote cast is an act of usurpation. In other words, the ballot box is a means of usurpation. But this type of usurpation will not involve any gunshots or bloodshed. The

truth is that some are used to having political free lunches and their pockets are all stuffed with various benefits, so when they are demanded to give up the benefits, they will complain that all is usurpation. But all of us have been the victims of usurpation for many years. Who can redress our grievances for us? That is why I find the situation very frustrating.

Some also think that I am a very odd fellow, so they often ask, "Emily LAU, you have been debating the issue since 1991. How come it still gets on your nerves so much? It should no longer get on your nerves after all this time, but this does not seem to be the case." President, this is called zeal, something anyone involved in politics must have. Whatever people may say about me, I remain convinced that without such zeal, one will just be like a frozen dead fish and it will be better for one to quit politics altogether. I was in fact very busy just now, preoccupied with many other tasks outside this Chamber. But having come in and listened to the speeches of several Members, I cannot help speaking. I believe that if I had listened to the speeches of all Members, I would have to spend a very long time on answering them. But I hope that Mr Ronny TONG can refute their arguments later on.

I sometimes think that it is alright to hold divergent views. But what is the point of talking about things like "scorched-earth fight", and so on. Are they Usama bin LADIN anyway? I do not see any need for saying something like this to incite people. However, speaking of this, I do also think that it is a good idea to incite members of the public this coming Sunday. President, you are also invited to join us in the evening talk-show at Kowloon Park. Let us incite the public together. My point is that the more people talk like this, the greater will be the turnout of the march. But one must consider what we want. As pointed out by Miss TAM Heung-man, we want only an expansion of the electorate. Just this simple. How big is the electorate expansion under the constitutional reform proposal of the Government? An increase by 800 people from the existing 800. That is all. There are 3.2 million electors who have the right to vote. There is no doubt that the above increase is as big as 100%, but in the absolute sense, the number is still very small. How can we possibly convince members of the public?

According to Mr Abraham SHEK, the only stumbling block is our mutual mistrust, our disagreement and our division. President, speaking of unity, there was already unity, unity for all, a very long time ago. The Liberal Party and

the DAB both advocated the introduction of universal suffrage in 2007 and 2008 at the very beginning. The only problem is that they have abandoned this position. My question is: If others abandon their positions, should we also do the same, just for the sake of unity? I cannot do something like this, and I believe many members of the public will also find this unacceptable. Mr Abraham SHEK is not present now, but I really wish to ask him how we can possibly strike up any unity with him. I naturally wish to see unity and I hope that Members can all argue for the introduction of universal suffrage in 2007 and 2008. This will be excellent. We have discussed these issues in this Chamber before and we can discuss them once again now. We are not putting up any struggle to voice our personal grievances. Rather, we are fighting for a basic right of several million Hong Kong people. But then, the Secretary simply fails to deliver. This motion will most likely be negated. However, people will all be able to see the truth. Once again, I would like to invite the several million Hong Kong people to take to the streets on 4 December.

MR ALAN LEONG (in Cantonese): Madam President, less than 21 days have passed since the announcement of the Fifth Report of the Constitutional Development Task Force (the Fifth Report), but the Chief Executive already spent 11 of these days overseas, trying to rally support for the constitutional reform proposal. In response to voices of opposition in Hong Kong, he only bothered to reply from abroad. The Chief Executive has now returned to Hong Kong, but as far as I can observe, his return has not helped facilitate the direct interactive exchanges between the Government and those querying the reform proposal.

The Government emphasizes that the participation of all District Council (DC) members — appointed, ex-officio and elected alike — in the election of Legislative Council Members and the Chief Executive will mean a giant step forward in the democratization of Hong Kong. But I hope the Government can look at history properly and recognize that this type of indirect election should just be a transitional arrangement adopted in the interim to the introduction of universal suffrage for the system of representative government in Hong Kong. And, it must also realize that this kind of indirect election has long since become outdated.

Madam President, the first indirect election for the legislature was held in 1985. At that time, 12 Legislative Council Members were returned by an

electoral college comprising all DC members and members of the two Municipal Councils. In 1991, the seats returned by the electoral college were replaced by directly elected seats and the two Municipal Councils were each able to return one Member as a functional constituency. In 1995, the number of directly elected seats in the Legislative Council was increased. All DC members were by then directly elected and they were formed into the Election Committee (EC) for the purpose of returning 10 Members.

After the reunification, changes were made to the composition of the EC for Legislative Council elections. As a result, DCs were designated as one single functional constituency which could return only one Member. Under the Basic Law, the seats returned by the EC shall be reduced progressively and replaced by directly elected seats. Currently, there are no more indirectly elected seat in the Legislative Council, with the exception of the functional constituency seat returned by DCs. Indirect elections are almost extinct as an electoral system, but the Government has still sought to revive them, blatantly ignoring the ultimate aim of universal suffrage set down in the Basic Law. Ms Margaret NG pointed out in her speech earlier on that any proposal put forward by the Government must comply with Article 39 of the Basic Law. This means that any such proposal must realize the principle of universal and equal elections set down in Article 25 of the International Covenant on Civil and Political Rights. The Article 45 Concern Group shall publish a booklet on this in due course.

Madam President, the attempt to package regression as progress is definitely a reflection of the lack of any sincerity in the constitutional reform proposal. This sheer lack of sincerity and also the intention of using political benefits as a means of appeasing different political factions are the precise factors leading to the formulation of a constitutional reform proposal which turns all DC members into one single electorate. One fifth of this very electorate are government-appointed DC members, but they will thus enjoy the right of electing Legislative Council Members and the Chief Executive.

Madam President, some argue that since current DC members were appointed by the former Chief Executive, one cannot say that there is any vote planting even if they support the re-election of the incumbent Chief Executive. But such an attempt to exploit a loophole of the law is really an insult to the wisdom of Hong Kong people. The fact that the Government's power of

appointing the electorate can influence the election outcome will not change, even if the Chief Executive making the appointment does not run in the election concerned. And, the question of who the candidates are will never make an unreasonable system reasonable. If the Government is really serious in tackling the issue of constitutional reform, it must address this problem squarely. Sophistry will never help.

The Government has failed to squarely address the problem connected with DCs; not only this, it has also failed to recognize that constitutional reform should serve the purpose of solving the governance problem. Ineffective governance and discord in Hong Kong are basically caused by unequal opportunities of political participation. The constitutional reform proposal does not aim to do anything with the vested interests of the privileged functional constituencies. Instead, it allows just several dozen or several hundred people to continue to make secret deals, so the scenario of a sole candidate being elected *ipso facto* may well repeat itself.

The addition of 400 elected DC members is also used by the Government as an opportunity of expanding the EC for the selection of the Chief Executive. The reason is that apart from the 100 appointed DC members, 300 people from other sectors will also be added. These latter 400 people will completely offset the effect of adding 400 elected DC members. The Government also proposes to increase the nomination threshold for the Chief Executive Election by 100%. For this reason, there can be no bigger lie than the claim that the intention of the reform proposal is to increase social participation in the Chief Executive Election.

Madam President, what is most startling is that although the Government knows very well that the details of electoral arrangements may affect election outcomes, it has still left them out deliberately. In the case of the election of six Members from among DC members, a choice between voting based on geographical constituencies and centralized voting, or one between the "multi-seat, multi-vote system" and the single transferable vote, will lead to completely different outcomes. But the Government has left out even these details. Perhaps, it just wants to reserve some flexibility, so that it can make adjustments according to political needs. However, this manipulative act has led to a complete loss of public confidence in the reform proposal and also shown that the Government does not have any genuine intention of achieving universal suffrage.

Madam President, a 78-year-old man has put up an advertisement in the press, asking the Government, "Am I going to see the arrival of universal suffrage?" A clear roadmap and timetable for universal suffrage are meant precisely to let people know the direction and when this direction can lead us to the destination. In order to ascertain this direction, the people of Hong Kong have taken to the streets on 1 July of different years. And, they have also demonstrated their position through the ballot box. However, the Fifth Report simply makes no mention of all this. Madam President, I encourage the people of Hong Kong to take to the streets again on 4 December, so as to let the Government hear their voices clearly.

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

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

MR JAMES TO (in Cantonese): President, I have heard the story about a Mr LAU. I am deeply moved, so I wish to share this story with Members.

One day after the Legislative Council Election last year, Mr LAU's daughter suddenly asked him, "Father, how many votes did you cast?" Mr LAU replied, "One. That was because I had only one vote." Slightly disappointed, his daughter went on to ask, "How come my classmate's father could cast two? Is that because his status is higher than yours?" Mr LAU was a bit embarrassed by this question, for it had never occurred to him that parents' voting right could become the subject of comparison and showing off among their children.

Mr LAU has always told his children that one must respect others because men are all born equal. Unfortunately, this is not the case in reality. Under the electoral system of Hong Kong, the several million residents are divided into different classes. The father of the classmate of Mr LAU's daughter could vote in a functional constituency election of the Legislative Council. He had one more vote to select a Legislative Council Member, in other words. It does appear that he is more powerful and of a higher status than Mr LAU, despite the latter's conviction that since his contribution to society is no less than that of others, he must not be regarded as inferior to the classmate's father. Since Mr

LAU's daughter is only seven years old, the absurdity of the complex electoral system is of course beyond her understanding. But what Mr LAU fears most is that as a small child, she may thus form the conclusion that other's fathers are superior to her own. As parents and citizens, what we lack and what we need is precisely the dignity that comes with the concept of equality cherished by Mr LAU.

Mr LAU says that he actually does not like going to a polling station for voting. If not because he must make his voice heard as an ordinary citizen, he confides, he would rather not go to any polling station. The last time when he was in a polling station for voting, a member of the polling staff told him after checking his Identity Card, "There is one ballot paper for you." But he overheard that the one beside him could have two. The other ballot paper was of course for voting in a functional constituency election.

Mr LAU did not know whether the one who could have two ballots was in any way proud of himself. But if a person hears that while there is only one ballot for him, the one next to him can have two, I suppose he will likely ask, "Am I treated the same as the Third Estate in feudal France, the Jews in Nazi Germany and the Five Black Categories in China during the Cultural Revolution?" Mr LAU has kept asking himself why there should just be one ballot for him. He is law-abiding, has a decent job and loves both the country and Hong Kong. Should he be deprived of equal political rights just because he is legally defined as not having as many "functions" as others, or not earning as much as others?

Many people and Members have lately been talking about a certain advertisement. This advertisement was put up by one of my elderly friends using his own money. His hope is very simple: Either the Hong Kong Government or the Central Government can tell him when he can see the arrival of universal suffrage.

I am not too keen on seeing another advertisement from him because I find the message much too pessimistic. He seems to think that he will not live to see the arrival of universal suffrage, that he is much too old and that he has done all he can. He seems to be saying to young people, "The hope for universal suffrage falls on you." I do not think that things will happen that way. Before the march on 1 July 2003, who could have imagined that the bill on the

implementation of Article 23 of the Basic Law would be withdrawn? No one could have imagined that TUNG Chee-hwa would step down either.

If Hong Kong people can persevere with the cause during this period of time, if we can all take to the streets on 4 December, I believe that there will be a chance for our old friend, our elderly friend, to witness the arrival of universal suffrage, though he is already 78 — provided that he can do regular exercise and pray to Heaven to let him live until that day. That very day will also be a day of celebration for all Hong Kong people.

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

MR ALBERT CHENG (in Cantonese): President, the second motion debate today is about democratic constitutional reform. This motion is preceded by a debate on legislating for a minimum wage and standard working hours. There were 36 votes for and 17 votes against the motion. The voting result was 36:17, meaning that more than half of the Legislative Council Members supported legislating for a minimum wage and standard working hours. But in the end, the motion was still negated. Every Wednesday after returning home from all the motion debates held in this Chamber, I am often asked why even a motion with majority support cannot be passed. At the beginning, I took great pains to play the role of an expert, explaining to them the workings of separate voting. But now, I no longer bother to do so. The only reason for this is that there is no democracy here. Legislative Council Members are not returned by "one person, one vote".

I was not in the Chamber when Mr Martin LEE spoke, but he had told me beforehand that he intended to talk about the bicameral system. I do not know whether he really did so eventually. Of course, he opposes the bicameral system. But I once told him jokingly that the bicameral system was not bad actually and I would render my support. Why? Because with the bicameral system, we can avoid the "eyesore". There will be one chamber for directly elected Members and another for those returned by coterie elections that represent the interests of plutocrats. It does not matter whether we are going to use such terms as "upper house" and "lower house". The important thing is that they can talk as much as they like behind closed doors. That way, I suppose Members can live an easier life.

I am not exactly joking. Actually, the position of all of us, the 25 Members in the pan-democratic camp, is very simple. We have been fighting for the introduction of universal suffrage in 2007 and 2008, but after the interpretation of the Basic Law by the National People's Congress, this is no longer possible. Theoretically, we do not need to hold such a motion debate here today; we can simply oppose the Fifth Report of the Constitutional Development Task Force (the Fifth Report). Nevertheless, some Members have still put forward a number of requests. They have put forward some requests regarding the system of appointed membership, rules of the game, the electoral system and a timetable. I think these requests are all very reasonable, not at all radical. Since we have put forward some demands, should the Government at least give us some responses?

After the release of the Fifth Report, some journalists asked me for my response. I told them that my response was very simple, as I would certainly oppose the Fifth Report. They also asked me what my bottomline was. I told them that I had none, but that some Members had put forward four requests. I added that the Government should at least respond to these requests. However, the Government has not done this so far. Some people criticized what they called the scorched-earth approach. I told them that it was stupid of them to say so. I once had a chance to have an interview with the Chief Executive, but his responses were very disappointing. *(Laughter)* Why? All I expected from him were just simple answers on whether appointed members could elect the Chief Executive and Legislative Council Members and how the six Legislative Council Members were to be elected if there was a functional constituency. On the question of timetable, I actually expected him to tell me when there would be direct elections. I actually expected the Chief Executive to give answers on these questions. That way, discussions can be held and we can decide whether we should support his proposals. But he has never given any responses. In that case, it will not be possible for us to hold any discussions and we can just end the matter here.

I often talk about the case of shopping with journalists to illustrate my point. The vendor asks for \$100 for a cup but I make a counter-offer of \$50. Suppose both sides make no further offers, I will leave and there will be no deal. People all say that further counter-offers must be made. But can they tell me how? I have made a counter-offer of \$50, but I cannot possibly tell the vendor

that I actually want to have the cup for \$35, or I may even think that the vendor may let me have it for just \$30. In any case, I am not supposed to make any further counter-offers. Anyway, I think today is the appropriate time to show some sincerity in negotiations. I do not know whether the Secretary has got any authorization. But I hope that when he rises to speak later on, he can respond to our demands, which are all very reasonable. As pointed out by Mr Ronny TONG just now, we have not roared like "Long Hair", nor have we done anything other than proposing a reasonable motion. We call upon the Secretary to respond to our demands, so that discussions can be held. But if the Secretary does not do so, there will be no room for negotiations and we can only end the matter here and oppose the Government's proposal. All is so simple and there is no need for further discussion.

Mr Abraham SHEK talked about the question of benefits just now. I suppose he should be referring to the benefits of property developers. Usually, when he speaks, he will read from a prepared script in fluent English. But when he responded to my views earlier today, he suddenly switched to Cantonese. Mr Martin LEE thus whispered to me, "Gee, Tai Pan, you are really something. You provoked him just a little bit, but, see, his Cantonese is so very fluent." He is quite an orator, but I must say something even in his absence today, "Mr Abraham SHEK, how can you still talk about the merit of appointed membership today? If any professionals want to serve the community and DCs with their expertise, or if, as you pointed out, they want to upgrade the quality of DCs by taking part in their affairs, then let them run in elections. If they want to serve the community, they should offer themselves as candidates and ask people to elect them. Why should they seek appointment?" We are good friends and I used to think that Mr Abraham SHEK was a man with modern thinking. But it has turned out that he is a man of feudal ideas.

My position is very simple and it has been put on the deck. So, ask me no more questions. I oppose the Fifth Report and think that the demands put forward by the democratic camp are reasonable. It is now the appropriate time for the SAR Government to give its replies.

With these remarks, I support the motion. Thank you, President.

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

MR ALBERT CHAN (in Cantonese): President, many Honourable colleagues have been discussing this topic for more than 20 years. I ran in an election for the first time in 1985. Shortly afterwards, my first daughter was born. She is now 20 already. I believe she will see the arrival of universal suffrage. I am not sure whether I can witness the introduction of this, but I suppose there is still a chance for me.

Besides the recovery of Hong Kong and Macao, the policy of "one country, two systems" formulated by China years ago is also aimed at Taiwan. In the late 1980s, I once went to Taiwan to observe the elections there. The election I observed was the first Legislative Yuan election held shortly after the lifting of governmental control over the press and the formation of political parties. Time flew and almost 17 or 18 years have since passed. Democracy in Taiwan has progressed by leaps and bounds during this period of time. The Democratic Progressive Party (DPP) was founded in 1986, and after a short span of just 14 years, it managed to become the ruling party. By now, it has been ruling Taiwan for five years.

Many Members, especially those belonging to the "royalist party" and the "rich party", criticize that it seems to be too radical for Hong Kong to demand democracy. We may look at the development of Taiwan as an example. Twenty years ago when we visited Taiwan, we observed that it was more backward than Hong Kong in terms of the environment and social infrastructure. But today, Taiwan has already surpassed Hong Kong in many respects. I returned from Taiwan just yesterday and during my trip there, I saw the 101 Tower and many other environmental and social facilities. There has been a minimum wage in Taiwan since a long time ago and in many cases, it has surpassed Hong Kong in terms of the provision of protection. There is an abundance of political talents in Taiwan. We do not even have to look at the Kuomintang. A look at the DPP already suffices. I once talked to some young DPP members in their twenties and thirties. I noticed that they were all very articulate and able to grasp the dimensions of problems in depth, much to the admiration of others. It is because the democratic system in Taiwan has brought opportunities of nurturing political talents.

How about Hong Kong? Things have not changed much and they are largely the same as the situation 20 years ago. People are still talking nonsense, still talking about a scorched-earth approach, being too radical and all the rest. In Taiwan, the development of democracy has not led to any political and social upheavals. Even after the lifting of governmental control over the press and the

formation of political parties, social order still prevails in Taiwan and several referendums have been rejected. Party alternation has also changed the mentality of Taiwan people and they now accept that politics — especially changes in political parties — will not lead to total chaos. In the Mainland, however, any changes in government will give rise to numerous speculations. In Hong Kong, we do not need to make any speculations even if there is any need for replacing a government because it all depends on the instruction from Beijing.

For all these reasons, if things go on like this, Hong Kong will regress continuously. We will keep on regressing when the rest of the world is progressing. Many academics, party representatives and government officials in Taiwan have overwhelmingly criticized Hong Kong, dismissing its political system and government officials as completely worthless. Basically, they think that Hong Kong government officials are just the obedient followers of high-ranking Communist officials because they never dare to make their own decisions, as shown by the case in which the representative of the Hong Kong Chung Hwa Travel Service was barred from entering the airport to receive his superior. Since they are so weak and incompetent, all too ready to look to Beijing for instructions and unwilling to break new grounds for Hong Kong, Hong Kong has been turned into a negative asset of "one country, two systems". Speaking of this negative asset, I must say that apart from holding our government officials responsible, we must also blame all those Members who oppose democracy. DENG Xiaoping's purpose of formulating the concept of "one country, two systems" was to set a good example in Hong Kong, in the hope of laying a foundation for Taiwan's reunification with the Mainland. Unfortunately, his successors have failed to properly implement this concept. I think the ghost of DENG Xiaoping would certainly sigh in Heaven. How could he have imagined that Hong Kong would become a negative asset of his brainchild?

President, in the recent discussions on constitutional reform, the Government has adopted many filthy tricks. One notable example is the spreading of rumours about some people having made a volte-face. Several weeks ago, a senior government official approached me, asking me very seriously whether I could offer help. I told him bluntly that there was no possibility of any bargaining, because I was totally against the Fifth Report and my position on universal suffrage would not waver. I asked him to report the same to the top echelons of the Government.

But then, the Government has since been spreading all sorts of rumours, saying that its lobbying would target on six Members. After my return from Taiwan yesterday, I visited the website of WiseNews, and there, I found that five newspapers had reported on the volte-face of several Members. Then, last night, in an evening programme of Commercial Radio, it was also said that several Members would make a volte-face. The same was repeated in the radio programmes this morning. This serves to illustrate the willingness of the media to act as the Government's political lackeys. Their behaviour is not at all professional. The media are just accomplices and contemptible wretches rooting for the Government and they have never bothered to let Members speak in any of their programmes. The sinister and ugly nature of the media is all very clear.

Regarding volte-face, Mr WONG Ting-kwong belonging to the DAB has talked to the media about the need for some "volte-face indicators". Speaking of volte-face, which political party can possibly surpass the DAB? Years ago, the introduction of dual elections by universal suffrage in 2007 and 2008 was part of the DAB's party platform. Later on, the target was changed to 2012. And now, they do not even talk about a timetable. The DAB itself has been changing its position constantly. It is a master of "volte-face", or even the originator of volte-face. The DAB will certainly rank first if there are any "volte-face indicators". No one will dare to rival it. For this reason, I would like to reserve all "volte-face indicators" for Mr WONG Ting-kwong, who proposes such an idea. Thank you, President.

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

MRS SOPHIE LEUNG (in Cantonese): President, there is frankly no need for us to get so angry in this debate. I have been listening to the speeches of many Members who joined the Legislative Council much earlier than I. Many Members have told us that they have spent 20 years with the Legislative Council. "Ah Tat" also says so.

I suppose the debate on this topic could have been more dispassionate. If I am asked, I will certainly reply that I support the constitutional reform proposal. Why? Frankly speaking, when the reform proposal was first announced, I was

startled. Last year, the Government already made it clear that there would be no universal suffrage in 2007 and 2008, so Members should know the situation very well. In the Ante-Chamber and other places, I held many discussions with quite a number of colleagues, urging them to remain dispassionate and not to lose heart. I am convinced that we will certainly get universal suffrage one day and I do not think that we should talk so pessimistically.

President, I was not in Hong Kong during the past few days because I had to take part in a training session organized by the National People's Congress. And, I will have to leave again early next morning. The topic of the training session today covers the meaning of a harmonious society and also ways of enhancing the rule of law. I suppose the Members present now, especially the several Members sitting in front of me, should be glad to hear all this. In their discussions, they will focus on upholding the rule of law in the conduct of all affairs and the running of the country, and they will also stress that the government must aim to serve the people. But one of the points, the point on government officials being allowed to defy orders from their superiors, really takes me by great surprise. In Hong Kong, even the second and third echelons of political parties will not dare to defy orders. Not to speak of government officials. So, we can see how mature Hong Kong really is.

I have mentioned that I was startled when the reform proposal was first announced. I asked myself, "Are they really serious?" The proposal to return five functional constituency Members by holding an election among District Council members is basically a very big change, one that departs entirely from the concept underlying the formation of functional constituencies. I felt that this is a great step forward. I certainly know that some will argue that this will not work. They still want to fight for something more. But I must advise them in response that we should appreciate the wisdom of some in the Government. I think the Government has already made huge progress by agreeing to accept this arrangement. Some Members want instant success in achieving their goal, so it is only understandable that the Government cannot satisfy them and let them get whatever they want.

Besides, we must think about the words of those people who brag about their 20 years of service in the legislature. How many young people and political personalities have they nurtured anyway? I have also been asking myself this question. As early as 1996, I already started to ponder over this

question and I concluded that there must be a place for developing and nurturing youth leaders. But when I approached the young people at that time on leadership development and serving the community, they all said it was best to form political parties. The result is the situation we see now. Later on, I thought it might be a good idea to give them some material incentives, so I formed the Young Entrepreneurs Development Council (YEDC). The work of the YEDC can be described as quite successful so far. Young people are even offered training on public speaking and some of them have joined the DAB. I do not know whether anyone has joined other political parties. But their choices of political parties do not matter so much. As long as they really have the intention of serving society, party affiliation will not be a matter of any importance.

Public opinions in recent years have repeatedly pointed out that the political arena of Hong Kong has a shortage of new blood, and that young people with aspirations do not seem to be attracted by political parties. Since the allocation of five seats to District Councils can provide their members with prospects and hope of advancement, we should really let them go ahead! Why should we insist on giving up? Why should we always refuse? We may continue to chant slogans and fight for future development in the meantime. But I really do not want our political structure to remain stagnant. Nor do I want to make young people think that all these elderly persons here are not only reluctant to vacate their seats but also trying to deny them any opportunities to make a mark. I hope that Members can think twice.

There have been quite a number of surveys recently and we can notice from the findings that members of the public do not have a thorough understanding of the issue. The fact is that there will at least be a small step forward, but a Member has still grumbled that since she has been awaiting a bus for direct elections and only a bus for something like indirect elections has arrived, she will certainly refuse to board. Well, she can by all means choose to keep on waiting! However, she must realize that no more buses will arrive in the meantime, until 2007 and 2008. If I were her, I would certainly get on the bus first, in the hope that when I get to the next stop, there can be more alternative routes to choose from. This is my attitude towards the issue.

President, we have also discussed quite a number of livelihood issues. Actually, all over the world, people are saying that social progress can only be possible if constructive ideas can be advanced at a greater pace. This means

that we should strive to turn our society into one which emphasizes constructiveness instead of spending time on arguing about things that are impossible or cannot be implemented. It is interesting that some have even talked about the political pressure brought on them. Well, as political figures, they must be prepared for political pressure. And, I simply wonder whether their pressure can in any way be heavier than that felt when Chris PATTEN introduced his political reform package. I once heard that a man over 50 practically burst into tears. And, this man was not the only one who cried. Several others, all men, also cried. I do not think that we should be so upset. The people all want us to be pragmatic.

Thank you, President.

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

MR SIN CHUNG-KAI (in Cantonese): President, many thanks to Mrs Sophie LEUNG for her speech just now. Had she not spoken, I would not have been able to return in time to speak, because I have come back straight from Guangzhou by through-train. I also wish to say a few words.

I heard Mr Albert CHAN talk about "flying the balloon". I suppose the Secretary should really think about the whole issue once again. At the very beginning when the constitutional reform proposal was released, he appeared to be in authoritative and confident control, talking about things like opinion polls and strong governance. And, his popularity rating was very high. But I do not know whether the Secretary has the political acumen or sensitivity to notice the shift of public opinions over the past week or so, a shift that Members must discuss and consider. I am not trying to bargain with the Secretary on a public occasion like this, but honestly, I must say that the Secretary should note the changing feelings of the people. The mood in society no doubt saw some sort of improvement when TUNG Chee-hwa stepped down and Donald TSANG took his place. There was a visit by all Members to Guangzhou, followed by a period of apparent tranquility when few seemed to be interested in any more political disputes. Then came the constitutional reform proposal, which appeared to provide for a more liberal political system. The Government seems to think that it can muddle through in this way. But I do not look at the matter that way. I hold that if the apple is rotten and bad, then no matter how it is

packaged, it is rotten in the core anyhow. The people of Hong Kong may find this apple beautiful at first sight, but after the first bite, they will realize that it is rotten. A rotten apple is always a rotten apple. The present constitutional reform proposal is precisely a rotten apple. No matter how confident and authoritative the Government is and despite all the marketing efforts, the proposal will still not work.

I do not know how many people will take to the streets on 4 December to tell the Hong Kong Government that since the apple is rotten and unacceptable, it must be replaced by a better one. This is the root problem. President HU Jintao talks about the need for social harmony. I also wish to see the emergence of a harmonious society. As a matter of fact, there are many problems in Hong Kong that must be addressed and solved. The constitutional reform proposal is just one of them. Social welfare provision, the long-term employment prospects of our workers and the competitiveness of Hong Kong are all problems that must be discussed. In the past five years, we wasted lots of energy on fruitless discussions about various political issues. If the Government really succeeds in getting the constitutional reform proposal through on 21 December by persuading several Members to change their position, this wastage of political energy may at most stop for two or three years only. In 2007 and also in 2008, when the Legislative Council Election is held, Members will once again start to fight for the introduction of universal suffrage in 2012. As long as universal suffrage is not introduced, political disputes will drag on endlessly.

In order to foster a harmonious society, we must first dissolve all political disputes. When can we dissolve all political disputes? We can do so with universal suffrage. When we can elect the Chief Executive and Legislative Council Members by universal suffrage, we will no longer need to consider which type of political system to adopt. We will only need to think about how to make a better choice and how to choose political platforms that are conducive to the good governance of Hong Kong. The subjects of disputes will all become practical in nature. Admittedly, constitutional reform is also a practical issue, but our present disputes are just about the system. Although the Standing Committee of the National People's Congress already ruled out the introduction of universal suffrage in the decision it made on 26 April, the people of Hong Kong still ask for a better apple, an apple that can lead to concrete progress in democratization. Actually, this proposal may not be so important after all. If the Government and the Central Government agree to the introduction of universal suffrage in 2012, the reform proposal for 2007 and 2008 will carry

very little practical significance because everybody will then hasten to discuss the electoral arrangements in 2012.

Therefore, the immediate task for the administration under Donald TSANG and Rafael HUI should be to approach the Central Government again and tell it that the people of Hong Kong do not accept the present reform proposal. Chief Secretary for Administration Rafael HUI frequently says that there is \$20 in his pocket. He should actually tell the Central Government that \$20, or even \$40, is not enough, and that some things more are needed. What are these things? They are the pace of democratization, a timetable and a roadmap. In brief, the Central Government must tell the people of Hong Kong very specifically at what time universal suffrage will be achieved. I believe this is the only way to make Hong Kong politicians focus their energy on the domestic affairs of Hong Kong. If this is not done, we will certainly continue to discuss the introduction of universal suffrage for the considerable period of time from now to 2012 — it is no longer possible to introduce universal suffrage in 2007 and 2008. Even if there will be no universal suffrage in 2007, 2008 and 2012, we will still fight for its introduction in 2016 and 2017. There will be an endless fight until universal suffrage is introduced. Chief Secretary for Administration Rafael HUI may have already retired by that time and may not be working in Donald TSANG's administration. If this really turns out to be the case, I hope that he can take part in our march to fight for universal suffrage.

Only three weeks are left. The constitutional reform proposal will be put before this Council for voting on 21 December, but I think only three weeks are left. I hope that the Secretary can discuss with the Central Government, via Donald TSANG, whether there is any possibility of making a stride forward and amending the proposal to include a timetable and a roadmap.

I so submit.

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

MS AUDREY EU (in Cantonese): President, salesmanship is a strong point of Donald TSANG and he is trying to sell a commodity known as constitutional reform proposal. He says, "Take it, or leave it." As Members should have

seen the Announcement of Public Interest featured by Andy LAU on television, they should also agree that this type of service can no longer be accepted nowadays. *(Laughter)*

The most interesting thing is that many Members who oppose Mr Ronny TONG's motion today, including those from the DAB, the Liberal Party and The Alliance, have made various criticisms about the commodity known as constitutional reform proposal. They say that they do not like this or that part of the proposal, that it is just a small step forward, and that they do have some reservations. But then, none of them has tried to bargain, to make any counter-offer. President, I frankly cannot understand their behaviour. If they do not like the commodity, why do they still want to buy it?

My point is actually very simple. When someone tries to persuade us to buy something, we must be clear about what we want. Legislative Council Members, who are representatives of the people, should therefore ask the people what they want. In his speech, Mr James TIEN of the Liberal Party said that his party had conducted an opinion survey. However, President, it is interesting to note that in this survey, respondents were only asked whether they would accept this piece of inferior good that even the Liberal Party itself does not like. Unlike the survey of the Hong Kong Institute of Asia-Pacific Studies of The Chinese University of Hong Kong (the Institute), the one conducted by the Liberal Party did not ask the respondents openly and directly at what time they wished to see the implementation of universal suffrage. According to the findings of the survey of the Institute, 70% of the respondents maintained that universal suffrage should be introduced in 2012 or before. This is the attitude of the people.

In her speech, Mrs Sophie LEUNG remarked that since only one bus had arrived, we must board it even when it was a bus for indirect elections and appointment. I must advise people not to do so. If they board the wrong bus, or a bus not heading for universal suffrage, they will have to alight and begin a new, prolonged journey. The consequences will be even worse.

Many of the Members opposing Mr Ronny TONG's motion today have remarked that the pace of democratization must not be too fast, and that one must not aim at instant success. The funniest remarks came from Mr Jeffrey LAM, who said that students taking an examination must make a timetable. Members should all know that students must be given examination timetables. If not,

how can they make any preparations? While expressing his admiration of Kung Fu master WONG Fei-hung, Mr LAM said that he very much appreciated this saying from the latter: "Everything goes well in harmonious families". Members should all realize that the truth of this will largely depend on the conditions in individual families. If there is a fair system, a family will naturally enjoy harmony and therefore prosperity. The problem now is that the system is unfair. Why do some people each have only one vote, while others can each have several votes? Worse still, they just do not allow people to say anything on the excuse of "everything goes well in harmonious families". They even go so far as to claim that taking to the streets lightly will be tantamount to adopting an approach of mutual destruction. Let me remind the Liberal Party that all was very peaceful when 500 000 people took to the streets last time. As a result, the Chairman of the Liberal Party was induced to steer a "U-turn" to the correct direction. No one has adopted any approach of mutual destruction; no one has taken to the streets lightly. The people will take to the streets only when there are good reasons.

Mr Jeffrey LAM's theory of golden eggs is, however, the most interesting. According to him, we should not over-feed the goose that lays golden eggs, or else it may die. I cannot quite catch his point. He seemed to be saying that universal suffrage was a golden egg. If this was really what he meant, then it would be best to have the egg laid as quickly as possible. But our problem now is that universal suffrage has not yet been introduced. Why do they refuse to make the goose lay the golden egg as quickly as possible? Mr LAM also remarked that too much democracy was like too much food to the goose and the goose might die as a result. There is no universal suffrage now. How can it be said that there is too much democracy? In brief, I simply cannot understand his words. Mr LEE Wing-tat has said that we have been waiting for 20 years; if we still have to wait 20 more years, the golden egg will surely turn into a stone egg. The goose will never be able to lay it. Therefore, I really cannot understand his words.

Actually, a review of the history of Hong Kong will show that we have never achieved any "instant success" for the democratization of Hong Kong. The 1967 Riot was followed by many social movements which gradually culminated in the emergence of various pressure groups. In 1973, the Government started to decentralize its power by abolishing the ex-officio membership of the Urban Council and giving it financial autonomy. Then, in 1982, district board elections were held for the first time and the Urban Council

election was also held in 1983. A White Paper on political reform was published in 1984, recommending to phase in the election of all Legislative Council Members by universal suffrage. Many pressure groups clamoured for direct elections in 1988 but due to the opposition of Beijing, it was finally decided that only 18 seats in the Legislative Council were to be returned by direct elections in 1991. At roughly the same time, China promulgated the Basic Law of Hong Kong, which provides that there shall only be 30 directly elected seats in the Legislative Council before 2007. At that time, there were basically two camps in society. Those belonging to the radical camp, such as the Democratic Party, insisted on the immediate introduction of direct elections. Those belonging to the conservative camp, such as the Liberal Party and the DAB, also made the introduction of universal suffrage in 2007 and 2008 one of the objects of their party platforms. Interestingly, however, as 2007 and 2008 draw near, the conservative camp years back has suddenly backtracked, saying that they will instead seek to fight for and create the right conditions for the introduction of universal suffrage in 2012, or even later. The radicals years ago have, on the other hand, changed into conservatives, all the time talking about the introduction of universal suffrage in 2007 and 2008 or even 2012. This is the greatest irony in our history. That is why it is utterly wrong to make reference to any "instant success" as such.

I must say a few quick words on the remarks of Mr Abraham SHEK. According to him, the system of appointment has the virtue of inducing talents to join District Councils, or to join the Legislative Council using District Councils as the stepping-stone. This idea is downright feudal, as rightly pointed out by Mr Albert CHENG; not only this, it carries a very heavy overtone of the superiority culture. Anyone who is qualified, knowledgeable enough and willing to serve the community must always seek to get a seat in the representative assemblies under a fair and open system.

President, I therefore wish to make an appeal to those whom I have always regarded as enlightened — including Mr Abraham SHEK, not least because there is the character "謙" (meaning humility) in his Chinese name. Exposure to democracy and direct elections will nurture humility. Only "one person, one vote", not any system of appointment, can turn one into a real servant of the people. I therefore hope that he can reconsider his position clearly and support Mr Ronny TONG's motion later on.

Thank you, President.

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

(No Member indicated a wish to speak)

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, I am very grateful to Honourable Members for their valuable advice on the package of proposals for constitutional development and other related topics from a variety of angles. Judging from the situation on the floor, I am afraid we have not managed to obtain a consensus from two thirds of the Members, but since there is dialogue and the matter is sufficiently debated, I think that this has certainly been useful and constructive.

The motion states that the Government of the Hong Kong Special Administrative Region (SAR) is responsible for putting forward a constitutional reform proposal that is acceptable to Hong Kong citizens and which encompasses concrete democratization processes. Madam President, we are in complete agreement to the idea that the Government has the responsibility in this regard and this cannot be shirked. As a matter of fact, proposals with concrete democratic representation have been presented in the Fifth Report of the Constitutional Development Task Force (the Fifth Report).

The existing 800-strong Election Committee (EC) will be expanded to 1 600 persons. Now of the existing EC with a membership of 800 persons, only 30 Members of the Legislative Council returned by direct elections are included. If this proposed package is endorsed and passed, in 2007 there will be altogether 400 directly-elected members of the District Councils (DCs) and Members of the Legislative Council in the EC.

In respect of the Legislative Council, we propose that the number of seats be increased from 60 to 70. All the newly added 10 seats will be returned directly or indirectly from the districts. Despite the interpretation of the Basic Law and the related decision made by the Standing Committee of the National People's Congress (NPCSC) last April which stipulate that half of the number of the new seats should be returned by direct elections in the districts and half of the number of the new seats should be returned by functional constituency elections, we have still presented a package which has democratic representation and that is, the five new functional constituency seats will be returned by elections held among members of the DCs.

Notwithstanding the apparently democratic nature of this proposal, it has been branded as retrogressive by Members from the pan-democratic camp. I am really baffled and I am convinced that the arguments advanced against the proposal are devoid of any logic. Many Members from the pan-democratic camp have also claimed that this proposal lacks a direction. I do not think I can buy this idea, nor can I accept it. Actually, we have pointed out a direction clearly and, that is, the future development of the legislature should not follow the direction of an assembly returned by functional constituencies in the conventional sense as in the past. Seats of this kind must not be increased. When it comes to this kind of conventional functional constituency seats, such as those representing the trade unions, chambers of commerce, professions, and so on, we hold that the existing 29 seats have adequately represented various strata and sectors across the community and so this line has been drawn very clearly and there is no question about it. We have also sent a clear message to the community that from now on, be it political parties, political groups, the sectors or independent candidates, if they wish to play a part in the political process of Hong Kong, they must start from the districts and build a solid base from there.

After the release of the Fifth Report, activities at the district level have begun. Yesterday, I went to a forum in a district and some 40 members of the DC had grouped themselves together to express their concern for the future development of the political scene in Hong Kong after the release of the Fifth Report. They were also very concerned about our work to strengthen the functions and powers of the DCs which will begin in 2006.

Mr James TIEN has also stated on behalf of the Liberal Party that they would take an active part in the DC elections in 2007. Actually, Members from the pan-democratic camp have built an extensive network in the districts over the years and they know very well how important such work is. I hope that they would attach great attention to this positive aspect of the Fifth Report and together we should strive to achieve it. I hope no one will pull the legs of their own parties and march on the same spot when there is clearly prospect for progress.

Many Members have talked about the functions and roles of appointed members of DCs. As a matter of fact, the logic underlining our proposal is very simple. Under the existing arrangements, the statutory roles and functions of appointed DC members and elected DC members are the same. Therefore,

in the proposals for the two elections in 2007 and 2008, they should be given the same treatment and there can be no favour extended to either at the expense of the other. In addition, in view of the fact that the new electoral arrangements in 2007 and 2008 would open up the electoral system in Hong Kong and foster more competition, we plan to preserve an element of appointment in the new term of DCs which will be returned at the end of 2007. This is because we feel there is a need to ensure a certain degree of stability with respect to community services and in the district assemblies.

Dr KWOK Ka-ki has pointed out earlier that existing DC members do not play the role of returning Members of the Legislative Council and the Chief Executive, therefore it would not be proper if we confer such a role on them in 2007 and 2008. He has also said that when these 400 DC members were returned in 2003, the public had no idea of such changes and developments in the future. But the fact is far from what Dr KWOK has said. Now these 529 DC members have already been conferred the power to select some 40 persons among themselves and serve in the EC, which means they will have the power and responsibility to return a Member of the Legislative Council to represent the DC constituency. Therefore, the present proposed package is a further expansion of the rights and responsibilities of DC members in these two respects.

Ms Margaret NG is of the view that this DC proposal is one of "a small circle within small circles". But how can we brush aside the fact that these some 400 DC members are returned by some 3 million registered voters in Hong Kong? Does it mean that the process is not democratic and representative in nature? They may well say that the proposed package in the Fifth Report does not carry enough democratic element, but they can never say that this is not a step towards democratic representation, more so they can never say that this is a retrogression in democracy. This is clearly inconsistent with the facts and it is a confusion of right and wrong.

Madam President, today many Members have talked about a timetable and a roadmap for achieving universal suffrage. We are fully aware of public aspirations for such a timetable. However, given the prevalent conditions in Hong Kong society, including those in the Legislative Council, there is still a divergence of opinions. Even to this day there are people who still insist that there should be universal suffrage for elections in 2007 and 2008 while some support dual elections by universal suffrage in 2012 and some are for the same in

2017. Some other people even propose a date after 2017. So it is not possible to forge any common ground on this issue both within and outside the Legislative Council in the near future.

Recently, some Members have pointed out that the setting of a timetable for universal suffrage may contravene the Basic Law and the move is not consistent with the interpretation and decision made by the NPCSC last April. This is actually clear enough. First, the decision made by the NPCSC last year empowers us to deal with matters concerning the selection of the Chief Executive and the formation of the Legislative Council in 2007 and 2008 respectively. Our duty is to put forward a revised proposal with respect to the electoral arrangements in 2007 and 2008. We do not have any power to include a timetable for achieving universal suffrage when this plan is proposed as this is not possible at this present juncture in the light of the Basic Law and the interpretation and decision made by the NPCSC. But discussions on the timetable and roadmap for achieving universal suffrage can still be carried out in society and the SAR Government would be more than happy to start discussions on the roadmap to attain universal suffrage. In this connection, we have suggested that people from various political parties, the business sector, trade unions and the academia should be invited to discuss affairs and vital issues in the territory in the Committee on Governance and Political Development under the Commission on Strategic Development (the Commission).

Universal suffrage should be seen as the ultimate aim and I do not think anyone would object to this. But there are some important factors which we should consider if we want to achieve this aim. First, the Basic Law provisions on the political system are premised on the principle of balanced participation.

Every day Members work in the assembly and we all know that some of them are representatives from the districts while some come from the functional constituencies. This is how things will be like until the day when we have reached this goal of universal suffrage when the Legislative Council is returned by some kind of full-scale universal suffrage mechanism. How then should voices from the business sector, the professions and various strata across society and their representativeness continue to be heard in that future assembly as it is now? How should this be maintained? Is there some channel which we can all think about? All these issues should be discussed and if they are not addressed, it would be hard to take the first step towards universal suffrage with the support of two thirds of Members of the Legislative Council.

This is a simple truth and I think Members from the pan-democratic camp will see it. Why do we suggest that this matter be discussed in the Commission? This is because we want to hear views from people of a diverse background so that differences can be ironed out in the Commission. Therefore, the first thing which Members should think about is how the principle of balanced participation can be manifested in a legislative assembly formed by universal suffrage.

Second, how should functional constituencies progress and evolve from now on to the day when universal suffrage is attained.

Third, when after universal suffrage is attained, how should the Legislative Council be composed and how should it operate? Should the present unicameral system be kept or should the bicameral system be adopted?

All the above issues should and must be discussed.

Madam President, the SAR Government has gathered experience from governing the territory over the past eight years and we are ready to work with the people of Hong Kong on all fronts towards a democratic constitutional system.

First, as I have just said, we can work together to chart a roadmap for universal suffrage.

Second, we have put forth proposals for elections in 2007 and 2008. These proposals are not only democratic in nature but they also provide more room for political participation so that those who wish to carve a career in politics can take part in parliamentary politics and achieve success in the elections. It should be noted that this enlarged room for political participation is not confined to the representative assemblies alone.

Third, we have plans to enable more posts to be created in the Government to enable people aspiring for a political career to join the Government. We have proposed that consideration can be given to creating posts of assistants to Directors of Bureaux. We hope that this will allow them to acquire and accumulate administrative experience while working in the Government. They may also run in the elections and acquire the relevant parliamentary experience. Madam President, in this way, when they assume the posts of Principal Officials

later, they will know how things are run in the Government as well as how the political assemblies operate. This would be most desirable.

Fourth, we have also proposed that the powers and responsibilities of the DCs be reviewed with a view to enlarging them. The Chief Executive made it clear in the policy address delivered in October that the DCs may manage facilities in their respective districts such as libraries, community halls, swimming pools, and so on. These facilities will be handed over to the DCs for management and this will enable DC members to gather more experience in administration and serving the public in their political career in this second-tier assembly.

Madam President, I am completely baffled as to why Members of the pan-democratic camp will say that this package of proposals from us and the work we have been doing are lacking in a direction. The direction in which we are heading is clear enough: First, no more functional constituency seats will be created in the future; second, the assemblies are moving towards the goal of universal suffrage; third, there is development of the constitutional system of Hong Kong on all fronts. I am sure that Members from the pan-democratic camp have many aspirations and they are also sure that they do represent public opinion. I respect these convictions of theirs as well as their position. However, it must be remembered that things can never be viewed from just one perspective.

Dr Fernando CHEUNG has made special mention of opinion polls. He has pointed out in particular that in a poll conducted by The Chinese University of Hong Kong, more than 60% of the people of Hong Kong hope that universal suffrage can be attained by 2012 and that there should be a timetable. This is a fact which I know very well and in view of this, the SAR Government has suggested that discussions on the roadmap for universal suffrage should start. As for the other fact, why does Dr CHEUNG not face up to it? Despite their saying that the opinion poll conducted by us had been done before the Fifth Report was released, the opinion poll conducted by The Chinese University of Hong Kong as well as those by other tertiary institutions and the media were all done during the past few weeks, that is, after the Fifth Report had been released. The survey done by The Chinese University of Hong Kong alone shows that 58% of the respondents accepted the proposals regarding the elections in 2007 and 2008.

Dr YEUNG Sum has reminded us not to feel so excited because there is popular support. First of all, I must say that I will not. I have also to admit that our proposals for the electoral system are not perfect, but these are the best possible thing we can do.

When Mr Martin LEE made his speech, he alleged that the Government was being dishonest. But I think he was only making a specious argument. Actually, when talking about these subjects in the assembly, Mr Martin LEE himself would often say things like, "When we were drafting the Basic Law, it was stated clearly that there would be election by universal suffrage in 2007." He may have been under this impression, but the Basic Law does not specify which year the ultimate aim of universal suffrage will be attained and mention is only made that subsequent to 2007, we can amend the methods regarding these two elections. The Basic Law also points out that universal suffrage is our ultimate aim. This is as clear as crystal. As to when this aim can be achieved, it will have to depend on our discussions and our joint efforts.

Another point he made which was not entirely true was his analogy of walking on the Peak. I think he must go to the Peak very often. How should I compare the package of proposals in the Fifth Report which we are examining with Members? This can be likened to us having taken a ride on the peak tram and reached the station in the Peak, so the proposals on the elections in 2007 and 2008 which we have put forward are made in the hope that the people will take the uphill trail and walk all the way with us up to the Victoria Peak. If we stand on a higher ground, we can see farther and there will be some progress. Who is making Hong Kong society go sideways? It is Mr LEE and his proposal. He asks us not to accept this reform package, walk with him, turn around and make a detour. When the detour is finished, of course, we will find ourselves in the same place where we started! This is how Mr LEE walks, he rarely takes the uphill trail to the Peak. Now we hope Members will walk with us to the Peak and as we climb higher, we can see farther. And together we can gain some progress for Hong Kong.

Mr Ronny TONG has said that after looking at the reform package back and forth, he still fails to see how adding 400 DC members returned by direct election will make the system more democratic. I would like to say that like many Members here, Mr Ronny TONG is returned by direct election. Despite the relatively small size of the constituency of DC members, that is, only some

17 000 voters, they are all returned by direct elections and they can all represent the Hong Kong people. There is another argument from Mr TONG which is far more important and, that is, he does not want to see the electoral system of Hong Kong remain in a stalemate with no universal suffrage in sight after five years and another five years. This is a point I agree indeed.

Mr SIN Chung-kai has said that he does not want to get involved in never-ending disputes over the political system and the electoral system. This I agree too. Madam President, how would Mr SIN Chung-kai and Members of the pan-democratic camp differ from me? Actually, there is only one difference and, that is, Members from the pan-democratic camp hope that a decision will be made today to implement dual elections by universal suffrage in 2012, whereas the stand of the SAR Government is that though the year for implementing universal suffrage cannot be fixed today, we are willing to look into the issue and discuss it.

Mr Albert CHENG has reminded us to respond and that means responding to the voices of the pan-democratic camp and the community. Actually, we have already done so. Madam President, I would like to further respond to what Mr Albert CHENG has said. We are making preparations for the Commission and the issue of a roadmap for universal suffrage will be raised there. The situation this time is a bit special and this is because when discussing the constitutional system in the Legislative Council, I would usually tell Members why this cannot be put into practice now and Members should wait a bit and we can discuss it after more consultations are conducted or after the matter has been discussed with the Central Authorities. This was how discussions had been held over the past three years. Ever since the Fifth Report was released on 19 October, it is like we can have both goodies at the same time and this is not a take it or leave it scenario. If Members could first support the proposals for the elections in 2007 and 2008, then we can have the first goody and when we take an active part in the discussions in the Commission, then we can have the second goody as well. When there is a roadmap for universal suffrage, it would not be long before we have a timetable for universal suffrage and our goal can be achieved.

In addition, I would like to point out another thing and, that is, there is no clash whatsoever between Members' support for the proposals for elections in 2007 and 2008 and their efforts to strive for a roadmap and timetable for

universal suffrage. Accepting the proposals for the elections in 2007 and 2008 does not mean that Members will not be allowed to discuss the timetable and roadmap for universal suffrage. This is because both are mutually complementary. If progress can be achieved with respect to the elections in 2007 and 2008, when we come to the discussion on the roadmap for universal suffrage, at least we will have made a step closer. As a matter of fact, all through these years when the subject has been discussed in the Legislative Council, Members from the pan-democratic camp often say that if the SAR Government thinks that a timetable for universal suffrage is not possible, then discussions can be held on a roadmap for universal suffrage. However, during the past two or three weeks, Members from the pan-democratic camp had made a change in their stand tactfully and secretively. When we said that a roadmap for universal suffrage could be discussed, they said that this was not enough and a timetable for universal suffrage had to be fixed now. I can say honestly to Members that we have done all we can, and the best we can. With respect to proposals for the elections in 2007 and 2008, we have increased the democratic element as much as possible. Now we have created this platform in the Commission and we would like to extend our sincere invitation to Members that they should come along to discuss the affairs of Hong Kong there. We are genuinely sincere and, like Mr SIN Chung-kai has said, we really want to solve the universal suffrage problem in the long run. The only difference between Members of the pan-democratic camp and us is that they hope to fix the timetable for universal suffrage today. We have to tell them honestly that we are sorry that this cannot be done today, but let us work hard to achieve it!

Before I conclude, there is still one point I wish to respond. Ms Audrey EU spoke only at a very late stage. This debate today is getting more and more exciting. This is because Ms Audrey EU pointed out one fact when she said that the various political parties and groups which support the Government today have actually stated that they are not fully satisfied with the proposals for the elections in 2007 and 2008. This is a fact and precisely because she has noticed this that proves that our proposals for the elections in 2007 and 2008 are not tailor-made for any particular political party and they are fair. With respect to direct elections, we know that when the pan-democratic camp managed to get 60% of the votes last time, it was in the indirect elections concerning the DCs. There are hundreds of DC members who come from the pan-democratic camp. That is why we say that the reason for us putting forward these proposals with respect to the elections in 2007 and 2008 is none other than our hope to take forward the constitutional system in Hong Kong.

Both Mr LEE Wing-tat and Mr Martin LEE have asked why after fighting for universal suffrage for 20 years, universal suffrage is still not attained. But we must all acknowledge the fact that there has been really progress over the past 20 years and that a lot of important work has been done.

First, in 1997 Hong Kong was reunited with the Motherland smoothly. Second, the Legislative Council now as formed by the people of Hong Kong is actually the most democratic assembly Hong Kong has ever seen, with at least 50% of its seats returned by direct elections. Thus it can be seen that the goals we strived for during the 1980s and 1990s have largely been reached by now. We can now work with sincerity and strive for the next goal. I would like therefore to extend my sincere invitation to Members to give serious thoughts to the proposed package for elections in 2007 and 2008. Together we can work out a roadmap for attaining universal suffrage, strive to forge a consensus in society and do the same between Hong Kong and Beijing. If only we are sincere about it, there is still hope in front of us all.

With these remarks, Madam President, I implore Members to oppose the motion. Thank you.

PRESIDENT (in Cantonese): Mr Ronny TONG, you may now speak in reply. You have three minutes 12 seconds.

MR RONNY TONG (in Cantonese): President, I must first of all express my gratitude to Members belonging to the democratic camp for causing the plummeting of the "volte-face" indicator today. I must also thank those Members who oppose my motion, for they have made this three-hour debate most amusing. My thanks also go to Secretary Stephen LAM. He has been listening to this debate for three hours, but he still cannot see why the constitutional reform proposal violates all principles of democracy. I can therefore only say this to him, "Sorry, I can't help you."

President, I only wish to raise one point. Many Members who oppose my motion said that we should catch the only bus which had arrived, and that the

SAR Government could not offer any timetable, for it was unlawful to do so. Some of them even questioned why we should press the Government, saying that we must be patient, as universal suffrage will be introduced eventually. As they went on and on, a scene from *Oliver Twist* flashed in my mind: His broken porringer in hand, Oliver TWIST walked up fearfully to the master of the orphanage and said softly to him, "Please, sir, can I have some more gruel?" The master roared, "What?" The master's companions, like some Honourable colleagues, also wondered why he had dared to ask for some more gruel. Honourable Members, the people of Hong Kong have become Oliver TWIST in the fight for democracy. There is a happy ending in *Oliver Twist*, but in our case, we must fight for a happy ending because, I am sorry to say, democracy is no blessing from Heaven, no gift from His Majesty.

I can remember one saying of HU Shi: "A country with freedom and equality is never founded by slaves." I am convinced that the people of Hong Kong would rather be Oliver TWIST in the fight for democracy than being the slaves of prosperity and stability. I hope that when Members vote today, they can consider whether they want to be Oliver TWIST, for whom there was a happy ending, or simply some slaves.

Thank you.

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

(Members raised their hands)

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

(Members raised their hands)

Mr Ronny TONG rose to claim a division.

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

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

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

Functional Constituencies:

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

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

Ms LI Fung-ying abstained.

Geographical Constituencies:

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

Mr James TIEN, Mrs Selina CHOW, Miss CHAN Yuen-han, Mr CHAN Kam-lam, Mr Jasper TSANG, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr TAM Yiu-chung, Mr LI Kwok-ying and Mr CHEUNG Hok-ming voted against the motion.

THE PRESIDENT, MRS RITA FAN, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 27 were present, seven were in favour of the motion, 19 against it and one abstained; while among the Members returned by geographical constituencies through direct elections, 27 were present, 16 were in favour of the motion and 10 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 11.00 am on Wednesday, 16 November 2005.

Adjourned accordingly at twenty-seven minutes to Ten o'clock.