

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 9 January 2008

The Council met at Eleven o'clock

MEMBERS PRESENT:

THE PRESIDENT

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

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

THE HONOURABLE BERNARD CHAN, G.B.S., J.P.

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

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

THE HONOURABLE LEUNG YIU-CHUNG

THE HONOURABLE SIN CHUNG-KAI, S.B.S., J.P.

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

THE HONOURABLE WONG YUNG-KAN, S.B.S., 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, J.P.

THE HONOURABLE LAU KONG-WAH, J.P.

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

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

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

THE HONOURABLE CHOY SO-YUK, J.P.

THE HONOURABLE ANDREW CHENG KAR-FOO

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

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

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

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

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

THE HONOURABLE ALBERT CHAN WAI-YIP

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

DR THE HONOURABLE JOSEPH LEE KOK-LONG, J.P.

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

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

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

THE HONOURABLE 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

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

THE HONOURABLE ALBERT JINGHAN CHENG, J.P.

THE HONOURABLE KWONG CHI-KIN

THE HONOURABLE TAM HEUNG-MAN

THE HONOURABLE MRS ANSON CHAN, G.B.M., J.P.

MEMBERS ABSENT:

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

THE HONOURABLE LAU CHIN-SHEK, J.P.

PUBLIC OFFICERS ATTENDING:

THE HONOURABLE FREDERICK MA SI-HANG, J.P.
SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT

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

THE HONOURABLE AMBROSE LEE SIU-KWONG, I.D.S.M., J.P.
SECRETARY FOR SECURITY

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

THE HONOURABLE TSANG TAK-SING, J.P.
SECRETARY FOR HOME AFFAIRS

THE HONOURABLE MATTHEW CHEUNG KIN-CHUNG, G.B.S., J.P.
SECRETARY FOR LABOUR AND WELFARE

PROF THE HONOURABLE K C CHAN, S.B.S., J.P.
SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY

THE HONOURABLE MRS CARRIE LAM CHENG YUET-NGOR, J.P.
SECRETARY FOR DEVELOPMENT

THE HONOURABLE EDWARD YAU TANG-WAH, J.P.
SECRETARY FOR THE ENVIRONMENT

CLERKS IN ATTENDANCE:

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

MS PAULINE NG MAN-WAH, ASSISTANT SECRETARY GENERAL

MRS VIVIAN KAM NG LAI-MAN, ASSISTANT SECRETARY GENERAL

MRS JUSTINA LAM CHENG BO-LING, ASSISTANT SECRETARY
GENERAL

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

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

PRESIDENT (in Cantonese): A quorum is now present. The meeting will now start.

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>
Tsing Sha Control Area (Tolls, Fees and Charges) Regulation	237/2007
Merchant Shipping (Limitation of Shipowners Liability) (Rate of Interest) (Amendment) Order 2007	242/2007
Public Health and Municipal Services (Setting Aside Places for Use as Public Pleasure Grounds) (No. 3) Order 2007	1/2008
Public Health and Municipal Services Ordinance (Amendment of Fourth Schedule) (No. 3) Order 2007	2/2008

Other Paper

Report of the Bills Committee on Mandatory Provident Fund Schemes
(Amendment) Bill 2007

ORAL ANSWERS TO QUESTIONS

PRESIDENT (in Cantonese): Questions. First question.

Health Hazard Posed by Overnight Work

1. **MR WONG KWOK-HING** (in Cantonese): *President, it has been reported that the conclusions of the studies of the International Agency for Research on Cancer of the World Health Organization (WHO) point out that overnight work is probably carcinogenic to humans. In this connection, will the Government inform this Council whether:*

- (a) *it will draw up health guidelines to provide guidance on overnight shiftwork systems as well as the working hours and rest breaks for overnight work;*
- (b) *it will, on the principle that the income of the staff concerned will not be affected, implement a three-shift system for all posts of the Government and its out-sourced services that involve shiftwork, so as to shorten the time of overnight work for such posts; and*
- (c) *it will specify cancers triggered by overnight work as occupational diseases under the Employees' Compensation Ordinance?*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): Today's Legislative Council meeting is the first meeting of the new year, first of all, I wish all Honourable Members good health and happiness at work.

Cancers are caused by many factors, for instance, family history, smoking and diet, as well as the interplay among these factors. Nevertheless, in some cases such as skin cancer or cancer of the urinary tract caused by exposure to certain chemicals at work and cancer of nasal cavity caused by working in the manufacture or repair of wooden goods, there is definite medical evidence showing a relationship between such cancers and working in the specific occupations. Accordingly, these cancers have been prescribed as occupational diseases.

The medical field is still divided on whether night work would cause cancers. The latest studies by the International Agency for Research on Cancer indicate that there is still limited evidence of carcinogenicity in humans in respect of shift work involving circadian disruption. On this basis, it has classified such work as probably carcinogenic to humans only, rather than being

carcinogenic to humans as in the case of exposure to ionizing radiation and asbestos.

On shift-work arrangements, the international recommendations are that depending on the nature of work (for instance, whether dangerous, monotonous, demanding and safety critical), operational needs and whether a night shift is involved, a shift should as far as possible be arranged for no longer than eight to 12 hours to minimize the health effects of shift-work on employees. The number of shifts required for 24-hour work depends on operational needs.

Madam President, my reply to the three parts of the question is as follows:

- (a) The Labour Department (LD) plans to issue a practical guide to employers and employees on shift-work, making reference to internationally accepted occupational health protection measures. It will also study the monograph to be published officially by the WHO later this year to improve on the guide.

The guide will introduce health and social problems that may arise from shift-work, as well as the preventive measures which could be taken by employers and employees to minimize the health effects of night work on employees. These include, for instance, measures to which employers should pay attention in arranging work; the advice that employees should sleep in a dark and quiet environment as soon as possible after night shift work to create a favourable environment for sleeping; and that employees should avoid drinking coffee, tea or alcoholic beverages before sleep.

- (b) As for shift arrangements in government services, Heads of Departments may arrange their relevant staff to perform shift duties to meet service needs. Individual departments require flexibility to determine the shift pattern that best suits their actual and unique operational needs. The Government has no plan to require departments to adopt a standard shift system for all posts that involve shift-work. At present, Heads of Departments take account of their operational needs, the convenience of the general public and the conditioned hours of the staff concerned, and so on, in determining the staff's actual hours of attendance and their shift pattern so as to ensure the efficiency and quality of services.

With respect to the Government's out-sourced services, such services at present mainly involve the Leisure and Cultural Services Department, Food and Environmental Hygiene Department, Housing Department and Government Property Agency. Details of the out-sourced service requirements are determined by the procuring departments having regard to their operational needs. According to the information provided by these departments, the majority of the Government's out-sourced services do not require workers to work on 12-hour overnight shift, and the remaining small number of contracts that require workers to do so will be changed into an eight-hour shift system upon renewal.

Moreover, the LD will issue the practical guide being drafted to all government departments after its publication in order to remind them to pay attention to occupational health protection measures when arranging shift-work.

- (c) By drawing on the International Labour Organization's criteria, the LD has all along determined whether a disease should be prescribed as a new occupational disease by considering mainly the following two criteria:
- (i) the disease poses a significant and recognized risk to workers engaged in a certain occupation in Hong Kong; and
 - (ii) the relationship between the disease and the occupation can be reasonably presumed or established in individual cases.

As cancers allegedly caused by night work do not satisfy the two criteria mentioned by me just now, the Government has no plan to prescribe them as occupational diseases under the Employees' Compensation Ordinance.

MR WONG KWOK-HING (in Cantonese): *President, I note with regret that, as stated in the main reply, the Secretary has no plan to prescribe overnight work as an occupational disease under the Employees' Compensation Ordinance.*

My supplementary question asks if the Government will look into the matter. Since all health guides are not legally binding, will the Government

work jointly with the Hospital Authority (HA) and the Department of Health (DH) to collect demographic information on people working overnight and study its relationship with carcinogenicity, such that follow-up actions on the issuance of warnings can be taken?

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): Madam President, thanks to Mr WONG for this question.

We are greatly concerned about this issue and I have explained clearly in the main reply that the drafting of the guide is now underway. In fact, we hope to issue this guide to all local employers and employees in the first quarter, especially enterprises (including government departments) operating overnight shifts, so that they can understand the necessary occupational safety and health measures to be taken. This is the first point.

The second point is concerned with the monograph. The latest information provided by that international health organization is just preliminary conclusions and a detailed monograph will not be released until later this year. A decision will be made on the need to amend or improve our guide after the publication of the monograph. Meanwhile, we will keep a close watch on and monitor the development of the matter, and update employees who have to work overnight and the employers concerned in particular. Our effort in this regard will continue.

MR WONG KWOK-HING (in Cantonese): *President, in his earlier response to my supplementary question, the Secretary failed to answer if demographic data will be collected and the relationship between overnight work and cancers will be studied for the issuance of warnings?*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): Madam President, we do not have such plans at this stage. However, I will be happy to consider with my colleagues and the DH staff concerned the feasibility of this proposal, and how to work it out if it is feasible. We will not rule out such a possibility, and many thanks to the Honourable Member for his opinion.

MR LEUNG YIU-CHUNG (in Cantonese): *President, the Secretary wished us good health when he started to answer the main question, which means that he cares much about our health. First of all, many thanks to the Secretary, and I hope that he can show more concern for the health of people in the labour sector, too. The adverse effect of long working hours on workers' health has been a long-standing issue, so we hope that more can be done by the Secretary to address the issue of long working hours. In the past, we often called for restriction on long working hours.*

President, the Secretary just now stated in the main reply that the medical field was still divided on whether night work would cause cancers. Such a division demonstrates that some people think that night work has adverse impacts while others do not. In that case, can we take a step back and consider it from the perspective that some people think that adverse impact is possible? After all, this is better than simply ignoring it. Hence, may I ask the Secretary if he will highlight the analysis and studies conducted by the medical field on the carcinogenicity in the future guide, so that both employers and employees can pay special attention to this issue, rather than regarding overnight work as a cause of occupational diseases? Can he just focus on this issue?

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): Madam President, thanks to Mr LEUNG for this question. We are absolutely heading in this direction.

The purpose of issuing the guide is to remind employers and employees not to treat this issue too lightly, and particular light has been shed on some good codes of practice and international practices, which may serve as advice to the employers. To put it simply, overnight work should be avoided if there is no such genuine and particular need. Even if there is a need to arrange overnight shift, employers should avoid arranging employees to work on fixed night shifts, but to rotate the employees in a clockwise manner. In other words, employees will be arranged to work morning, afternoon or night shifts on a rotational basis, rather than having a designated group of people to work the night shift. We will continue to get this message across through the issuance of leaflets and guides.

MS LI FUNG-YING (in Cantonese): *President, it seems that the Secretary's reply has only mentioned the issuance of a guide. Although this is just a guide,*

it is nonetheless better than nothing. May I ask the Secretary what can be done to enable the guide to be recognized and taken seriously by the Heads of Departments or employers, and subsequently put it into practice?

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): Madam President, thanks to Ms LI for her question.

As its name suggests, the guide is merely advisory and guiding in nature but not legally binding, which Members must all be aware. However, insofar as the labour sector is concerned, education, publicity and promotion do achieve some effects according to our many years of experience in occupational safety and health. I am therefore confident that as soon as employers and organizations are motivated to pay attention to this — I believe there should not be any problem for civil servants as there are established channels for the dissemination of information — we should be able to get the message across, I believe.

MR LAU KONG-WAH (in Cantonese): *President, earlier on, the Secretary said that cancer is associated with occupation. I noticed that quite a number of Legislative Council Members have cancers, whose work can be characterized as long meeting hours, plenty of sociable activities, immense pressure and little exercise. Do these characteristics have any direct relationship with the risk of cancer? What advice does the Secretary have for this kind of occupation?*

PRESIDENT (in Cantonese): Mr LAU Kong-wah, although we are all very concerned about this issue, I do not think your supplementary question has anything to do with the main question. Can you explain it to me? The main question relates to the overnight work of employees, and I wonder if you mean that Legislative Council Members also need to work overnight.

MR LAU KONG-WAH (in Cantonese): *President, overnight work mentioned by the Secretary is just one of the factors. The last paragraph of the main reply mentioned the relationship between cancer and occupation, which is the point that I wish to focus on and express my concern.*

PRESIDENT (in Cantonese): Fine.

MR LAU KONG-WAH (in Cantonese): *We used to work overnight in the past.*

PRESIDENT (in Cantonese): Secretary, please.

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): I will have to refer this topic to the WHO for consideration before I can tell exactly what should be done. Yet, I think the most important answer is that we should allow more harmony and greater tolerance as more happiness will help minimize illnesses.

DR KWOK KA-KI (in Cantonese): *President, the Secretary said that a guide had been issued to all public organizations, but I wonder if the HA had been missed out as many front-line doctors of the HA actually have to work 30 hours at present. Basically, on top of their daily tasks, that is, the work that arises from eight to eight the next day, they still have to keep on working, which indeed has significant impact on their health. May I ask the Secretary if the HA has been issued with the guide? Should the HA continue such practice, will it constitute a serious non-compliance of government directives under the labour policy?*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): Thanks to Dr KWOK for this question.

In fact, it can be seen from part (a) of the main reply that we have just started working on the guide, which has yet to be finalized. Once it is finalized, it will definitely be issued to the HA in the first instance. We are also aware of the fact that the working hours of doctors and nurses are quite long, and that they are subject to immense pressure. I am fully aware of this situation.

MISS CHAN YUEN-HAN (in Cantonese): *Madam President, I can see from the Secretary's reply to Mr WONG Kwok-hing's question that the Government is still*

not clear about certain things. For instance, the third paragraph of the main reply states that "the international recommendations are that depending on the nature of work (for instance whether dangerous, monotonous, demanding and safety critical)", but has the Secretary incorporated the views of Chinese medicine practitioners into his remarks concerning the international recommendations? Surely, the Secretary was referring to the Western medicine practitioners. But from the Chinese medicine practitioners' point of view, going to bed after 11 pm will increase the risk of developing cancer. Has the Government incorporated the views of Chinese medicine practitioners in this regard? If not, what is the reason for that?

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): The medical report released by the International Agency for Research on Cancer is very authoritative in the medical field, which merely states that overnight work is probably carcinogenic to humans. Miss CHAN was right in saying that both Chinese and Western medicines share the same philosophy. Although I am a layman, I do have some information to share with Members for I have discussed this issue with my doctor colleagues. We all have an organ called the pineal gland in our brain, which secretes a large amount of melatonin at night. While melatonin induces sleep, it also serves to inhibit the growth of cancer cells. This is what colleagues and experts in the medical field told me. I believe Chinese medicine practitioners also agree with this point, where the production of melatonin while sleeping at night actually inhibits the growth of cancer cells. For this reason, in case our body clock is upset, it will give rise to, say, emotional problems, dizziness, fever or intestinal problems.

MISS CHAN YUEN-HAN (in Cantonese): *The Secretary has not answered my supplementary question. If this is the case, a conclusion should have been drawn after taking into account that factor and there should be no cause for being so indecisive. In fact, this is supported by quite a number of cases. In reply to Mr WONG Kwok-hing's question earlier, the Secretary said that the issue would be considered by the Government in due course. However, in view of the justifications found in Chinese medicine and those found in Western medicine mentioned above, why expedient actions have yet to be taken in this regard? Madam President, he failed to answer my supplementary question.*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): Madam President, I have already answered it. Firstly, the International Agency for Research on Cancer is an authoritative institute, and the conclusion drawn is that overnight work is probably carcinogenic, but it is not a direct cause of cancer. Work in a radioactive environment, however, is definitely carcinogenic. We have therefore clearly specified 51 occupational diseases which bear such risks, for instance, those relating to the processing and repairing of saw dust and wooden furniture. However, as a conclusion has yet to be drawn on the studies concerned, we should not arbitrarily assert that overnight work is hazardous. Having said that, however, this should not be treated lightly and more efforts should be put in education, publicity and promotion.

Secondly, insofar as the Chinese medical theory is concerned, just as I said earlier, it happens to agree completely and is consistent with the Western medical theory.

PRESIDENT (in Cantonese): This Council has spent more than 17 minutes on this question, we will now proceed to the second question. Mr LEE Wing-tat will ask this oral question for Dr YEUNG Sum.

Preservation of King Yin Lei

2. **MR LEE WING-TAT** (in Cantonese): *President, on 15 September 2007, the Government declared King Yin Lei, a traditional Chinese-style mansion, and its garden as a proposed monument. It is making an assessment on how the mansion is to be restored and studying the appropriate options to preserve the mansion. In this connection, will the Government inform this Council:*

- (a) *of the progress and outcome of the assessment on the damage done to the mansion and how it is to be restored, and when the assessment report will be published;*
- (b) *whether it has considered acquiring, by purchase, transfer of plot ratio, land exchange or other means, the title of the mansion and the land concerned, so as to preserve the mansion permanently, and if it has discussed the matter with the owner or his representatives; if such consideration has been made and discussion has been held, of the preliminary result; and*

- (c) *whether it will consider conducting public consultation and inviting suggestions from non-governmental organizations on how to permanently preserve and revitalize King Yin Lei, thereby enhancing public understanding of the mansion and its related history and culture?*

SECRETARY FOR DEVELOPMENT (in Cantonese): Madam President, under Section 2A of the Antiquities and Monuments Ordinance, I declared, in the capacity of Antiquities Authority, King Yin Lei (including the associated buildings and its garden) at 45 Stubbs Road as a proposed monument. The declaration was gazetted in the form of a legal notice on 15 September 2007, with immediate effect for a period of 12 months. The subsidiary legislation was passed by the Legislative Council under the negative vetting procedure. The purpose of the declaration of King Yin Lei as a proposed monument is to prevent the building from being demolished immediately, to provide the Antiquities Authority with a period of 12 months to fully consider whether the premises should be declared as a monument under the Antiquities and Monuments Ordinance, and to discuss with the owner of the property feasible options for preservation during this period. In the past three months, we have been taking relevant actions towards restoring and assessing the historic value of King Yin Lei as well as exploring feasible options for preservation.

The three parts of the question put by Mr LEE Wing-tat for Dr YEUNG Sum are now replied as follows:

- (a) After the declaration of King Yin Lei as a proposed monument, the Antiquities and Monuments Office (AMO) immediately inspected the building condition. It was initially found that most of the decorations on the roof of the buildings and inside the buildings had been demolished, but the overall structure, layout and silhouette of the buildings remained intact. As for the garden, except for some stone carved handrails and decorative lighting that had been demolished, the remaining parts (including carved fences and plants within the garden) were generally undamaged. We published this AMO preliminary report on 20 September 2007.

To further assess the extent of damage of King Yin Lei and to work out a restoration plan, we, under the recommendation of the State Administration of Cultural Heritage, invited Prof TANG Guohua of

the School of Architecture and Urban Planning of Guangzhou University to come to Hong Kong to conduct a site inspection at King Yin Lei. Prof TANG is also the Head of Lingnan Architecture Research Centre of Guangzhou University as well as a member of the Expert Panel for Cultural Heritage Conservation of Guangdong Province. According to Prof TANG's assessment, among others, the roof, beams and columns, walls, floors, railings, staircases, doors and windows of the buildings had suffered damages to different extents, but the damages mainly appeared on the decorations and finishes. The basic layout and structure of the buildings had not been damaged, and the foundation and base of the building complex were still safe. Prof TANG considered that the damaged parts of King Yin Lei could be restored, and craftsmanship could be realized by studying the demolished elements and making reference to corresponding traditional craftsmanship, with a view to obtaining information on the original elements. Based on the information on the original architectural appearance now in hand and current restoration techniques, Prof TANG reckoned that the original appearance of King Yin Lei could be restored up to 80% while its heritage value could be basically recovered.

We are now verifying and vetting the assessment report. We will submit the report to the Antiquities Advisory Board (AAB) for reference and make it public by the end of this month.

- (b) In accordance with the new heritage conservation policy and in line with the announcement by the Chief Executive in his 2007-2008 policy address on the direction to provide economic incentives to private owners to encourage heritage conservation, we are now exploring with the owner various feasible options for preservation of King Yin Lei. When considering economic incentives, we will explore the easiest way first, which is to find out whether there is space with development potential within the lot boundaries of King Yin Lei so as to make up for the loss of development rights of the owner due to the preservation of King Yin Lei (that is, to carry out transfer of plot ratio within the existing lot boundaries). A less preferable option is to find a suitable government site in the vicinity of King Yin Lei, and to consider granting that site to the owner for development through land exchange to make up for the loss. As

for the more difficult ways, they include identifying another lot outside of the existing lot boundaries of King Yin Lei or in another district to make up for the loss, or even cash payment to the owner in return for the property rights.

In the past three months, we had already held three meetings with the owner's representatives to explore the two easier options explained above (that is, to identify space with development potential within the existing site or in adjoining sites to make up for the preservation of King Yin Lei). In the light of the combined heritage value of the main building, garden and the respective layout of King Yin Lei, our initial view is that the option of trying to identify space within the lot of the existing buildings and the garden for development would affect the integrity of preservation, and hence do not seem to be a feasible option. We are now actively studying with the owner's representatives the other option of identifying adjoining sites for development.

When making a decision on which option to adopt in the preservation of King Yin Lei, we will certainly assess the impact of such options on planning, vista and private property rights. We will also consult the AAB and the Legislative Council, and carry out relevant town planning processes when necessary. It is our goal to strike a proper and publicly acceptable balance between safeguarding the owner's legal private property rights and preserving historic buildings.

- (c) At this stage, the priority of the Government is to deal with the restoration of King Yin Lei as well as issues on property rights and on making up for the loss, with a view to preserving the historic building. After these issues have been properly resolved, the Administration will arrange for the preservation and revitalization of King Yin Lei. We understand the public's desire to enter into King Yin Lei for visit, and to enjoy its architecture and to learn about its history. We will certainly steer the future preservation and revitalization plans towards this direction. For instance, by participating in the Revitalizing Historic Buildings Through Partnership Scheme, we can breathe new life into King Yin Lei and open it up for public use in the spirit of adaptive reuse.

MR LEE WING-TAT (in Cantonese): *President, the Government has made a big stride forward in heritage conservation and in making up for the economic loss of the property owner by means of land exchange. It is now doing this.*

My question is, although land exchange is in principle an acceptable means, but the negotiation or discussion often takes up a lot of time in respect of the price of the land, plot ratio, or even the area. The discussion can become very controversial. May I ask the Government or the Bureau, whether it has laid down internal policies and guidelines on this issue — I am referring not only to this lot, but also all other similar cases — to instruct relevant departments to adopt them as the objective standards or parameters?

SECRETARY FOR DEVELOPMENT (in Cantonese): Madam President, I thank Mr LEE Wing-tat for his question.

Regarding discussion on financial incentives, as this is indeed a very new attempt, I fully agree with Mr LEE Wing-tat that it may involve many complicated issues. Our present starting point is to make up for the loss of property rights of the owner due to the preservation of King Yin Lei, that is, the loss of development rights within the lot boundaries of King Yin Lei. Take this actual case as an example, the site covers 4 700 sq m, but its plot ratio is very low, only 0.35. We will thus work in this direction, rather than seeking a larger plot ratio in making compensation. Most importantly, however, is that the case of King Yin Lei is very important to us as well as the entire conservation policy of Hong Kong, so Mr LEE can rest assured that I will be in full charge of the entire matter and I will not instruct or delegate others to do so.

MR BERNARD CHAN (in Cantonese): *President, it is mentioned in part (c) of the Secretary's main reply that at this stage, the priority is to deal with the restoration of King Yin Lei as well as issues on property rights and on making up for the loss. Mr LEE Wing-tat's question just now focuses on property rights and how to make up for the loss. But as a member of the AAB, I am most concerned about restoration.*

I am glad to hear that, according to Prof TANG, 80% of the original appearance of King Yin Lei can be restored. May I know what the present

progress is? Has the property owner adopted an active attitude in the discussion with the Bureau on how to solve this problem? In what ways will the restoration be done to restore 80% of the original appearance?

SECRETARY FOR DEVELOPMENT (in Cantonese): Madam President, as I have stated in the main reply, we have been making all-out efforts in restoring the building in the past three months. The report submitted by Prof TANG specifically mentions three tasks that need to be done now in the process of restoration. They are: first, clearing the site. During this process, special attention should be given to the collection of useful historic information and parts which can be restored, and a photographic record should be maintained; secondly, waterproofing the entire roof, and thirdly, collecting old photographs and historic drawings from the public as evidence for substantiating restoration work at a later stage.

I am glad to inform Members that we have been actively taking forward these three tasks. For the first two tasks, given that works have to be done in a building which is still under private ownership at the moment, we have already contacted the owner's representatives in writing for permission to carry out the works.

Regarding the third task, Members may well know that King Yin Lei used to be a private mansion. It is thus not very likely to be able to collect old photographs from the public because not many members of the public had actually entered the lot. In this regard, to do so, we must obtain the support of the property owner — in fact, there are two owners; the old and new owners.

I am glad to inform Members here that we have already secured the full co-operation of the two property owners (that is, the old and new owners). The details are as follows: the new owner (that is, the present owner of the property) has indicated through his representative that he will conduct restoration of King Yin Lei after the restoration proposal has been approved by the Government, and that he will bear all the costs relating to the restoration works, adding that this undertaking will not be affected by the ultimate decision reached between us and the owner in the coming discussion concerning the property rights and compensation proposal. The representative of the new owner has also agreed that he will lend the Government copies of the floor plans and other relevant

information obtained from the old owner when he acquired King Yin Lei as reference for the restoration of King Yin Lei.

While the old owner and his representative after making contact with me have also agreed to lend the Government their precious photographs of King Yin Lei and other useful files for reference. Hence, the information provided by the two owners will not only be useful to the restoration works to be conducted by the Government, but also offers high reference value for conservation and revitalization of King Yin Lei in future. The Government will take all appropriate actions to restore King Yin Lei early.

MR JAMES TIEN (in Cantonese): *President, King Yin Lei was put up for sale on the market two years ago. I thus had visited it a few times. The biggest reason I dared not buy it is that, after viewing its interior I think most of us, being laymen of monuments, may not be able to appreciate the decorations inside. I find it strange that, according to part (a) of the main reply, the Government says that initial findings show that most of the decorations on the roof of the buildings and inside the buildings have been demolished, but later it says that the foundation is undamaged and can be salvaged.*

If the Government holds that the demolished decorations are monuments and will now be reassembled to restore 80% of their original appearance, and that, according to Prof TANG, the heritage value can be basically recovered, may I ask the Government, in Prof TANG's understanding, to what extent the heritage value can be recovered?

SECRETARY FOR DEVELOPMENT (in Cantonese): Madam President, in the report compiled by Prof TANG Guohua to be made public in the near future or within this month, Mr TIEN will find the answer he wishes to know. Perhaps, let me to brief Members here.

Prof TANG is an expert in heritage preservation and Lingnan architecture. While his comments on King Yin Lei in the report confirmed the assessment on the heritage value of the building made by the AMO in the past, he further elaborated that heritage value is in fact multi-faceted, which includes the historic value, aesthetic value, scientific value and socio-humanity value of the historic building. It is thus correct to say that the general public may only be able to

note the glamour of the decorations and finishes on the exterior. Apart from these, however, the building also preserves important historic values in the various aspects mentioned by me just now and reflects the history at that time of Hong Kong. The fact that the owner being a Chinese who could own such a huge mansion with eastern and western characteristics at the Mid-Levels where most of the residents at that time were foreigners carries a strong historic message in itself. Prof TANG concluded on the basis of the detailed assessment that the heritage value can basically be recovered.

PROF PATRICK LAU (in Cantonese): *President, I think the Secretary's reply today is a piece of good news to many who care about conservation.*

My question relates to the Secretary's remark in part (b) of the main reply on heritage conservation policy, which states that the easiest way will be explored first, that is, by means of transfer of plot ratio, land exchange and making up for the loss of the property owner. May I ask whether these will become an established policy in future in handling private properties in relation to conservation?

SECRETARY FOR DEVELOPMENT (in Cantonese): Madam President, in fact, since the Chief Executive announced in high profile in the policy address on 10 October that the SAR Government will press ahead with the work on heritage conservation in the next five years, I have briefed Members on several occasions at relevant panels of the Legislative Council on how financial incentives will be offered for the preservation of historic buildings under private ownership, and I have also mentioned the approach of adopting the easiest way first. Hence, a simple reply to Prof LAU's question is: Yes, this will be our direction. However, how "hard" the proposal for each case can be will depend on the extent of public acceptance. We certainly wish to adopt the "easiest" proposal because it seems to be easier to reach a consensus within the community.

MR ALAN LEONG (in Cantonese): *President, we are certainly gratified to hear that the Secretary will deal with the conservation of King Yin Lei herself. However, President, may I ask the authorities whether they will formulate a universal conservation policy for historic monuments in Hong Kong through the preservation of King Yin Lei, or they will treat King Yin Lei as an individual case*

and deal with it in a piecemeal manner? May I ask the Secretary to clarify which attitude she will adopt when she personally handles issues concerning monuments?

SECRETARY FOR DEVELOPMENT (in Cantonese): Madam President, I can answer Mr Alan LEONG affirmatively that we certainly are not adopting a piecemeal approach. In fact, King Yin Lei has presented an important enlightenment to us. We do not wait until the present discussion has finished to learn how to improve our work on heritage conservation.

For instance, the most significant revelation the King Yin Lei incident has presented to us is that if we consider an existing historic monument in Hong Kong valuable, we should take the initiative to proactively give it grading and declare it as a statutory monument under the Antiquities and Monuments Ordinance. Because the new property owner has made a defence — which is understandable — when he contested the application of change of land use made by another organization to the Town Planning Board, stating that during the acquisition of the property, he has enquired and learnt that King Yin Lei is neither a monument, nor any one of the 496 graded buildings. This presents a significant revelation to our conservation policy and the subsequent work.

Hence, as I have repeatedly told Members, we seek to complete the grading of 1 440 buildings within this year (that is, 2008) because this work started in 1996 but its progress has been rather slow. Moreover, Members are concerned that the sole reliance on the Buildings Ordinance now to decide whether a building can be demolished cannot completely prevent these historic buildings from being demolished, and I undertake that I will look into this issue further in the context of the Buildings Ordinance.

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

Assisting Employees in Recovering Outstanding Wages

3. **MR JASPER TSANG** (in Cantonese): *President, will the Government inform this Council whether it knows:*

- (a) *the number of cases in the past three years in which employees lodged claims at the Labour Tribunal (LT) to recover outstanding wages; among them, the respective numbers of cases in which the employees' claims were successful and unsuccessful, as well as the average time taken from the date of filing to conclusion in such cases;*
- (b) *among the successful cases referred to in part (a), the average percentage of the amounts of compensation awarded by the LT to the employees concerned in the amounts they claimed, and the average percentage of the amounts of money ultimately received by such employees in the amounts awarded; and*
- (c) *apart from implementing the measures which have been accepted by the Chief Justice of the Court of Final Appeal for solving problems in connection with the enforcement of the LT's awards, how the relevant authorities assist the employees who have lodged and succeeded in their claims to recover outstanding wages in recovering the amounts awarded, and whether they have plans to review the relevant policies?*

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

- (a) According to the information provided by the LT, the number of cases handled, the number of awards made (where sums were awarded) and the average time taken from filing of claim to conclusion over the past three years are set out below:

<i>Year</i>	<i>2005</i>	<i>2006</i>	<i>2007 (January to November)</i>
(a) Number of cases handled by the Labour Tribunal	6 570	6 543	5 649
(b) Number of cases where monetary awards were made (including arrears of wages, wages in lieu of notice, severance payment, etc.)	5 349	5 383	4 393
(c) Average length of period from the date of filing to conclusion	41 days	47 days	55 days

As claims generally have multiple items and in some cases there are more than one claimants, it is difficult to differentiate the cases that are successful or unsuccessful. For instance, a claimant may succeed in one or two items of a claim but fail in the others. In the above table, row (b) only shows the number of awards for general reference. Besides, some claimants may withdraw their claims after they have settled directly with the defendants subsequent to filing.

- (b) As regards the percentage of the amounts of compensation awarded by the Court as against the amounts claimed by the claimants under the items where awards were made, the figures for the past three years are set out below (the figures do not differentiate between the claims lodged by the employers and those lodged by the employees):

<i>Year</i>	<i>2005</i>	<i>2006</i>	<i>2007 (January to November)</i>
Amounts awarded	\$325 m	\$333 m	\$235 m
Amounts claimed	\$481 m	\$518 m	\$401 m
Percentage of amounts awarded as against the amounts claimed	68%	64%	59%

Furthermore, as some employees and employers settle the judgment sum on their own, the LT has no available information on the percentage of the amounts of money ultimately received by the employees as against the amounts awarded by the Court.

- (c) The Administration is concerned about the failure of some employees in obtaining the judgment sum awarded by the LT. In essence, the issue relates to the enforcement of awards made by the Judiciary. As in the case of all civil actions, the parties involved in the claim bear the responsibility of enforcing the judgment if it is not complied with.

The experience of Labour Department (LD) reveals that there are broadly two scenarios where the employees could not recover their wages in arrears despite having a LT award in their favour: (1) the employer has become insolvent; and (2) the employer is solvent and still in operation.

In the first scenario where the employer has ceased business or become insolvent, the LD will assist the affected employees to apply for *ex gratia* payment of wages in arrears and other termination payment from the Protection of Wages on Insolvency Fund. The LD will also refer such employees to the Legal Aid Department for assistance in instituting winding-up or bankruptcy proceedings against the insolvent employer.

In the second scenario where the employer is solvent and still in operation, the LD will initiate vigorous enforcement action against the employer. Upon receipt of complaints by employees on defaulted payment of LT awards, labour inspectors of the LD will conduct follow-up investigation on these cases. If there is sufficient evidence, we will prosecute employers who have violated the Employment Ordinance.

In 2007, the LD secured 171 convicted summonses in respect of cases of defaulted payment of LT awards, up 10.3% from 155 in 2006. Among these cases, one convicted employer was fined \$70,000 while another was sentenced to immediate imprisonment for two weeks. These heavy sentences have sent a strong message to employers that breaches of the Employment Ordinance are serious offences.

Whilst the LD's enforcement action against wage default is confined to criminal prosecution and the employees concerned could not benefit from the criminal sanction imposed on the offenders, we believe that our stringent enforcement effort has served to strengthen the deterrent effect against wage defaults. To further enhance the deterrent effect, the maximum penalty for wage offences in the Employment Ordinance has, with effect from 30 March 2006, been substantially increased from a fine of \$200,000 and imprisonment for one year to a fine of \$350,000 and imprisonment for three years.

The Administration is aware of the problems faced by some employees in recovering the sum awarded by the LT in their favour. We will continue to work closely with the Judiciary to explore feasible improvement measures to safeguard the statutory rights of employees.

MR JASPER TSANG (in Cantonese): *President, I would like to follow up the last part of the Secretary's main reply. As the Secretary is also aware, the employees concerned usually may not be able to recover the sum awarded by the LT even though the LT has handed down judgment in their favour. In the former part of the main reply, the Secretary said that the recovery of outstanding wages is regarded by the Government as ordinary civil actions. Even though the LT has made a judgment, it is the responsibility of the employees concerned to enforce it. Should we treat wage defaults between employers and employees in such a manner? Should such cases be regarded as ordinary civil actions?*

The Secretary said that the Administration will explore feasible improvement measures to help the employees. But he did not mention what these feasible measures are. Obviously, for instance, the Protection of Wages on Insolvency Fund (PWIF) will be triggered once the employer has ceased operation. My question is: Has the Administration considered that, under the circumstances where the employer is reluctant to pay the outstanding wages even though he is solvent and continues to operate his business after judgment has been made, the PWIF can also be triggered so that advance payment can be made to the employees and the Government will recover the money from the employer on behalf of the PWIF later on? The Government will be in a much more advantageous position to recover the debt from the employers than the employees as ordinary citizens. May I ask the Secretary whether the Government has seriously considered such an arrangement?

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): I thank Mr TSANG for his question. In fact, Members in the Legislative Council have spent a lot of time studying the issue in the past few years. We have been discussing the issue with the relevant department of the Judiciary. The problem is very complicated because, as I said in the main reply, both civil actions and the enforcement of the Court's order are involved.

In practice, the LT is a segment of the civil proceedings as a whole and the Judiciary has also reviewed the problem. Members may remember that after recommendation was made by the Chief Justice, a report was issued in 2004 which was subsequently discussed in the Manpower Panel and the Steering Committee on Civil Justice Reform. In this aspect, we have to find some feasible solutions and the situation is very complicated as there are problems in terms of the legal principle and policy. And we hope that all these complicated matters can be sorted out as far as we can. However, if some problems of legal

principle are really not surmountable, we have to examine what else can be done to deal with them.

However, I would like to emphasize that we have adopted a pragmatic approach in helping employees or employers who are aggrieved in our opinion. If the person concerned cannot get an order in his favour from the Court, under what circumstances as I explained in the main reply, if he comes to the LD to reflect his problems to us, there are several teams of staff ready to help under our pragmatic approach.

First, as I said here before, if an employer becomes insolvent, we will certainly pay the wages in arrears from the PWIF. According to our estimation, more than 50% of the employees who have encountered difficulties and sought assistance from us can receive from the PWIF the wages due if judgment is made in their favour. Generally speaking, each one of them can get more than \$20,000 on average. This is based on our statistics. In other words, half of the employees can, through these channels, recover the outstanding wages due because we consider this the most important and our duty is to protect the interests of employees.

Now, Mr TSANG asks whether payments can be made from the PWIF if the employers are not bankrupt. This is an important question of policy, and a problem concerning the relevant ordinance because it is clearly provided that the PWIF can be triggered only when the employer concerned is insolvent or bankrupt. As its name implies, it is a fund for the protection of wages on insolvency. So, regarding Mr TSANG's question, we are also giving thoughts to it which is in fact very complicated. However, we have been working very hard and studying the matter jointly with the Judiciary regarding the procedures, legal principle and policy.

To help the employees, the first thing to do is to help them recover the money. This is also the most important thing. Through the PWIF, as I just said, about half of the employees have recovered the outstanding wages due. Each one of them can get around \$20,000 on average and the maximum amount of wages in arrears payable by the Fund is \$36,000. In other words, assistance can be provided to most of the employees.

Besides, the second measure of our multi-pronged approach is certainly prosecution. If the employees are willing to act as witnesses, we will spare no effort. In the main reply, I said that in the past year there were 171 successful

prosecution cases and two employers have been penalized. One of them was fined \$70,000 while the other was sentenced to two weeks' imprisonment. Members can imagine that the amount of wages in default by the employer who was sentenced to imprisonment is around \$20,000 only. So, the message is crystal clear. The present situation, meaning the situation where employers refuse to pay the outstanding wages, has improved. We can see that improvement has been made.

Besides, if the case is brought before the Court, the judge may also exercise discretion under section 65 of the Employment Ordinance to order that the wages in arrears be repaid. So, we have adopted a multi-pronged approach to help employees in a holistic manner. But I fully agree that we have to consider the way forward holistically in dealing with the problem. We fully understand Members' concern and are working very hard on this.

MR KWONG CHI-KIN (in Cantonese): *In part (a) of the main reply, the Secretary listed the number of cases in the past three years and the average length of period from the date of filing to conclusion. We can see that there were 6 500-odd cases in 2005 and the number dropped dramatically to 5 600-odd cases in 2007. However, the average length of period from the date of filing to conclusion increased drastically, from 41 days in 2005 to 55 days in 2007. Why has the time required increased while the number of cases has decreased? Is it because of insufficient resources for the Court? What measures can be adopted in order to make improvement?*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): Madam President, regarding Mr KWONG's supplementary question, we are also very concerned about the situation and we have made enquiries with the Judiciary.

The situation is: According to their explanation, in the past few years, requests have been made in many such cases handled by the LT for postponement on the grounds that some of them are under investigation by the police, such as investigation on whether there is forgery of documents or giving false testimony, and some are under investigation by inspectors of the LD on whether there is default on payment of wages or underpayment of wages, particularly those concerning foreign domestic helpers which are very serious. As it takes much time to undertake these tasks, the length of period has therefore

been extended. Why has the length of period been extended with a decreased number of cases? Because the postponement has led to the so-called delayed cases, thus resulting in prolonged hearings.

However, the actual situation is not like this. In an analysis with the Judiciary Administrator again this morning, I was given a clear answer, and that is, more than 80% of the cases are in fact concluded in one month. In other words, it takes only one month or 30 days from the date of filing to conclusion. But the data on average are inflated because it is necessary to calculate the averages.

Hence, the situation does not reflect that there is a lack of efficiency. In reality it has reflected the complexity of the cases and the presence of criminality which should be investigated by the police and followed up by the inspectors of the LD. Delay is therefore resulted when our staff have to undertake these tasks.

MR TAM YIU-CHUNG (in Cantonese): *President, in the main reply, the Secretary mentioned the second scenario where the employer is solvent and still in operation. Under such a situation, if the employer is still unwilling to pay wages to the employees, the LD may collect evidence again to initiate prosecution. The Secretary also mentioned that 171 prosecutions had been initiated.*

May I ask the Secretary whether any difficulties were encountered in the process of collecting evidence or instituting prosecution? Because I can see that the number of prosecutions is not very high. Are there any difficulties in the gathering of evidence? What are the difficulties in this process? Besides, will the employers pay the outstanding wages to the employees after the imposition of penalty?

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): I am grateful for Mr TAM's supplementary question. Generally speaking, the standard of proof is very stringent. As we all know, the standard of proof is stricter in criminal offences. First, we should have sufficient evidence for instituting prosecution; second, the employees should be willing to act as prosecution witnesses.

So, very often, some people are wary of troubles or avoid going to the Court. And since this is a criminal action, it will not take place in a tribunal again. Perhaps they do not have time to testify against the employers. As a result, no more follow-up action can be taken at this stage. However, if the employees are co-operative and there is sufficient evidence, we will certainly act in accordance with the law. So, Members can see that prosecution was initiated in 171 cases last year, a 10% increase compared with the year before, with two employers being severely punished. One of them is put behind bars for two weeks with immediate effect. The punishment is very severe because the two weeks' imprisonment is imposed for having defaulted on wages of \$20,000 only. The penalty is harsh and the law is stringent. I think the message delivered will have a certain deterrent effect.

We will continue to call on the employees to fully co-operate with us when they have encountered such a situation and provide more information and evidence to us. We will not spare any efforts in prosecuting the defaulting employers.

MR TAM YIU-CHUNG (in Cantonese): *President, the Secretary has not answered one point, and that is, after judgment has been made on the 171 cases and the employers have been fined, have the employers repaid the wages in arrears? Or the cases are closed after the employers' fines were paid?*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): Madam President, Mr TAM has asked a very good question, a question nailing the crux because the defendants may be jailed or fined after a judgment has been handed down in a criminal action. However, under certain circumstances, the judge may exercise his discretion to order the defendants to repay the outstanding wages pursuant to section 65 of the Employment Ordinance. But I have to emphasize that the judge has the discretionary power to decide whether or not the section be invoked. The section was applied in 60-odd cases last year. Some of the employees were able to recover their wages in arrears while some might not even though judgment had been made. So, Members should understand that the problem we are facing now is most complicated.

MR LEE CHEUK-YAN (in Cantonese): *President, the Secretary said that a multi-pronged approach would be adopted in order to help employees to recover*

their outstanding wages, severance pay, payment in lieu of notice and other benefits under the labour law. In fact, after hearing the specific measures of the approach, I think they are quite ineffective in rendering assistance to employees because the Secretary has also admitted that half of the employees have not recovered their outstanding wages.

From the perspective of the workers, if they want to recover the money, they have to go through a process as harsh as a steeplechase. They have to go to the LD and the LT. If the LT does not give a ruling that the wages in arrears be repaid, then no one can help them. Eventually they have to seek assistance from the Bailiff and the cost is \$5,000. If the Bailiff cannot help them, they have to go to the Legal Aid Department which will require a means test. If they are screened out by the means test, there is basically no hope for them to recover the outstanding wages.

So, President, may I ask the Secretary whether he can promise to help resolve the problem radically? And the only way to do so is to convince the Judiciary. There is no justification for the Judiciary to regard the LT as an ordinary civil court just like the Small Claims Tribunal because they are workers and the money at stake is their hard-earned money. So, their cases should be dealt with in a specific and unique manner and special assistance should be provided to help them recover the money. May I ask the Secretary whether he can promise that the problem can be resolved radically in this year? Are there any chances that further progress can be made in your negotiations with the Judiciary?

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): Madam President, Mr LEE's concern is exactly the same as ours and we attach importance to the problem which, as we all know, has existed for a long time. We have discussed the problem repeatedly in the relevant committee and the Chief Justice has also set up a working group for this. As I pointed out in the main reply, we will continue to work hard and keep in close contact with the Judiciary and the relevant departments in the hope that some practicable solutions can be found to solve the problem. This is a problem which has disturbed the labour sector for a very long time and I fully recognize this. If there is an answer, I will immediately If a solution is found, there will be no more delay. So, please give us some room and time so that we can follow up the matter and make more efforts.

MR LEE CHEUK-YAN (in Cantonese): *President, he did not say whether he could promise that the problem would be solved in this year.*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): Madam President, shall we say by the end of 2008 instead of saying in which year? More time will allow more flexibility and we can work hard for this purpose. We will pull our brains together and hold discussions again in the Administration of Justice and Legal Services Panel in order to express our views.

PRESIDENT (in Cantonese): We have spent more than 18 minutes for this question. The fourth question.

Rural Improvement Works

4. **MR DANIEL LAM** (in Cantonese): *Madam President, the Government allocated \$4 billion in the nineties to implement projects under the Rural Planning and Improvement Strategy, including river training and local environment beautification projects, so as to improve the living environment for the residents in the New Territories. In this connection, will the Government inform this Council whether, given its current strong financial position, the Government will allocate fresh funds to implement strategic projects to improve the rural environment, in order to address the aspirations of the residents in the New Territories; if it will, whether it will work with the Heung Yee Kuk and various rural committees in drawing up the specific arrangements for implementing the projects concerned; if it will not allocate funds to implement the projects concerned, of the reasons for that, and the alternative plans to improve the living environment for the residents in the rural areas?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, the Government attaches great importance to enhancing the infrastructure and facilities in the rural areas for improving the living environment there. After the implementation of the Rural Planning and Improvement Strategy, which was launched in the 1990s and concluded in 1999-2000, the Administration continued to plan and carry out improvement works in the rural areas in the New Territories, including a number of major works projects. For instance, the Drainage Services Department has carried out a number of drainage

improvement programmes in the northern New Territories to address the flooding problem and constructed sewer systems to improve the environment. The Highways Department has carried out road improvement or construction works. The Water Supplies Department is implementing a project to provide sea water flushing systems in the northwestern New Territories and Yuen Long, thereby extending the water supply network to the rural areas in the region between Tuen Mun and Yuen Long. In addition, the work under the Greening Master Plan carried out by the relevant works departments will also be extended to the New Territories. Priority will be given to the beautification works along the Tuen Mun River and the development of a strategy for the improvement of the Yuen Long Town Nullah to enhance the local environment quality and the ecological value of the nullah.

The 10 major infrastructure projects mentioned by the Chief Executive in his policy address announced in last October will enhance the overall infrastructure facilities in Hong Kong and will definitely bring improvement to rural areas in the New Territories as well. The policy address mentioned to resume the planning and engineering studies and draw up implementation strategy on the "Three-in-One" new development area scheme at Kwu Tung North, Fan Ling North, Ping Che and Ta Kwu Ling, as well as the Hung Shui Kiu new development area. These construction projects are highly strategic and it is believed that the launching of new developments will certainly improve the living environment in rural areas nearby.

In addition to the implementation of major works, the Home Affairs Department introduced the Rural Public Works (RPW) Programme in 1999. The expenditure of each project under the Programme is capped at \$21 million. The objective of the RPW Programme is to improve the local environment and solve related problems in a more expeditious and flexible manner, and therefore it does not cover projects involving land resumption.

Since the introduction of the RPW Programme, the Government has completed more than 1 140 RPW projects with a total cost of about \$890 million to meet the needs of the local community. The types of works include construction/improvement of footpaths, access roads, drainage facilities, rain shelters and pavilions. The living environment and infrastructure of many rural areas have been improved under this Programme.

Moreover, different kinds of recreational facilities, including basketball courts, mini-soccer pitches, playgrounds and sitting-out areas, have been planned

and provided for the use of residents in the rural areas. Since 2006, the Tourism Commission has also co-ordinated the efforts of the relevant departments in providing and enhancing the basic facilities at various green tourist attractions in the northeastern New Territories to enable visitors to appreciate the green attractions in a more convenient and user-friendly environment. Improvements include reconstruction of piazzas, erection of signage and mapboards, installation of and improvement to seating, installation of lighting facilities, tree planting, and improvement to existing toilets, piers and ancillary facilities. The majority of the works will be completed in the first quarter of this year.

Regarding the above rural issues, the Government and the Heung Yee Kuk have established good communication channels, including the Home Affairs Bureau — Heung Yee Kuk Liaison Committee, the Development Bureau — Heung Yee Kuk Liaison Committee and the Planning Department — Heung Yee Kuk Liaison Meeting. When projects are to be implemented, the Government will also consult local residents to better understand and respond to the needs of the local community.

The Government attaches great importance to the improvement of facilities in the rural areas and will continue to communicate closely with the Heung Yee Kuk and the local community to further improve the living environment of rural residents.

MR DANIEL LAM (in Cantonese): *Madam President, I wish to thank the Secretary for giving such a clear answer. Could the Secretary inform this Council whether or not the existing rural improvement works will be reviewed so that priority will be accorded to those projects that will make urgently needed improvement?*

PRESIDENT (in Cantonese): Secretary, please reply.

(Secretary for Home Affairs was flipping through documents)

PRESIDENT (in Cantonese): Secretary for Home Affairs.

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, I did not hear the few words said at the beginning.

The RPW Programme is carried out on suggestions made from time to time by local residents, village representatives and District Councils (DCs) to the respective District Offices. Such suggestions will be assessed in terms of their feasibility, the costs of the works will be computed and advice from the relevant departments will be sought in the light of the circumstances.

The Home Affairs Department (HAD) will submit these projects to the District Working Group (DWG) concerned and it will vet and approve of the projects, set the priorities and then pass the projects to the steering committee for the RPW Programme for final approval. Once endorsed, the projects will be included in the list of projects. After these projects are finalized, the Director of the HAD or persons authorized by her will act according to the advice given by the steering committee and give approval for the chosen projects. This is the way how priorities are set under the RPW Programme in accordance with this mechanism.

MR CHEUNG HOK-MING (in Cantonese): *President, in his main reply to Mr Daniel LAM the Secretary mentions two programmes, one is the Rural Planning and Improvement Strategy and the other is the RPW Programme. Of these two programmes, the former was carried out during the 10-year period before 1999 and the latter was carried out during the 10-period after 1999. A sum of \$4 billion was spent in the former programme while only \$890 million was spent in the latter.*

While both programmes lasted for 10 years, why was \$4 billion spent on the former while only \$890 million was spent on the latter? Can an explanation be made based on some specific examples?

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, these two programmes cannot be compared. The programme carried out in the 1990s included some major works and the RPW Programme which we are talking about only covers minor works launched by the HAD.

The major construction projects of the 1990s were carried out by the former Planning Department and they included some overall strategic planning. But the major strategic public works that we are undertaking now are other forms of planning and they belong to other areas. As for the RPW Programme, the main thrust is on projects using fewer resources.

MISS CHOY SO-YUK (in Cantonese): *President, the RPW Programme is in fact a very good programme because projects like building bridges and roads can best help solve the unemployment problem of local construction workers. I hope that the Secretary can launch more such projects given the strong financial position of the Government.*

President, I wish to raise a supplementary question to the Secretary related to installation of lighting facilities. On the lighting system in the rural areas, the most economical and effective way is to use solar lamps. These solar lamps can be installed very quickly and if a decision is made now to install solar lamps, they can be installed without having to make any applications and laying power cables, hence they are economical and very convenient.

May I ask the Secretary whether policies would be drawn up to require all streets in rural areas to use as much as possible such facilities as solar lamps which are powered by renewable energy when lighting systems are to be installed?

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, the Highways Department has a street lighting programme and it is also implemented in the rural areas. With respect to lighting systems, of course we will consider using methods that are most environmentally-friendly and cost-effective.

MISS CHOY SO-YUK (in Cantonese): *President, the Secretary has not given any specific answer. When circumstances permit, would a requirement be imposed to make the use of solar lamps mandatory?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, I will follow the matter up with colleagues in the Highways Department.

MISS CHAN YUEN-HAN (in Cantonese): *The countryside and rural areas in Hong Kong are really charming but often times, as Honourable colleagues have mentioned in asking supplementary questions, work done by the Government to improve the living conditions of the residents and undertake beautification projects is not enough. May I ask the Administration what the criteria applied are? An example is that when people hike from Tung Chung to Lantau Island, they like to take a rest in a place called Shum Wat. But there is no public toilet there. As far as I know, both the Islands District Council and I have written to the Government but, for reasons we do not know, no action has been taken by the authorities and the place remains in lack of public toilets. However, for those who hike in the hills, they take the place as a midway stop and it means very much to them. What criteria are in fact taken by the Government to decide whether or not action is taken? I do not know whether or not it is because it does not have any money for that.*

Also, I can see that in many villages, heaps of rubbish are found between houses and it is really messy. I have raised the point with Mr LAU Wong-fat and asked him what the reasons are. This is also related to government policies. All in all, the rural areas in the New Territories are very charming, if the Government can do more in certain aspects, I would think it would be more desirable. My supplementary question is: What are the criteria used by the Government to decide whether or not action is taken?

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, as I have said earlier, the priority with respect to undertaking these projects is discussed by the DWGs. In general, the DWGs would decide whether or not a proposal should be implemented based on the following factors. These are: first, needs of the community; second, the urgency of the problem; third, the number of people who may benefit; and fourth, the scale of the project and costs incurred. These are the four criteria which they use to set the priorities.

As for DWGs in various districts, they will forward suggestions made by people from all quarters to the steering committee of the RPW Programme. Once endorsed, the proposals concerned will be included in the Programme and the projects will commence.

PRESIDENT (in Cantonese): Miss CHAN Yuen-han, has your supplementary question not been answered?

MISS CHAN YUEN-HAN (in Cantonese): *No, the Secretary has not answered my supplementary question. He has only talked about the criteria but he does not talk about how differences in opinions are weighed. I wish to stress that, for example, the case which I have raised on the lack of public toilets in that place has been brought up by the local people, the DC and a few Members of this Council who like hiking. What kinds of criteria are the authorities using? In the example cited by me, it seems that the criteria mentioned by the Secretary have all been met, but how does the Government weigh them?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): I believe it is possible to weigh and determine the priority for these projects based on the criteria just cited by me.

MR LAU KONG-WAH (in Cantonese): *President, the Rural Planning and Implementation Strategy launched by the Government, I believe is basically a benevolent policy. However, the main question asked by Mr Daniel LAM is whether or not the Government will allocate fresh funds. The Secretary listed in his main reply many kinds of projects and some major infrastructure projects as well, as the flexibility of these original projects is quite large and they can meet the aspirations of the local residents, so may I ask the Secretary if consideration can be made to apply for fresh funds in the following financial year?*

In addition, we have learnt from the districts that apart from financial problems, manpower is also an important factor to be considered, for when there is money but no manpower, these projects can never proceed. Therefore, may I ask the Secretary if consideration can be made to ask the Financial Secretary as to whether, given the fiscal surpluses available, the Government will allocate fresh funds and increase manpower in the following financial year?

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, as a matter of fact, with respect to the projects we are undertaking, it can be said that resources are ample and sufficient.

Apart from the RPW Programme mentioned earlier, as we all know and Mr LAU may be especially concerned about it, too, the Government has decided

to take forward the recommendation made during a review undertaken by the DCs to set up in 2007-2008 a funding item for minor works and capital works in various districts. Last year we commenced minor works in four pilot districts. Starting from 2008, we will launch the initiative in full swing in all the 18 districts across the territory in support of the district minor works projects of the DCs to improve the facilities, living environment and hygiene of the communities. The amount of funding will also be increased.

I am sure that under this RPW Programme, those works projects mentioned by Mr LAU will be launched one after another.

PRESIDENT (in Cantonese): Last supplementary question.

MR DANIEL LAM (in Cantonese): *The Heung Yee Kuk is pleased to hear the response made by the Secretary, noting that a series of projects will be launched.*

The Secretary mentions in the first paragraph of the main reply that "work under the Greening Master Plan carried out by the relevant works departments will also be extended to the New Territories". With respect to this, would the Secretary tell us when work on this will commence?

SECRETARY FOR HOME AFFAIRS (in Cantonese): This is a project proposed by the Development Bureau. I think I have to find out when exactly this will commence.

PRESIDENT (in Cantonese): Can you give a written reply to the Member?

SECRETARY FOR HOME AFFAIRS (in Cantonese): I will try to give the Member a reply in writing. (Appendix I)

PRESIDENT (in Cantonese): Fifth question.

Non-ethnic Chinese Illegal Entrants

5. **MR TAM YIU-CHUNG** (in Cantonese): *President, some front-line staff of the disciplined services have told me that the number of non-ethnic Chinese illegal entrants (IEs) intercepted by them has been on the rise in recent years. In this connection, will the Government inform this Council of:*

- (a) *the number of non-ethnic Chinese IEs intercepted in each of the past three years;*
- (b) *the usual means through which these IEs entered the territory illegally; and*
- (c) *the plans to step up the interception of IEs in order to safeguard the interests of Hong Kong?*

SECRETARY FOR SECURITY (in Cantonese): Madam President,

- (a) Statistics on the so-called non-ethnic Chinese illegal immigrants (IIs) are available only from 2006. The police and the Immigration Department (ImmD) arrested 871 non-ethnic Chinese IIs in 2006, and 1 876 for the first 11 months of 2007.
- (b) Non-ethnic Chinese IIs comprise mainly South Asians and Vietnamese. According to our understanding, they come to Hong Kong through the Mainland by two routes. South Asian IIs usually apply for China tourist visa in their country of origin. After entry into mainland China, they illegally enter Hong Kong through Shenzhen. Vietnamese IIs usually enter mainland China through the Sino-Vietnamese border. They then travel south to Shenzhen and illegally enter Hong Kong.
- (c) The Hong Kong Special Administrative Region (SAR) Government have spared no effort in combating illegal immigration. Relevant departments have put in place a series of measures to intercept IIs, including:

- installing new fences and electronic detectors at the boundary between Hong Kong and Shenzhen to more effectively detect illegal immigration activities;
- stepping up enforcement measures and patrols at the boundary to intercept IIs, and inspecting incoming vehicles at the Lok Ma Chau, Man Kam To and Sha Tau Kok boundary control points regularly to prevent people from entering Hong Kong illegally by hiding in or under the vehicles;
- officers at boundary control points maintaining a high degree of vigilance to prevent IIs and criminals from entering Hong Kong by using forged travel documents or identity documents;
- enhancing exchange of intelligence with law-enforcement agencies in the Mainland on illegal immigration and cross-boundary crime, so that local law-enforcement agencies are kept informed of the up-to-date situation. This will enable them to assess the situation and make appropriate deployments to intercept IIs. We have also invited the Mainland law-enforcement agencies to step up interception operations in the Mainland and in the vicinity of Hong Kong; and
- with a view to reducing the incentive for IIs to come to Hong Kong, we will continue to carry out cross-departmental operations at black spots for illegal workers to combat illegal employment.

MR TAM YIU-CHUNG (in Cantonese): *President, according to the figures provided by the Government, the situation is indeed rather serious, for the number has increased more than double within a year. The Government has not mentioned that it is very difficult to intercept IEs coming by the sea route. The Government has not highlighted this point. IEs of this type include not only*

South Asians but also Africans. Regarding this problem, will the Government ask the public security authority under the Central Authorities, for example, to provide more assistance to Hong Kong in this respect, examining effective means to prevent these people from entering Hong Kong through the Mainland?

SECRETARY FOR SECURITY (in Cantonese): Madam President, as these non-ethnic Chinese IIs enter Hong Kong illegally mainly through the Mainland, we have all along maintained communication with the Central Authorities. It is most important that meetings with the units concerned of Guangdong Province on the interception of non-ethnic Chinese IIs are held continuously. Closed co-operation, including regular meetings and exchanges, are maintained to facilitate the exchange of intelligence and co-ordinate the operations of both sides. We have also requested the authorities concerned, the boundary control units in particular, of Guangdong Province to beef up their effort in combating illegal immigration activities and step up interception operations at the boundary at sea and on land. Regular reports on illegal immigration activities involving mainland IIs, including both Chinese and non-ethnic Chinese IIs, are provided to the authorities concerned of Guangdong Province. Intelligence on illegal immigration activities carried out on the Mainland by non-ethnic Chinese is also furnished to facilitate our counterparts on the Mainland to take follow-up actions and conduct investigations, as well as formulating relevant precautionary measures.

Mr TAM mentioned earlier that there were several types of IIs. Actually, we have made some classifications. As I mentioned in the main reply earlier, the relevant statistics only available from 2006. In 2006, 871 non-ethnic Chinese IIs were arrested, and the majority of them were Vietnamese. Among the 871 IIs, 598 were Vietnamese. As for the remaining, 213 were Pakistanis, 15 were Bangladeshis, 35 were Sri Lankans, two were Indians and seven were of other nationalities. In other words, the number of Africans involved was small in that year. However, for the first 11 months of this year, the number of non-ethnic Chinese IIs has increased by 1 876, more than doubled in comparison with 871.

For the first 11 months of this year, only 580 IIs were Vietnamese, comparable to that in 2006. But the number of Pakistanis has increased from

213 in 2006 to 779, while the number of Bangladeshis has increased from 15 in 2006 to 182 for the first 11 months of 2007. In 2006, only one II was Nepali, but for the first 11 months of 2007, the number has surged to 177. As for Indian IIs, there were only two in 2006, but 60 in 2007. Therefore, we can see that the increase is caused mainly by the rise in South Asian IIs.

MR JAMES TO (in Cantonese): *President, has the Government analysed the purposes of IEs entering Hong Kong, such as, seeking illegal employment, committing other criminal offences or seeking asylum on political grounds or against torture, and investigated the issue at root? Take Indian IIs as an example, have false news or rumours been spread that certain people are misled? Will the Government conduct such analyses to tackle the problem at root?*

SECRETARY FOR SECURITY (in Cantonese): Regarding the causes, some analyses have been done. It is found that the situation cannot mainly be attributed to a single cause, but we think that several objective factors may have a bearing on it. In the past few years, the economy of Hong Kong has been flourishing, which has surely attracted some IIs to seek illegal employment in Hong Kong. Moreover, according to the atrocious track record of the nationals of certain countries in Hong Kong, we have indeed tightened our visa policy. For instance, in the past, nationals of certain countries were granted visa-free access, however, owing to the unsatisfactory entry track record, we have either abolished the visa-free entry arrangement for these countries or applied more stringent visa issuance arrangements. As a result, some people of these countries intending to come to Hong Kong may resort to illegal immigration means. As for other reasons, it may be due to the poor domestic, political or economic conditions of certain countries, or the instability of certain countries, that nationals of those countries hope to go to more stable places. The situation can thus be attributed to a host of factors actually.

According to our past experience, more often than not, South Asian IIs are found in construction sites or workplaces where illegal workers are employed. When we found them, they may apply for stay in Hong Kong according to the existing "convention against torture", so to speak, probably taught by some of their countrymen. If they stay in Hong Kong for this reason, according to the

guidelines of the Court of Final Appeal, before we actually repatriate them, we must conduct an assessment to ensure that they will not be tortured upon repatriation. Therefore, the number of non-ethnic Chinese IIs staying in Hong Kong under the "convention against torture" has increased during the period.

MR HOWARD YOUNG (in Cantonese): *President, illegal immigration activities have been taking place in Hong Kong for several decades. The figures mentioned earlier, both 800-odd and 1 000-odd, may be regarded as a small number, but also a great number. In the past, there were tens of thousand of IEs in a year, but the situation is different now. At times when illegal immigration activities were intense, apart from illegal immigration of an individual nature, it was reported that IEs were smuggled into Hong Kong by syndicates in an organized manner. May I ask the Security Bureau, in view of the 800-odd and 1 000-odd IEs, whether the authorities consider that illegal immigration activities are now run in an organized manner and a market price has been set, or that the cases at present mostly involve individual act of IEs rather than organized illegal immigration arrangements?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, so far, there is no intelligence indicating that non-ethnic Chinese IIs have any connection with activities of local or overseas triad societies or organized criminal syndicates. Having said that, Members are also aware that illegal immigration activities are carried out in the Mainland and Hong Kong, and as Mr Howard YOUNG said, all along, some people have been aiding and abetting others in entering Hong Kong illegally from the Mainland. Hong Kong has a very long coastline, which actually poses a problem to interception. Among the non-ethnic Chinese IIs, some of them do come to Hong Kong illegally with the aid of these smuggling syndicates. In 2007, more than 1 000 people entered Hong Kong illegally.

When we dealt with illegal immigration in the past, we considered that a speedy repatriation mechanism was the most effective approach. As mentioned by Mr Howard YOUNG earlier, in the past, we were dealing with not hundreds or thousands of IIs but tens of thousand and even hundreds of thousand of them. However, at that time, the policy of immediate repatriation upon arrest was adopted, for an agreement had been reached with the Mainland for speedy

repatriation. For this reason, despite the gravity of the problem at the time, it was not quite difficult to tackle with the repatriation mechanism in place. In the present case, the number of non-ethnic Chinese IIs seems to be insignificant when compared with the tens of thousand or hundreds of thousand we used to deal with in a year, but owing to the need to screen their applications made under the so-called "convention against torture", much time is needed. Therefore, in respect of speedy repatriation, we do lack a good processing mechanism and this is the crux of the problem.

MISS CHOY SO-YUK (in Cantonese): *President, the Secretary said earlier that this type of activities might be controlled by syndicates, which is actually correct. For a Pakistani who knows nothing about the Mainland and knows not the language spoken, how can he know the way to enter Hong Kong illegally once he arrives at Shenzhen? Someone must be controlling these activities. So, will the Secretary take measures that are more effective to combat these syndicates seriously and persistently together with the public security authorities of the Mainland to effectively curb illegal immigration activities of this type?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, actually, all along, we have been discussing this issue with the law-enforcement unit of the Mainland. I would like to tell Miss CHOY that the problem of illegal immigration or non-ethnic Chinese IIs is not unique to Hong Kong. At present, as the economic development on the Mainland is thriving, nationals from third world countries are attracted to enter the Mainland to stay or take up illegal employment. During my meetings with the public security authorities of the Mainland, I learnt that their problem was much more serious. There are now tens of thousand of over-stayers or illegal workers staying in a number of districts, and a small number of them who learnt of the better circumstances in Hong Kong try to enter Hong Kong illegally.

As Members may also be aware, owing to the historical background of Hong Kong, some Indians and Pakistanis are residents of Hong Kong. For this reason, when Indian and Pakistani IIs enter Hong Kong, they may be taken care of by some of their countrymen. We can see that in Kowloon East, for example, the number of Indian and Pakistani residents of Hong Kong living in the district is relatively higher. As such, some activities of IIs are taking place there, and they may find illegal employment in the district.

MR DANIEL LAM (in Cantonese): *The Secretary has already responded to the supplementary question I wanted to ask, as I hope that a speedy repatriation mechanism can be implemented to act as a deterrent, while the Secretary said that he also wished to put in place an effective mechanism. Will the Government inform this Council of the time the mechanism will be implemented or the meaning of an effective mechanism?*

SECRETARY FOR SECURITY (in Cantonese): I also hope that a speedy repatriation mechanism can be put in place but, as we all know, Hong Kong must act according to law. For instance, if some IIs are arrested at a workplace employing illegal workers and if they apply for stay according to the so-called "convention against torture", we must conduct an assessment according to law to see whether their claims can be justified by incontrovertible evidence. We have to assess, for example, if they are repatriated to the place of origin, whether they will really be subject to brutal beating, murder or torture. We must be very cautious in the process and act according to law.

More often than not, it is easy to make such claims. For example, he may say that he has a girlfriend in his home country but her father does not like him, so he will be beaten to death by her father once he goes home. In that case, we have to prove the truthfulness of such a story, which indeed takes time. Given the legal procedures we have to follow, we have no way to speed up the process. At present, the process may take a month or two, or even a couple of years. As a result, there is a backlog of "torture claim applications" in Hong Kong, which we have to handle.

PRESIDENT (in Cantonese): This Council has spent more than 17 minutes on this question. We will now proceed to the last oral question.

Sale of Poisonous Puffer Fish

6. **MR WONG YUNG-KAN** (in Cantonese): *It has been reported that some traders in markets openly sell poisonous puffer fish to members of the public for consumption, endangering the health of the public. In this connection, will the Government inform this Council of:*

- (a) *the number of cases in each of the past three years in which people were poisoned after consuming puffer fish, whether there were any fatal cases among them, and whether it is aware of the channels through which the puffer fish was obtained;*
- (b) *the number and the details of prosecutions instituted in the past three years against people selling puffer fish; and*
- (c) *the measures it will adopt to prevent traders from selling puffer fish and remind members of the public not to consume puffer fish recklessly, and whether it will follow the overseas practice of stipulating by legislation that only restaurants with special permits are allowed to sell puffer fish cooked by qualified chefs; if such legislation will not be enacted, of the reasons for that?*

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

- (a) Since 2005, the Department of Health has recorded nine food poisoning cases caused by consumption of puffer fish affecting a total of 19 persons. There is no fatal case. It is noted that among these nine cases, the puffer fish in six cases were caught from the sea by the public while the puffer fish in one case was given by a friend. The puffer fish in the remaining two cases were reportedly bought from a market and a temporary stall respectively.

As required by the Marine Fish (Marketing) Ordinance (Cap. 291), all fresh marine fish is required to be wholesaled at the wholesale fish markets run by the Fish Marketing Organization (FMO). Records of the FMO show that no puffer fish has been offered for sale at its wholesale fish markets.

Puffer fish is a fish species containing tetrodotoxin under the order of Tetraodontiformes. Tetrodotoxin is a potent marine neurotoxin found in the body of puffer fish, mainly in the eggs, liver and skin. Tetrodotoxin is heat-stable and cannot be decomposed by cooking.

As estimated by experts, the lethal dose of tetrodotoxin in human is around 1 mg to 2 mg and the minimum dose necessary to cause symptoms of poisoning is 0.2 mg. There are currently no known antidotes or antitoxins to tetrodotoxin. The treatment of symptoms is supportive in nature for relieving the symptoms. Puffer fish is therefore considered to be a very high risk food.

- (b) Section 54 of the Public Health and Municipal Services Ordinance (Cap. 132) (the Ordinance) provides that any person selling food unfit for human consumption commits an offence and is liable on conviction to a maximum fine of \$50,000 and imprisonment for six months. Food traders must therefore ensure that the food they sell is fit for human consumption. As puffer fish may contain toxin, officers of the Food and Environmental Hygiene Department (FEHD) would advise the trader to stop selling it, if its sale is found in markets or other shops during their inspections to these premises. If the trader fails to follow the advice, officers of the FEHD can invoke the power under section 59 of the Ordinance to seize, remove and conduct testing on the puffer fish. The FEHD would take prosecution against the trader if the test result indicates that the puffer fish is not fit for human consumption.

In the past three years, five verbal warnings were given by officers of the FEHD in connection with the sale of puffer fish and related species. As the results of the test on the puffer fish and the related products seized indicated that they were non-toxic and there was no evidence to prove that the food sold by the traders was unfit for human consumption, no prosecution had been taken against the traders concerned by the FEHD.

- (c) The Government has always attached great importance to food safety and public health. We put much emphasis on communication and collaboration with the trade and the public so as to encourage members of the trade to become responsible food suppliers. We also help the public make safe and healthy choices through education and dissemination of information. Apart from law-enforcement action on food safety, the Government has been providing the public and the trade with information on the hazards of tetrodotoxin and offering advice on prevention of poisoning

through the periodic publications on food safety and other information materials.

The above figures of food poisoning caused by consumption of puffer fish show that the puffer fish in most of the cases were not bought from the market but were associated with catches from the sea by members of the public. The Government has been advising the public that the most effective way to prevent tetrodotoxin poisoning is to avoid purchasing and consuming puffer fish or other unknown fish.

The Codex Alimentarius Commission¹ has not issued any guidelines or recommendations on the sale and preparation of puffer fish for consumption. According to our understanding, licensing on sale and preparation of puffer fish in restaurants is not found in other places except Japan.

To better protect public health, the Government is formulating a Food Safety Bill. Import control on different types of food (including aquatic products) will be strengthened under the Bill. In addition to requiring all importers of fish or aquatic products to register with the Food Safety Authority, the proposed Bill also proposes that each consignment of imported fish or aquatic products must be accompanied by a health certificate issued by the health authorities of the place of origin. For certain high risk aquatic products, like ready-to-eat seafood intended for raw consumption, we are further considering more stringent requirement, such as the issue of an import licence for each consignment. We are seeking the views from the trade on the Bill. We plan to introduce the Bill into the Legislative Council in the 2008-2009 Legislative Session.

MR WONG YUNG-KAN (in Cantonese): *President, I would like the Secretary to answer part (c) of the main question. Is puffer fish being sold in restaurants (including sushi shops) and what method can be used to ascertain if the puffer fish sold is poisonous?*

¹ Codex Alimentarius Commission is a body established under the Food and Agriculture Organization of the United Nations and the World Health Organization to develop food standards and guidelines.

SECRETARY FOR FOOD AND HEALTH (in Cantonese): According to the information provided by the FEHD, the selling of puffer fish by traders has been occasionally found in certain shops. Regarding whether there are cases of traders selling puffer fish on food premises, such as Japanese restaurants, as in the examples cited by me earlier, it is revealed by the routine inspections conducted by the FEHD that no puffer fish has been found to be sold in restaurants. Any person selling puffer fish must meet the requirements of Cap. 132, that is, ensure that it is fit for human consumption. However, some restaurants have been found to sell such processed food as dried globefish. Regardless of whether this food item is really made from globefish or puffer fish, there is no problem if it is fit for human consumption. Otherwise, prosecution will definitely be taken.

MR WONG TING-KWONG (in Cantonese): *President, in recent years, a fish species bearing a striking resemblance to puffer fish, called bayu on the Mainland, are kept in aquariums in many mainland restaurants and food premises for consumption by customers. May I ask the authorities concerned through the President to give me an overview of this situation? How does the fish called bayu on the Mainland compare with puffer fish? What is its consumption risk? Lastly, is bayu being sold in Hong Kong markets?*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): I am no expert in this. Neither have I eaten or seen bayu on the Mainland. However, after consulting experts in the FEHD and the Agriculture, Fisheries and Conservation Department, I have become a "sudden expert" for a couple of days and come to understand that a total of 23 types of puffer fish can be found in Hong Kong. A very detailed list is also available in Japan, where 27 types of puffer fish are found. Some of the puffer fish found in Japan are slightly different from those found here. Nevertheless, 12 types of puffer fish are found both in Hong Kong and Japan. Therefore, it adds up to 38 types of puffer fish. Although all of the puffer fish are illustrated by pictures, they look very much alike. As I am no expert, there is no way for me to tell what is a genuine puffer fish and whether it is poisonous or not. Insofar as the majority of puffer fish is concerned, only three out of the 38 puffer fish species are not poisonous. Therefore, members of the public or consumers might as well not eat puffer fish and, what is more, should not gamble with their lives.

Japan has a cultural and historical tradition of eating puffer fish. It has also put in place a regulatory system, and experts in this are available. I believe the Mainland has not yet reached this standard to date. Therefore, if the origin or toxicity of the fish is not clearly known, consumption should preferably be avoided.

MR TOMMY CHEUNG (in Cantonese): *I would like to follow up the last part of the Secretary's reply in raising this question, because he mentioned the place of origin in connection with the issuance of health certificates for aquatic products. Actually, Members definitely support the issuance of health certificates by places of origin. However, we sometimes have doubts about the accuracy of the health certificates issued by places of origin. For instance, if we suspect the aquatic products from certain places of origin contain ciguatoxin, will the Secretary request the places of origin to certify in their health certificates that their aquatic products contain no ciguatoxin and malachite green? This will be better than the issuance of a health certificate in a perfunctory manner.*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): We are now consulting the trade on the existing legislation in the hope of holding ample discussion with the trade on the problems encountered in actual enforcement. Let me cite ciguatoxin as an example. Fishermen in general should be aware of the waters from which the fish caught stand a higher chance of containing ciguatoxin. As regards the origin, I believe the enforcement authorities, that is, the local agriculture and fisheries authorities, should be conversant with the problems in this area. Therefore, if adequate efforts are made, the health certificates issued by them should command credibility. Given that so many food items in Hong Kong are shipped from many different places, we must communicate with the regional officials of different countries to get an overview of their procedures and practices of issuing health certificates and their credibility. I hope to, after enacting legislation, continue to communicate with the relevant authorities in the hope that all food items carrying health certificates are guaranteed to be safe and healthy upon their arrival.

MR TOMMY CHEUNG (in Cantonese): *President, the Secretary has not answered my question. I hope the Government can act in a tougher manner in this aspect by giving instructions to countries issuing health certificates requiring that the certificates must state whether or not the fish supplied by them contain*

ciguatoxin or malachite green. We certainly hope that fishermen and the trade will co-operate with the Secretary. We also hope that the Government can make more efforts by not solely accepting the health certificates issued by others. It should also request them to conduct certain tests.

SECRETARY FOR FOOD AND HEALTH (in Cantonese): We will certainly do our utmost. However, if the waters are very extensive, then we will not know whether it contains ciguatoxin as it is impossible to confirm. However, efforts will be made by all means.

MR HOWARD YOUNG (in Cantonese): *President, my instant response before reading the reply to this question was that Hong Kong could follow in the footsteps of Japan given that puffer fish chefs in Japan had to obtain a licence. However, after reading the main reply, I agree that licensing is not required in Hong Kong because not a single incident happened in restaurants. However, I note that the Government mentioned in the last part of the main reply that, in addition to health certificates, a licensing system may be established for imported seafood. I do not believe we should enact legislation for its own sake. It seems that none of the several incidents mentioned by the Secretary earlier was associated with importation. They were associated with fish caught locally. Will the authorities be working not in a focused manner by thinking that the problem can be resolved by establishing a licensing system for imported items?*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): I was referring generally to the control of the importation of aquatic products into Hong Kong, not purely about the issue of puffer fish. In my opinion, consumption of aquatic products actually involves a variety of other risks. For instance, to a certain extent, the consumption of shell fish is risky. It is not good supervision if we do not exercise more stringent supervision in this area, and allow anyone to import aquatic products anytime, anywhere. Therefore, first, imported aquatic products must be registered with the FEHD; and second, operators importing higher risk food items must apply for permits before operating such businesses.

DR KWOK KA-KI (in Cantonese): *It is mentioned in part (b) of the main reply that penalties, including a fine and imprisonment, may be imposed on people providing puffer fish for consumption under section 54 of the Public Health and*

Municipal Services Ordinance (Cap. 132). However, the Government is now hoping to enact a Food Safety Bill for the monitoring of aquatic products. Before the introduction of the Bill to the Legislative Council this year for discussion, may I ask the Secretary to clarify if Section 54 of Cap. 132 is flawed and, as a result, the Government may not be able to rely entirely on this piece of legislation to prosecute traders deliberately selling puffer fish?

SECRETARY FOR FOOD AND HEALTH (in Cantonese): As mentioned by me earlier, enforcement is now carried out under section 54 of Cap. 132. If inspectors from the FEHD suspect that food items made from puffer fish are offered for sale in the market, we may request the traders to stop selling the food items under the existing legislation, and then conduct sample testing. Prosecution may be taken should the food items be found to be poisonous. Therefore, this method is usable at present. However, it is even better if, according to the Bill to be introduced in the future, monitoring can be carried out right from the outset, that is, prior to importation.

MR LAU KONG-WAH (in Cantonese): *Dried puffer fish is offered in many Japanese restaurants nowadays. In raising this point, the Secretary also mentioned the existence of food items resembling dried globefish. May I ask the Secretary to clarify if some food items, though claimed to be dried globefish, are actually not what they are claimed to be? If dried globefish is really offered to diners for consumption, will dried globefish lead to food poisoning, as it was pointed out by the Secretary earlier that tetrodotoxin is heat-stable and cannot be decomposed by cooking? How can members of the public be protected should they have a chance to consume dried globefish?*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): Personally, I have not eaten any dried globefish before. I was only told by my colleagues in the FEHD that dried globefish was offered for sale in some places, and dried globefish was supplied in some restaurants, too. Under the existing legislation, any person providing unsafe food commits an offence, and enforcement can be carried out. But, we certainly do not wish to prosecute traders only after some people are found to be poisoned. Hence, we have told the trade to be careful. We have also discussed with the Japanese authorities as the dried fish or fish sold by Hong Kong traders are imported from Japan. At present, Japan has limited the number of its point of export to only one, and its exports must be attached

with health certificates or certificates relating to other areas. There should be a certain degree of safety guarantee if the food is purchased by restaurants through this channel. Of course, care must be exercised because, even though there are many puffer fish experts and masters in Japan, there are reports of deaths caused by consumption of puffer fish in the country every year. Insofar as Hong Kong people are concerned, I think they might as well not eat puffer fish if we do not have the experience.

MR LAU KONG-WAH (in Cantonese): *President, the Secretary has not answered whether real dried globefish is poisonous.*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): I believe real dried globefish, if safely cooked, should be innocuous. As regards the dried fish imported into Hong Kong, first of all, we do not know whether it is really dried globefish. If it is not dried globefish but other dried fish, it may probably be innocuous. Even if it is dried globefish, I still believe it to be safe if it has been processed with a stringent cooking method. Most importantly, should any food be found to be problematic, we will take samples from the restaurant in question for inspection. Prosecution will definitely be taken should the food be confirmed as problematic.

PRESIDENT (in Cantonese): Oral questions end here.

WRITTEN ANSWERS TO QUESTIONS

Education and Vocational Training for Ethnic Minorities

7. **DR YEUNG SUM** (in Chinese): *President, regarding education and vocational training for the ethnic minorities, will the Government inform this Council of the following in the past 10 years:*

- (a) *the respective annual numbers of ethnic minority students studying at each level from Primary One (P1) to Secondary Four (S4); and*
- (b) *the annual number of the ethnic minorities enrolled in courses offered by the Vocational Training Council (VTC), broken down by course type?*

SECRETARY FOR THE CIVIL SERVICE (in the absence of Secretary for Education) (in Chinese): President,

- (a) Before the 2006-2007 school year, information on the ethnicity of students was not captured in the student statistics collected by the Education Bureau. In order to provide appropriate support services for students with a view to helping them attain all-round development, the Education Bureau has, since the 2006-2007 school year, started to collect information on students' ethnicity and spoken language at home through our annual Student Enrolment Survey.

Different people may have different interpretation on who are to be regarded as "ethnic minorities". If "ethnic minorities" refer generally to the South Asian (mainly Indian, Pakistani and Nepalese) people residing in Hong Kong, according to the information submitted by schools in the relevant school years, the number of ethnic minority students studying at each level from P1 to S4 in government, aided, caput and Direct Subsidy Scheme schools in the 2006-2007 and 2007-2008 school years is set out below:

<i>Level</i>	<i>2006-2007</i>	<i>2007-2008</i>
P1	620	673
P2	649	716
P3	587	684
P4	525	641
P5	426	560
P6	311	491
S1	396	469
S2	338	445
S3	344	372
S4	189	340

Note: In furnishing the data, each student is required to use only one ethnicity code. The ethnic minority students covered in the above table may therefore include mix-raced students with one parent of Chinese or other ethnic origins.

It is also noted that some schools have updated information submitted previously on the ethnicity of the same students when providing their returns for the survey in the 2007-2008 school year. This may be due to unfamiliarity with the new survey item introduced only since last year. As such, the 2007-2008 figures for a particular level, when compared with the 2006-2007 figures for an immediate lower level, do not necessarily represent a real increase or decrease in the number of students for the 2007-2008 school year.

- (b) The VTC offers professional education and training programmes to eligible applicants, irrespective of their race and language spoken at home. In general, course applicants are not required to indicate their ethnic origin. Hence, the VTC does not have any comprehensive statistics on the number of ethnic minorities enrolling in its courses in the past 10 years.

Nevertheless, to enhance support for the integration of ethnic minorities into the community, starting from the 2006-2007 school year, apart from running the general courses, the VTC has also organized special courses for ethnic minority students. Relevant course types and the respective enrolment are tabulated below:

<i>Course type</i>	<i>2006-2007 School year</i>
Preparatory courses for trade test	42
Full-time certificate/diploma courses in vocational studies	146
Applied Learning courses	43
Vocational Development Programme	65

Note: The duration of the above courses ranges from a few weeks to three years. As the exact number of courses and enrolment will not be finalized until the end of a school year, we cannot provide the relevant figures for the 2007-2008 school year at this stage.

Monitoring Public Comments Made by Adjudicators of Obscene Articles Tribunal

8. **MR JAMES TO** (in Chinese): *President, in reply to a question on 30 May 2007 raised by a Member of this Council concerning Obscene Articles Tribunal (the Tribunal) adjudicators, the then Secretary for Home Affairs said that "in the event that a Tribunal adjudicator has made public comments on matters before the Tribunal, the Judiciary's position is that the adjudicator concerned will be disqualified from sitting on the Tribunal in the matter in question. In this context, the appropriate test is that an adjudicator is disqualified from sitting if the circumstances are such as would lead a reasonable, fair-minded and well-informed observer to conclude that there is a real possibility that the adjudicator would be biased. Whether the adjudicator concerned will be disqualified from sitting in a similar case in the future will have to be considered by applying this test to the circumstances of the case in question". The Secretary for Home Affairs also said that "the Judiciary will ensure that the adjudicators understand the test and that the test is applied". In this connection, will the Government inform this Council whether it knows:*

- (a) *how the Judiciary monitors whether the 320 adjudicators have made public comments on matters before the Tribunal; and whether any adjudicator has been disqualified from sitting on the Tribunal since 30 May 2007 as a result of such acts; if so, of the names of such adjudicators and details of their acts;*
- (b) *whether, in drawing adjudicators to sit on the Tribunal, the Judiciary has, since 30 May 2007, taken into consideration if the adjudicators concerned had made public comments on matters before the Tribunal in the past, or if they had been disqualified from sitting on the Tribunal; and*
- (c) *how the Judiciary ensures that the adjudicators understand the above test and know that the test is applied, and whether the Judiciary has issued written or verbal notices to all adjudicators in this regard; if the Judiciary has issued such notices, of the date of issuance; if not, the reasons for that?*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Chinese): President, as the Tribunal is a judicial body, I have consulted the Judiciary regarding this question and set out below is the consolidated reply.

To ensure that adjudicators of the Tribunal are apprised of the relevant test and of the fact that the Judiciary will apply the test, procedures have been put in place so that, before an adjudicator performs his/her statutory duty, he/she has to make a declaration in the presence of the Presiding Magistrate, the contents of which include a declaration to the effect that he/she is aware of and apprised of the relevant test, and a confirmation that such test will not result in his/her being disqualified from sitting on the Tribunal in the matter in question. In order to ensure the integrity and neutrality of the Tribunal, the Presiding Magistrate shall determine whether the adjudicator is fit to discharge the statutory duty according to the declaration.

To date, there has not been an occasion whereby a selected adjudicator was requested to desist from performing the statutory duty owing to his/her failing the relevant test.

Human Rights Education

9. **MR ALBERT HO** (in Chinese): *President, after the reorganization of the Policy Bureaux of the Government Secretariat on 1 July 2007, the work on human rights, which was originally under the portfolio of the Home Affairs Bureau, has been transferred to the Constitutional and Mainland Affairs Bureau, while civic education remains the responsibility of the Home Affairs Bureau. In this connection, will the Government inform this Council:*

- (a) *of the Policy Bureau currently responsible for the work on human rights education;*
- (b) *of the Policy Bureau currently providing support services to the Human Rights Education Working Group (the Working Group) under the Committee on the Promotion of Civic Education (CPCE), the reasons why the Working Group has not convened any meeting for over nine months since March 2007 and the date of its next meeting; and*
- (c) *given that the Working Group had commissioned the University of Hong Kong through the Home Affairs Bureau to conduct a survey on human rights awareness among the people of Hong Kong last year and the design of the survey questionnaire was completed as early as March 2007, of the Policy Bureau currently responsible for following up the survey, whether the Working Group will be advised of the contents of the questionnaire, and when the survey will be commenced and completed?*

SECRETARY FOR HOME AFFAIRS (in Chinese): *President, my reply to the question raised by the Honourable Albert HO on the issue of human rights education is as follows:*

- (a) The subject of human rights policy has been transferred from the Home Affairs Bureau to the Constitutional and Mainland Affairs Bureau with effect from 1 July 2007. Since human rights education forms part and parcel of civic education, the CPCE will continue to promote/publicize and undertake education work on human rights when it promotes/publicizes civic education. In addition to the Home Affairs Bureau, other relevant

bureaux/departments including the Education Bureau and the Constitutional and Mainland Affairs Bureau will also promote/educate and publicize human rights within their own policy portfolio as appropriate. Elements of human rights education are incorporated into the school curricula. The Education Bureau has also provided various learning and teaching materials to support schools in the promotion of human rights education.

- (b) The Home Affairs Bureau informed the CPCE in last September that due to the restructuring of the Policy Bureaux responsible for human rights policy, it would need to exchange views further with the relevant bureau on human rights so as to decide the way forward. At its meeting in last December, the CPCE, having regard to the restructuring of the government bureaux and the need to streamline the CPCE's existing structure, decided to assign the work on human rights education and promotion to the CPCE Publicity Subcommittee which was responsible for the promotion of civic values, and to disband the human rights education working group under the CPCE with immediate effect.
- (c) The CPCE noted that the public perception survey on human rights had not yet commenced, and that the policy portfolio on human rights had been transferred to the Constitutional and Mainland Affairs Bureau. The CPCE decided to terminate the preparation work on the survey. The CPCE recommended that the secretariat should provide the Constitutional and Mainland Affairs Bureau with the relevant information for reference as appropriate.

Law Enforcement Against Sale of Tobacco Products to Underage Persons

10. **MR LEUNG YIU-CHUNG** (in Chinese): *President, will the Government inform this Council:*

- (a) *in the past two years, of the number of prosecutions instituted by the authorities against the offence of selling tobacco products to persons under the age of 18, and the number of inspections conducted by the Tobacco Control Office (TCO) of the Department of Health (DH) to combat such an offence; how such figures compare with those of the previous two years; if the relevant figures are different, of the reasons for that; and*

- (b) *whether it will consider increasing the manpower of the TCO in order to step up the efforts to combat the above offence; if it will, of the details; if not, the reasons for that?*

SECRETARY FOR FOOD AND HEALTH (in Chinese): President, my reply to the question raised by the Honourable LEUNG Yiu-chung is as follows:

- (a) Since October, 2006, Tobacco Control Inspectors (TCIs) of the TCO under the DH have been conferred the power to take law-enforcement action for offences under the Smoking (Public Health) Ordinance (the Ordinance), (except Part III) including section 15A(1), that is, no person shall sell any cigarette, cigarette tobacco, cigar or pipe tobacco to any person under the age of 18 years. A person who contravenes this provision commits an offence and is liable on a summary conviction to a fine at level 4 (that is, \$25,000).

Apart from routine inspections at tobacco retail outlets, the TCO will also launch thorough investigation and take relevant enforcement action upon reports made by members of the public. If it is found that a tobacco retail outlet has sold tobacco products to minors or if there is a breach of any provision of the Ordinance, the TCIs will institute a prosecution by way of summons.

Before being conferred the power to take enforcement action for offences under the Ordinance, staff of the TCO conducted a total of 49 inspections in 2006, and in collaboration with the police, prosecution by way of summons was instituted in two cases involving the sale of cigarettes to persons under the age of 18 years. In these two cases, the offenders were fined \$800 and \$400 respectively. In 2007, the TCIs conducted 64 inspections and issued two summonses to offending tobacco retailers. One case was heard by the Court on 13 September 2007 and the offender was fined for \$1,000. Hearing of the other case is pending.

- (b) The Government of the Hong Kong Special Administrative Region has adopted a step-by-step approach to contain the extensive use of tobacco and reduce as much as possible the impact of passive smoking on the public through a wide range of measures, including legislation, taxation, publicity, education and law enforcement.

Publicity and education focuses on promoting public awareness of the statutory smoking prohibition and the extent of statutory no smoking areas under the Ordinance, soliciting the co-operation of the relevant industries in managing their premises to achieve a smoke-free environment, and making appeal to the self-discipline of individuals and consideration for the health of others to promote voluntary compliance by smokers. Nurturing a social culture that respects the statutory smoking prohibition and exerts public pressure for compliance with the prohibition remains the key to effective and smooth implementation of the smoking prohibition.

Since the passage of the amendment to the Ordinance in October 2006, the TCO and the Hong Kong Council on Smoking and Health (COSH) have launched a series of media and publicity programmes with a view to building support for the smoking ban, promoting public awareness of the new legislative provisions, in particular the statutory smoking prohibition and the extent of statutory no smoking areas, and encouraging smokers to quit. More than 1.7 million copies of educational material such as smoking signs and posters have been distributed by the TCO. Work on this front will continue and will be further strengthened.

Different strategies and approaches have been used for publicity and promotion targeting different age groups to disseminate the message of smoking prohibition. With regard to publicity and education for young people, the TCO has specifically produced for schools guidelines and display boards for implementing tobacco control measures at schools as well as promotional leaflets targeting at teenagers.

In 2007, the COSH continued to organize various school health education programmes. In addition to 130 health talks conducted in secondary and primary schools, the COSH also arranged a tour of an interactive education drama in 48 primary schools. The COSH also collaborated with the Radio Television Hong Kong in organizing a "Teen Power x COSH T-shirt Design Competition" and a "Voice Your Support to a Smoke-Free Hong Kong Campaign" to stimulate young people's concern about the problems of smoking and passive smoking.

In regard to legislation, apart from amusement game centres, statutory no smoking areas have been expanded since January 2007 to cover places where young people frequently visit, including all schools, tertiary institutes and universities. Most public pleasure grounds and other indoor public areas have been designated as statutory no smoking areas as well.

As mentioned above, the current duties of the TCIs include taking follow-up action on complaints about illegal sale of tobacco products to persons under the age of 18 years and enforcement of the relevant legislation. The number of TCIs has been substantially increased from some 30 in 2006-2007 to more than 70 to date. The manpower and work arrangement of the TCO will be further reviewed from time to time to ensure that actual needs are met.

We strongly believe that to prevent young people from smoking, parallel efforts in education and law enforcement are essential. The Government will continue to promote a no smoking culture among our young people through publicity, education and effective law enforcement and prevent them from acquiring the smoking habit as far as possible.

Services Provided by United Christian Hospital

11. **MR FRED LI** (in Chinese): *President, I have learnt that the waiting time for new cases in some specialist out-patient (SOP) clinics at United Christian Hospital (UCH) is the longest among the hospitals under the Hospital Authority (HA), and the rehabilitation services that UCH provides are also in acute shortage. As a result, each day about 200 patients (most of them being elderly people) in the district have to attend Kowloon Hospital for its services on a long-term basis, and this arrangement is causing much inconvenience to such patients and their family members. In this connection, will the Government inform this Council whether:*

- (a) *it knows if the HA has drawn up contingency measures to improve the above situation expeditiously; if contingency measures have been drawn up, of the details; if not, the reasons for that; and*

- (b) *it has plans to allocate funds to the HA for implementing a redevelopment project for UCH, so as to fully resolve the long-standing problem of inadequate medical services in its service area; if it has plans, of the details; if not, the reasons for that?*

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

- (a) The HA has put in place a triage system at its SOP clinics to ensure that higher priority for treatment will be given to those who are in acute medical conditions. Health care personnel arrange the date of medical appointment for new patients on the basis of the urgency of their conditions, taking into account various factors including the patients' clinical history, the presenting symptoms and the findings from physical examination and investigations. Under the triage system, new SOP cases are classified into priority 1 (urgent), priority 2 (semi-urgent) and routine categories. For priority 1 and priority 2 cases, patients would be given medical attention as soon as possible while the waiting time for patients with non-urgent conditions would be longer. If a patient's condition deteriorates before the date of appointment, he may request for an earlier appointment. If the condition is acute, the patient may also seek immediate treatment from accident and emergency departments. All cases classified as routine cases would be reviewed by a senior doctor in the relevant specialty within seven working days of the initial triage. As at the third quarter of 2007, the median waiting time of first appointment for priority 1 and priority 2 cases of SOP services in UCH is within two weeks and eight weeks respectively, which meet the target set by the HA. As for non-urgent routine cases, UCH would endeavour to align with the HA's overall median waiting time. However, the median waiting time for first appointment of some specialties in UCH differ from the HA's overall median waiting times, that the median waiting time for first appointment of some specialties may be higher or lower than the HA's overall median waiting time.

As for rehabilitation services, some 300 convalescent beds are provided by UCH and Haven of Hope Hospital, which are also under the Kowloon East (KE) Cluster. In addition, Kowloon

Hospital, which is a specialist rehabilitation hospital in the adjacent Kowloon Central Cluster, provides a further 192 convalescent beds for the KE Cluster.

To cope with the increase in service demand in the region of the KE Cluster, the HA has in 2007-2008 provided the KE Cluster with an additional allocation of about \$30 million on top of original provision to implement new service programmes and initiatives. These programmes and initiatives include the provision of an ambulatory surgery and ambulatory care centre in Tseung Kwan O Hospital. Besides, in order to improve the rehabilitation care for elderly dischargees, a pilot project will be launched in Kwun Tong District in the first quarter of 2008 to provide integrated discharge support services to elderly discharges who have difficulty in taking care of themselves. The KE Cluster also plans to strengthen the specialist services for treatment of breast cancer and psychiatric care and to set up an ear, nose and throat specialist centre in UCH in 2008-2009.

- (b) The KE Cluster would regularly review its services in the light of the demographic changes, growth in service demand and service utilization; and plan for its future facilities and services on the basis of service needs. Any proposed project would be examined within the HA and submitted to the Government for consideration in accordance with established procedures. At present, the HA has no plan to redevelop UCH.

Shortage of Manpower in Accounting Sector

12. **MISS TAM HEUNG-MAN** (in Chinese): *President, a few accountants who are teaching in tertiary institutions have recently told me that there is a very serious shortage of accounting professionals in Hong Kong in recent years. In this connection, will the Government inform this Council:*

- (a) *whether it will, as a substantial fiscal surplus is forecast to be recorded for this financial year, consider providing more subsidies to various tertiary institutions to increase the places for accounting, financial and monetary studies; if it will, of the details; if not, the reasons for that;*

- (b) *given that the shortage of accounting technicians have forced accountants to take up some of the work originally handled by accounting technicians, whether it will consider allocating more resources or adopting other policies to provide more training places for accounting technicians; if it will, of the specific policies; if not, the reasons for that; and*
- (c) *whether it will relax the relevant immigration policies to facilitate more overseas accountants coming to Hong Kong and more overseas Hong Kong accountants returning to Hong Kong to engage in the accounting business; if it will, of the specific policies?*

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

- (a) Our tertiary institutions are currently offering various post-secondary programmes in accounting and finance-related disciplines. In the 2006-2007 academic year, there were about 12 000 students (in full-time-equivalent terms) studying business and management discipline (including accounting) undergraduate programmes at the eight University Grants Committee (UGC)-funded institutions, constituting 23.5% of the total student population.

The eight UGC-funded institutions are autonomous statutory bodies governed by their own legislation. They enjoy institutional autonomy in their academic and curriculum development, including the provision of accounting and related professional programmes. Institutions will balance various factors, such as the Administration's advice on manpower requirements for specific sectors and professions, community needs, institutional capacity, role of individual institutions and their future development plans, number of academic staff available, admission quality and demand from other academic departments, and so on, and propose student intakes to various academic programmes in their academic development proposals.

To assess the manpower demand and supply situation in Hong Kong, including the requirements of the accountancy sector, the

Administration has been conducting periodic manpower projection exercises. We conducted an exercise in 2003 with projections up to 2007 and are now conducting another round with projections up to 2013. The Accountancy Training Board under the Vocational Training Council also conducts manpower surveys for the accountancy sector. Both exercises provide valuable information for the tertiary and post-secondary institutions to plan programmes that would meet the manpower requirements of the accountancy sector.

In addition, it should be noted that there are many different entry routes for individuals who are interested in pursuing qualification in accountancy and full-time degree courses offered by tertiary institutions is only one of them.

The Hong Kong Institute of Certified Public Accountants (HKICPA), as the statutory body responsible for qualification and registration of accountants in Hong Kong under the Professional Accountants Ordinance (Cap. 50), regulates the quality of entry to the profession through its Qualification Programme (QP). Those who are graduates of recognized accountancy degrees offered by tertiary institutions in Hong Kong are eligible for direct entry to the QP. Holders of recognized non-accountancy degrees can also apply for QP admission by taking the HKICPA's Conversion Programmes. In addition, those who have obtained qualification from accountancy bodies overseas enjoy full or substantial exemptions from the QP if the relevant overseas body has signed recognition agreement with the HKICPA. To date, HKICPA has signed recognition agreements with 11 overseas accountancy bodies around the world, amongst them are the most prestigious chartered accountant institutes operating in the world's major capital markets.

With the many different routes to qualify as accountants and as the economy thrives, more and more people are interested in obtaining accounting training. This is reflected by the statistics of the HKICPA — the number of enrolments, students and graduates for the QP reached record highs in 2007. In fact, since the QP's inception in 1999, around 2 400 graduates have qualified and there are over 10 000 students currently taking the QP. The HKICPA expects to continue to set new records in the coming year and is confident in handling the increasing demand.

To foster better co-ordination of efforts between the industry and academia on financial services manpower development, the Administration set up the Advisory Committee on Human Resources Development in the Financial Services Sector (the FinMan Committee) in 2000. The Administration attaches great importance to the training and nurturing of talents to maintain the competitiveness of Hong Kong as an international financial centre, including the provision of accounting professionals, which is a major pillar of the financial services industry.

The Administration will continue to work through the FinMan Committee and other channels to monitor the manpower situation in the accountancy sector and to facilitate useful exchange of views between tertiary institutions, training service providers and financial industry employers.

- (b) On the training for accounting technicians, at present, there are some 26 public as well as private post-secondary institutions that provide relevant courses. Such course providers are mainly self-financing. To gauge market demands and to design courses that are geared towards market needs, the providers have regular liaison with the stakeholders in the industry. The manpower survey on the accountancy sector conducted by the Accountancy Training Board also provides useful reference on future market demands for accounting technicians.

According to the Hong Kong Institute of Accredited Accounting Technicians Limited (HKIAAT), which is the only local organization that offers both a qualification and a designation for those seeking a career as an accounting technician, its membership has increased to over 1 500 since its launch in 2004. Since examinations were introduced in 1989, a total of 7 634 graduates have successfully completed the Accounting Technicians Examination and the accumulated total number of awardees for Certified Accounts Clerk is 493. The number of registered students stood at 7 198 as at end of December 2007.

To provide support to students seeking to train as accounting technicians, the HKIAAT maintains a register of course providers for students' reference and organizes seminars, revision courses and issues technical updates. The Administration also provides funding

support to those students who enrol in accounting technician courses that are registered under the Continuing Education Fund (CEF courses). Eligible applicants enrolled in such CEF courses will be reimbursed 80% of their tuition fees, subject to a maximum sum of \$10,000 per person, on successful completion of the approved CEF courses.

- (c) On the facilitation of overseas accountants coming to Hong Kong, the Administration strongly believes that a larger pool of talents will enhance Hong Kong's competitiveness.

Many factors affect the attractiveness of Hong Kong to non-local talents. Such factors include the business/job opportunities, tax regime and the environment, and so on. For entry for employment as professionals, there are basically only two key requirements: (i) the applicant has secured a job that cannot be readily taken up by the local workforce; and (ii) the remuneration package is commensurate with the prevailing market rate. There is no quota, nor any restrictions on the employment sector. Since the reunification, over 200 000 talents/professionals have entered Hong Kong through these arrangements.

In addition, in the context of developing Hong Kong into a regional educational hub, the Administration will further liberalize our immigration regime to facilitate the retention of non-local graduates. From the 2008-2009 academic year onwards, non-local graduates who have obtained a degree or higher qualification in a full-time programme in Hong Kong, upon application to the Immigration Department, may be granted 12 months' stay without any condition and are free to take up any employment. Furthermore, non-local persons having obtained a degree or above qualification in Hong Kong may apply to return for employment, so long as the job is at a level commonly taken up by degree holders and the remuneration package is set at market rate. These new initiatives will make Hong Kong one of most liberal places in the retention of non-local graduates.

The Administration is also reviewing the Quality Migrant Admission Scheme, with a view to casting our net wider for quality migrants. We aim to complete the review in early 2008 and put in place the review recommendations as soon as possible.

In respect of facilitating overseas accountants and Hong Kong accountants living abroad to qualify for practice in Hong Kong, the HKICPA operates an open policy to encourage suitable members of overseas accountancy bodies to join the Institute as CPAs in Hong Kong. As mentioned in (a) above, members of 11 recognized accountancy bodies around the world are eligible for full or substantial exemptions from the HKICPA examination (that is, QP) for membership under the respective agreements.

Moreover, members of any one of the 134 member bodies of the International Federation of Accountants who do not fall under any of the recognition agreement are eligible for registration as International Affiliates of HKICPA and may engage in accounting work in Hong Kong. The HKICPA offers technical updates and support to these members and some Hong Kong CPA firms also offer placement programmes for overseas qualified accountants to work in Hong Kong, thereby fulfilling the practical experience requirement for membership and Practising Certificate issuance purposes.

Coming into Operation of Rental Right Provisions on Video Discs and Comic Books

13. **MR LAU KONG-WAH** (in Chinese): *President, the Copyright (Amendment) Ordinance 2007 (the Amendment Ordinance), enacted in June last year by this Council, introduces rental right provisions under which copyright owners of films and comic books are empowered to levy copyright royalties on the rental business of video discs and comic books. The film and comic book industries are currently negotiating with rental shops of such articles on the introduction of rental licensing schemes and, depending on the progress of the negotiation, the authorities will determine a date for the relevant provisions to come into operation. In this connection, will the Government inform this Council:*

- (a) *of the respective current numbers of video disc and comic book rental shops in the territory and, among these shops, the respective percentages of those which are chain stores;*

- (b) *whether it knows the details of the rental licensing schemes proposed by the film and comic book industries (such as how far the selling price of the rental version will exceed that of the retail version for the same video disc or comic book), and the number of rental shops taking part in the negotiation;*
- (c) *how it will ensure small rental shops can still survive after the relevant provisions have come into operation and safeguard the market from being monopolized by rental chains; and*
- (d) *given that the operators of some small rental shops have just entered into new tenancy agreements with their landlords, whether it will consider deferring the relevant provisions coming into operation to allow these operators a longer transitional period to make suitable arrangements?*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Chinese): President, the Amendment Ordinance offers more flexible copyright exemption to users on the one hand, and enhances the protection afforded to copyright owners on the other. The enhanced protection includes the introduction of rental rights for films and comic books. Under the Amendment Ordinance, anyone who intends to conduct commercial rental activities in relation to films and comic books has to obtain prior authorization from the copyright owners. Otherwise, he renders himself liable to civil claims. The relevant provision has no retrospective effect. In other words, upon the coming into effect of the relevant provision, rental shops could continue to rent out the retail versions of video discs and comic books that were acquired before the commencement date (that is, the existing stock). Only rental activities relating to video discs and comic books acquired on or after the commencement date are subject to authorization by the copyright owners. This being the case, the Administration believes that the impact that the new provision may have on rental shops should be mild and incremental.

The provision on rental rights for films and comic books is yet to come into operation. The Government is encouraging copyright owners to work out with the operators of rental shops early a mutually acceptable rental licensing scheme so that the rental shops could carry on with their business in a lawful manner upon commencement of the relevant provision whilst the copyright owners could obtain a reasonable return.

Our replies to parts (a) to (d) of the question are as follows:

- (a) At present, apart from general business registration, the operation of video disc and comic book rental shops does not require specific registration. Hence, we do not have official statistics on the number of video disc and comic book rental shops operating in the territory. The latest information furnished by the Hong Kong Video Development Foundation Ltd. (HKVDF) and the Hong Kong Comics & Animation Federation Limited (HKCAF) suggests that about 500 and 220 shops are currently engaging in rental business relating to video discs and comic books respectively. It is estimated that over 70% of these shops are not operated in the form of chain stores.
- (b) Upon enactment of the Amendment Ordinance in mid-2007, the major groups of copyright owners for films or the exclusive licensees started to work out the rental licensing arrangements. The comic book industry is also taking the matter forward. We understand that the HKVDF had sent a mail to all known rental shops to brief and consult them on the issue. Two briefing sessions were held in August and December 2007 for presenting the proposed rental licensing scheme to stakeholders. About 150 representatives from rental shops attended the two sessions. We note that the HKVDF has made a number of amendments to its proposed scheme after listening to the views of the shop representatives. These include lowering the price ceiling for rental version of video discs to 200% of the retail version, as opposed to 300% as originally proposed. As regards comic books, the HKCAF is actively hammering out the rental licensing scheme and will announce the details in due course. Rental licensing is a commercial act. To avoid interfering with the free operation of the market, the Administration considers it inappropriate (and hence does not seek) to get involved in determining the level of royalties payable.
- (c) The Administration will keep in view the progress made in rolling out the rental licensing schemes for films and comic books. We will facilitate the two-way dialogue between the copyright owners and rental shop operators as and when necessary, with a view to bringing about a mutually beneficial scheme early. There are

provisions in the Amendment Ordinance that empower the Copyright Tribunal to deal with and arbitrate in matters pertaining to the rental licensing schemes for films and comic books.

- (d) The Administration started to examine proposed amendments to the Copyright Ordinance since 2004. In the process, we had consulted the industry on the rental rights issue on a number of occasions. Moreover, immediately following the passage of the Amendment Ordinance in mid-2007, copyright owners of films started to work out the details of a rental licensing scheme, thus allowing time for rental shop operators to get prepared for the implementation of the relevant provision. The Administration will continue to monitor the progress made in rolling out the rental licensing schemes. The relevant panel of the Legislative Council will be consulted before a final decision is made regarding the date for bringing the relevant provision into operation.

Office Removal and Renovation Works Undertaken Because of Reorganization of Policy Bureaux

14. **MISS CHOY SO-YUK** (in Chinese): *President, it has been reported that as the reorganization of Policy Bureaux of the Government Secretariat on 1 July last year has led to transfer of functions among bureaux, the Environment Bureau has recently undertaken major office removal and renovation works, with an estimated cost of over \$10 million. In this connection, will the Government inform this Council of the office removal or renovation works undertaken by each Policy Bureau and the departments under its purview as a result of the abovementioned reorganization, as well as the following details of these works:*

- (a) *the respective amounts of expenditure on removal and renovation works;*
- (b) *the respective amounts of various types of construction waste and electronic waste generated;*
- (c) *the measures taken by the authorities concerned to recover such waste; and*
- (d) *the respective amounts of various types of waste disposed of eventually?*

SECRETARY FOR THE ENVIRONMENT (in Chinese): President, to enable the Government Secretariat to meet the challenges which the third term of the Government of the Hong Kong Special Administrative Region (HKSAR) has to address and to ensure a rational distribution of work among Policy Bureaux, the Chief Executive has decided to reorganize the Government Secretariat with effect from 1 July 2007. The reorganization involves the addition of a new bureau and the redistribution of the policy portfolios of eight existing bureaux and the Administration Wing of the Chief Secretary for Administration's Office. To enhance the operational efficiency between the reorganized bureaux and their related departments, we have to reorganize offices in accordance with the various degrees of changes in the policy portfolios of individual bureaux, and to undertake corresponding, though limited, office removal works with due consideration to their costs and benefits and feasibility.

The Environment Bureau referred to by the Honourable Member is a new Policy Bureau. Indeed, the Administration is fully aware of the global concern over climate change and a host of environmental problems that we face locally. As such, the objective of establishing the Environment Bureau is to enable a single bureau-department entity that possesses professional expertise on "environmental protection", "sustainable development" and "energy", as well as experience in public administration and macro policy formulation to handle these issues in a holistic manner. As the Environment Bureau comprises the existing Environmental Protection Department (EPD), as well as the Energy Division and the Sustainable Development Division which respectively came under the then Economic Development and Labour Bureau and the Chief Secretary for Administration's Office before the reorganization, it was decided at the time of establishing the Bureau that divisions scattered at various locations should be relocated as early as possible to the headquarters of the EPD at the Revenue Tower. By providing a working environment that is conducive to better communication and efficiency among different divisions within the bureau-department and closer collegial relationship, this arrangement will help maximize synergy. In addition, we can share resources at one location and minimize unnecessary logistical and travelling needs to enhance overall operational efficiency. The temporary office of the Secretary for the Environment at the Central Government Offices and the commercial premises in Central occupied by the former Environment, Transport and Works Bureau can also be vacated for other purposes.

Regarding the questions raised by the Honourable Member, our reply is as follows:

- (a) In the light of the reorganization of the HKSAR Government, individual bureaux and their underpinning departments have incurred about \$2,370,000 and \$2,700,000 respectively for the corresponding building works and building services works. The office removal cost was about \$78,000.

(b), (c) and (d)

The HKSAR Government very much encourages the avoidance and reduction of waste, as well as the recovery of useful materials for reuse and recycling. In carrying out the works concerned, we have given full consideration to the principle of waste reduction, recovery and recycling so as to minimize waste generation and disposal.

Before commencement of works projects, the contractors concerned must prepare waste management plans in accordance with the technical circulars issued by the Development Bureau and the terms of the works contracts. The Architectural Services Department would ensure that the contractors carry out waste sorting, reuse and recycling during the project period to minimize waste generation in accordance with the waste management plans. With regard to the construction waste generated, inert materials (such as broken bricks and concretes, tiles, soil, and so on) would be transported to the public fill reception and sorting facilities for reuse and recycling, while a small amount of non-recyclable and non-inert waste (such as bamboo, woods, and so on) would be disposed of at landfills.

Regarding the office removal works, the bureaux and departments concerned would continue to make use of existing furniture and office equipment, including computers, photocopiers, printers, and so on. The carton boxes for office removal purposes would also be reused or recycled. In the cases where the merging of offices has led to surplus supplies, the bureaux and departments concerned would follow established procedures to minimize wastage and make full use of the surplus supplies. For instance, they can offer the surplus supplies to other bureaux and departments for reuse, donate the surplus supplies to non-profit charitable organizations, sell the surplus supplies to recyclers, or dispose of the surplus supplies through auctions. The waste arising from office removal is, therefore, minimal.

Through the abovementioned waste reduction measures, the works projects arising from the reorganization of bureaux of the HKSAR Government generated a total of about 13.5 tonnes of construction waste. 13 tonnes of which, being inert materials, were transported to public fill reception and sorting facilities for reuse and recycling. Only the remaining 0.5 tonne of non-inert waste was disposed of at landfills. The works projects did not produce any electronic waste.

Mortgage Arrangements for Home Ownership Scheme Flats

15. **MR LEE WING-TAT** (in Chinese): *President, the Hong Kong Housing Authority (HA) is currently providing a mortgage default guarantee in respect of Home Ownership Scheme (HOS) flats covering a period of 15, 20 or 25 years (the default guarantee period), and includes in the title documents of the flats concerned a restriction that the overall repayment period for the total number of instalments payable under the fresh mortgage together with those already paid under the previous and existing mortgages shall not exceed the default guarantee period. Except those in respect of which premium has been paid, all HOS flats are subject to such a restriction. In this connection, will the Government inform this Council:*

- (a) *of the respective names of HOS estates, together with the respective total numbers of flats involved, in respect of which the default guarantee period has expired, will expire in one year or more but less than 10 years, or will expire in 10 years or more but less than 15 years;*
- (b) *due to the above restriction, buyers of second-hand HOS flats with the default guarantee period already expired or soon to expire often can only secure from financial institutions mortgage loans which have to be repaid in full within several years, and some may even fail to secure any mortgage loan, whether, in the past three years, the authorities have discussed the matter with the relevant financial institutions with a view to helping prospective flat owners to secure mortgage loans with longer repayment periods; if so, of the results of such discussions;*

- (c) *whether the authorities had removed the restriction imposed on the repayment period under fresh mortgages at the time of ownership transfer of second-hand HOS flats in the past three years; if so, of the number of such cases, as well as the number of financial institutions which offered mortgage loans to the new flat owners; and*
- (d) *whether the authorities will consider completely removing the restriction imposed on the repayment period under fresh mortgages at the time of ownership transfer of second-hand HOS flats, so that financial institutions will only need to vet and approve mortgage loan applications in respect of such flats in accordance with commercial principles?*

SECRETARY FOR TRANSPORT AND HOUSING (in Chinese): President, to encourage banks and authorized financial institutions to provide mortgage loans and better mortgage terms (for example, larger amount of mortgage loan and lower mortgage rate, and so on) for buyers of the HOS flats, the HA provides a mortgage default guarantee for the banks and authorized financial institutions participating in the provision of mortgage loans for HOS flats (excluding those sold in the open market after payment of premium to the HA) (hereafter referred to as the "participating institutions"). Under this guarantee, the HA undertakes to meet the shortfall in repayment in the event of the borrower's default during a period of not more than 25 years as from the date of the first deed of assignment of the HOS flat concerned.

Taking into account the general practice of the mortgage market for private property, the affordability of HOS applicants in general and the need to control the risk borne by the HA within an appropriate level, the HA currently requires that the mortgage repayment period offered by a participating institution for a HOS flat covered by the mortgage default guarantee should not be more than 25 years. The HA however does not require that the mortgage repayment period should co-terminate with the mortgage default guarantee period. For example, when a participating institution offers a mortgage for a HOS flat purchased from the HOS Secondary Market for which the mortgage default guarantee is to expire in five years' time, it may still offer a mortgage repayment period of a maximum of 25 years, though only the first five years will be covered by the HA's mortgage default guarantee.

My reply to the four-part question is as follows:

- (a) The mortgage default guarantee periods of various HOS courts are as follows:

	<i>Mortgage Default Guarantee Period</i>	
	<i>First Transaction</i>	<i>Transactions at HOS Secondary Market*</i>
Phase 8A (1985) and before (51 courts, about 69 800 flats)	15 Years	25 years from the date of the first deed of assignment
From Phase 8B (1986) to Phase 18C (1996) (99 courts, about 160 700 flats)	20 Years	
Phase 19A (1997) and thereafter (47 courts, about 83 800 flats)	25 Years	

* The HOS Secondary Market commenced operation in 1997.

Since the mortgage default guarantee period of a HOS flat is counted from the date of the first deed of assignment, even flats in the same HOS court may have different commencement dates of mortgage default guarantee period. The Housing Department (HD) does not have a breakdown of the number of flats by the length of their remaining mortgage default guarantee periods.

- (b) Recently, the HD was aware that some participating institutions had advised prospective buyers of surplus HOS flats or HOS Secondary Market flats that mortgage loans can only be granted with repayment periods not longer than the remainder of the HA's mortgage default guarantee periods. The HD wrote to all participating institutions on 2 October 2007 to clarify that the restriction on maximum mortgage repayment period is not related to the expiry date of the mortgage default guarantee period, and call on the participating institutions to offer appropriate mortgage repayment periods on the merits of individual applications.

- (c) and (d)

As mentioned above, the HA only requires the participating institutions to provide mortgage repayment periods of not more than

25 years, but does not require that the mortgage repayment period should co-terminate with the mortgage default guarantee period of the flat concerned. The participating institutions may negotiate mortgage terms and detailed repayment arrangements with the applicants in accordance with commercial principles.

Sponsoring Setting up of Commercial Websites

16. **MR WONG TING-KWONG** (in Chinese): *President, the findings of a survey conducted by the Census and Statistics Department (C&SD) revealed that the total amount of business receipts received from selling goods, services or information through electronic means in 2006 was estimated at \$64.9 billion, representing a substantial increase of 47.7% over the corresponding figure in 2005. Moreover, in 2007, about 18% of the business establishments had webpages or websites, and about 60% of the establishments had conducted electronic business activities in the 12 months before enumeration. In this connection, will the Government inform this Council:*

- (a) of the main business sectors to which those surveyed establishments with webpages or websites belong; and*
- (b) as it has been reported that the Government will sponsor the commercial sector to set up websites, of the details of the sponsorship scheme concerned?*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Chinese): President, my reply to the question asked by the Honourable WONG Ting-kwong is as follows:

- (a) According to the C&SD's Report on 2007 Annual Survey on Information Technology Usage and Penetration in the Business Sector, the total number of business establishments having webpage/website is 54 719. Among them, 60.2% belong to the wholesale, retail, import/export trades, restaurants and hotels sector, followed by the financing, insurance, real estate and business services sector at 20.2% and the community, social and personal services sector at 10.2%.

- (b) The Government is committed to driving the adoption of e-business in the community. Small and medium-sized enterprises (SMEs) are amongst the primary targets of our programmes and initiatives. Sponsorships will be considered for meritorious industry-led proposals that aim at promoting the adoption of information and communications technology (ICT) among SMEs of various business sectors. Such sponsorships cover projects that align with our Digital 21 Strategy and include support facilities and services, development of practical ICT solutions, training courses and conferences, as well as promotional events such as exhibitions and campaigns.

In 2004, the Government provided a one-off sponsorship of around \$100,000 for the Chinese Manufacturers' Association of Hong Kong to organize a project that offered SMEs with one-stop service package to help them set up websites. Two hundred SMEs have benefited from the project.

Since then, in collaboration with industry and professional bodies, the Government has launched the Sector-specific Programme (SSP) to raise the capabilities of SMEs in specific industries in leveraging e-business. Under the SSP, we have provided sponsorship of around \$3.2 million between 2004 and 2006 for industry bodies to organize eight projects. Amongst these, three projects were targeting at SMEs from the travel industry, beauty service sector and the logistics sector. An integral part of these projects was the development of an industry portal site*. These were completed by 2007.

In the first half of 2007, we provided sponsorship of \$4.9 million for five new projects that aim at driving the development of industry-specific e-business applications or platforms. Out of these new projects, three aim to establish/enhance portal sites at the sector level targeting at SMEs from the watches and clocks sector, the social service sector, and the beauty service sector respectively. The portal site for the watches and clocks sector will facilitate SMEs

* Portal sites are websites that offer information and services, such as news and discussion forum to multiple establishments in the related sectors.

to develop e-commerce and conduct virtual exhibitions of watches and clocks products. The portal site for the social service sector will facilitate the sharing of frequently-used reference materials in digital format from the Hong Kong Council of Social Service Library whereas the portal for the beauty service sector will provide an online booking function. These portal sites will be available for use by SMEs in the relevant industries within 2008-2009.

Nuisance Caused by Private Barbeque Sites

17. **MR ALBERT CHAN** (in Chinese): *President, recently, some members of the public have reflected to me that quite a number of private open barbeque sites often cause noise nuisance to residents nearby. Despite repeated complaints lodged by the residents to the police, the situation has not improved. In this connection, will the Government inform this Council:*

- (a) *of the number of such complaints received in each of the past three years;*
- (b) *of the respective numbers of warnings issued to and prosecutions instituted against the operators or proprietors concerned because of noise nuisance from open barbeque sites in each of the past three years; and*
- (c) *whether it will step up law-enforcement actions to curb open barbeque sites causing noise nuisance to residents nearby; if so, of the details; if not, the reasons for that?*

SECRETARY FOR THE ENVIRONMENT (in Chinese): President,

- (a) The number of complaints against noise generated from private open barbeque sites received by the Environmental Protection Department (EPD) and the police in each of the past three years is as follows:

	2005	2006	2007
No. of noise complaints	114	92	198

- (b) The number of warnings issued by the EPD and the police to the operators or proprietors in respect of noise generated from open barbeque sites in each of the past three years is as follows:

	2005	2006	2007
No. of warnings	18	18	15

Besides issuing warnings to the operators or proprietors of barbeque sites, the police also warn the site users. In most cases, the noise generated from barbeque sites is of short duration. When the barbeque site users are advised of their noise nuisance or when law-enforcement officers arrive at the sites, most of the barbeque site users manage to exercise self-discipline and reduce their noise. Therefore, no prosecution was initiated by the EPD or the police against noise generated from the barbeque sites concerned in the past three years.

- (c) The EPD is always concerned with the problem of noise generated from private open barbeque sites. For barbeque sites under persisted complaints, the EPD will step up inspections and arrange surprise checks. Guidelines will be given to the proprietors or those in charge of the sites to require them to handle the noise problem properly and comply with the Noise Control Ordinance. The noise generated from open barbeque sites is subject to control under the Noise Control Ordinance. Users of these barbeque facilities should exercise care and avoid, as far as possible, making excessive noise causing nuisance to nearby residents. Residents affected by noise nuisance generated from a barbeque site may call the nearby police station for immediate assistance. The police will follow up the noise complaint and take appropriate action according to the circumstances, including giving verbal warning to the users or operators of the barbeque site. The police will consider taking prosecution action if the earlier warning is not heeded. For private barbeque sites, the police will refer the complaint to the EPD. Upon receipt of the complaint, the EPD will assess the noise at the complainant's flat. If the noise is found to have exceeded the limit, the EPD will issue a Noise Abatement Notice to the person in charge of the site, requiring him to mitigate the noise nuisance. Under normal circumstances, noise problems can be resolved.

Registration of Electors and Voting Arrangements

18. **MS EMILY LAU** (in Chinese): *President, regarding the 2003 and 2007 District Council (DC) Elections, the 2004 Legislative Council general election and the 2007 Legislative Council By-election for the Hong Kong Island geographical constituency (GC), will the executive authorities inform this Council:*

- (a) in respect of each of the elections, of the number of electors registered in the then relevant final register (FR) of GCs who had changed their principal residential address since the publication of the preceding FR;*
- (b) in respect of each constituency for each of the elections, of the number of electors transferred to that constituency due to a change of their principal residential address;*
- (c) in respect of each of the elections, of the respective numbers of electors who had informed the relevant authorities that it was only when they reached the ballot paper issuing desk in the polling station did they find that:
 - (i) their names were missing from the part of the FR relating to that polling station, and*
 - (ii) the particulars registered in respect of their names in the FR had been crossed out (indicating that the electors concerned had been issued with ballot papers earlier),*with a breakdown of (i) and (ii) by constituency; and*
- (d) of the causes of the problems mentioned in (c), and how the relevant authorities have addressed such problems?*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Chinese): *President, my reply to the various parts of the question is set out below:*

(a) and (b)

The computerized voter registration system currently used by the Registration and Electoral Office (REO), namely, the New Electoral and Registration System (NEARS), was implemented in 2004. The system does not register information on the FRs of electors before 2004. Hence, we do not have information on the number of electors registered in the 2003 and 2004 FRs who had changed their principal residential address since the publication of the previous FR.

Comparing the 2006 FR and the 2007 FR, a total of 112 370 electors changed their principal residential addresses. The numbers of electors transferred to a constituency different from that in the 2006 FR for the 2007 DC Election and for the 2007 Legislative Council Hong Kong Island GC By-Election broken down by constituencies due to a change of their principal residential address are set out at Annex 1 and Annex 2 respectively.

(c) and (d)

(i) According to section 86 of the Electoral Affairs Commission (Electoral Procedure) (District Councils) Regulation (Cap. 541F) and section 88 of the Electoral Affairs Commission (Electoral Procedure) (Legislative Council) Regulation (Cap. 541D), the REO must retain in its custody the relevant electoral documents for at least six months from the date of the election to which they relate and must thereafter, unless directed by an order of Court in proceedings relation to an election petition or criminal proceedings, destroy them. The relevant electoral documents for the 2003 DC Election and the 2004 Legislative Council Election have been disposed of according to the law and the information requested in respect of these two elections is therefore not available.

For the 2007 DC Election and the 2007 Legislative Council By-election, 25 553 and 12 182 persons respectively had informed the polling staff that it was only when they reached the ballot paper issuing desk in the polling station did they find that their names were missing from the part of the FR

relating to that polling station. A breakdown of the figure for the 2007 DC Election by DC constituencies is at Annex 3.

The possible causes of the cases mentioned above include:

- (1) the person concerned was not a registered elector;
- (2) the person concerned went to a wrong polling station (that is, not the polling station allocated); and
- (3) for the 2007 Legislative Council By-election, the person concerned was a registered elector of a GC other than the Hong Kong Island GC.

Under section 31(1) of the Electoral Affairs Commission (Electoral Procedure) (Legislative Council) Regulation and section 34(1) of the Electoral Affairs Commission (Electoral Procedure) (District Councils) Regulation, the REO is required to send a poll card to each elector at least 10 days before the polling day of every contested election stating the polling station at which the elector must cast his or her vote. To facilitate electors' access to the polling stations, each poll card is sent together with a map showing the location of the polling station concerned. On the polling day, polling staff help electors who go to a wrong polling station look up their allocated polling station and direct them to the polling station concerned for casting votes. Persons who are not registered electors are provided with application forms for voter registration at the polling stations. They are encouraged to register on the spot.

- (ii) The REO does not have statistics on the number of electors who had informed the polling staff that it was only when they reached the ballot paper issuing desk in the polling station did they find that the particulars registered in respect of their names in the FR had been crossed out (indicating that the electors concerned had been issued with ballot papers earlier). However, according to section 60 of the Electoral Affairs Commission (Electoral Procedure) (District Councils) Regulation and the Electoral Affairs Commission (Electoral Procedure) (Legislative Council) Regulation, a person ("the

first-mentioned person") applying for a ballot paper after a person has been issued with a ballot paper on the basis that he or she is that first-mentioned person shall be issued a ballot paper endorsed with the words "重複" and "TENDERED". For the 2003 DC Elections and the 2004 Legislative Council Election, 51 and 135 tendered ballot papers respectively were issued (see breakdown by constituencies at Annex 4 and Annex 5).

As regards the 2007 DC Elections and the 2007 Legislative Council By-election, the REO is now compiling the relevant statistics which will be included in the respective reports to be submitted by the Electoral Affairs Commission to the Chief Executive within three months of the date of the elections.

Possible causes for the above situation may include:

- (1) the relevant elector has asked for the ballot paper repeatedly; or
- (2) the polling staff has crossed out the electors' particulars inaccurately.

To ensure that the person who obtain the ballot paper is the registered elector, the polling staff will ask the elector to show his/her identity document. According to section 53 of the Electoral Affairs Commission (Electoral Procedure) (District Councils) Regulation, unless the polling staff is satisfied that the person is the person registered in the FR, he/she must not give a ballot paper to that person. According to section 56 of the Regulation, before issuing a ballot paper, the name of the elector as stated in the copy or extract of the relevant FR must be called out. Immediately before issuing the ballot paper, the polling staff must place a line in the copy or extract of the FR across the name and identity document number of the elector to denote that the ballot paper the person is entitled to have issued to him or her at that polling station has been so issued. As stated above, according to section 60 of the Regulation, if a person ("the first-mentioned person") representing himself or herself to be a particular elector applies for a ballot paper after a person

has been issued with a ballot paper on the basis that he or she is that first-mentioned person, the ballot paper to be issued to the first-mentioned person must be endorsed on the front of it with the words "重複" and "TENDERED". According to section 78 of the Regulation, a ballot paper endorsed with the words "重複" and "TENDERED" is not to be regarded as valid and the vote recorded on the ballot paper is not to be counted.

The above provisions ensure that ballot papers are only issued to the registered electors, that the polling staff accurately records which electors have been issued with ballot papers and prevent any registered elector from being able to vote and have his vote counted more than once in an election. Similar provisions are present in the Electoral Affairs Commission (Electoral Procedure) (Legislative Council) Regulation (Cap. 541D).

Polling staff are well briefed on the appropriate procedures at the training sessions.

Annex 1

Number of electors transferred to the present constituency
due to a change of their principal residential address

<i>2007 DC Election</i>	
<i>Constituency name and code</i>	<i>No. of electors transferred to the present constituency due to a change of principal residential address</i>
CHUNG WAN (A01)	116
MID LEVELS EAST (A02)	184
CASTLE ROAD (A03)	213
PEAK (A04)	129
UNIVERSITY (A05)	289
KENNEDY TOWN AND MOUNT DAVIS (A06)	382
KWUN LUNG (A07)	180
SAI WAN (A08)	215
BELCHER (A09)	308
SHEK TONG TSUI (A10)	194
SAI YING PUN (A11)	208
SHEUNG WAN (A12)	194
TUNG WAH (A13)	161
CENTRE STREET (A14)	228
WATER STREET (A15)	188
HENNESSY (B01)	135

<i>2007 DC Election</i>	
<i>Constituency name and code</i>	<i>No. of electors transferred to the present constituency due to a change of principal residential address</i>
OI KWAN (B02)	155
CANAL ROAD (B03)	169
CAUSEWAY BAY (B04)	144
TAI HANG (B05)	180
JARDINE'S LOOKOUT (B06)	147
BROADWOOD (B07)	148
HAPPY VALLEY (B08)	145
STUBBS ROAD (B09)	128
SOUTHORN (B10)	117
TAI FAT HAU (B11)	169
TAI KOO SHING WEST (C01)	230
TAI KOO SHING EAST (C02)	239
LEI KING WAN (C03)	397
SHAUKEIWAN (C04)	105
ALDRICH BAY (C05)	265
A KUNG NGAM (C06)	55
HENG FA CHUEN (C07)	261
TSUI WAN (C08)	132
YAN LAM (C09)	294
SIU SAI WAN (C10)	123
KING YEE (C11)	127
WAN TSUI (C12)	104
FEI TSUI (C13)	117
MOUNT PARKER (C14)	179
BRAEMAR HILL (C15)	228
TIN HAU (C16)	133
FORTRESS HILL (C17)	291
VICTORIA PARK (C18)	195
CITY GARDEN (C19)	272
PROVIDENT (C20)	235
FORT STREET (C21)	246
KAM PING (C22)	202
TANNER (C23)	207
HEALTHY VILLAGE (C24)	185
QUARRY BAY (C25)	141
NAM FUNG (C26)	213
KORNHILL (C27)	244
KORNHILL GARDEN (C28)	229
HING TUNG (C29)	101
SAI WAN HO (C30)	221
LOWER YIU TUNG (C31)	134
UPPER YIU TUNG (C32)	77
HING MAN (C33)	139
LOK HONG (C34)	101
TSUI TAK (C35)	157
YUE WAN (C36)	104
KAI HIU (C37)	79
ABERDEEN (D01)	229
AP LEI CHAU ESTATE (D02)	104

<i>2007 DC Election</i>	
<i>Constituency name and code</i>	<i>No. of electors transferred to the present constituency due to a change of principal residential address</i>
AP LEI CHAU NORTH (D03)	127
LEI TUNG I (D04)	224
LEI TUNG II (D05)	97
SOUTH HORIZONS EAST (D06)	278
SOUTH HORIZONS WEST (D07)	250
WAH KWAI (D08)	87
WAH FU I (D09)	71
WAH FU II (D10)	106
POKFULAM (D11)	339
CHI FU (D12)	187
TIN WAN (D13)	140
SHEK YUE (D14)	3 534
WONG CHUK HANG (D15)	154
BAYS AREA (D16)	101
STANLEY AND SHEK O (D17)	132
TSIM SHA TSUI WEST (E01)	377
JORDAN WEST (E02)	178
JORDAN EAST (E03)	163
YAU MA TEI (E04)	348
CHARMING (E05)	140
MONG KOK WEST (E06)	145
FU PAK (E07)	260
CHERRY (E08)	299
TAI KOK TSUI SOUTH (E09)	236
TAI KOK TSUI NORTH (E10)	242
TAI NAN (E11)	134
MONG KOK NORTH (E12)	150
MONG KOK EAST (E13)	136
MONG KOK SOUTH (E14)	128
KING'S PARK (E15)	288
TSIM SHA TSUI EAST (E16)	192
PO LAI (F01)	91
CHEUNG SHA WAN (F02)	125
NAM CHEONG NORTH (F03)	194
SHEK KIP MEI AND NAM CHEONG EAST (F04)	560
NAM CHEONG SOUTH (F05)	148
NAM CHEONG CENTRAL (F06)	151
NAM CHEONG WEST (F07)	79
FU CHEONG (F08)	73
LAI KOK (F09)	121
UN CHAU (F10)	156
LAI CHI KOK SOUTH (F11)	1 337
MEI FOO SOUTH (F12)	233
MEI FOO CENTRAL (F13)	186
MEI FOO NORTH (F14)	235
LAI CHI KOK NORTH (F15)	747
SO UK (F16)	98
LEI CHENG UK (F17)	56
HA PAK TIN (F18)	298

<i>2007 DC Election</i>	
<i>Constituency name and code</i>	<i>No. of electors transferred to the present constituency due to a change of principal residential address</i>
YAU YAT TSUEN (F19)	221
NAM SHAN, TAI HANG TUNG AND TAI HANG SAI (F20)	121
LUNG PING AND SHEUNG PAK TIN (F21)	116
MA TAU WAI (G01)	172
MA HANG CHUNG (G02)	236
MA TAU KOK (G03)	160
LOK MAN (G04)	90
SHEUNG LOK (G05)	88
HO MAN TIN (G06)	250
KADOORIE (G07)	228
PRINCE (G08)	229
KOWLOON TONG (G09)	238
LUNG SHING (G10)	305
KAI TAK (G11)	350
HOI SHAM (G12)	241
TO KWA WAN NORTH (G13)	105
TO KWA WAN SOUTH (G14)	140
HOK YUEN LAGUNA VERDE (G15)	141
WHAMPOA EAST (G16)	206
WHAMPOA WEST (G17)	230
HUNG HOM BAY (G18)	212
HUNG HOM (G19)	135
KA WAI (G20)	111
OI MAN (G21)	147
OI CHUN (G22)	128
LUNG TSUI (H01)	91
LUNG HA (H02)	65
LUNG SHEUNG (H03)	101
FUNG WONG (H04)	186
FUNG TAK (H05)	135
LUNG SING (H06)	322
SAN PO KONG (H07)	160
TUNG TAU (H08)	83
TUNG MEI (H09)	70
LOK FU (H10)	95
WANG TAU HOM (H11)	78
TIN KEUNG (H12)	101
TSUI CHUK AND PANG CHING (H13)	75
CHUK YUEN SOUTH (H14)	89
CHUK YUEN NORTH (H15)	72
TSZ WAN WEST (H16)	114
CHING OI (H17)	106
CHING ON (H18)	66
TSZ WAN EAST (H19)	113
KING FU (H20)	141
CHOI WAN EAST (H21)	119
CHOI WAN SOUTH (H22)	86
CHOI WAN WEST (H23)	81
CHI CHOI (H24)	649

<i>2007 DC Election</i>	
<i>Constituency name and code</i>	<i>No. of electors transferred to the present constituency due to a change of principal residential address</i>
CHOI HUNG (H25)	127
KWUN TONG CENTRAL (J01)	126
KOWLOON BAY (J02)	200
KAI YIP (J03)	126
LAI CHING (J04)	127
PING SHEK (J05)	99
JORDAN VALLEY (J06)	66
SHUN TIN (J07)	127
SHEUNG SHUN (J08)	151
ON LEE (J09)	59
PO TAT (J10)	145
SAU MAU PING NORTH (J11)	77
HIU LAI (J12)	92
SAU MAU PING SOUTH (J13)	91
HING TIN (J14)	95
LAM TIN (J15)	111
KWONG TAK (J16)	138
PING TIN (J17)	165
PAK NGA (J18)	90
YAU TONG EAST (J19)	333
YAU TONG CENTRAL (J20)	1 130
YAU TONG WEST (J21)	150
LAGUNA CITY (J22)	265
KING TIN (J23)	226
TSUI PING SOUTH (J24)	113
TSUI PING NORTH (J25)	77
PO LOK (J26)	67
YUET WAH (J27)	202
HIP HONG (J28)	105
HONG LOK (J29)	120
TING ON (J30)	45
NGAU TAU KOK (J31)	79
TO TAI (J32)	195
LOK WAH NORTH (J33)	83
LOK WAH SOUTH (J34)	122
TAK WAH (K01)	174
YEUNG UK ROAD (K02)	672
HOI BUN (K03)	177
CLAGUE GARDEN (K04)	87
FUK LOI (K05)	105
DISCOVERY PARK (K06)	250
TSUEN WAN CENTRE (K07)	163
ALLWAY (K08)	415
LAI TO (K09)	246
LAI HING (K10)	190
TSUEN WAN RURAL WEST (K11)	455
TSUEN WAN RURAL EAST (K12)	604
LUK YEUNG (K13)	232
LEI MUK SHUE EAST (K14)	774

<i>2007 DC Election</i>	
<i>Constituency name and code</i>	<i>No. of electors transferred to the present constituency due to a change of principal residential address</i>
LEI MUK SHUE WEST (K15)	145
SHEK WAI KOK (K16)	145
CHEUNG SHEK (K17)	89
TUEN MUN TOWN CENTRE (L01)	146
SIU CHI (L02)	183
SIU TSUI (L03)	64
ON TING (L04)	60
YAU OI SOUTH (L05)	83
YAU OI NORTH (L06)	108
TSUI HING (L07)	149
SHAN KING (L08)	134
KING HING (L09)	140
HING TSAK (L10)	89
SAN HUI (L11)	140
SAM SHING (L12)	151
HANFORD (L13)	268
FU SUN (L14)	89
YUET WU (L15)	66
SIU HEI (L16)	100
WU KING (L17)	74
BUTTERFLY (L18)	117
LOK TSUI (L19)	120
LUNG MUN (L20)	127
SAN KING (L21)	75
LEUNG KING (L22)	45
TIN KING (L23)	49
PO TIN (L24)	884
KIN SANG (L25)	74
SIU HONG (L26)	98
PRIME VIEW (L27)	317
FU TAI (L28)	81
TUEN MUN RURAL (L29)	316
FUNG NIN (M01)	147
SHUI PIN (M02)	198
NAM PING (M03)	78
PEK LONG (M04)	90
YUEN LONG CENTRE (M05)	165
FUNG CHEUNG (M06)	337
SHAP PAT HEUNG NORTH (M07)	604
SHAP PAT HEUNG SOUTH (M08)	454
PING SHAN SOUTH (M09)	370
PING SHAN NORTH (M10)	192
HA TSUEN (M11)	434
TIN SHING (M12)	101
SHUI OI (M13)	89
SHUI WAH (M14)	75
CHUNG WAH (M15)	108
YUET YAN (M16)	392
FU YAN (M17)	475

<i>2007 DC Election</i>	
<i>Constituency name and code</i>	<i>No. of electors transferred to the present constituency due to a change of principal residential address</i>
YAT CHAK (M18)	75
TIN HENG (M19)	55
WANG KING (M20)	150
KINGSWOOD NORTH (M21)	329
KINGSWOOD SOUTH (M22)	249
TIN YIU (M23)	84
TSZ YAU (M24)	88
FAIRVIEW PARK (M25)	172
SAN TIN (M26)	129
KAM TIN (M27)	160
PAT HEUNG NORTH (M28)	122
PAT HEUNG SOUTH (M29)	344
LUEN WO HUI (N01)	152
FANLING TOWN (N02)	261
CHEUNG WAH (N03)	139
WAH DO (N04)	145
WAH MING (N05)	79
YAN SHING (N06)	114
SHING FUK (N07)	147
SHEUNG SHUI RURAL (N08)	191
YU TAI (N09)	766
CHOI YUEN (N10)	148
SHEK WU HUI (N11)	155
TIN PING WEST (N12)	26
FUNG TSUI (N13)	171
SHA TA (N14)	82
TIN PING EAST (N15)	155
QUEEN'S HILL (N16)	418
TAI PO HUI (P01)	178
TAI PO CENTRAL (P02)	143
CHUNG TING (P03)	131
TAI YUEN (P04)	67
FU HENG (P05)	59
YEE FU (P06)	99
FU MING SUN (P07)	134
KWONG FUK AND PLOVER COVE (P08)	107
WANG FUK (P09)	95
TAI PO KAU (P10)	429
WAN TAU TONG (P11)	82
SAN FU (P12)	235
LAM TSUEN VALLEY (P13)	412
PO NGA (P14)	84
TAI WO (P15)	62
OLD MARKET AND SERENITY (P16)	195
HONG LOK YUEN (P17)	255
SHUEN WAN (P18)	303
SAI KUNG NORTH (P19)	421
SAI KUNG CENTRAL (Q01)	66
PAK SHA WAN (Q02)	210

<i>2007 DC Election</i>	
<i>Constituency name and code</i>	<i>No. of electors transferred to the present constituency due to a change of principal residential address</i>
SAI KUNG ISLANDS (Q03)	79
HANG HAU EAST (Q04)	119
HANG HAU WEST (Q05)	166
WAN PO (Q06)	231
WAI DO (Q07)	825
KIN MING (Q08)	82
CHOI KIN (Q09)	121
O TONG (Q10)	459
FU KWAN (Q11)	727
NAM ON (Q12)	354
HONG KING (Q13)	501
TSUI LAM (Q14)	118
PO LAM (Q15)	59
YAN YING (Q16)	222
WAN HANG (Q17)	240
KING LAM (Q18)	91
HAU TAK (Q19)	85
FU NAM (Q20)	375
TAK MING (Q21)	151
SHEUNG TAK (Q22)	82
KWONG MING (Q23)	129
SHA TIN TOWN CENTRE (R01)	230
LEK YUEN (R02)	134
WO CHE ESTATE (R03)	73
CITY ONE (R04)	215
YUE SHING (R05)	203
WONG UK (R06)	198
SHA KOK (R07)	178
POK HONG (R08)	62
JAT MIN (R09)	21
CHUN FUNG (R10)	112
SUN TIN WAI (R11)	117
CHUI TIN (R12)	114
HIN KA (R13)	55
LOWER SHING MUN (R14)	172
KENG HAU (R15)	202
TIN SUM (R16)	77
SUN CHUI (R17)	121
TAI WAI (R18)	199
CHUNG TIN (R19)	976
SUI WO (R20)	125
FO TAN (R21)	274
CHUN MA (R22)	162
CHUNG ON (R23)	205
KAM TO (R24)	179
SUNSHINE CITY (R25)	303
LEE ON (R26)	170
FU LUNG (R27)	96

<i>2007 DC Election</i>	
<i>Constituency name and code</i>	<i>No. of electors transferred to the present constituency due to a change of principal residential address</i>
KAM YING (R28)	168
YIU ON (R29)	64
HENG ON (R30)	48
ON TAI (R31)	212
TAI SHUI HANG (R32)	96
YU YAN (R33)	1 040
BIK WOO (R34)	257
KWONG HONG (R35)	74
KWONG YUEN (R36)	64
KWAI HING (S01)	149
KWAI SHING EAST ESTATE (S02)	92
UPPER TAI WO HAU (S03)	149
LOWER TAI WO HAU (S04)	116
KWAI CHUNG ESTATE (S05)	1 621
SHEK YAM (S06)	220
ON YAM (S07)	101
SHEK LEI EXTENSION (S08)	127
SHEK LEI (S09)	139
TAI PAK TIN (S10)	135
KWAI FONG (S11)	103
WAH LAI (S12)	108
LAI WAH (S13)	106
CHO YIU (S14)	66
HING FONG (S15)	171
LAI KING (S16)	84
KWAI SHING WEST ESTATE (S17)	129
ON HO (S18)	157
WAI YING (S19)	191
TSING YI ESTATE (S20)	83
GREENFIELD (S21)	183
CHEUNG CHING (S22)	107
CHEUNG HONG (S23)	89
SHING HONG (S24)	96
TSING YI SOUTH (S25)	290
CHEUNG HANG (S26)	39
CHING FAT (S27)	101
CHEUNG ON (S28)	31
LANTAU (T01)	155
YAT TUNG ESTATE NORTH (T02)	1 100
YAT TUNG ESTATE SOUTH (T03)	104
TUNG CHUNG NORTH (T04)	609
TUNG CHUNG SOUTH (T05)	161
DISCOVERY BAY (T06)	162
PENG CHAU AND HEI LING CHAU (T07)	64
LAMMA AND PO TOI (T08)	47
CHEUNG CHAU SOUTH (T09)	71
CHEUNG CHAU NORTH (T10)	76
Total	81 570

Annex 2

Number of electors transferred to Hong Kong Island GC
due to a change of their principal residential address

<i>2007 Legislative Council Hong Kong Island GC By-Election</i>	
<i>Constituency name</i>	<i>No. of electors transferred to Hong Kong Island GC due to a change of principal residential address</i>
Hong Kong Island	3 827

Annex 3

2007 DC Election

Central and Western District

<i>Constituency</i>	<i>No. of persons not finding their names in the poll register in the polling station</i>
Chung Wan	45
Mid Levels East	6
Castle Road	12
Peak	42
University	4
Kennedy Town and Mount Davis	7
Kwun Lung	177
Belcher	129
Shek Tong Tsui	76
Sai Ying Pun	129
Sheung Wan	34
Tung Wah	94
Centre Street	68
Water Street	48

Annex 4

Number of Ballot Papers endorsed with the words "TENDERED" issued
in 2003 DC Election

<i>2003 DC Election</i>	
<i>Constituency</i>	<i>No. of ballot papers endorsed with the words "TENDERED"</i>
Castle Road	1
Tsui Wan	1
Mount Parker	1
South Horizons East	2
Tin Wan	1
Mong Kok North	1
Lai Kok	1
Un Chau	2
So Uk	1
Lok Man	1
Sheung Lok	1
Kai Tak	1
Hoi Sham	1
Ka Wai	1
Wang Tau Hom	1
Choi Wan East	1
Kai Yip	1
Jordan Valley	1
Lee On Tin	1
Hiu Lai	1
Sau Mau Ping South	1
Hing Tin	1
Yau Tong Sze Shan East	1
Clague Garden	2
Shan King	1
Siu Hong	1
Nam Ping	1
Ha Tsuen	1
Yuet Yan	1
Fu Yan	1
Fanling Town	2
Tin Ping West	1
Tai Yuen	1
Fu Heng	1
Wang Fuk	1

<i>2003 DC Election</i>	
<i>Constituency</i>	<i>No. of ballot papers endorsed with the words "TENDERED"</i>
Tai Wo	1
Pak Sha Wan	1
Chung On	2
Kwai Hing	1
On Ho	1
Cheung Hang	1
Yat Tung	5
Total	51

Annex 5

Number of Ballot Papers endorsed with the words "TENDERED" issued
in 2004 Legislative Council Election

<i>2004 Legislative Council Election</i>			
<i>GC</i>		<i>Functional Constituency</i>	
<i>Constituency</i>	<i>No. of ballot papers endorsed with the words "TENDERED"</i>	<i>Constituency</i>	<i>No. of ballot papers endorsed with the words "TENDERED"</i>
Hong Kong Island	24	Education	9
Kowloon West	19	Legal	0
Kowloon East	28	Accountancy	1
New Territories West	28	Medical	1
New Territories East	24	Health Services	0
Total	123	Engineering	0
		Architectural, Surveying and Planning	0
		Labour	0
		Social Welfare	0
		Tourism	0
		Financial Services	0
		Sports, Performing Arts, Culture and Publication	0
		Textiles and Garment	0
		Wholesale and Retail	0
		Information Technology	0
		Catering	1
		DC	0
		Total	12

People Who have not Benefited from Rates Concession Granted by Government

19. **DR DAVID LI:** *President, will the Government inform this Council:*

- (a) *of the current number of private domestic properties for which rates are chargeable and, among them, the number of those that have been let; and*
- (b) *whether it knows the number of existing tenants of private domestic properties who have not benefited from the rates concession granted by the Government for the 2007-2008 financial year because they are not liable to pay rates under the tenancy agreements concerned?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY:
President,

- (a) According to the information from the Rating and Valuation Department, there are some 1 613 000 private residential properties chargeable to Government rates, of which some 204 000 are declared as leased properties.
- (b) Among the abovementioned 204 000 leased properties, the rates of some 183 000 are declared to be paid by the landlords, while those of some 16 000 by the tenants. There is no such information about the remaining 5 000 properties. Landlords and tenants are free to negotiate such lease terms as by whom the rates should be paid, whether the rental is rates-inclusive and whether the landlord is required to pass on any rates concession to the tenant. The Administration does not know whether it is the landlord or the tenant of a property who benefits directly from rates concessions.

Hong Kong Education City

20. **MR SIN CHUNG-KAI** (in Chinese): *President, established in 2000 with the support of the Quality Education Fund, the Hong Kong Education City (EdCity), with its Chinese name subsequently changed, was incorporated in 2002 to become a wholly owned subsidiary of the Government. The EdCity website provides teachers with teaching resources to support their professional development. In this connection, will the Government inform this Council:*

- (a) *whether it has set up a mechanism to ensure that the teaching resources developed by the EdCity can cater for the teaching work of teachers; if it has, of its details; if not, the reasons for that;*
- (b) *whether it has assessed teachers' utilization of the teaching resources on the EdCity website; if it has, of the details;*
- (c) *whether it has, in the light of the growing popularity of the Web 2.0 concept in recent years, assessed the situation of teachers sharing resources and teaching experience through the EdCity website; if it has, of the details; and*
- (d) *whether it has formulated measures to encourage teachers to become more proactive in sharing teaching experience through the EdCity website?*

SECRETARY FOR THE CIVIL SERVICE (in the absence of Secretary for Education) (in Chinese): President, the Education Bureau set up the Hong Kong Education City Limited (HKEdcity) to promote the use of information technology (IT) in education to support the education reform. Its value is not limited to sourcing digital resources. It also serves to demonstrate how pedagogical application of IT can improve learning outcomes. The HKEdcity is revamping the contents of its website to better fulfil its mission.

- (a) The HKEdcity has set up an advisory panel to advise it on, among other things, the development of digital learning and teaching resources hosted at its website. The panel is chaired by a school principal with members comprising representatives of front-line teachers, teacher education institutions, the social services sector, parents organizations, the IT industry, and the Education Bureau. Besides, the HKEdcity also formed various teacher communities to facilitate teachers of different key learning areas to share experiences and resources. These communities are making valuable contributions to steering the development and sourcing of digital learning and teaching resources.
- (b) The HKEdcity regularly commissions local tertiary institutions to conduct stakeholders' surveys to collect feedback on its services. The last survey was conducted in the third quarter of 2006. In summary, teachers considered that the HKEdcity website was a

useful source of digital teaching resources. However, it was difficult to search for appropriate resources in the website and there was a lack of tools to customize contents.

- (c) Web 2.0 applications generally refer to web-based social networking to foster creativity, collaboration and sharing. Since its inception, the HKEdcity website has been serving as a platform to facilitate online sharing of teaching experience and resources among teachers. At present, subject teachers are using the "subject i-Worlds" on the HKEdcity's website for exchange of teaching experience and sharing of self-produced teaching materials.
- (d) The HKEdcity has produced the online "Teacher TV" channel, which includes videos of good teaching practices, to encourage professional exchange among teachers. In addition, the HKEdcity has recently launched blog services and is developing a wiki platform for collaborative learning to further encourage proactive professional collaboration.

BILLS

First Reading of Bills

PRESIDENT (in Cantonese): Bills: First Reading.

TRADE DESCRIPTIONS (AMENDMENT) BILL 2007

MANDATORY PROVIDENT FUND SCHEMES (AMENDMENT) (NO. 2) BILL 2007

PRODUCT ECO-RESPONSIBILITY BILL

CLERK (in Cantonese): Trade Descriptions (Amendment) Bill 2007
Mandatory Provident Fund Schemes (Amendment)
(No. 2) Bill 2007
Product Eco-responsibility Bill.

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

Second Reading of Bills

PRESIDENT (in Cantonese): Bills: Second Reading.

TRADE DESCRIPTIONS (AMENDMENT) BILL 2007

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): Madam President, I move that the Trade Descriptions (Amendment) Bill 2007 (the Bill) be read the Second time.

The Bill seeks mainly to enhance the existing legislation on consumer protection, with a view to preventing unscrupulous retailers from employing deceptive, misleading and unfair practices in the course of business operation. Besides protecting consumers and tourists, the Bill can also safeguard Hong Kong's hard-earned reputation as a "Shopping Paradise".

The Trade Descriptions Ordinance (the Ordinance) is a major piece of legislation to protect consumers. It prohibits false trade descriptions and misstatements provided in the course of trade. However, its provisions are not adequate in dealing with certain trade malpractices, where dishonest retailers induce consumers to enter into transactions by giving misleading price indications, using misleading terminologies, making false or misleading representations in relation to after-sale maintenance services, inclusion or otherwise of certain accessories, or sponsorship of celebrities or prestigious organizations.

I shall now give a concise account of the major provisions and justifications of the Bill.

First, we propose to expand the definition of "trade description" to include certain matters relating to warranty and after-sale repair and maintenance services for goods.

Second, we propose to add three new provisions to prohibit certain types of misleading practices and false representations.

The first provision requires retailers to show clearly and conspicuously the weight unit of goods if the weight unit is included in the price indicated on the price label when they display goods for sale.

The second provision requires retailers to inform customers before they make payment if the price of five types of electronic products, namely, digital camera, digital camcorder, mobile phone, digital audio player (commonly called MP3) and portable multimedia player (commonly called MP4), does not include basic accessories.

The third provision prohibits retailers from inducing customers to enter into a transaction by making false or misleading representations regarding a retailer's connection with or endorsement by individuals or bodies of good standing and reputation.

Lastly, we propose to align the level of penalties for the above new offences with the existing provisions. This means that a person who commits such an offence is liable on conviction on indictment to a fine of \$500,000 and to imprisonment for five years.

Madam President, the Government's proposals in the Bill can already strike a balance between the reasonable interests of consumers and retailers. Between August and September last year, we consulted the industries, and most of the trade associations concerned expressed support for the legislative proposals in the Bill. The industries generally agree that the amendment can enhance consumers' confidence, and this way, law-abiding retailers will benefit. If the Legislative Council passes the legislative proposals concerned, I shall appoint a commencement day for the Ordinance by notice published in the Gazette, and I shall prescribe a six-month grace period for retailers to make full preparations.

The Government has the responsibility of enhancing the protection of consumers and tourists. The early passage of the Bill will not only enhance consumers' and tourists' confidence in shopping in Hong Kong, but also help promote the growth of the retail and tourism industries, thus consolidating Hong Kong's status as a "Shopping Paradise".

With these remarks, Madam President, I sincerely hope that Members can support and pass the Bill. Thank you, Madam President.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Trade Descriptions (Amendment) Bill 2007 be read the Second time.

In accordance with the Rules of Procedure, the debate is now adjourned and the Bill is referred to the House Committee.

**MANDATORY PROVIDENT FUND SCHEMES (AMENDMENT) (NO. 2)
BILL 2007**

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, I move that the Mandatory Provident Fund Schemes (Amendment) (No. 2) Bill 2007 (the Bill) be read the Second time.

The Bill makes a number of legislative proposals to improve the operation, in particular the enforcement, of the Mandatory Provident Fund System (MPF System), with a view to enhancing the protection of employees and MPF scheme members. These legislative proposals have been put forward by the Mandatory Provident Fund Schemes Authority (MPFA) on the basis of its operational experience. The MPFA has fully consulted the MPF Schemes Operation Review Committee and the Mandatory Provident Fund Schemes Advisory Committee, which comprise representatives of employers, employees and the relevant sectors. On 8 November last year, we also briefed the Legislative Council Panel on Financial Services on the amendment proposals of the Bill. Members of the Panel all expressed support for the proposals.

One of the major amendments proposed in the Bill is to provide clearly in the Ordinance that an employer who does not enrol its relevant employee in an MPF scheme is still liable to pay mandatory contributions. The existing legislation only empowers the MPFA to take criminal and civil actions against employers for non-payment of MPF contributions in cases where an employee is registered in an MPF scheme. However, where an employer has failed to enrol an employee in an MPF scheme and thus has not been making mandatory contributions for the employee, criminal prosecution could be brought against the employer for non-enrolment but no legal action could be taken against the employer for its non-payment of mandatory contributions. We propose to make a legislative amendment to plug this loophole, so as to ensure that employees in non-enrolment cases will not be deprived of their entitlement to mandatory contributions. We also propose to add a new provision to stipulate that the

Court will have a discretionary power to mandate an employer to enrol its employees in an MPF scheme and to pay the outstanding contributions and contribution surcharges as appropriate, with a view to increasing the deterrent effect on employers.

The Bill also proposes to increase the maximum penalty for failure to enrol a relevant employee in an MPF scheme or to make mandatory contributions for the employee to a fine of \$350,000 and a prison term of three years, to bring it on a par with the maximum penalty for default on wage payment under the Employment Ordinance. Besides, we also propose to impose a heavier penalty on an employer who, having deducted an employee's mandatory contribution from the latter's relevant income, fails to pay the contribution to the approved MPF scheme. The proposed maximum penalty for this offence is a fine of \$450,000 and a prison term of four years. This is meant to highlight the seriousness of the offence. Other legislative proposals include the addition of new provisions to make it an offence for an employer participating in an MPF scheme to provide false or misleading information in the pay-records given to employees and to improve the MPFA's approval mechanism in respect of indirect controllers of trustees.

Madam President, the various amendment proposals in the Bill all seek to enhance enforcement and supervision in relation to the MPF System, with a view to providing employees with effective and comprehensive protection. I hope that Members can support the Bill. Thank you, Madam President.

PRESIDENT (IN Cantonese): I now propose the question to you and that is: That the Mandatory Provident Fund Schemes (Amendment) (No. 2) Bill 2007 be read the Second time.

In accordance with the Rules of Procedure, the debate is now adjourned and the Bill is referred to the House Committee.

PRODUCT ECO-RESPONSIBILITY BILL

SECRETARY FOR THE ENVIRONMENT (in Cantonese): Madam President, I move that the Product Eco-responsibility Bill (the Bill) be read the Second time.

The principal aim of the Bill is to provide a legal framework for introducing Producer Responsibility Schemes (PRS's), with a view to reducing the environmental impact of prescribed products. The imposition of an environmental levy on plastic shopping bags to curb the indiscriminate use of plastic shopping bags is the first PRS under the Bill.

The waste problem is extremely critical in Hong Kong. In 2006, Hong Kong people generated more than 6.2 million tonnes of municipal solid waste. Our recovery rate has admittedly attained 45%, but every year, as much as 3.4 million tonnes of municipal solid waste is still disposed of in our landfills. If this trend continues, our three strategic landfills will be filled beyond capacity one by one in 10 years.

As early as 2004, the Council for Sustainable Development already initiated a process of extensive discussions and community engagement on the topic of "solid waste management". After studying the views collected, the Government formulated the First Sustainable Development Strategy for Hong Kong and established a series of strategic targets, including *inter alia* the implementation of the "polluter pays" principle to reduce waste and encouragement of recovery and recycling.

On this basis, the Environmental Protection Department (EPD) published "A Policy Framework for the Management of Municipal Solid Waste" in 2005, under which a comprehensive policy on waste management covering the implementation of PRS's is set out to solve the waste problem in Hong Kong in the long run.

PRS's are in line with the "polluter pays" principle, and through the implementation of product eco-responsibility, manufacturers, importers, wholesalers, retailers and also consumers are all made to share the responsibility of waste reduction, recovery and recycling and the proper treatment of end-of-life products. PRS's can take the forms of product take-back schemes, deposit-refund schemes, advance recycling fees and environmental levies. All these forms are already set out in detail in Purpose clause of the Bill.

Regarding plastic shopping bags, our landfill surveys indicate that Hong Kong people on average dispose of more than three plastic shopping bags per person per day. This far exceeds their needs in life and the corresponding figures of their overseas counterparts. We are of the view that a PRS in the

form of an environmental levy is the most effective way to curb the indiscriminate use of plastic shopping bags.

In May last year, the EPD conducted a two-month consultation exercise on imposing an environmental levy on plastic shopping bags. We are glad to note that most people agreed that there was room for reducing the use of plastic shopping bags in their daily life, and that they supported the Government's imposition of an environmental levy under the "polluter pays" principle. We proposed the adoption of a phased approach to impose a 50-cent environmental levy at the retail level, covering chain or large supermarkets, convenience stores and personal health and beauty stores in the first phase. We envisage that following the imposition of this environmental levy, there will be a 50% reduction in the number of plastic shopping bags given away by prescribed retailers. In other words, close to 1 billion plastic shopping bags can be saved a year.

As an active response to public support, we now table the Bill before the Legislative Council for First and Second Readings, proposing to impose an environmental levy on plastic shopping bags as the first PRS. I must point out that the Bill is a piece of "umbrella" legislation because apart from the levy on plastic shopping bags, it also provides the legal framework for introducing PRS's for other products in due course. This point is fully and clearly set out in the Purpose clause of the Bill. Besides, we have also accepted the views of Members and incorporated the major regulatory measures under the PRS for plastic shopping bags into Part 3 of the Bill, so that Members can conduct detailed discussions on and scrutiny of the relevant policy provisions.

Moreover, overseas experience suggests that a piece of "umbrella" legislation would prompt the relevant trades to introduce voluntary waste reduction and recycling programmes. As a matter of fact, we have been encouraging suppliers of different products to implement product recovery programmes on a voluntary basis. I am happy to inform Members that some 20 computer manufacturers and suppliers will launch their territory-wide computer recovery programmes starting from this month. If these programmes prove to be well received by the public, we will consider the application of this approach to other types of products.

Madam President, the Bill lays an important milestone in the solid waste management policy of Hong Kong. The disposal of waste is not our only focus.

Rather, we also want to reduce waste production at source and encourage product recovery and recycling. To promote the reduction, reuse and recycling of products, the public must pitch in, live a green life and share the eco-responsibility.

Therefore, I sincerely hope that Members can support the Bill. In this way, we can create a cleaner and greener Hong Kong for our children.

Thank you, Madam President.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Eco-responsibility Bill be read the Second time.

In accordance with the Rules of Procedure, the debate is now adjourned and the Bill is referred to the House Committee.

Resumption of Second Reading Debate on Bills

PRESIDENT (in Cantonese): We now resume the Second Reading debate on the Mandatory Provident Fund Schemes (Amendment) Bill 2007.

MANDATORY PROVIDENT FUND SCHEMES (AMENDMENT) BILL 2007

Resumption of debate on Second Reading which was moved on 27 June 2007

PRESIDENT (in Cantonese): Mr CHAN Kam-lam, Chairman of the Bills Committee on the above Bill, will now address the Council on the Committee's Report.

MR CHAN KAM-LAM (in Cantonese): President, in my capacity as Chairman of the Bills Committee, I report on the main deliberations of the Bills Committee. In principle, the Bills Committee supports the Mandatory Provident Fund Schemes (Amendment) Bill 2007 (the Bill), which seeks to improve the existing operation of the Mandatory Provident Fund (MPF) System and the protection for

MPF scheme members by amending the principal ordinance, the Mandatory Provident Fund Schemes (General) Regulation (the General Regulation) and the Mandatory Provident Fund Schemes (Exemption) Regulation (the Exemption Regulation). The Bills Committee has held a number of meetings to discuss with the Administration and the Mandatory Provident Fund Schemes Authority (MPFA) the proposed policies and drafting aspects of the Bill. The Bills Committee has also considered the views expressed by nearly 20 organizations representing employers, employees, the trades and various professions.

The Administration proposed to include housing allowance and other housing benefits into the definition of "relevant income" so as to prevent unscrupulous employers from moving what would otherwise be part of the employee's "relevant income" to the deductible item of housing allowance, thereby evading payment of MPF contributions. Most members supported or indicated no objection to the proposal, but we appreciated that some members had expressed reservation on account of the additional contribution burden on employers and employees and the implications of the revised definition of "relevant income" on the calculation of other employment benefits. In order for employers to have sufficient time to prepare for the new requirement, for example, to adjust their payroll systems, the Administration has agreed to defer the commencement of relevant provisions and would move the necessary amendments. The Administration has also clarified that only housing allowance or benefit payable in cash terms would be included as "relevant income" and only for the purpose of calculating MPF contributions.

To address the shortcomings of the existing arrears recovery mechanism, the Administration has proposed to amend the General Regulation to remove the 30-day settlement period and allow the MPFA to not issue surcharge notices to employers in specified circumstances, and to clarify the uncertainty in the law to facilitate the recovery of default contributions by MPFA even if some of the recovery steps cannot be complied with. Members supported the proposed amendments and did not oppose the amendment to defer the commencement of relevant provisions to enable employers to adapt to the removal of the settlement period. In order to facilitate employees' detection of default contributions in a timely manner, members also noted that through the central enquiry line established in August this year and the Internet or other channels as provided by different trustees, employees may check their MPF account balances to ensure early detection of default contributions.

With regard to the amendments to enhance the enforcement of the MPF System, the Bills Committee and deputations, in general, expressed their support. The Administration proposed to amend sections 43C and 43E of the Mandatory Provident Fund Schemes Ordinance (the Ordinance) and section 26 of the Exemption Regulation, to the effect that criminal proceedings may be instituted for an offence under these sections within six months after the offence is discovered by, or comes to the notice of the MPFA. The Bills Committee noted the concern of the Hong Kong Bar Association (the Bar) that the extension of the prosecution period as currently proposed would provide for potentially open-ended periods in cases where offences remained undiscovered for a long time. The Bar suggested that reference should be made to the "long-stop" prosecution period under the Securities and Futures Ordinance. After consideration, the Administration has taken on board the suggestion and will move amendments to the effect that prosecution may be instituted for an offence within six months after it is discovered by the MPFA or the latest within three years of the commission of the offence.

The Bills Committee has also considered the various amendments concerning the improvement to the administration and regulation of the MPF schemes. Members were particularly concerned about the proposed amendments regarding the disclosure of information it has obtained in the exercise and performance of functions to third parties or members of the public, for example, the fees and charges of individual MPF constituent fund. According to the Administration, further disclosure would be implemented under Phase II of the Fee Comparative Platform which would be launched after the enactment of the amendments proposed to existing section 42(1) of the Ordinance. To address members' concern, the Administration will move an amendment to clearly specify in the law the information that can be disclosed by the MPFA.

During the deliberations on the Bill, members reiterated their ongoing concerns about the MPF System and urged the Administration and the MPFA to expedite action to address a number of issues which are not covered in the current Bill. Members noted that the Administration will introduce another amendment Bill to improve enforcement of the existing law to protect against the failure of employers to enrol their employees in MPF schemes and make MPF contributions, and increase the relevant penalties to achieve the deterrent effect. Furthermore, the Administration is considering a number of proposals to tighten

the employees' control over their MPF investments and enhance the protection provided to an employee who lodges a complaint against his employer's non-compliance.

The Bills Committee supports the proposed amendments put forward by the Administration, so no amendments will be proposed under the name of the Bills Committee.

President, now on behalf of the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB), I would like to express our views on the Bill.

One of the main objectives of the Government in amending the MPF law this time is to amend the definition of "relevant income" for the calculation of contributions, to the effect that housing allowance and other housing benefits payable by employers to employees in cash terms will be calculated as part of the latter's "relevant income". In fact, the DAB has reflected time and again to the Government that housing allowance should be included in the definition of "relevant income", we therefore welcome this amendment.

Regardless of the amount of income an employee earns, there is actually a cap on the level of income for calculating MPF contributions, which is currently capped at \$20,000. If the income of an employee is the same as or above this level, further provision of housing allowance by the employer will not impose an additional contribution burden on him or the employee concerned. Among the low-income employees, how many of them do genuinely enjoy housing allowance? Even if they do, I am afraid the number is very few. As to the question of whether these few employees prefer to make less contribution than to contribute more jointly with their employers, we believe it varies with different people.

What is more, the exclusion of housing allowance will very likely become a loophole in law, whereby individual unscrupulous employers may deliberately designate part of their employees' income as housing allowance so as to minimize their contributions and evade their responsibility. As evident in an actual case handled by the Court, an employee of a security company earns a monthly income of some \$5,000, but \$2,000 of it is the so-called housing allowance. Not only is such allowance granted without any proof, but the employee concerned actually has his own accommodation. Apparently, there is

only one reason for the employer concerned to do so, and that is, to evade the responsibility to make MPF contributions.

Although the Court has ruled that all housing allowances excluded under the existing law must be substantiated, and exemptions should not be granted to employers who arbitrarily label part of their employees' income as housing allowance, unscrupulous employers with a deliberate intention to evade their responsibilities can still find many ways out. Given that various allowances granted by employers to employees have to be calculated as income, why is housing allowance alone being excluded? It is indeed very difficult to find a convincing reason for this. It seems that the term housing allowance always give rise to criminality under different systems. In the past, we have seen cases of university professors and civil servants employing malpractices to obtain housing allowances. If the MPF System again permits the exclusion of housing allowance, I am afraid the result will be the same. People will be induced to evade the payment of MPF contributions using all kinds of excuses, and even go so far as to breach the law. This is not only detrimental to employees having weak bargaining power, but will also make supervision and enforcement more difficult.

Surely, some employees may have the genuine need to make accommodation arrangements for their employees due to the nature of the job, as well as the location and hours of work. However, as long as it is provided in kind, it should not be deemed as income even after the passage of this Amendment Bill. For this reason, neither will this amendment affect employers with the genuine need, nor impose an additional contribution burden on the employees concerned.

Furthermore, the amendments have also improved the mechanism for recovering contribution in arrears. For instance, the removal of the 30-day settlement period restriction, which requires that a trustee must report any default case to the MPFA within the 10 days immediately following the contribution day, helps to shorten the whole arrears recovery process. The new law will also specify clearly that even if a trustee or any person fails to comply with certain statutory steps, the MPFA's power to recover arrears will not be prejudiced. In a nutshell, we consider that these amendments can improve the efficiency of enforcement actions, and prevent individual employers from delaying contributions by taking advantage of the settlement period. Since the MPF System has operated for some time, we believe employers are generally

familiar with its administrative operation and there should not be any difficulty in complying with the new requirements.

President, although the Government has made many technical improvements to the operation of the MPF System through this Amendment Bill, certain fundamental problems have yet to be resolved in spite of its implementation for seven years. The most prominent ones are the lack of information about the MPF market, and the high fees and charges that have eroded the benefits of employees. To enhance the transparency of the MPF fees and charges, the MPFA has recently adopted more proactive measures and launched Phase I of the Fee Comparative Platform (FCP). The Bills Committee has also examined the legislative amendments to enhance the MPFA's power to disclose information. We support these amendments and hope that following the passage of the Bill, the scope of information about the FCP and the disclosure of information can be expanded as early as possible, so as to enable the public to gain more knowledge of the details of the charges of individual funds and other information that may affect their investment decision.

However, on the other hand, we consider that the disclosure of information alone without giving the employees the actual right to choose can at best inform them of the information only. After all, it does little to promote competition in the MPF market and compel the trustees to lower their management fees. Therefore, the key to resolving the problem of high fees and charges still lies in granting employees the right to choose trustees. Recently, there are suggestions from the community, *inter alia*, to restrict the number of times that an employee is allowed to change trustees within a certain period of time, or to allow an employee to only transfer part of their accrued benefits. However, we consider that these suggestions can hardly facilitate the flow of funds and effectively promote market competition.

The DAB has all along promoted the "system of portable personal accounts", whereby employees will have every right to choose their MPF trustees. Regardless of the number of times an employee changes jobs in his entire worklife, he will only have one or two MPF accounts, where all contributions made by him or his employers are kept. We believe such a system is capable of conferring on employees the greatest right to choose, thereby promoting market competition. At the same time, this system is simple and straightforward, and can prevent the proliferation of accounts as a result of

employees changing jobs. Wastage of administrative costs can therefore be minimized.

President, we hope that the Government will actively consider the "system of portable personal accounts" proposed by the DAB, so that the entire MPF System can be perfected.

I so submit.

MR WONG KWOK-HING (in Cantonese): Madam President, it has been seven years since the Mandatory Provident Fund (MPF) System came into operation in 2000. Nearly 2.4 million employees and self-employed persons territory-wide have enrolled in MPF schemes, and the total assets of MPF schemes have accumulated to \$250 billion. Each beneficiary is entitled to, on average, more than \$100,000. This is presently one of the most important retirement protection schemes in Hong Kong. According to the Statistical Digest published in September 2007, 54% of the MPF (\$130-odd billion) is used for deposits and investments within Hong Kong; in other words, the MPF System has become an important mainstay of local investment. However, given the three major loopholes found in the existing MPF System, the rights of its major beneficiaries — wage earners at large — may be injured. It is therefore a common phenomenon for employers to indiscriminately default on MPF contributions and for trustees to nibble at the rights of beneficiaries for different reasons or with different fees and charges. In brief, the three major loopholes are the lack of strength in enforcement, lack of transparency in information and lack of freedom in the market.

Madam President, the Mandatory Provident Fund Schemes (Amendment) Bill 2007 (the Bill) is just a start to plug these loopholes, or it can be considered the beginning. Madam President, the amendments proposed in this Bill are mainly the inclusion of housing allowance into the calculation of income, the improvement of enforcement actions together with some technical amendments to prevent unscrupulous employers from taking advantage of the loophole arising from the granting of housing allowance to evade their responsibility of making MPF contributions for their employees. For instance, some unscrupulous employers may pay a so-called monthly salary of \$5,000 to their employees, but \$3,000 of it is designated as housing allowance, leaving only the remaining

\$2,000 as salary, with a view to minimizing the MPF contributions payable by them and evading their responsibilities. I therefore support the relevant amendments.

Furthermore, the proposed amendments in the Bill also allow the Mandatory Provident Fund Schemes Authority (MPFA) to disclose more information. I consider this helpful to scheme members in obtaining more information for investment decisions. After all, the eventual beneficiaries of MPF schemes are no one else but the wage earners, it is therefore imperative for them to gain knowledge of the operation of their MPF schemes. It is absolutely unacceptable that wage earners are unsure about how their contributions are invested in an uninformed manner. At present, there are a total of 19 MPF trustees territory-wide, altogether providing hundreds of different investment portfolios, which are indeed dazzling to the eyes of the general public. If information relating to the relevant investment fails to reach the contributors in full, how can they make the best investment decision and earn the most desirable return?

Madam President, by coincidence, the Mandatory Provident Fund Schemes (Amendment) (No. 2) Bill 2007 was also tabled at this Council for First and Second Readings today, which shows very well that the existing MPF System still has many loopholes. Therefore, I hereby call on the Administration to comprehensively review the entire MPF System to further identify other loopholes. Meanwhile, the Administration should also expedite its work to plug the loopholes so as to protect all MPF beneficiaries, especially the overall interests of wage earners.

Madam President, I said right at the beginning of my speech that the existing MPF System has three major loopholes. And yet, the passage of this Amendment Bill today, coupled with the amendments to be proposed by the Government, are still unable to address the exiting situation. I would like to spend some time elaborating the three major loopholes, the first being the lack of strength in enforcement. I have received many such complaints, showing that recovery of arrears is impossible in many cases. Even if the Court has ruled in favor of the employees, it would be very difficult for the Administration to follow up.

I have a case in hand concerning a dairy product company, which is indeed the most typical example. Thanks to the help of the MPFA, the employee

concerned was willing to come forth as witness. But the "cunning" employer concerned had exhausted all means to evade his responsibility, such as changing his residential address, business address and bank accounts, and even transferring all his paraphernalia, such as a motor car, to other people's accounts. Even though the Court finally ruled in favor of the employee concerned, he got nothing in the end for he had failed to recover the arrears.

All this reflects that either the present or any further legislative amendment is unable to address the following situations. Firstly, why are prosecutions instituted by the Government if and only if the employee concerned come forth to testify? Wage earners, however, may be dismissed if they dare to make reports. The dairy product company is an example. It has defaulted on the payment of contributions for all employees for years, but those who dared to testify against it were subject to summary dismissal. Now, the Government still fails to address the situation where employees reporting the arrears may lose their jobs. Secondly, why is the Government unable to enforce the law and institute prosecution according to the information provided by trustees about defaulting employers? This problem has yet to be resolved. Thirdly, the trustees often submit their reports half or one year later, so when employees are informed of default contributions by employers, the payment has already been defaulted for quite some time. Furthermore, some unscrupulous employers exploit the loopholes in law and repeatedly offer their employees short-term contracts which often do not last for more than 50 days. New contracts will be signed every 50 days so that employees are unable to enjoy the rights conferred by the MPF law. This shows that there is a lack of strength on the part of the Government to take enforcement actions. I therefore urge that the Government should further enhance its enforcement action, and not to turn a blind eye to this problem to prevent employees from getting nothing despite winning the case.

The second loophole is the lack of transparency in information. Earlier, my office conducted a questionnaire survey jointly with the Community, Social and Personal Services (New Territories West) Employees General Union in which 380 people were interviewed, including workers in the trade. Street intercept surveys were also conducted in the factory area. We discovered that there is a serious lack of transparency in information. According to the 380 questionnaires collected, nearly half of the contributors have more than one MPF account or are unsure about the number of MPF accounts they have. Let us look at this table, 33% of the respondents have more than one MPF accounts, whereas 15% indicated that they are unsure about the number of MPF accounts

they have. Let us look at this table, 21% of the respondents have two MPF accounts, 11% has three accounts whereas 15% have no knowledge of the number at all.

Madam President, the question is there are currently 2.53 million preserved accounts. What will happen to these preserved accounts? The trustees may deduct fees from these preserved accounts with different excuses, which include the payment of account preserving fee and minimum balance fee. As a result, the accrued returns of these accounts will automatically dwindle, which is a very serious situation.

Furthermore, we discovered that 65% of the respondents have no idea of the actual gain or losses of their MPF accounts, whereas 66% said that they hardly have any knowledge of the gains or losses of their investments. Neither are there standardized format, definition and items for the Annual Benefit Statement prepared by the 19 authorized trustees for employees. So, members of the public, in general, do not have the slightest idea of the investments they have made. We consider this problem pretty serious as 66% of the beneficiaries know nothing about their investments. How can it be like this?

We also discovered from the surveys that 80% of the public do not know clearly the MPF management fees. We can see from this table that the situation is very serious as 82% of the public have no idea of the amount of management fee charged by each trustee. Let me cite an example. According to the published result of Phase I of the Fee Comparative Platform, there is a difference of nearly nine times between the annual growth rate of the so-called Capital Preservation Fund and the Mixed Assets Fund. It appears that the Capital Preservation Fund can preserve capital, but the beneficiaries are unaware of the increased fee charged by the trustees as a result of purchasing additional insurance for the yield of their Capital Preservation Fund. The fee is therefore increased. However, the beneficiaries are left in the dark. Therefore, the lack of transparency in information is indeed a serious problem.

I hope that the Government and the MPFA will expeditiously improve the situation. I have all along suggested the MPFA to introduce a "passbook" system or the so-called "portable personal accounts" to enable easy access by members of the public to their MPF accounts. The result of the questionnaire survey conducted earlier shows that 83% of the public supports the introduction of MPF "passbooks". Here is the result of the survey. With the introduction

of MPF "passbooks", members of the public will then know exactly whether or not their employers have made timely contributions, the amount of investment returns and the fees deducted by trustees. Whenever a person changes jobs, his MPF benefits will be transferred to the next account and all information will be clearly set out. I hope that the Secretary will pay attention and take note of this strong public aspiration. Here, I would like to reflect this strong aspiration of the public.

Madam President, last of all, I would like to speak on the third loophole, that is, the lack of freedom in the market. Since trustee companies are presently chosen by employers, so are the MPF schemes, this has induced those companies to ask for a sky-high price and charge a high administrative and management fee with excessively low transparency. Even if the employees are dissatisfied with the fees charged or the investment returns, they cannot switch to another trustee company at will. On the other hand, we can see that an employer may be very reluctant to change the trustee company if he has business or financial transactions with the latter. Undoubtedly, this fails to provide the best safeguard to employees' benefits and future retirement protection. The reason is simple. Employers may probably negotiate with the trustee company such commercial issues as the financial or loan arrangements that will be beneficial or favourable to them, and then bundle them up to deny the employees a free choice. I think that this is most unjust and unfair. Hence, I also propose to amend the legislation to the effect that all employees will be allowed to choose at their own will a trustee which they considered reliable to look after their entire MPF (including the contributions from both the employers and employees). This will enable all employees to become "freemen". Madam President, ward offices of the three Members of the Federation of the Trade Unions have long since put in place such an arrangement, whereby employees are allowed to choose their own trustees. There has not been any problem with the operation in the past few years and we have been told that their benefits have increased. For this reason, I eagerly hope that the Secretary may take note of the heartfelt wish of the wage earners and release the right to them such that they can choose their trustees freely, so as to enhance the employees' sense of self-management in respect of retirement protection and arouse their motive to secure better returns.

I support this motion, which is a government motion, but I do hope that the Government will make more comprehensive and improved amendments. I so submit. Thank you, Madam President.

MR WONG TING-KWONG (in Cantonese): Madam President, I have to declare my interest first. I am a non-executive director of the Mandatory Provident Fund Schemes Authority (MPFA).

After conducting a review of the Mandatory Provident Fund (MPF) System recently, the MPFA has made a number of recommendations to improve the System. Therefore, the purpose of the Mandatory Provident Fund Schemes (Amendment) Bill 2007 (the Bill) is to implement the MPFA's recommendations on legislative amendments.

The proposed amendments in the Bill seek to, *inter alia*: (a) include housing allowance and other housing benefits in the definition of "relevant income" for computation of mandatory contributions; (b) streamline the mechanism for recovering contribution in arrears by employers; (c) enhance the enforcement of the MPF System, and improve the administration and regulation of MPF schemes. The DAB supports all these amendments.

Since the MPFA discovered that some employers had deliberately designated part of their employees' salaries as what they claimed as housing allowance or other housing benefits for the purpose of reducing the amount of salary, thereby reducing the payable mandatory contributions — the MPFA has received 400 relevant complaints since the MPF System came into operation in 2000 — the DAB therefore agrees with the proposed amendment to include housing allowance and other housing benefits to the definition of "relevant income" for computation of mandatory contribution, so as to avoid abuse by employers and exploitation of employees. Some employers expressed the concern that the proposal may impose an additional contribution burden on employers providing housing allowance, but I do not think that the impact will be very great. Given that MPF contribution is currently capped at \$1,000, and that in most cases, housing allowance is generally enjoyed by senior managers whose monthly salaries usually exceed \$20,000, so even if contribution has to be made in respect of the housing allowance as well, the proposed amendment will not increase the amount of contributions payable by employers as the monthly salaries and housing allowance altogether should have exceeded the prescribed limit. As I reckon that the number of employees earning less than \$20,000 monthly and receive housing allowance is not large, I believe the proposed amendments will not create too much impact on those law-abiding employers and employees. And yet, I still hope that the Administration will provide a

reasonable transitional period so that employers can prepare for any changes to the administrative system in the light of the new requirements.

As for the proposed amendment to remove the 30-day settlement period for employers to make contributions, and allow the MPFA to not issue surcharge notices to employers in specified circumstances to facilitate the recovery of default contributions by the MPFA even if some of the recovery steps cannot be complied with, the DAB agrees that the relevant amendment can streamline the existing complicated procedures for recovery of arrears. I also believe the relevant requirements will not create great difficulty in adaptation for law-abiding employers as the trustee will first enquire with the employer concerned within the 10 days immediately following the contribution day in case the employer fails to make payment on or before the contribution day, and will report the default cases to the MPFA only if its effort is of no avail.

Furthermore, the DAB also agrees to the proposed amendment to enhance enforcement action. For example, if the registered address of a company is not valid such that there is nobody to acknowledge receipt of the summons, the summons may then be served on the employer at any place at which he carries on business so as to increase the chance of successful service of summons. What is more, the proposal explicitly empowers the MPFA to require an employer to produce records within a specified period, irrespective of whether or not it is in the course of on-site inspections, to ensure employers' compliance with the provisions of the MPF legislation. The Bill also proposed an extension of the existing prosecution time bar, which is six months after the occurrence of an offence, to the effect that criminal proceedings may be instituted for the offence within six months after the offence is discovered by or comes to the notice of the MPFA, or within three years of the commission of the offence. These proposals enable law-enforcement actions to be taken more efficiently and smoothly.

The DAB agrees to the proposed amendments to improve the administration and regulation of MPF schemes, which include accepting the transfer of an employee's accrued benefits when his employer cannot be located or refuses to submit the requisite notice before the prescribed time with a notice of cessation of employment by statutory declaration. Furthermore, the amendments also enable the MPFA to disclose information under certain specified circumstances to facilitate scheme members to make investment decisions, and to include additional content requirements as specified by the

MPFA in the Annual Benefit Statement, in order to keep abreast of the times and make changes in the light of market development, such as the disclosure of fees. The Bill also proposes that MPFA's consent may override the requirement on the trustee to obtain scheme members' consent for scheme restructuring, and seeks to streamline the process during which certain benefits become unclaimed benefits; set out clearly that certain MPF benefits will become unclaimed benefits if the trustee cannot locate the scheme members concerned for six months, and remove the requirement for trustees to publish newspaper notices to locate untraceable scheme members.

I urge and believe that the authority concerned will, after the passage of the Bill, launch widespread publicity and education programmes to enable the public to get a good grasp of the new initiatives, and encourage trustees to enhance communication with their clients with a view to facilitating proper adaptation and transition of both employers and employees.

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

MR ANDREW LEUNG (in Cantonese): Madam President, just as Mr CHAN Kam-lam, Chairman of the Bill Committee, has pointed out, the amendments mainly fall on four parts: First, amending the definition of "relevant income" in the Ordinance for computation of mandatory contributions by including housing allowance and other housing benefits; second, improving the existing mechanism for recovering contribution in arrears by employers; third, enhancing enforcement; and fourth, improving the administration and regulation of the existing MPF schemes. The Liberal Party and I support the relevant amendments and consider them useful in enhancing the protection of employees. For employers who are required by law to make contributions for their employees, no additional contribution burden will be imposed.

During the discussions on the Bill, Members who participated in the discussion on the inclusion of housing allowance in the definition of "relevant income" did not raise any objection. Being a representative of the industrial sector, I am aware that employers will not provide housing allowance for each and every employee, but only those at the medium and senior level in most cases. Since this group of employees' monthly salaries may exceed the present \$20,000 limit for computation of MPF contributions, in theory, the relevant amendments should not have any great impact on the monthly contributions made by the

employers and employees. We also understand that such amendments may drive up the amount of contributions made by a small group of employers and employees, but we hope that Members can support these amendments for the sake of enhancing the employees' retirement protection.

Regarding the amendments to improve the mechanism for recovering contribution in arrears and enhance enforcement, we support them in principle for they can streamline the relevant procedures and remove the obstacles in making timely recovery of contribution in arrears, thereby strengthening enforcement actions against employers who intentionally default on the payment of contributions or evade their responsibility to make contributions for their employees, thus providing further protection to employees from unreasonable default payment of MPF contributions.

Finally, the Liberal Party also supports the Administration's proposed amendment to improve the administration and regulation of MPF schemes.

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

MISS CHAN YUEN-HAN (in Cantonese): Madam President, we support the proposed amendments to the MPF legislation in several aspects, though considerably strong criticisms were made by me during the scrutiny of the relevant Bill. Actually, due to some problems which have already existed, we as Members from the labour sector serving the public have already received a lot of complaints concerning this. Very often, we cannot understand why the matter can still not be properly settled after such a long time.

For instance, although the employee involved in a case handled by me found something wrong with his employer a long time ago and reported the situation to the MPFA or the fund management, the matter was let to vanish into obscurity in the end. During the course, the contribution made by the employee was collected by his employer. However, the employee was absolutely helpless to do anything, even though no contribution was made by his employer. He could only take action one year later after his employer had disappeared. The Secretary might probably say that the employee should have taken stronger actions promptly. However, as pointed out by Mr WONG Kwok-hing or some other colleagues earlier, what actually happened was who came forward to say

anything would be executed first, especially when the economic conditions were not entirely favourable several years ago. Very often, grass-roots workers dared not come forward but only felt a great sense of helplessness. As a result, they could only request us, as representatives of public opinion, to come forward to speak for them. However, even though we had issued letters or made all the efforts needed, their cases would still vanish into obscurity eventually.

Hence, the Hong Kong Federation of Trade Unions conducted a series of study and survey early last year and found that there were tens of thousands of similar cases. Therefore, I welcome the Secretary's appearing before this Council today saying that something will be done. However, we have a lot of feelings about this. We have no opinion about the Government's introduction of amendments today in relation to the contributions made under all sort of pretexts and a variety of situations. However, despite our lengthy discussions on these situations, the Government has regrettably failed to make any effort in this regard. This is why we will definitely support the introduction of the Bill to this Council today. During the course of scrutiny, I had not talked much about this issue. Strictly speaking, I was already tired of discussing it. What is tabled before this Council now is "OK" to me.

Next, I would like to say a few words about some warnings issued by me during the scrutiny of the Bill, which are relevant to the proposal raised by Mr WONG Kwok-hing earlier. Actually, Mr WONG's proposal is related to some technical problems, such as whether capital preservation or accounts transfer is possible, which can be resolved very easily by the Government. Owing to these problems, it is worthwhile for the Government to consider whether the introduction of "passbook" accounts will benefit employees. Mr WONG has also cited my office as an example. Since the staff working in my office are allowed to make their own choice, they are very pleased with it. For instance, they made a lot of money because they opted for some high-risk investment options in the past. This year, they adopt a new investment strategy instead. In other words, they play a major role in making their decision.

Of course, one of the important reasons is that my colleagues are well-versed in various legislation. Therefore, they can provide for future contingencies by making a lot of efforts in their own interest and do something for their retirement protection. This shows that not only people who have a surplus can take part in this sort of schemes for their own benefit, whereas grass-roots people cannot do so even if they want to. From an objective point

of view, this is not actually the case. Many people are capable of doing this, only that the Government's existing system makes things difficult for them.

Very often, when this issue was mentioned, my colleagues would often say that capital preservation funds were introduced after CHAN Yuen-han had joined this Council in 1995, as the primary legislation was passed prior to 1995. As for the subsidiary legislation, its committee was set up after 1995, and Mr Ronald ARCULLI was the Chairman. Actually, we wished to introduce something similar to a Central Provident Fund operated by the Government back then to give grass-roots people who were not well-versed in the investment market or information of this sort one more option. Therefore, during our discussions with Mr Rafael HUI, the principal government official responsible for the legislation, we proposed that we learn from Chile by adopting an approach which could really achieve capital preservation. In other words, when contributors could not obtain proper returns from the market, the Government would protect them by certain means so as to guarantee them a profit of a certain figure, unlike what we are doing at the moment.

Months ago, the MPFA revealed that certain groups of people, particularly those administering insurance schemes, were problematic. Should their practice be allowed to continue, contributors will have a lot of money deducted after a certain number of years. As the news has caused a public outcry, I earnestly hope that the SAR Government can reflect on whether the scheme can achieve capital preservation, a topic being discussed today, and how to ensure that grass-roots people can at least enjoy very meagre protection when they retire. We are extremely worried that they might not be able to enjoy even meagre protection by the time they retire. This is because a major point of view expressed by Members during the scrutiny of the Bill was that, insofar as the MPF was concerned, members of the public would eventually not be able to enjoy even the very meagre protection for their retirement life without government assistance. This is a cause of concern to us. Actually, a similar situation occurred six months ago when all Members could see that the charging of exorbitant fees under MPF schemes would cause great damage to us. This is precisely our concern.

There is another issue which does not fall within the scope of the Bill. However, it has been repeatedly raised by me in this Council, including during the scrutiny of subsidiary legislation. The point raised by me was that low-income earners were not required to make contributions; only their

employers were required to do so. The wages of these people were extremely low, and remain so even today. If what they are going to receive in the future is only the contribution made by their employers, is it enough to support their living in their old age? This issue has all along been a subject of our discussion. Furthermore, the Secretary, as an expert and an academic, has to address and consider a situation like this. For instance, I have changed jobs several times before but, unfortunately, I have ended up either being made redundant or losing my job due to closure. According to the existing practice, MPF contributions will be offset. I was recently told by a company that it was left with no money because the employer's contribution was used to offset the severance payment, whichever was the higher. Naturally, the employer's MPF contribution can be granted in lieu of the severance payment. In the end, employees receive nothing, not even a cent. They can only use the money originally set aside for retirement to support their retirement life.

Why do I raise this issue again today even though it does not fall within the scope of the Bill? Because I wish to tell the Secretary that it is not until today that these issues are raised for discussion. I had already proposed some amendments during the scrutiny of the legislation back in 1995. However, I was not allowed to move the amendments for the reason that the content of my amendments were not consistent with the subject. Thereafter, I repeatedly raised the point that the offsetting arrangement would pose a very serious problem. Now, seven years have passed. In other words, this point has been discussed for over seven years, from the time when there was no MPF to the present when MPF is already put in place. If we calculate from the year 1995, I think the discussion on this has dragged on for more than a decade. I sincerely hope that the Government will not make the same mistake by repeating what is targeted by the amendments today.

It has been the sincere hope of the labour sector and grass-roots people that the Government can give housing allowance a clearer definition, make improvement in administration and regulation, and take more timely actions in recovery. Although these are merely technical issues that have been discussed for a long time, they have all along been affecting the people. My question is: Is the money for our retirement life really enough to support us? I want to tell the Secretary it is actually not enough. Why? Madam President, if I have changed jobs several times and my contribution was offset every time I changed my job, how much money will be left in the end? I think Members can do the computations.

Therefore, summing up the amendments proposed this time, I very much hope that some problems can be tackled. Those working with the MPFA should have a pretty good idea of, and be greatly concerned about, these problems. We greatly support the amendments proposed by the Government today. However, I do not want to keep repeating these problems again and again. Furthermore, on each occasion, such discussions spanned not one or two months, but a year or two instead. I hope the Government can, in the face Hong Kong's ageing problem, target on some of the technical problems in the existing legislation, as pointed out by my colleague earlier, and the major loopholes in the existing legislation, as pointed out by me just now, and make some efforts. I also hope that the Secretary can consider my request. Otherwise, the employees will be unable to lead a decent living in their old age due to these problems. In the end, all taxpayers will have to give them assistance. However, this is the last thing we wish to see.

Madam President, we might be prepared to face such a situation if there were no MPF. However, given that MPF has already been established, why does the Government act so slowly in amending the legislation? The work relevant to the several issues I mentioned earlier has been proceeding very slowly. Despite our lengthy discussions, the work has still not started. I really have no idea what has happened. Later, I will continue to raise a number of issues relating to the problems confronting us upon retirement. I hope the Secretary can give me a reply later. I still wish to ask this question: Insofar as these issues are concerned, is the Government adopting an icy cold attitude of "indifference", like how the Permanent Secretaries behave when they appear before this Council? Should the Government act in this manner, I will certainly make criticisms. I have once criticized the official in charge of the scrutiny of the legislation because I felt that he should at least give me a response, telling me what the Government could do, when confronted by these problems, to expedite the work to make proper preparations for the retirement of works.

Madam President, I so submit.

MR LEE CHEUK-YAN (in Cantonese): First of all, President, I would like to state at the outset that I have all along believed that the MPF System is not helpful to workers insofar as retirement is concerned. When the legislation was enacted, I voted in opposition because we considered a universal retirement

protection scheme a better option. However, we are not discussing this today. We are focusing our discussion merely on the MPF legislation.

The MPF legislation certainly affects the rights and benefits of all wage earners in the territory. It is a downright dirty act to exploit their rights and benefits. It is also unacceptable for employers to evade making contributions by various means for exploitation purposes. We certainly welcome the plugging of the loopholes in this piece of legislation.

The first loophole, concerning housing allowance, is really ridiculous. Members would definitely consider housing allowance an attractive perk for employees. It is especially ridiculous that even security guards, the lowest-paid employees in Hong Kong, are offered housing allowance. If foreigners hear about this, they will certainly find it amazing for security guards to enjoy housing allowance. However, the allowance happens to be a cheat. For a security guard earning a monthly salary of \$5,000 who needs to spend \$1,000 or \$2,000 on public housing rental payment, he is offered a housing allowance of \$2,500, or even more. Although his salary is around \$5,000, he simply does not need to spend \$2,500 in rent. Why would his employer treat him so kindly by offering him housing allowance? His employer is doing this simply for the sake of saving his MPF contribution.

Let us image this. Deducting 5% from \$5,000 equals to \$250, and deducting 5% from \$2,500 equals to \$100 or so. If \$100 or so can be saved from each worker, how much can a security firm or security guard firm with around 1 000 employees save? How many years have passed since the launch of the MPF schemes back in 2000? This loophole has since existed in the legislation. Employers have actually saved a lot of money as a result of the granting of housing allowance over the years.

The Hong Kong Confederation of Trade Union (CTU) has once organized workers to file complaints. It was found that even if the legislation was not yet amended — the MPFA had also indicated in its reply that prosecutions could be initiated and, in some winning cases, workers had managed to recover some of their contributions. In spite of this, there were also cases in which workers were defeated. Therefore, upon the amendment of the legislation, all deductions arising out of allowances, such as housing allowance, should be abolished. Furthermore, employers should no longer have any incentive to call some of the wages housing allowance. Instead, it will be called wages, as

employers no longer need to deceive workers because they can simply not do that anymore. I believe many employees will be benefited in the future.

The number of complaints filed in the past is actually alarming. According to the figures provided by the MPFA, 400 complaints, involving 55 occupations and covering 20 000 to 30 000 workers, had been lodged. The situation was so acute that housing allowance accounted for 10% to 65% of the workers' wages. If the loopholes in the legislation can be plugged this time, we believe all such employees will be able to recover their due MPF benefits in the future.

However, it is most terrible that, as the Secretary should be aware, the legislation has no retrospective effect. Although the workers have been exploited during the past seven years, the money is not recoverable. I feel aggrieved for these workers because the legislation does not carry retrospective effect. There is one more question to which I hope the Secretary can give us an unequivocal reply: When will the legislation take effect? As the legislation will not be gazetted immediately to take immediate effect, can the Secretary state clearly later in the meeting when the legislation will take effect so as to let employees know when this problem will cease to exist?

The second loophole we would like the authorities to plug is in fact very ridiculous too. President, although employers failing to make MPF contributions will be pursued by the MPFA and criminally prosecuted, there is a situation under which they cannot be pursued. It is only after an employee has been registered that the MPFA can recover MPF contributions from his employer should the latter fail to make MPF contributions. If this employee is not registered from the very beginning, there is simply no way to recover MPF contributions for him because it is stipulated in the legislation that a lawsuit must be initiated within six months. If an employer has not registered his employee after one to two years, and the employee does not know it or files a complaint only after one to two years, that is, more than six months after the commission of the offence, no prosecution can be initiated as the prosecution period has lapsed.

This loophole will finally be plugged this time. We are very pleased with the extension of the prosecution period from six months after the occurrence of the case to six months after the discovery of the case. Even if an employee has not been registered for two to three years, and even if more than six months have lapsed since the occurrence of the case, prosecution can still be initiated as,

according to the existing requirement, prosecution can be initiated six months after the discovery of the case. Hence, we believe those cunning employers who chose not to register their workers from the very beginning though they are all right at the moment, I believe this amendment can plug the loopholes concerned.

Though we welcome the plugging of the loopholes concerned and consider this a progress, the two major and fundamental problems of the entire MPF System, which must be resolved, are still outstanding.

Insofar as the first major loophole is concerned, even if the legislation is amended to enhance transparency by putting in place a platform revealing the fees charged by various MPF schemes, the market will still be monopolized and powerless to bring the fees down, if employees do not have the freedom to choose. Although discussions on allowing employees to choose freely have already begun, the progress is still unsatisfactory. This is because employees are allowed to freely choose management funds for their contributions only once a year, but they cannot choose for their employers' contributions. I consider this absolutely unreasonable because the accounts belong to employees, even though part of the contributions are made by employers. Employees should therefore have the chance and right to freely choose the funds and investment they prefer, including the contributions made by employers. It has been argued by some that the decision not to do so is because employers' contributions are used to offset severance payments. If employees' investment is unsatisfactory, will employers be required to make up for the shortfall?

Frankly speaking, why would employees do anything harmful to their own money? Why would they make a mess of their own funds investment? Firstly, they simply do not want to be made redundant. Secondly, they have every investment incentive because they will lose some of their contributions. The charging problem has become very serious. If the problem of exorbitant fees remains unresolved because employees are not given free choice, the fees will keep eating into employees' MPF. Forty years later, administrative fees will account for 40% of MPF contributions. This is indeed a very serious problem. The fact that the administrative fees charged by managers will account for as much as 40% of MPF contributions is ridiculous in the sense that employees can only get back very little from their contributions under the MPF System. While funds continue to make the most money, employees are not protected.

As regards the second major loophole, I very much agree with the problem pointed out by Miss CHAN Yuen-han earlier concerning the offsetting of severance payments by MPF contributions. When the legislation was passed in 1995, an amendment proposed by me was negated. I think this is outrageous. President, the Government has often told us that MPF is established for the sake of retired workers. But it turns out to be "cheating". Instead of being established for retired workers, MPF is used by employers to offset severance payments. It is now used as a severance fund, not for the purpose of making pension payments to retired workers.

When the MPFA was asked whether workers could get back their MPF contributions when they were out of job, it gave us a reply in the negative. Pretending to be very considerate, the MPFA said that the decision was made in the interest of workers, so that they could have money to use when they reach the age of 65. However, when workers were made redundant, employers were allowed to get back their contributions. How hypocritical is this! When workers requested to get back their money when they were out of job, the MPFA refused to let them do so, saying that it was acting in their interest. However, when workers were made redundant, the MPFA would do nothing for the sake of the workers, and employers were freely allowed to get back their MPF contributions to offset severance payments. This is the second major loophole of the legislation. Should this problem remain unresolved, the MPF System will not be able to truly protect workers.

The CTU welcomes the current and the next round of amendments. However, we all the more hope that, in addition to this and the next round of amendments — that is, the amendments which have just received its First Reading today — the Secretary can keep in view that two most radical amendments are still outstanding. We hope they can be resolved eventually. Thank you, President.

MR LEUNG KWOK-HUNG (in Cantonese): Just now I heard an Honourable Member suggest that the MPF be scrapped because of its terrible performance. I also think that it should be scrapped. However, what is being discussed today is a Bill. As the MPF is not favoured by both employers and employees, I think the Government, as the one who rules and governs, should demonstrate leadership. In other words, it should reveal to us its vision of Hong Kong or the

elderly in the future. Anyway, it cannot adopt such an attitude of showing neither approval nor disapproval.

The Government is being condemned by both employers and employees. According to the employers, they agreed to the implementation of MPF at that time on condition that it could be offset. Has the Government broken its promise? Is it trying to go back on its word? I heard Mr James TIEN suggest scrapping the MPF altogether. Actually, he was right in making that suggestion. But then, the Government has to launch a new scheme, right? Actually, I have heard a lot of things like this before. One of them is very similar to this one, and it is really ridiculous. Years ago, "Fatty Patten" gave us a timetable, saying that we would end up having nothing should we reject it. We were also asked whether we wanted to protect workers' rights. That was his style. At that time, the FTU and some other people also came up with another proposal. However, it was later decided that they had better not to put forward the proposal, or else we would end up having nothing. Hence, as with the present case, a roadmap was sacrificed for a timetable. I was asked to accept this offer, "I am now offering you some elms. Do you want it or not? Though I know that you prefer steak, I can only give you beef innards. They all come from a cow, so do you want it or not?" The present case is really like this. As Chairman MAO once remarked, "One would have the cramps should he accept a rude invitation to a meal." It has now been found that MPF contributions from employer should not be offset. After hearing this, the Government has still not made any response. Only cosmetic changes have been introduced.

I have contributed to MPF for my personal use only. I have rarely been an employed person. However, is it fair to offset the severance pay of an employed person? If it is not fair, why is the arrangement still not amended, even though it has been implemented for a decade? Should the Government not have an answer to this question? This again involves the issue of consensus. It is indeed extremely difficult for employers and employees to reach consensus. It is precisely due to this sort of conflicts that the Government has to strike a balance — sometimes for workers, and sometimes for capitalists. If this is manifested politically, a balance will have to be struck, sometimes for the Labour Party, and sometimes for the Conservative Party. However, Hong Kong has never experienced anything like this. This is why our Government has always looked the same. What does it look like? It looks like as if it is

watching workers and the poor dry up and die slowly, like tangerines offered on a pedestal.

Colleagues from the FTU and the DAB were in tears when they spoke just now. It is simply because all problems, including those raised by Mr WONG Kwok-hing, boil down to just one point — Do employees have bargaining power? Through exploiting legal loopholes, or simply treating housing allowance as part of wages — and some even more terrible means — the ultimate purpose is to avoid making MPF contributions. Hence, some employees are asked to become self-employed persons. In some of these cases, some employees have even lost their labour insurance protection. This is what a blessing turns into misfortune really means.

The bringing of disasters by the Government in implementing all these things is like doctors performing removal surgeries paying no regard to their patients, even when the latter become infected after receiving one cut, but the doctors will claim, on the ground that they are only responsible for performing appendectomy, that they should not be held responsible should the patients be infected. If a person died as a result, someone would definitely say this must be stopped. As the patient's ward is found to be infected, it must be disinfected. Now, we face a similar situation. No regard is paid after the first and second persons have died in this manner. Now, with the deaths of 10 persons and the lapse of 10 years, the Administration still maintains an indifferent attitude on the ground that we can pay no regard to all matters arising from the MPF, given that the MPF has already been put in place. This question should actually not be answered by the Secretary, but by an official responsible for handling labour affairs, that is, Mr Matthew CHEUNG. Hence, something wrong has been said. Actually, the flaws of the labour legislation, the inequality between employers and employees, and so on, are the crux of the problem.

Our Government can be split into 10 small governments. The existence of 12 Bureaux also means that there are 12 governments. The Secretary, who is sitting here, must have this thought in his mind: "What is 'Long Hair' talking about? These matters are not supposed to be handled by me. What I am going to talk about today is MPF. What I want to secure is votes." Clearly, the Government is incompetent because of its total lack of leadership. This is like the case of an apprentice working as a dispenser of Chinese medicine who is required to dispense medicine incessantly. He is subsequently found dispensing medicine perfunctorily after he is given 10 prescriptions. Obviously, he does

not consider it his business even if someone dies as a result of drinking the Chinese medicinal soup prepared with the Chinese medicine dispensed by him.

I really hope colleagues from the FTU and the DAB can ask themselves questions frankly. When the labour legislation was scrapped then, they were present in this Council. Many Members in this Council, including Mrs CHAN, who played the role of a salesperson, were present on that day. Members have deprived workers of their legitimate bargaining rights and equal negotiation rights. Today, they speak before this Council complaining of the terrible treatment of employees by their employers. Can Members ask themselves frankly whether they had done something wrong at that time?

This is why I propose today that, rather than requesting the Government to introduce amendments to satisfy our wishes, we might as well rely on the strength of the working class. There are two ways to achieve this. One way is to use our left hands, and the other is to use our right hands. Regardless of whether our left or right hands are used, they are good as long as they manage to catch mice. We have severed one of our arms insofar as the legislation is concerned. There are many people here in this Council who keep condemning the Government every day. However, they will press the button to express their support whenever the Government does anything to undermine the basic right of the working class, just as what they did to state their position regarding universal suffrage. Before pressing the button — it is someone else, not me — before pressing the button, they will say in tears that this is not really a good idea. Will they come back and cast their votes today? Or will they be summoned back here to cast their votes? (I wonder if Secretary Ceajer CHAN will ask his subordinates to keep an eye on Members' movement in the Chamber). When the time comes for Members to cast their votes, they will be instructed to press the button in support of the Government. As a result, a very strange phenomenon will appear. We will see some of our Members keep helping the Government even though they keep condemning it. They are "royalists", so to speak.

I will feel honoured when I am called by a government as the opposition because at least I will know with whom I end the friendship, right? There was a Chinese story in which GUAN Ning ended his friendship with his classmate, HUA Xin, because of his laziness. Therefore, pan-democratic Members should not be afraid of being named the opposition. Instead, they should be afraid of failing to defend the position of the working class and grassroots and speak in

their interests. I would also like to warn other pan-democratic Members that they should stop delivering their speeches in tears but voting in the opposite when cast their votes.

Actually, the MPF can be scrapped, as proposed by Mr James TIEN today. As mentioned by us before, a universal retirement protection scheme has been proposed to the Government, right? We have also met with the Secretary. Whom did I meet on that occasion? Was it Henry TANG? Secretary Henry TANG I am sorry, it should be the Financial Secretary. There should be precedence. The Secretary was also present at that time. This was what I said: "My dear friend, the matter must be settled. If there is not enough money, you can levy stamp duty." I have made this proposal to the Secretary numerous times, right? We can see that something is enduring. Whenever the 26 000 points is reached, "Grandpa" will take action to "prop" the market. Therefore, we should not be afraid. Anyhow, some people will come and gamble because they know it very well that the gambling party will hit 26 000 points.

The Financial Secretary is unwilling to levy stamp duty to raise revenue. When I make this reform proposal to you, you will surely say you have run out of money, and the Government can hardly find the money required for it to act as an "underwriter" and assume the responsibility of an "intermediary". Basically, the Government must act as an "underwriter" for reform to be carried out. I do not care what you will do. The Government I am not requesting the Secretary to do this. People with financial knowledge will know how to make investments. One of the examples is Joseph YAM, only that he manages money for the rich. Can he not manage money for the poor? In short, the Government should act as an "underwriter". Otherwise, it should get involved by paying administrative charges to reduce depletion. This is the case with Germany. The government in the country will pay insurance fees for workers thrown out of job to prevent them from defaulting on their premium payments, because the situation will worsen should that happen.

What is being discussed involves a small sum of money only. I cannot see why a review cannot be carried out even though the MPF System has been implemented for a decade. This reminds of what we are being told regarding universal suffrage: "Trust me. I will now give you a piece of candy. You will not feel hungry anymore after eating it, for your mouth will then be filled with sweetness. I will definitely give you something 10 years later." Now that the

MPF System has been put in place for a decade, what improvements have been made? There have surely been some "minor" improvements. However, the "minor" amendments I heard just now are really laughable. Does the act of treating housing allowance as part of the income for the purpose of deducting wages happen just today? What happened to me when I was working in an electronic factory when I was young was exactly like this. At that time, workers were offered all sorts of allowances, such as lunch allowance, meal allowance and attendance allowance. However, when they were fired, those allowances were not taken into account. Moreover, the workers were given less than seven days of wages for compensation. On the surface of it, they were given seven days of wages, but actually, they were given only one day of wages so that they were forced to look for employment earlier. These loopholes are not revealed until today when amendments to the MPF System have to be introduced. Secretary, this is not your business, because you are not in charge of labour affairs. However, will you not feel ashamed, too? Whenever something turns terribly bad, we as Members must bring it up for discussion. Actually, this was what happened more than three decades ago when I was a worker in an electronics factory. I can act as a witness. I believe Ms LI Fung-ying knows it very well too. This happened again today when the definition of income was brought up for discussion. However, this is not the case when we are required to make tax payment. What kind of government is it?

The League of Social Democrats holds a very clear position, that the MPF System must be reformed and replaced by a universal retirement protection scheme. The MPF schemes do not work for three reasons. Firstly, the original intent was to provide Hong Kong's capital market with a large sum of money to serve the purpose of stimulating the market more than protecting workers. Secondly, employers were very mean when agreeing to these schemes, for they requested that offsetting be allowed. Thirdly, given that we hope members of the public will be given retirement protection, may I ask the Secretary whether you think that your mother's toil carry any social significance if she is a housewife? You will definitely give us a positive answer because you have now become an elite in society. How can you become one if not for your mother's care and attention? So, should she be given a share in society? Have we ever considered that up to 50% of the women in Hong Kong are housewives? Will our retirement protection system be too cold-blooded should it fail to protect them? This problem will never be resolved because we hold the view that only those people working in electronics factories making transformers can be treated

as humans. Our great mothers, who have toiled at home doing household chores without reward, are however not counted as humans.

We are absolutely clear about the improvements we would like the Government to make to the System. The Government must demonstrate that it has a vision and the determination to realize it. This was what Donald TSANG told us. He said when he was an election candidate that he would make those who did not have a vote to have a vote the next day, and make penniless people have money the next day. Now, not only has he failed to give people who have no vote today a genuine vote in 2017, he has also failed to give housewives and low-income earners, who were not protected before he was elected, protection through this programme of cosmetic changes carried out by him now.

Secretary, you will have a chance to hold meetings with Donald TSANG. However, I will not be able to see him because I will be taken away each time I see him. *(Laughter)* You had better relay this message to him because I know he might probably not watch the television. *(Right, I was escorted away)* Secretary, please put this question to him on my behalf: Can he scrap this unsatisfactory and unpopular system and set up a universal retirement protection system instead, as proposed by Mr James TIEN? Should he do this? He must give me a reply. I will put this question to him again when I meet him the next time.

Thank you, Secretary. Thank you, President.

MISS TAM HEUNG-MAN (in Cantonese): Madam President, subsequent to the introduction of the MPF System by the Government in 2000, every wage earner has to make preparation for their retirement life. However, despite its implementation for years, the MPF schemes are still flawed and not entirely satisfactory. Though members of the public have yet had faith in it, it is fortunate that gradual improvement has been made by the Government recently.

Coincidentally, two Bills relating to the MPF schemes were introduced into this Council today. One of the Bills, concerning the upper ceiling of MPF contribution and some penalties for violating the MPF legislation, was read for the First time earlier, pending processing by the House Committee. The other Bill, concerning the inclusion of housing allowance into the scope of computation of MPF and such policies as providing an additional platform for disseminating

MPF information, is now going through its Second and Third Readings. It is evident that the Government is sincere in improving the MPF schemes to ensure that the working population can lead a more stable retirement life in the future.

From the angle of purely discussing the provisions of this Bill, I think there is not much controversy. The Civic Party will also support the entire Bill. On the contrary, I wish to emphasize that the passage of the Bill does not mean that the Government has accomplished its task, because it is the enforcement of legislation that matters most.

Public education must be carried out for the purpose of enforcing the new law because many wage earners are actually not clear about their MPF contributions. They may not know the exact amount of their contributions and, worse still, whether their employers have made any contributions for them. Once the Bill is passed today, the Government really has to expedite its publicity and promotion efforts to inform wage earners what new provisions have been introduced and what rights and benefits they must not overlook.

I suggest that the Government step up public education, instead of saying empty words. The findings of a questionnaire survey conducted by me in connection with MPF are indeed worrying. What is more, many government officials and MPFA staff might feel a chill down their spine. The survey findings reveal that 90% of the respondents have no idea of the level of management fees charged under the MPF schemes they have chosen; 80% of them have never read or only taken a causal look at the annual reports of their MPF schemes; and nearly 80% of them have not regularly adjusted the investment portfolio of their MPF schemes.

Both the Government and the MPFA have tried all sorts of means to publicize the importance of MPF and urge members of the public to be concerned about their own MPF contributions. However, we gather from the evidence that their past efforts have apparently not produced fruitful results. The authorities concerned should really reflect on this and come up with a good way to educate the public.

Madam President, in addition to public education, I think the community's greatest concern about MPF is its hope for the expeditious enactment of legislation to allow employees to choose their MPF trustees. Even if they

cannot choose the trustees for all MPF contributions, they can still choose the trustees for their own share of MPF contributions. Unfortunately, even though the two Bills concerning MPF have been introduced today, it is still not known when legislation can be enacted for this purpose. How long do we still have to wait before every wage earner can choose his MPF trustee so that we can induce MPF trustees, through market force, to reduce their fees and improve services?

One of the highlights of the amendments to the legislation is to put in place a MPF information platform whereby the MPFA will be responsible for collecting and distributing information on various investment funds managed by various MPF trustees. However, if employees simply do not have the right to choose their trustees, this information platform will serve little purpose. For instance, stock-buying is a popular topic nowadays. However, if I have no money to buy stocks, the financial pages of newspapers, however good they are written and however accurate are their analyses, would mean nothing to me.

Therefore, I would like to urge the Financial Services and the Treasury Bureau to expeditiously study this issue with the MPFA for the purpose of allowing employees to choose their MPF trustees. It is a matter of great urgency, and I hope to see the relevant consultation papers and details of legislation as soon as possible.

Madam President, the introduction of two Bills concerning MPF within one year does reflect that the Government is taking this policy very seriously. Such being the case, I would like to ask the Government to continue responding to the aspiration of the public for the MPF policy to ensure that every citizen who is required to make MPF contribution will do it willingly with peace of mind. With these remarks, I support the resumed Second Reading of the Bill. Thank you, Madam President.

MR JAMES TIEN (in Cantonese): President, in his speech just now, Mr Andrew LEUNG has already expressed support for the Bill on behalf of the Liberal Party, particularly the four major components of the amendments. We all agree to this.

However, President, I notice that many of the views expressed by other Members today are unrelated to the amendments in the Bill. They have even gone so far as to elaborate on the entire concept of provident funds and the

offsetting of long service payment. As the President has allowed Members to speak in this manner, and coupled with the fact that the Secretary is newly appointed, I would like to express the views of the Liberal Party on the whole issue.

President, I joined this Council in the 1980s. Since the 1970s, there have been constant improvements to the labour legislation. During earlier periods, such as the 1950s and the 1960s, the relationship between employers and employees in Hong Kong was merely confined to the payment of wages by factory owners or employers to their employees. Of course, as society becomes more sophisticated, and coupled with improving economic development, the roles played by employers have continued to grow. Furthermore, various types of labour legislation have been introduced one after another. The issues involved include: What can an employee who has been working for years do in the event of a sudden closure of his company? What can an employer choosing to move to the Mainland do to deal with staff redundancy? In order to keep abreast of the times, long service payment was introduced at that time. For instance, a certain amount of compensation would have to be made should an employer wish to make a certain employee redundant because he was not pleased with the employee's performance for various reasons. Of course, details of compensation were set out according to the actual circumstances at that time.

Subsequently, the concept of provident funds was introduced in the early 1990s. While all employers take the same stance, the labour side holds the view that the provident fund scheme should be treated as a scheme offering double insurance. Therefore, no offsetting should be allowed. However, should MPF be treated, from the angle of employers, as reasonable or double compensation, given that employees have already been given reasonable compensation on the day of their retirement or resignation? The so-called double insurance can become double compensation from a different angle. In the opinion of employers, the long service payment and severance pay have existed for a long time. When offering compensation to an employee, his period of employment will be calculated, and one-month salary will be paid for each year according to his years of service, subject to a ceiling of course.

However, employers are now required to pay an additional 5% as contribution for the future retirement of their employees. At the same time, employers are required to pay upon the resignation of their employees. Hence, from the angle of employers, it seems that they are made to pay for double

insurance. They simply cannot help thinking they have to pay for the amounts they were required to pay according to the past calculation as well as the amounts they are now required to pay according to the present calculation. In the end, the Government decided that, upon the implementation of the relevant legislation, if an employer has already paid a certain amount of provident funds, comparison can be made between the long service payment and severance pay to determine which one is greater, and the shortfall can be paid by the employer to his employees. Of course, we hope to see one day that the 5% contributed by young employees nowadays will far exceed the amount of their long service payment or severance pay when they grow old. This was the way of thinking at that time. Today, this point might need to be raised again as a reminder to the community. In other words, we should stop talking about double insurance or whether offsetting should be allowed — while it is appealing to say that offsetting should be disallowed, there is actually no such thing as offsetting. What is actually involved is double compensation. Should an employee who has decided to resign after working for many years be offered compensation once or twice? We think that double compensation can simply not be made under the same circumstances.

We once raised the question of whether it was necessary for the MPF schemes to be established. Many in the business sector do know about the Occupational Retirement Schemes Ordinance (ORSO), or long-term voluntary retirement protection for employees. For many in the private sector not covered by the ORSO, the rate of contribution from employers was 5%, or 10% for employees of greater seniority or higher rank, and the rate of contribution from employees was 5%. The rates of contribution made by some banks in the financial sector were even higher. However, the contributions were made entirely for the sake of staff encouragement, and the schemes were established purely from the angle of staff retention.

Today, as the economy has turned for the better, a new problem will probably emerge — we will see employees seeking new jobs and constantly changing jobs. The fault might not fall entirely on employers. Both parties might contribute to the occurrence of this problem. Members should refrain from frequently blaming this on employers' frequent dismissal of their employees. If MPF contributions are frequently transferred from one account to another, the rates of return will become increasingly low. With the unemployment rate falling to 3% or so, I see that many people have changed jobs recently. In all of these cases, it is the employees who take the initiative to

change jobs. This is absolutely due to the thriving economic development. Even elementary workers in society can now share the economic benefits. I think this is inevitable. However, when employees change jobs, the situation will become complicated because of the MPF benefits. When they wish to switch to a new job, the Government will request them not to withdraw the 5% contributions made before they change jobs because they might possibly use the contributions withdrawn to buy stocks, properties, and so on. They are not allowed to do so because, if they change five or six jobs in their lifetime, very little money will probably be left under their MPF schemes when they reach the age of 60. This explains why they are not allowed to transfer their contributions from one account to another. This was the original intent of the MPF System. When an employee changes job, his and his employer's shares of contribution will have to be transferred to the account set up under the MPF scheme subscribed by his new employer. Although he may choose to keep the contribution in his previous MPF scheme, he cannot withdraw the money and spend it.

Of all the many problems emerged, the Amendment Bill ought to pay special attention to the problem of housing allowance. This is because it is commonly held among the people that wages should account for a lower ratio and housing allowance a higher one. At present, certain employers are allowed to reverse the ratios, with wages accounting for a lower ratio, and housing allowance accounting for a higher one. As a result, they are not required to make MPF contributions. This is a loophole that should not have existed. Therefore, we support this amendment. However, it is still necessary for the Secretary to pay attention to the origin and development of such incidents.

Of course, many colleagues will express other opinions later. I hope Members can take note of the fact that the Liberal Party, as a responsible employer, is definitely willing to support the living of our employees at present and their living upon retirement. However, the proposals made must be fair, sensible and feasible. Insofar as employees are concerned, it is definitely good if more protection can be given, as it has frequently been suggested. However, for employers running in whatever business, it must depend on their affordability. If they cannot afford it, can they raise prices? For instance, should those engaging in the catering business raise prices, members of the public will have to pay more, thereby resulting in inflation. This will actually lead to an economic cycle, and we have to pay attention to this. Thank you, President.

MR SIN CHUNG-KAI (in Cantonese): President, the story told by Mr James TIEN just now was quite appealing, but it was not the full story. Actually, we also took part in the scrutiny of the Mandatory Provident Fund Schemes Bill in 1995. The question being debated today simply seeks to include housing allowance in the formula. At the same time, the debate will not dwell too much on the policy side. It is meant only to plug one loophole.

However, wage earners are concerned about the question of whether employees can choose their own schemes, as raised by the new MPFA Chairman, Mr Henry FAN. This is actually the greatest concern to employees. They also hope that this issue can be resolved by the Government expeditiously. Apart from this, the Government should take into account the major changes in the entire investment environment over the past decade. In striking a balance, the Government should, apart from allowing employees to choose their own schemes, begin reviewing the relevant guidelines on imposing investment restriction.

Of course, we have no intention to settle scores. Actually, the Liberal Party raised the strongest opposition to allowing employees to choose their own MPF schemes at that time. However, Members of the Liberal Party introduced a motion last year and repudiated their previous views by requesting the Government to allow employees to choose their MPF schemes. This is indeed a progress. I do welcome this change of theirs. This scheme is no longer controversial. On the contrary, I hope the Government can consider two points previously raised by me. First, the arrangement for allowing employees to choose their own MPF schemes should be implemented expeditiously — of course, many other difficulties might be involved, that is, there will certainly be technical difficulties. Second, I wish to emphasize that a comprehensive review of the entire investment restriction must be conducted. I think it is necessary for the Government to conduct a more in-depth discussion with the public in this regard. The Democratic Party will support the amendments today.

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

(No Member indicated a wish to speak)

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

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, first of all, I must express my heartfelt gratitude to Mr CHAN Kam-lam, Chairman of the Bills Committee on Mandatory Provident Fund Schemes (Amendment) Bill 2007 (the Bills Committee), and other Bills Committee members for all the efforts they put into the scrutiny of the Mandatory Provident Fund Schemes (Amendment) Bill 2007 (the Bill). In particular, I must also thank the Bills Committee and individual deputations for making so many suggestions on improving the Bill further. The Government has drafted amendments to the Bill on the basis of such advice. I shall move the relevant amendments at the Committee stage.

Since the implementation of the Mandatory Provident Fund (MPF) System in December 2000, the Mandatory Provident Fund Schemes Authority (MPFA) and the Government have been reviewing from time to time the effectiveness of the MPF System in the light of actual operational experience, and various legislative proposals have also been introduced to improve the system. The 20 or so amendment proposals in the Bill are all put forward by the MPFA after thorough consideration and consultation with the relevant sectors. The aim is to further enhance the efficiency and effectiveness of the various aspects of the MPF System, so that scheme members can enjoy better protection.

One major amendment in the Bill is to abolish the exclusion of housing allowance and benefits from the definition of "relevant income". The objective of this amendment is to prevent unscrupulous employers from trying to reduce their obligation of making mandatory contributions by intentionally converting part of their employees' salaries into what they call housing allowance or benefit. During the scrutiny of the Bill, some employers' organizations expressed the concern that the amendment might affect the computation of other employment benefits and rights and add to the burdens of both employers and employees. As I explained in the Bills Committee, the inclusion of housing allowance and housing benefits in the definition of "relevant income" is meant solely for the purpose of computing MPF contributions, and only housing allowance and benefits paid in cash will be counted as "relevant income". Besides, in the case of employees earning the maximum relevant income of \$20,000, the proposed amendment will not increase their contribution burden. We also believe that such employees already account for the majority of employees in receipt of genuine housing allowance. We therefore think that the proposed amendment will cause limited impact on employers and employees. Some employers' organizations proposed to designate a transitional period during which they can

adjust the systems and procedures of their companies in response to the new definition of "relevant income". We have accepted this proposal and will move a corresponding amendment.

Another major amendment in the Bill is to permit the MPFA to disclose more information about MPF schemes, so as to tie in with its measure of increasing the transparency of fund fees. In July last year, the MPFA launched a platform of comparison using the Internet as the interface. Information concerning the highest, lowest and average fees of various types of funds is provided to scheme members. After the passage of the amendment, the MPFA will launch the second phase of the platform of comparison. In this phase, detailed information on the fees of each fund will be listed to assist scheme members in making their investment decisions. During the scrutiny of the Bill, members of the Bills Committee expressed the view that all the items of information which the MPFA could disclose should be set out clearly, so as to avoid any ambiguities. They also said that the MPFA should be allowed to disclose additional information in case of necessity. We shall move amendments in response to these proposals.

The other amendments in the Bill are all about enhancing enforcement actions under the MPF System and improving administrative procedures and regulation. For instance, it is proposed that the 30-day settlement period be abolished, with a view to improving the contributions recovery mechanism. Another example is to give clear power to the MPFA to require the production of records by employers and self-employed persons.

I am very grateful to Members for their many suggestions on improving the operation of the MPF System. The Government and the MPFA very much agree that the effectiveness of the system must be reviewed in the light of operational experience and public comments, so as to ensure compatibility with the people's needs. Apart from the Mandatory Provident Fund Schemes (Amendment) (No. 2) Bill 2007, which was earlier set down for Second Reading, the Government and the MPFA will also actively consider and explore other improvement proposals.

The MPFA has been holding discussions with the MPF industry and other relevant sectors on options of lowering fees and charges. One proposal is to increase employees' control over their MPF investments, allowing them to transfer accrued benefits derived from employees' mandatory contributions to an

MPF scheme of their own choice. The Government is now actively studying the preliminary framework proposal submitted by the MPFA. The advice of the Department of Justice is being sought. In the course of our studies, we will fully consider Members' views on the right to choice.

The MPFA has been exploring ways of improving employees' access to information on contributions. Following negotiations with trustees, in September last year, the MPFA launched an enquiry hotline called "MPF Contribution Enquiry Line". An employee only needs to make one telephone call and he will be connected to the hotline centre or voice response system of his trustee. In this way, he can easily make enquiries on the contributions to his MPF account over the previous three months, thus knowing whether his employer has made contributions on time under the law. This can help employees detect default at an early stage and report to the authorities.

Members have also mentioned the need for more efforts on education. Educating scheme members of the importance of fees and charges to investment decisions is in fact part of the MPFA's ongoing task. The second phase of its MPF Investment Education Campaign is now under way, its aim being to increase people's understanding of MPF investments. The second phase of the campaign started in September 2006 and will come to a close in March 2008. This campaign aims to enhance scheme members' understanding of the features, risks and returns relating to various types of MPF funds, with a view to assisting them in making wise investment decisions and effectively managing their MPF savings.

Concerning the effective dates for other provisions, the MPFA has consulted various employers' organizations and trustees on the time they require for updating their systems. They have replied that there must be a transitional period of roughly nine months. The MPFA will actively provide support for them and follow up the situation. It will also consider the possibility of implementing the relevant provisions as early as possible.

I am glad that the Bills Committee agrees to the objective of the proposed amendments. I am also glad that many Members expressed support for the passage of the Bill just now. I implore Members to support the amendments I am going to move later on.

Thank you, Madam President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the Mandatory Provident Fund Schemes (Amendment) Bill 2007 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): Mandatory Provident Fund Schemes (Amendment) Bill 2007.

Council went into Committee.

Committee Stage

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

MANDATORY PROVIDENT FUND SCHEMES (AMENDMENT) BILL 2007

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Mandatory Provident Fund Schemes (Amendment) Bill 2007.

CLERK (in Cantonese): Clauses 1, 11 to 14, 18, 25 to 36, 38, 39, 40, 42 to 46, 50 to 53, 55, 56, 57, 59 to 62 and 64 to 72.

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Clauses 2 to 10, 15, 16, 17 and 19, Part 7, clauses 23, 24, 37, 41, 47, 48, 49, 54, 58 and 63.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam Chairman, I move the amendments to the clauses read out just now, as well as to delete Part 7 and clause 24. The contents of the amendments have been set out in the papers circularized to Members. Now I would like to give a brief introduction on the major amendments.

I move that clause 2 of the Bill be amended to specify that Parts 12, 25 and 27 of the Bill shall come into operation on a day to be appointed by the Secretary for Financial Services and the Treasury by notice published in the Gazette, while the remaining provisions shall commence operation on the date of gazettal. Those provisions which will commence operation later involve disposal of unclaimed benefits, the removal of the exclusion of housing allowance and other housing benefit from the definition of "relevant income", and the improvement of the arrears recovery mechanism. Having regard to the views of employers' bodies and MPF trustees, we consider it necessary to give them a transitional period to cope with relevant changes and adjust relevant procedures and systems.

As a result, we have decided to defer the commencement of these provisions. In the interim, the MPFA will launch publicity and education initiatives to enhance public understanding of the legislative amendments, and liaise closely with trustees to ensure a smooth transition.

Clauses 3 to 10 and 15 to 17 of the Bill seek mainly to amend the Mandatory Provident Fund Schemes Ordinance (the MPFSO) and the Mandatory Provident Fund Schemes (General) Regulation (the General Regulation) with respect to the requirements of the form of written undertakings. In response to the suggestion of the Bills Committee, we will introduce amendments to prescribe that the MPFA may accept a written understanding "by deed, or by a document of like effect acceptable to the Authority".

The original intent of Part 7 of the Bill is to prescribe the purposes of various public registers. The Bills Committee was concerned that the amendment may have the unintended effect of imposing unnecessary restriction on public inspection of these registers. To remove members' misgiving, we will introduce an amendment to delete Part 7.

Clauses 23 and 24 of the Bill seek to prescribe when the Ordinance will apply when an employee or a self-employed person attains the age of 18 whilst being employed/self-employed. The amendments seek to amend clause 23 and delete clause 24 of the Bill to more effectively clarify the application of the Ordinance to employers, employees and self-employed persons. Under the amendment, when an employee attains the age of 18, his employer should arrange for him to become a scheme member and make MPF contribution for him, as if the relevant employment commences when the employee attains the age of 18. Similar arrangements will also apply to self-employed persons.

Clause 37 of the Bill prescribes the provision by the MPFA of an unclaimed benefits register. As the register contains data on individual scheme members, amendments will be moved to underline the purpose of the register with a view to defining the scope for proper use of the data contained therein.

Clause 41 of the Bill allows the MPFA to disclose information relating to the MPF schemes and funds for specified purposes to assist scheme members in making informed investment decisions. To enhance the clarity of the relevant provisions, the Bills Committee proposes to set out the information items the MPFA is allowed to disclose and allow the MPFA to disclose additional

information when necessary. Hence, we will introduce amendments to embody these suggestions. The information that can be disclosed will include, though not confined to, fees and charges of the MPF funds, investment portfolio, risks, and so on.

Clauses 47 to 49 seek to extend the prosecution time bar for the offences under sections 43C and 43E of the MPFSO and section 26 of the Mandatory Provident Fund Schemes (Exemption) Regulation (the Exemption Regulation) to allow the MPFA to institute criminal proceedings within six months after an offence is discovered or comes to its notice. However, the Hong Kong Bar Association is of the view that a specific end should be imposed on the prosecution time bar. In response to this suggestion, we will move amendments to amend the prosecution time bar for the aforesaid provisions to within six months after the relevant offence is discovered or comes to the notice of the MPFA, or within three years of the commission of the offence, whichever is the earlier.

Clause 63 of the Bill prescribes the powers of the MPFA to recover arrears and contribution surcharges. The amendment seeks to clearly specify and differentiate between the different circumstances of employees and self-employed persons and the arrangements for the MPFA to pay to the MPF schemes the recovered arrears and contribution surcharges.

Madam Chairman, all the amendments are supported by the Bills Committee. I implore Members to endorse the amendments moved by me. Thank you, Madam Chairman.

Proposed Amendments

Clause 2 (see Annex I)

Clause 3 (see Annex I)

Clause 4 (see Annex I)

Clause 5 (see Annex I)

Clause 6 (see Annex I)

Clause 7 (see Annex I)

Clause 8 (see Annex I)

Clause 9 (see Annex I)

Clause 10 (see Annex I)

Clause 15 (see Annex I)

Clause 16 (see Annex I)

Clause 17 (see Annex I)

Clause 19 (see Annex I)

Part 7 (see Annex I)

Clause 23 (see Annex I)

Clause 24 (see Annex I)

Clause 37 (see Annex I)

Clause 41 (see Annex I)

Clause 47 (see Annex I)

Clause 48 (see Annex I)

Clause 49 (see Annex I)

Clause 54 (see Annex I)

Clause 58 (see Annex I)

Clause 63 (see Annex I)

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

CHAIRMAN (in Cantonese): As the amendments to Part 7 and clause 24, which deal with deletion, have been passed, Part 7 and clause 24 are deleted from the Bill.

CLERK (in Cantonese): Clauses 2 to 10, 15, 16, 17, 19, 23, 37, 41, 47, 48, 49, 54, 58 and 63 as amended.

CHAIRMAN (in Cantonese): I now put the question to you and that is: That the clauses as amended stand part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): New clause 60A Application of the Mandatory Provident Fund Schemes (Amendment) Bill 2007.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam Chairman, I move that new clause 60A, as printed on the paper circularized to Members, be read the Second time.

New clause 60A seeks to clarify that the definition of "relevant income", as amended by clause 60 of the Bill, will apply in relation to a contribution period that begins on or after the date of commencement of clause 60.

This new clause is supported by the Bills Committee. I hope Members will support the motion. Thank you, Madam Chairman.

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That new clause 60A be read the Second time.

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): New clause 60A.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Chairman, I move that new clause 60A be added to the Bill.

Proposed addition

New clause 60A (see Annex I)

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That new clause 60A be added to the Bill.

CHAIRMAN (in Cantonese): I now put the question to you as stated. 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.

MANDATORY PROVIDENT FUND SCHEMES (AMENDMENT) BILL 2007

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

Mandatory Provident Fund Schemes (Amendment) Bill 2007

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

PRESIDENT (in Cantonese): I now propose the question to you and that is: That Mandatory Provident Fund Schemes (Amendment) Bill 2007 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): Mandatory Provident Fund Schemes (Amendment) Bill 2007.

MEMBERS' BILLS**First Reading of Members' Bills**

PRESIDENT (in Cantonese): Members' Bill: First Reading.

THE CHINESE UNIVERSITY OF HONG KONG (DECLARATION OF C. W. CHU COLLEGE, WU YEE SUN COLLEGE AND LEE WOO SING COLLEGE AS CONSTITUENT COLLEGES) BILL

CLERK (in Cantonese): The Chinese University of Hong Kong (Declaration of C. W. Chu College, Wu Yee Sun College and Lee Woo Shing College as Constituent Colleges) Bill.

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

Second Reading of Members' Bills

PRESIDENT (in Cantonese): Members' Bill: Second Reading.

THE CHINESE UNIVERSITY OF HONG KONG (DECLARATION OF C. W. CHU COLLEGE, WU YEE SUN COLLEGE AND LEE WOO SING COLLEGE AS CONSTITUENT COLLEGES) BILL

MR CHEUNG MAN-KWONG (in Cantonese): President, I move that The Chinese University of Hong Kong (Declaration of C. W. Chu College, Wu Yee Sun College and Lee Woo Shing College as Constituent Colleges) Bill (the Bill) be passed. The Bill has been certified by the Acting Law Draftsman of the Law Drafting Division of the Department of Justice that it conforms to the requirement of Rule 50 of the Rules of Procedure and the general form of Hong Kong legislation, and confirmed by the authorities concerned that it is not related to public expenditure, political structure, the operation or policies of the Government. The Bill was submitted to the Panel on Education of the Legislative Council on 12 November 2007 for scrutiny and it was endorsed and supported by the Panel.

The Bill was published in two successive publications of the Gazette on 21 December 2007 and 28 December 2007 and advertised twice daily as prior notice in a Chinese language newspaper and an English one published locally.

The purposes of this Bill are to declare C. W. Chu College, Wu Yee Sun College and Lee Woo Shing College as constituent Colleges of The Chinese University of Hong Kong (CUHK) in accordance with section 3 of The Chinese University of Hong Kong Ordinance (Cap. 1109) and to provide for consequential amendments to the principal Ordinance.

The organization and structure of the three new colleges will be dealt with in accordance with the Ordinance and statute endorsed by the Legislative Council in July 2007 with respect to Morningside College and S. H. Ho College, and the names of the three new colleges will be added to the long title and preamble of the principal Ordinance.

The college system is a time-honoured tradition cherished by CUHK since its establishment. It has contributed to providing a congenial environment for whole-person education of students and enrichment of their learning experience. The college system is a well-preserved tradition unique to CUHK. Its constituent Colleges have all along been striving to provide students with a congenial college life and learning environment to allow interaction and exchanges between teachers and students as well as providing pastoral care, whole-person education and liberal studies and, through a wide range of formal and informal education activities, broaden students' horizons.

To cater for more than 3 000 additional undergraduates upon its reversion to a four-year curriculum, it is necessary for CUHK to set up new colleges. Since May 2006, the Council of CUHK has received a number of private donations for the respective establishment of Morningside College, S. H. Ho College, C. W. Chu College, Wu Yee Sun College and Lee Woo Shing College. With the addition of five new colleges, CUHK will have adequate places and facilities to cope with additional undergraduates in 2012. Moreover, students will be provided with more options to experience college life according to their own wishes.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That The Chinese University of Hong Kong (Declaration of C. W. Chu College, Wu

Yee Sun College and Lee Woo Shing College as Constituent Colleges) Bill be read the Second time.

In accordance with the Rules of Procedure, the debate is now adjourned and the Bill is referred to the House Committee.

MEMBERS' MOTIONS

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

PRESIDENT (in Cantonese): First motion: Setting up a fund to meet the needs of the ageing population and help the poor.

I now invite Miss TAM Heung-man to speak and move her motion.

SETTING UP A FUND TO MEET THE NEEDS OF THE AGEING POPULATION AND HELP THE POOR

MISS TAM HEUNG-MAN (in Cantonese): Madam President, I move that the motion, as set out under my name on the Agenda, be passed.

Madam President, at this time every year, the budget is about to come out and members of the public may like to muse on the possibility or otherwise of candies being handed out this year and how the Financial Secretary would carve slices out of this cake. As Members of this Council, we would raise many issues related to public finance, in the hope that demands can be put forward to the Financial Secretary at this time when he prepares the budget for the new financial year. The public would of course want that taxes and rates be cut. Now that the economy has turned for the better, should the Government not be a bit more generous and let the people share the fruits of an economic upturn?

However, a responsible government should not merely dangle hopes of a candy handout in front of the people in drawing up policies. What should be done is to give the people a vision for the longer term, such that they may have faith in the place they live and they may still have hope when they are old.

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

I propose this motion today precisely because of my hope that the Government can think farther ahead. I suggest that the Government should consider changing its concept of managing public finance now that its coffers are inundated. Part of the fiscal surplus should be set aside to set up a fund to cope with the needs of the ageing population and help the poor.

These days whenever I chatted with accountants, I would ask them what their expectations for the budget this year were. Most of them said that they were most concerned about livelihood issues, especially the problems of a widening wealth gap and an ageing population.

I do not intend to disclose the secret of my age, but certainly I am not yet a senior citizen. As for my income, it is known to Members and I need not talk about it here. Certainly, it is not below the poverty line. Members should never think that these two problems of ageing population and the wealth gap are no concern for us who are neither old nor poor. As a matter of fact, these two social problems are closing in. Previously when I undertook some district work, I had the chance of meeting an elderly person in his sixties or seventies and who lived alone. He was retired and had no work, no kids and no income. He took only one meal a day and he was really a person who lived on his meagre savings. He did not eat enough and he never wore enough to stay warm. I helped him to apply for Comprehensive Social Security Assistance (CSSA) and it was because of it that he could finally eat a decent meal. I am sure that is not an isolated case in Hong Kong. I wish to ask the high-ranking officials, "Have they ever been touched by these stories of pain and suffering of the people?" The officials may of course choose to turn their heads and look the other way, about how some people would spend money lavishly just for one meal. This is precisely because of the glaring disparity between the rich and the poor in Hong Kong that these two extreme examples can be found here. If we look up the government statistics, we can certainly see more.

Census figures for 2006 show that there has been an increase both in the number of those earning \$4,000 a month and those earning more than \$40,000 a month, while those whose income falls between these two groups have grown fewer in number. The fact that those with the highest and lowest incomes have increased implies that the poor are getting poorer while the rich are getting richer.

On the question of ageing population, government figures released in mid-2007 show that in 1997, the group of people aged 65 or above took up 11.3% of the total population of Hong Kong. In 2002, the proportion rose by 0.2% to 11.5%. In 2007, this proportion rose by 1.1% to 12.6%. This indicates that the ageing population is growing quickly and steeply. Does this sound an alarm to the Government?

We have to face the twin challenges of an ageing population and a widening wealth gap in future. This fact cannot be disputed. It is estimated that as Hong Kong heads towards a knowledge-based economy and as living conditions in society continue to get better, these two social problems will only become more serious than ever. The Government must think well ahead and get prepared.

Some people may ask, even if we think well ahead and get prepared, that does not mean that we have to set up a fund to tackle these two social problems with a view to meeting policy expenditures. To answer this question, we have to start by talking about the existing concepts in managing public finance. The current practice of the Government is to draw up policies for a particular year depending on the money available. If there is no money, then it is out of the question no matter how good a policy may be. This kind of approach is like eating as much as what is laid on the table and the result is that many new policies are not given the go-ahead even though they may be brilliant. With a fund, we do not have to worry about resources and when problems crop up, we can brush aside worries about lacking the money to tackle the problems.

To illustrate, numerous pilot schemes for elderly persons and poverty assistance have been launched in recent years. However, the Government only offered excuses and made repeated delays. It said that it did not have the resources and even if plans are devised, they are subject to numerous restrictions. The result is that not many people can benefit. A good example is the travel allowance for those living in remote areas. When the scheme was first launched, it was stipulated that applicants had to be engaged in full-time employment. The maximum amount of the allowance was not enough and the scheme was only to last six months. Subsequently, some changes were made as a result of public criticisms. If there is a fund, will this kind of pilot schemes not be able to run more smoothly?

It is not that the Government is unaware of the need to solve the wealth gap problem in Hong Kong. Recently, the SAR Government and the Legislative Council initiated discussions on social enterprises. The Government even held a summit on social enterprises to give the impression that the subject was receiving great attention. We debated on a relevant motion here. It is obvious that the policy direction of the Government is to achieve the aim of long-term poverty assistance by promoting social enterprises. Since the Government is poised to support social enterprises, it should set aside a sum of money as a long-term measure to encourage the setting up of social enterprises by way of subsidizing or lending money to them. However, money does not grow on a tree, so if the disadvantaged want to run social enterprises, the most important thing is the seed money. Nothing can be done without this start-up capital. If we agree that social enterprises can contribute to poverty alleviation, then setting up a fund to meet the specific needs of poverty alleviation can serve to make social enterprises operate effectively.

Let me cite one more example on ageing population. With the ageing population, the shortage of places in residential care homes for the elderly (RCHEs) will worsen. For many years, people from the social welfare sector have been fighting for more subsidized RCHE places. Even though they have been putting up their demands all the time, no improvement has been made to the situation at all. As our population continues to age, the problem will get more out of hand. Just think, if there is a fund, we can take a more aggressive policy on the elderly forward, increase more such RCHE places so that every elderly person in Hong Kong can be properly taken care of.

As I have mentioned, the problems of ageing population and the wealth gap are closing in. Government expenditure on these two aspects will certainly be much more than it is now. We really need to start saving up a sum of money now to meet future needs. Of course, after a fund is set up, as to how the money should be spent, I think other Honourable colleagues would have their suggestions. Later on, Honourable colleagues from the Civic Party will make additional remarks in their speeches.

At this juncture, some people may ask, "Since the purpose of the fund is to meet additional policy expenditures and as mentioned above, many items of expenditure are recurrent, would this mean that the fund has lost its reason for existence?" But have they ever thought that if the extent of population ageing or the number of poor people keep on increasing, can the growth in public expenditure catch up?

Now the Hong Kong economy is strong and robust, but as we know, this vibrancy cannot stay on forever. The ups and downs of the economy follow a relentless cycle. The problems that are produced by ageing population and the wealth gap will not only crop up gradually, but they will also snowball. Since we are aware of certain vital items of expenditure in future, why should we not do something earlier?

Deputy President, next I would like to explain the funding mechanism of this fund. As this fund is mainly for meeting additional policy expenditure arising from efforts to cope with ageing population and the wealth gap, or is used to maintain the level of expenditure arising from poverty alleviation work or policies concerning ageing population at times of an economic downturn, so I think a mechanism for an annual fixed amount of funding may not have to be set up and what should be done instead is to set aside some money when an enormous surplus appears in order to address policy needs.

My motion leaves great room for manoeuvre and flexibility in the funding mechanism of the fund in aspects like at which level of fiscal surplus should allocation be needed, the proportion of the provision and how the fund is to be managed. These points can be discussed and examined later on. The most important thing is whether or not Members agree with the major direction and principles of setting up the fund. It would be most unfortunate if disputes on details arise to the neglect of discussions on the major principles.

On the other hand, I would like to talk about how the fund can be made to achieve the effect of sustainable operation. Of course, if the Hong Kong economy remains robust, the fund can get appropriations from the fiscal surplus, but when the level of fiscal surplus is not satisfactory or even when deficits appear, should the fund then stop operating? I therefore suggest that a set of investment strategies should be drawn up for the fund so that investments can be made in the capital market and the returns used to ensure the smooth operation of the fund.

Actually, the social insurance fund of the Mainland is a very good example which illustrates the point that using investment earnings to cope with future expenditure is pivotal to ensuring the long-term operation of a fund. A fund which only relies on government injections all the time is definitely not a fund that can cope with the needs of long-term policies like those on ageing population and poverty alleviation.

Deputy President, the problems of ageing population and the disparity between the rich and the poor are very likely to be problems that will plague Hong Kong in the next 10 to 20 years. We really have a need to make long-term planning. Stopgap measures like recommendations made by the Commission on Poverty (CoP) should be done. However, we must set aside some resources to finance our protracted fight with these two social problems. And the setting up of such a fund is a vital link in this strategic planning. We as Members of this Council should set our eyes on the more distant future, for if not, social policies in Hong Kong can never be expected to advance farther ahead. With these remarks, I beg to move. Thank you, Deputy President.

Miss TAM Heung-man moved the following motion: (Translation)

"That, as the SAR Government may record a huge fiscal surplus in the 2007-2008 financial year and it is anticipated that the Government will have considerable surplus in the next few years, this Council urges the Government, in addition to appropriately increasing the expenditures on education, medical services, social welfare and promotion of economic development, as well as implementing one-off relief measures such as tax rebates or rates exemption, to set aside part of its surplus for setting up a long-term sustainable fund to meet the additional expenditures arising from implementing policies to cope with the ageing population and help the poor and, at the same time, establish a funding mechanism for the fund under which a certain proportion of the surplus will be injected into the fund if the fiscal surplus in a financial year exceeds a certain level, so as to maintain the fund's effective operation."

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

DEPUTY PRESIDENT (in Cantonese): Three Members intend to move amendments to this motion. The motion and the three amendments will now be debated together in a joint debate.

I now call upon Mr SIN Chung-kai to speak first, to be followed by Dr KWOK Ka-ki and Mr TAM Yiu-chung, but no amendments are to be moved at this stage.

MR SIN CHUNG-KAI (in Cantonese): Deputy President, at the meeting of the Legislative Council on 10 January last year, Frederick MA, the then Secretary for Financial Services and the Treasury said and I quote "in the absence of any policy changes or reforms the level of reserves should preferably be maintained at a level equivalent to 30% to 50% of the GDP to cope with fluctuations in revenue. Insofar as the current level of GDP is concerned, it is equivalent to \$441 billion to \$736 billion" (end of quote) The surplus this year, however, again far exceeds expectations. The Democratic Party estimates that the surplus this year should be more than \$100 billion and it may even be as much as \$130 billion. By then, the fiscal reserves would be more than \$500 billion, far exceeding the level being equivalent to 30% of the GDP as recommended by the International Monetary Fund.

As Frederick MA said in my quotation of him earlier, there is a need to have \$400 billion of reserves and that is based on the assumption that there are no policy changes, including health care reform. That is to say, if there is a health care reform, there is no need to have a reserve of \$400 billion and with \$400 billion in reserve, health care services can be maintained at the existing revenue-based arrangement. However, would it not be somewhat difficult if the Government wishes on the one hand to have \$400 billion in reserve while it extends its hand and asks the people for money? The Democratic Party is not saying that there is absolutely no need for health care financing, I will explain this point more later on.

First of all, I would like to do some mundane sums with the Government. Two months later, the Financial Secretary will announce the latest level of fiscal reserves. People estimate that the reserves would surge to \$500 billion. The accumulated surplus of the Exchange Fund was more than \$628 billion last October and it may increase to \$700 billion by the end of this March. Therefore, the amount of reserves at the disposal of the Government by that time would have increased from close to \$900 billion last year by nearly \$300 billion and reached about \$1,200 billion. Deputy President, I think the Financial Secretary or the Secretary for Financial Services and the Treasury together should discuss this issue with Members here.

The annual health care expenditure currently is about \$30 billion and even if the annual health care expenditure is increased to \$60 billion, the sum of \$1,200 billion is able to last 20 years. On top of this, Donald TSANG pledged in October last year that health care expenditure would take up 17% of the

recurrent expenditure of the Government, that is, some \$40 billion. If the \$1,200 billion is only used to meet the shortfall of government funding, it may be enough to pay for the shortfall in health care expenditure for the next few decades.

Deputy President, if the Government really has got no money, I am sure the people would be glad to make contributions. But the Government now has more than \$1,200 billion — and I stress, this \$1,200 billion includes the fiscal reserves and the accumulated surplus of the Exchange Fund. Looking at these figures, it is not really that necessary to have health care contributions and it is not easy to find a justification for doing so.

Of course, we cannot assume that all the reserves are to be used in health care and so we might still have a need to make health care contributions. This is because the Government has pointed out in its consultation paper that another consultation paper on health care contributions will be issued.

If health care contributions are introduced, what will be the impact on the public? According to projections made by the Faculty of Medicine of the University of Hong Kong as commissioned by the Government, by 2020 and 2033, public health care expenditure of Hong Kong would have surged and take up 4.4% and 6.4% of the GDP respectively, whereas it is only 2.1% at present. The expenditures when translated into value of 2007 are \$68.8 billion and \$100 billion respectively. This tells that health care expenditure in Hong Kong will have to increase drastically to cope with an ageing population.

Currently the health care expenditure is only some \$30 billion a year. Even if the proportion of health care expenditure in total public expenditure is increased from the present 14% to 17%, it would only be \$42.2 billion. Using the year 2020 for comparison, the difference between the two is as much as \$26.6 billion.

May I ask the Government whether the shortfall by that time will be made up by contributions from the public? If this is so, the Democratic Party is worried that health care contributions will impose a very heavy burden on the public. The standard of living of the grassroots will be affected particularly. Come to think about this, in the Mandatory Provident Fund (MPF) System which we discussed earlier, the contributions made by employers and employees add up

to 10%, that is, each contributing 5%. In the 12-month period from April 2006 to March 2007, the total contributions were \$25.9 billion, that is, close to \$26 billion. In other words, if contributions are used to make up for the shortfall in health care expenditure, working on figures now available, the amount of health care contributions is likely to reach a level at 5% each for both employers and employees. This is a time bomb for most wage earners in Hong Kong.

As I have just mentioned, if contributions from the public are expected to shoulder the shortfall in health expenditure which amounts to such a huge sum as \$26.6 billion, the amount of contributions payable would be very close to MPF contributions, would it not? Ten years from now, besides paying the MPF, would employers and employees have to set aside another 10% of their earnings for health care contributions? If this shortfall is to be made up and if employers are not required to make any contributions and it is the employees who have to pay 10% of their salary as contributions, then the burden on the employees will be very heavy indeed.

Of course, these calculations are based on raw data from the Government. We welcome more data from the Government for reference by members of the public. For me, I would also hope that these assumptions are wrong, then the public would not have to worry so much.

But what is most ironical is that the greatest trouble for the Government is not how to reduce the burden of the people, but how to use this \$100 billion. I am worried that the Government will only hand out money. It is because some political party asks the Government to give away \$30 billion and some other political party asks it to hand out \$40 billion. When the Government gives money away, the people are certainly delighted. I hope that I can be given some as well. But after money is given away, the public is asked to give it back because contributions are required. So what should be done about it?

The Democratic Party proposes that the Government should appropriate \$50 billion to set up an Old Age Reserve Fund to get prepared for the future. What I have been talking about just now are only health care matters, but there is also pressure from CSSA, Old Age Allowance (OAA), and so on. Since the level of fiscal reserves has exceeded the level required to meet our practical needs, why should an Old Age Reserve Fund not be set up this year to help make up for the shortfall in government funding?

Specifically, the Democratic Party holds that the Government can appropriate \$50 billion to set up this fund and it should also set aside half of the investment earnings from the Exchange Fund as the recurrent revenue of that Old Age Reserve Fund with a view to accumulating the deposits in the Fund to \$200 billion or above within five years. When the Fund reaches \$200 billion or above, and if the annual rate of return is taken to be 6% or 7% — the annual rate of return of the Exchange Fund being 7% — then there will be some \$100 billion to \$200 billion a year. Thus the Fund will have a steady source of income and it can serve to make up for the shortfall in funding welfare and health care services that are necessitated by an ageing population.

After this Fund is set up and as the population begins to age and so health care expenditure gradually exceeds government funding, then we can allocate resources from this Fund to maintain service quality. As to the pressure faced by the public in making contributions to the Fund — actually I am not sure whether there would be any need to make contributions after the Fund is set up, but assuming that there is such a need — the pressure on the public in making contributions can be eased. I hope the Government can give some thoughts to this system.

The elderly population which consists of people aged 60 to 65 or above only takes up 11% to 12% of the total population. But 10 to 12 years from now, the elderly population will take up more than 20% of the total population. The Democratic Party thinks that with this steep rise in the number of the elderly, the expenditure on the elderly will become huge and this includes two main areas, first, health care and second, welfare. With respect to welfare, it includes the OAA and CSSA. As we know, among CSSA recipients, the elderly take up a very large proportion. Of course, some people may say that 10 years from now, the effects of MPF will start to be felt. I agree that it will have a certain effect, but I do not think it is sufficient to ease pressure in this aspect.

I hope Honourable colleagues can ponder over the amendment proposed by the Democratic Party today. However, I think a wise idea like this would need a few more years before it is properly understood. I hope the Government can look at this proposal from the long-term perspective.

I so submit.

DR KWOK KA-KI (in Cantonese): Deputy President, all the people of Hong Kong should feel very happy when they hear that a huge fiscal surplus is recorded in government books. But ever since the news has broken all the way up to the present moment, honestly I cannot see any Hong Kong people, especially the elderly, feel happy about it.

Recently, we discussed in the Welfare Services Panel the proposal from the Government to adjust the CSSA payment by 2%. Deputy President, if we look at the problems faced by members of the public, especially the elderly, in these few months, we will know that government assistance to these people is trivial. Power tariff, transport expenses and food prices have been soaring all the time and the recent rise in the cost of flour may well lead to a double-digit climb in the price of bread which they consume as a necessity.

The old and the poor in Hong Kong feel bitter about the Government refusing to give them the slightest help but giving away generous and massive waivers to the rich or those in business. In the policy address this year, the Chief Executive makes the bold stroke of spending \$10 billion. But sorry, the poor cannot get much from this sum of \$10 billion, for most of it is used to cut the standard rate of income tax, slash the profits tax and waive government rates. Of course, many people will benefit from the rates waiver, but for the neediest, the poorest and those who have the least bargaining power, the Government is not paying any attention to them at all. Had the Government attached any importance to them or had there been enough poverty alleviation measures in place, or had enough efforts been put in education, health care, welfare, and so on, I am sure Miss TAM Heung-man would not have to demand that a fund be set up and Mr SIN Chung-kai would not have to propose that \$50 billion be earmarked for another purpose. This is because the Government has already done enough. But this is not the truth.

We can look at some figures. According to the latest information from the Census and Statistics Department, the number of people in low-income households in Hong Kong has reached 1 366 000 people. This is a rise by 10.7% from the 1.2 million in 2001. What kind of a society are we living in? We claim ours to be an advanced and harmonious society, but the poor among us are growing greater and greater in number. The number doubles that of 630 000 two decades ago and it takes up 20% of the total households in Hong Kong. This is the first time in 20 years that the percentage of poor people takes up more than 20% of the total population.

I am not sure what kind of good news is broken to the SAR Government or the Secretary, but the kind of news I hear is definitely no good. The problem faced by the elderly in Hong Kong is that they have to pay for more and more in health care. With the per capita life expectancy getting longer, the size of the aged population in Hong Kong also increases. But what has the Government done to get prepared for this state of affairs?

I have just heard many remarks by Members. Mr SIN said that the Government had once pledged that health care expenditure would increase from 14% to 17% of the total expenditure, but that remains empty talk. The Harvard Report released in 1998 predicted that by the year 2016, government spending on health care would amount to about \$60 billion. Now it is already 2008 and there are eight years to 2016, but the Government is still not willing to spend more. The overall spending in health care this year is still lower than \$30 billion and funding for the Hospital Authority is still lower than \$28 billion.

Let us look at the policy address and see what kind of good news is mentioned. It is said that every elderly person aged 70 or above may get five health care vouchers, each worth \$50. This is precisely a petty favour that the Government is giving in the hope that the poor people can pay the bulk. Actually, \$50 is definitely not enough. The Government has put it very nicely, saying that the elderly can use these health care vouchers for dental care or medical examination. The Government may not know that nowadays, people have to pay more than \$200 to have a dental checkup. As for medical examination for the elderly, the average waiting time in the health centres for the elderly is three years. The Government is blind to the reality. Many government initiatives are just empty talk and they mean nothing to the elderly and the low-income group.

As for the mental patients, what is the situation of ex-mental patients? Over the past five years, the number of ex-mental patients who visited the clinics rose from 511 000 in 2001 to 605 955 in 2005. The rate of increase is close to 45%. It is surprising to see that the overall expenditure on ex-mental patients has been falling all the time and it is only until very recently that there has been an increase due to the pressure on service provision. However, the so-called increase is only \$2.5 billion for the year 2005-2006 and the amount is only \$3.1 billion when rehabilitation services are included. Now there are only 205

psychiatrists in Hong Kong, meaning only one for every 34 000 people. These psychiatrists have to work day and night and they can spend only five to six minutes on every patient. I think such a situation should never have arisen in an advanced and harmonious society. But it is happening in Hong Kong.

As for resources in the hospital clusters, Deputy President, why do I have to bring it up for discussion? I do not know why, but the fact is that misfortune comes on the heel of one another. In places in New Territories West, like Tuen Mun, Yuen Long and Tin Shui Wai, the number of medical and nursing staff is the lowest in Hong Kong all through the past five years. It ranks the lowest in Hong Kong and there is only 0.53 doctor to every 1 000 people. But for those who are lucky enough to live in the Mid-Levels and Island West, there is 0.93 doctor for 10 000 people, not counting those professors in the medical school. It is even better for those living in Ho Man Tin and Kowloon Tong where there are 1.19 doctors for every 1 000 people. But this is not the case for those living in the peripheral areas. In Kowloon East, Kwun Tong and Tseung Kwan O, and so on, there are only 5.73 hospital beds for every 1 000 people and this is the second from the bottom of the list for Hong Kong. I do not think this is what a responsible government should have done.

As for health care expenditure, the money that should have been spent is not spent. This is because the money set aside for public health care purposes used to take up close to 3% of the GDP in 2000, but it has fallen year after year to 2.1%. So how can the Government explain these figures to the people? I am extremely furious and I feel sorry to see the Government doing nothing to allocate funding and manpower to the poor people, the mental patients and those hospital clusters with insufficient resources. Of course, I do not agree that, despite such circumstances, those with middle to low income are fleeced still. In my opinion, the issue of health care financing should be handled with great care. It must not be like what is being done now, that despite more than \$1,200 billion worth of surplus, the people are still going to be fleeced.

What the Government should do now is actually very little. Regardless of the fund suggested by Miss TAM Heung-man or the \$50 billion which Mr SIN Chung-kai talks about, they take up only a very tiny part of public expenditure or the surplus. But for those elderly people, this could well be what the Government should be doing.

In my amendment I have proposed specifically that the Government should increase the amount of the health care vouchers and these vouchers should be given to the elderly aged 60 or above, not 70 or above, and to the low-income group as well. The value of these vouchers should not be maintained at the existing level but it should be at a level that can help them pay for visits to family doctors. They also need some dental care vouchers so that they can make a visit to a dentist every year. This is a most humble demand and it can enable them to fix some problem teeth. Another humble demand is to give these elderly people a chance to get an annual medical checkup.

For those hospital clusters under the Hospital Authority with insufficient resources, the Government should increase the allocation of resources to them. For those clusters which are in especially bad conditions, like Kowloon East and New Territories West, they should be provided with more resources. I am not saying that resources for other clusters should be slashed because all other clusters should aim at achieving the same goal. However, for those clusters with insufficient resources, the Government is obliged to allocate additional resources to them.

Also, I hope that a tax rebate scheme can be introduced for medical insurances. I hope that this scheme can encourage users or those who can afford it to pay such fees by their own. The part to be played by the Government is just to provide a small amount of or nominal incentive or assistance.

When a government which is so rich that it is like a person so fat that he cannot even put his own socks on can treat the old people and the disadvantaged groups this way, we think it is a shame even to mention these things. So I hope the Government can really do something to implement poverty alleviation measures and face up to the needs of an ageing population. I also hope that Members can lend their support to this motion so that the original motion and the amendments can all be passed. I so submit. Thank you, Deputy President.

MR TAM YIU-CHUNG (in Cantonese): Deputy President, about the motion today, the main issue that we have to deal with is that since the Government has a huge fiscal surplus in this financial year, how the money should be spent. The day before yesterday the Financial Secretary said in a seminar that the fiscal

surplus should mainly be useful in one-off measures instead of recurrent measures that may lead to long-term commitment. This is how a newspaper quoted his remarks. I am afraid this view is somewhat different from public demand. In the face of urgent needs posed by an ageing population and poverty alleviation, the Government must undertake long-term policy planning. One-off financial measures are unable to produce any fundamental help to the problem and short-term funding can only produce a stopgap effect which is only transient.

Over the past couple of years, various sectors across the community have been offering their advice and proposals to cope with the increase in health care and welfare demands caused by an ageing population and how low-income households can be assisted. The Commission on Poverty and the Legislative Council Subcommittee to Study the Subject of Combating Poverty have drawn up a set of policy recommendations. Now that the Government has got a huge fiscal surplus, it is high time these recommendations were put into practice. When solving the problem of elderly in poverty, the Government should not just depend on the CSSA system alone. The problem with the Old Age Allowance (OAA) and the CSSA system is that the OAA payment is not enough to meet the living expenses while the requirements on the elderly applying for CSSA are too harsh. In order to help the poor elderly, the Government needs to set up an assistance scheme for the elderly so that those poor elderly who have not applied for CSSA can be given necessary financial assistance. The Government stated as early as in 2003 that the OAA system should be reviewed. But as there were heavy fiscal deficits at that time, so new measures could not be launched. However, the financial position of the Government now is much stronger and these new measures can now be introduced to help the poor elderly. With respect to the mode of subsidy, with the trial introduction of kindergarten education vouchers, the Government can adopt the voucher system to help the poor elderly pay for various items of necessary expenditure. Such a system can help those elderly persons genuinely in need while also ensure the effective use of financial resources.

Earlier on, the DAB had arranged a meeting with the Financial Secretary to put forward our demands for the budget in the new financial year. We urged that the Government should care for the disadvantaged and enable people to share the fruits of prosperity. Apart from tax relief and exemption measures and those one-off initiatives to return wealth to the people, the DAB urges the

Government to change its policies and alleviate people's hardship. With respect to the welfare of the elderly, the DAB demands that the OAA amount should be increased and the permitted period of absence from the territory for OAA recipients should be extended; the number of health care vouchers should be increased to at least 10 for each elderly person and the age of eligibility lowered to 65; and the above assistance scheme for the elderly should be introduced in addition to the OAA and CSSA systems. Such an assistance scheme would enable those aged 60 and above and who have passed the means test to receive a subsistence allowance of \$1,200 monthly. Besides, a dental health scheme for the elderly can be set up and the public dental clinics can be opened up for access by the elderly. Another alternative is to collaborate with the private dental clinics and establish a scheme similar to the Student Dental Service now. With respect to helping the disadvantaged groups, the Government should work closely with the various public transport operators and offer half-fare concession to people with disabilities. It should relax the eligibility criteria for the travel allowance pilot scheme, hence helping the grassroots look for jobs. If the Government is to put into practice all these initiatives, it cannot rely on one-off appropriations alone; on the other hand, it will have to make long-term financial commitment for these initiatives and to earmark a sufficient share in the allocation of resources.

In order to build a harmonious society, one in which people can all share the prosperity, the DAB also hopes that the Government can do more in helping the old and the poor. With respect to labour matters, the DAB urges that efforts should be made to increase job opportunities, offer employment assistance to the grassroots and enhance labour protection. Specific measures include the promotion of the household waste separation scheme and assisting the development of associated industries; finalizing the various infrastructure and community works projects as well as the major transport infrastructure projects; introducing a family-friendly employment policy; setting up an employment quota system for people with disabilities; legislating for a minimum wage; undertaking studies to extend the scope of wage protection to general workers in the construction industry, packaging workers, messengers, lift operators, general workers in the agriculture and fisheries industries, cargo transportation workers and other trades; as well as reviewing the law on the "4-18" continuous contract and enhancing the protection of the benefits of part-time workers.

With respect to welfare matters, the Government must step up its poverty alleviation efforts, including speeding up the comprehensive review of CSSA so

that the level of CSSA can be brought on a par with changes in the local economy and ensure that the recipients can enjoy enough protection in living. The Sunday in the third week of every November should be designated as a free-ride day for the elderly. In places with a heavy concentration of new arrivals to Hong Kong and CSSA recipients, such as Sham Shui Po and Tin Shui Wai, the number of integrated family services centres and manpower provision of social workers should be increased. This would hopefully address problems faced by the disadvantaged and facilitate their integration into society. Family and employment counselling services should be provided to the new arrivals, single-parent families and households of ethnic minorities, so as to help them cope with family disputes and adjustment problems like employment. In this way, support services for the disadvantaged can be increased. In health care matters, we hope that the Government can allocate more resources to make sure that every citizen can enjoy the safety net for public health care services and that more resources can be set aside to hire health care workers in the public sector. This can shorten the waiting time and deliver proper primary medical care, hence reducing the health care burden of the disadvantaged.

Elderly and poverty alleviation policies and measures do have a very wide impact and their demand for resources is also very great. The Government must address the question in the context of the overall funding setup. It must not just establish some funds to tackle problems in a piecemeal manner. The Government must make sure that enough funding is available for the implementation of these policies. It must not expect to make up for any shortfall that may appear by recourse to other funds. Now with respect to coping with the problems of an ageing population and low-income families, a certain consensus has been reached in the community. There is no urgent need to set up any fund, for this will duplicate efforts. On the other hand, the authorities should implement expeditiously those recommendations made by the Commission on Poverty and the Legislative Council Subcommittee to Study the Subject of Combating Poverty.

I so submit. Thank you, Deputy President.

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): Deputy President, I would like to thank Miss TAM Heung-man for proposing this motion today and Mr SIN Chung-kai, Dr KWOK Ka-ki and Mr TAM Yiu-chung for their amendments to this motion.

Meeting the needs of the ageing population and helping the poor are the major concerns in the administration of the SAR Government and its work, and they are also the major concerns of Hong Kong people. The Government has been very much mindful of the needs of the elderly and the poor and we are committed to providing them with a safety net and various support services to take care of their basic needs in life and to enable them to improve their lot.

We will organize training and retraining to help those with working ability rejoin the labour market and achieve the goals of self-reliance and alleviation of poverty.

In coping with the ageing population and helping the poor, our role is to create through a multipronged approach an environment conducive to helping the disadvantaged lead a better life in a persistent manner.

For many years the Government has been putting a lot of resources on elderly services. We provide both non-contributory financial assistance and a range of highly subsidized services for elderly in need. Our public health care system, public housing programmes, the elderly centres, and the subsidized home-based and residential care services are an integral part of the support network for elderly in need.

The Government's revised expenditure on elderly aged 60 or above in such areas as social security, elderly services and health care was about \$29.6 billion in 2006-2007, of which:

- (a) about \$12.9 billion was spent on providing elderly with Comprehensive Social Security Assistance (CSSA), and Old Age Allowance (OAA) and Disability Allowance (DA) under the Social Security Allowance (SSA) Scheme;
- (b) about \$3.1 billion was spent on providing elderly in need with various types of home-based and centred-based community care and support as well as residential care services; and
- (c) about \$13.6 billion was spent on providing health care to the elderly through the Hospital Authority (HA) and the Department of Health (DH).

Now I would like to give an overview of such assistance and services, and the number of elderly beneficiaries as follows:

- (a) as at mid-2007, 89% of the elderly aged 70 or above (that is, 570 000) were receiving public financial assistance either in the form of the means-tested CSSA, the largely non-means-tested OAA or the totally non-means-tested DA. The figure for those aged 65 or above is 78% (that is, some 683 000);
- (b) more than 50% of the elderly live in subsidized housing, including public rental housing (PRH) and purchased flats under the Home Ownership Scheme;
- (c) in 2006, 49% of bed days in public hospitals are taken up by elderly aged 65 or above, with free medical services provided to those on CSSA and fee waiver granted to those with financial difficulties;
- (d) there are more than 200 elderly centres in Hong Kong with more than 170 00 elderly members who enjoy various kinds of social activities and support services provided by these centres;
- (e) over 22 000 elderly in the community are enjoying non-means-tested subsidized home-based or centre-based community care and support services; and
- (f) about 85% of the elderly living in the residential care homes for the elderly (RCHEs) are receiving government subsidy either in the form of subsidized residential care places (24 000) or CSSA (24 500).

We are also very concerned about the needs of singleton and hidden elderly. The 2007-2008 Budget has earmarked a recurrent provision of \$38 million for 41 District Elderly Community Centres (DECCs) and 115 Neighbourhood Elderly Centres (NECs) to increase the manpower provision to enhance their outreaching efforts to singleton and hidden elderly. After locating the singleton/hidden elderly, the elderly centres will try to establish rapport with them, identify their needs, help them get out of isolation and provide the support and services they need. These enhanced outreaching efforts by the elderly centres have commenced since the end of 2007.

To face up to the challenges posed by an ageing population, the 2007-2008 policy address has proposed many new initiatives to enhance the support given to elderly and their carers. Let me now give some actual examples as follows:

- (a) a one-off provision of \$200 million is earmarked to help improve the homes of elderly in need. We hope that this initiative will arouse further community concern for care of the elderly in need, enabling the culture of caring for the elderly to take root in our community. The Labour and Welfare Bureau and the Social Welfare Department (SWD) are working out the details of implementation;
- (b) apart from enhancing outreaching efforts to the singleton and hidden elderly, we will enhance referral, counselling and support services for elderly in need;
- (c) on support services for carers, we launched a trial scheme in three districts in October 2007. The scheme forges collaboration between DECCs and community organizations to run carer training courses. It is expected that at least 660 individuals will be trained in the first year and carer services in the districts can be developed; and
- (d) we will work through pamphlets and Internet links to assist agencies providing elderly services in disseminating information so that the elderly in need and their carers may know where to look for help.

Apart from these, we will:

- (a) continue to use the \$20 million recurrent funding earmarked in the 2006-2007 Budget for strengthening the non-frailty-tested home care services for the elderly. As at June 2007, about 830 additional new cases have been served, thereby bringing the total number of cases served to about 17 000;
- (b) in areas with a greater demand, further increase the places of home-based services for frail elderly;
- (c) provide 80 additional day care places in Kwun Tong, Tin Shui Wai and Eastern District, bringing the total number of day care places to 2 055;

- (d) increase a total of 743 subsidized residential care places (including 212 places in three new contract RCHEs and 531 purchased places in private RCHEs);
- (e) continue to provide care services in the form of partially subsidized residential care places; and
- (f) launch integrated support services for elderly hospital dischargees, and the first pilot project will be launched in Kwun Tong starting from early 2008, for a period of three years. The objectives of the trial scheme are to enhance discharge planning for elderly patients, reduce unplanned hospital re-admission rate of high-risk elderly dischargees, and enhance the support and training to carers in looking after elderly discharged from hospitals. Target beneficiaries are patients aged 60 or above with high risks of hospital re-admission and are in need of transitional rehabilitation services and/or community support services upon discharge from hospitals. It is estimated that a total of 3 000 high-risk elderly patients will be served and training for 1 000 carers will be provided under the Kwun Tong project in a year.

I now turn to the subject of poverty alleviation. In poverty alleviation, I would like to stress that to ameliorate the poverty problem, the approach to tackle the problem at roots is to create more job opportunities. Therefore, the Government will spare no efforts in promoting the 10 major infrastructure projects, and we will launch some minor projects in order that more job opportunities can be provided.

Moreover, the Government will work with non-governmental organizations (NGOs) to provide 3 000 jobs for the youths during the 2008-2009 financial year over a period of three years. This will enhance their working experience and employability.

We will actively examine how employment assistance and training services provided at present by the Labour Department (LD), the SWD and the Employees Retraining Board (ERB) can be rationalized, integrated and enhanced. We will launch a pilot scheme this year and try out a one-stop employment support mode so as to more effectively assist unemployed persons, thereby providing greater convenience to the public.

On the other hand, the Government will actively promote the development of social enterprises and strengthen the concept of helping others to help themselves.

The Government has always been committed to promoting employment and raising the employability of local employees.

The requirements for enrolment in courses organized under the Employees Retraining Scheme were relaxed as of 1 November 2007 to cover youths aged 15 to 29 and persons with educational attainment at associate degree level or below.

At the same time, the ERB plans to increase training places in phases over the next few years. The number of training places will double to 200 000 a year in 2009-2010. The ERB is now discussing the contents of new courses with the stakeholders and it is expected that these new courses will be launched in the second quarter of 2008 to cater for the enlarged target group.

Relaxing the requirements for enrolment in Employees Retraining Scheme courses and increasing the number of training places are only the first step taken in enhancing training and retraining services. The ERB is presently reviewing its future role and duties with a view to helping more people to land jobs and raising their employability.

The Government has launched a number of employment assistance schemes in the past and I think Members are quite familiar with them. The objectives of these schemes are to help the youths and middle-aged persons in employment. These schemes include the Employment Programme for the Middle-aged, the Work Trial Scheme, the Local Domestic Helpers Incentive Allowance Scheme and there are also the Youth Pre-employment Training Programme and the Youth Work Experience and Training Scheme, and so on. We will review the effectiveness of these programmes and schemes from time to time and make reasonable improvements as appropriate.

We will continue to offer assistance to the low-income persons and we will launch the trial scheme on travel allowance which is originally scheduled to commence in June at an earlier date. The LD is now engaging in a review and study including how the eligibility criteria of the scheme can be relaxed.

With respect to social security, the CSSA scheme adopts the approach of income maintenance to assist those who are not financially self-reliant, including those on low income, to cope with their basic needs in life. As at October 2007, there are 17 508 low-income CSSA cases with 60 000 beneficiaries in total.

The review of disregarded earnings has been completed. We have decided to raise the non-deductible limit of the first \$600 to \$800 and to relax the requirement on disregarded earnings from persons receiving CSSA payments for no less than three months to two months. The new arrangement has come into effect since 1 December 2007 and it is estimated that 19 800 CSSA recipients will benefit.

We believe education and training can raise the quality of manpower resources in Hong Kong. All along the Government has been putting substantial amounts of resources into the development of education and training. There is a plan to commit about \$57.2 billion to education in the 2007-2008 financial year. This makes education rank number one in the total government spending, accounting for 23%.

The Chief Executive has announced in the policy address that starting from 2008-2009, students enrolled in public secondary schools will be fully subsidized up to the completion of their senior secondary school studies. Similarly, full-time courses provided by the Vocational Training Council for Secondary Three school leavers will be fully subsidized, thus offering another avenue to fully subsidized further studies apart from mainstream education to senior secondary school leavers.

Also, the Government will continue to allocate substantial funding to postsecondary education to ensure that students with potential and ability can have an opportunity to receive tertiary education.

To offer more opportunities of development to the disadvantaged children, encourage them to plan for the future and cultivate a positive mindset in them and thereby reduce the risk of inter-generational poverty, the Government has earmarked \$300 million to set up a Children Development Fund. Details of the pilot scheme under the Fund have been drawn up. We hope that the pilot

scheme can commence in the next financial year. We will brief members of the Welfare Services Panel of the Legislative Council on this scheme in the Panel meeting to be held next Monday.

To offer effective support to children from needy families to take part in sports and engage in artistic pursuits, the Education Bureau has since the 2005-2006 financial year allocated a recurrent funding of \$75 million to fund NGOs and public schools and schools under the Direct Subsidy Scheme to organize School-based After School Learning and Support Programmes to P1 to S7 students from CSSA families or in receipt of full-grant assistance under student financial assistance schemes. The aim is to broaden their learning experience outside the classroom. It is estimated that 178 000 needy students will benefit from these Programmes in the 2007-2008 school year.

At present, there are 134 subsidized integrated youth services centres in Hong Kong which offer various activities to children and young people helpful to the development of their potentials. Needy children and youths can receive full waiver of the fees when they join the activities of these centres. Starting from 2005-2006, various District Social Welfare Offices will get an annual funding of \$15 million to organize subsidized youth development projects in the districts.

Besides, the Comprehensive Child Development Service has been launched in Sham Shui Po, Tin Shui Wai, Tuen Mun and Tseung Kwan O on a trial basis in phases since 2005. During the first half of last year, the Service was extended to include Tung Chung and the entire Yuen Long area. We plan to extend the Service to Kwun Tong this year. In future, we will further extend the Service to serve more children and families in need.

As for health care, I wish to point out that the health care policy upheld by the Government all along is to ensure that no patient will be denied appropriate health care for lack of means. The public health care services provide a safety net to low-income families and the disadvantaged through the fee waiver system and other financial assistance initiatives. Under the existing fee waiver system for health care charges, all CSSA recipients are eligible for waiver of the health care charges in public hospitals and clinics without having to undergo any vetting and approval. As for those in financial difficulty but are not CSSA recipients, they can apply for fee waiver if they meet the eligibility criteria set by the HA.

The Chief Executive has announced in the 2007-2008 policy address that the Food and Health Bureau will launch a trial scheme in the 2008-2009 financial year. Under the three-year scheme, elderly aged 70 or above will each be given five health care vouchers every year to help them meet some of the expenses incurred in using private primary health care services, including preventive care. While the health care vouchers scheme is in force, the Government will incur an additional expenditure of about \$150 million per annum. During the period, public health care services for the elderly will not be reduced because of the implementation of the scheme. Should the elderly find it necessary, they can still use the public health care services.

As for the disadvantaged with special needs, including single parents and new arrivals to Hong Kong, the Government provides a series of preventive, supporting and curative welfare services to them through the 61 integrated family services centres and the two integrated service centres located in various districts. Social workers in these service centres have the relevant experience and skills to assess and address the needs of single-parent and new-arrival families in the district concerned and offer suitable services to them. The service hours of these centres will be extended to make the services easily accessible to the public.

To help people with disabilities integrate into society, the Chief Executive stated at the end of last year that the SAR Government had decided to offer public transport concessions to people with disabilities. The Financial Secretary and I are working on the implementation details and the scheme will be explained in the budget to be delivered next month.

Deputy President, I have highlighted the government services and assistance offered to the elderly, the needy and the disadvantaged. After hearing Members' views on the topic, I will give a concise response later on.

Thank you, Deputy President.

MRS ANSON CHAN (in Cantonese): Deputy President, in the years past, Hong Kong was caught in an economic downturn and there were massive deficits. The Government resorted to using stringent policies of cutting resources and raising taxes, thus obligating patients, the elderly and people with disabilities to spend a long time waiting for their turn to get various public services like health

care, social welfare, and so on. At the same time, the livelihood of the grassroots and the survival of the small and medium enterprises (SMEs) are also affected.

Now that there is a huge surplus in the Government, it has decided to make a hefty cut in taxes and hand out money. However, those who stand to benefit are not the grassroots and what the Government has been doing may be no other than window-dressing.

Actually, the people of Hong Kong are practical and rational. Our experience over the past few years showed that handing out money did not necessarily win many rounds of applause. The people of Hong Kong are willing to make sacrifices and should there be huge deficits and the Government decides to raise taxes, they will not voice any strong opposition to it. The crucial point is whether or not the money is spent where it is due.

Hong Kong people have a good sense of crisis. They know that their society is facing a tremendous challenge. This includes an ailing health care system, and an ageing population which exerts pressure on future provision of welfare and health care services. Besides, there are also problems like the mismatch in the workforce. So if the Government can use the substantial surplus on measures that are conducive to the long-term social and economic development of Hong Kong, it would be welcomed by Hong Kong people all the more.

Ageing of the population is a social phenomenon that is completely predictable and will occur soon. In less than 30 years' time, one quarter of the population of Hong Kong will be elderly people. It has been the community's wish that the Government can make use of the population window characterized by a low dependency rate and formulate policies and measures as soon as possible to respond to the impact of a growing population of the elderly on health care, long-stay care, life and retirement protection, community environment, transport and the labour market. It is unfortunate that the Government is still playing a very passive role in these.

I agree that the Government should set aside enough resources to meet the needs of an ageing population and implement work of helping the poor. However, one-off funding or block grants can hardly solve the problems. Besides consideration of resources, of greater importance is the necessity for the

Government to devise long-term policies and measures to address the problem of ageing population and study how poverty alleviation work can be taken forward. With specific policies and clearly-defined goals, resources can be used in an appropriate manner and an effective solution to the problems found in society identified. I think that such long-term policies and measures must include the following which: (a) aim at assuring the day-to-day living expenses of the elderly; (b) improve health care services for the elderly; (c) complete studies relating to retirement protection and conduct public consultation on universal retirement protection and reform of the Mandatory Provident Fund system; and (d) draw up policies and financing arrangements for long-stay care so as to shorten the waiting time for RCHEs and increase community support services for them.

Lastly, I hope very much that the Government can tell this Council clearly, after the dissolution of the Commission on Poverty and poverty alleviation work is handed over to the Labour and Welfare Bureau, what the objectives in government efforts in the next couple of years to cope with ageing population and poverty alleviation are and how the effectiveness of these policies and measures is to be measured.

I so submit. Thank you, Deputy President.

DR YEUNG SUM (in Cantonese): Deputy President, ever since the middle of last year, the economy of Hong Kong has been growing very fast. The stock and property markets are buoyant; hence there is a great surge in tax revenue and proceeds from land sales. As announced by the Financial Services and the Treasury Bureau last December, the surplus for the first eight months in the 2007-2008 financial year amounts to \$50.6 billion. Some accounting firms even predict that the surplus of this year will be as much as \$70 billion and it may even reach \$100 billion.

Since public coffers are inundated, we certainly hope that the Government can adopt measures to return wealth to the people. However, we also hope that public money can be used to its best end. If the deployment of resources is not balanced, most resources will go to the top and the bottom will be in lack of resources. The result is that inflation may deteriorate and the wealth disparity problem for which Hong Kong ranks the fifth worst place worldwide may intensify. We expect the Government to commit more resources to improving

the lot of the grassroots. Measures to this end include offering transport fare concessions to people with disabilities, raising the Old Age Allowance to \$1,000 and increasing resources to alleviate the burdens of the medium-income families.

In her original motion Miss TAM Heung-man calls for more expenditure on education, health care, social welfare, and so on, plus introducing some tax relief measures. We all lend our full support to these. Dr KWOK Ka-ki in his amendment mentions increasing the amount of health care vouchers, allocating additional resources to enhance mental health services, providing more resources to the Hospital Authority to improve the situation of an uneven distribution of resources among hospital clusters. These are precisely the goals we are striving for. About the proposal to implement a tax rebate scheme for private medical insurance, however, we think that it must be handled with great care. I shall focus my speech on this part.

When Dr KWOK Ka-ki suggests implementing a tax rebate scheme for purchasing medical insurance, I believe his purpose is to reduce the tax burden borne by the middle class. On the other hand, more people can be encouraged to take out medical insurance in the private sector and use health care services in it. Hence, the private sector health care market will become more competitive and the burden on the public sector health care services can hopefully be reduced. We consider that tax concessions should not be offered unconditionally to all private medical insurance policies. The Democratic Party has got something actually to say about health care services in the private sector and I can talk about it.

The private sector medical insurance market as it now is can be said to be filled with dangerous snares. The Consumer Council has expressed grave concern for certain problems found in the private sector medical insurance market. There is a myriad of medical insurance policies available, each with very different coverage and charges. The terms and conditions of the policies are numerous and they can be easily overlooked by the policyholders. This accounts for countless cases of failure to claim compensation or that the compensation obtained may not be able to cover all the medical expenses incurred. For those cheaper insurance policies with a low premium, even if full compensation is obtained, the amount is insufficient to cover hospitalization expenses in private hospitals. Should the policyholder come down with a grave illness, the patient still has to count on public health care services. In the absence of any sound regulatory system, it may not be effective to offer tax

incentives to encourage more people to take out medical insurance and thereby reduce the demand for public health care services. Moreover, many people may incur losses as a result.

Of greater importance is the effect of the private medical insurance system on the entire health care system and, for that matter, we must be very careful. Let us look at the example of the United States. The United States is one of the very few countries in the world that relies on private medical insurance as the mainstay of health care financing. The country's health care expenses are as high as 14% of its GNP. In Hong Kong's case, it is less than 5%. One of the reasons leading to great health care expenses in the United States is the high administrative costs for private medical insurance. Those who have taken out medical insurance are prone to abuse the services. Overall service demand is likely to rise because of abuse. One thing that makes health care services so different from ordinary goods and commodities is that when service demand grows, it is not easy at all to import medical and nursing staff from overseas. This drives up the costs of health care services. And government subsidies to the health care bills of the poor people will rise. Also, these private sector medical insurance companies are profit-making and they refuse to offer protection to the old, frail and handicapped who are in the greatest need of protection. In the end, what will appear is a juggernaut health care system that is both ineffective and unfair. Also, as the private medical insurance companies grow, they will find it necessary to protect their own vested interest. This often becomes a great obstacle to change and reform in the health care system and its allied financing regime.

In Australia and Switzerland, there are institutions that encourage or even compel people to take out private medical insurance policies. It appears that such measures are in no way detrimental to the impartiality of the health care system in these countries. However, upon further understanding of these systems, we can find out that the private medical insurance policies in these countries are subject to very stringent regulation. In Australia, for example, the private medical insurance companies must charge group class premiums. These insurance companies cannot charge different premiums according to the age and health conditions of the insured. The Swiss system also prohibits private insurance companies from refusing citizens to take out policies and the premiums are standardized. Deputy President, you can see that the regulatory frameworks for these private medical insurance policies cannot be found in Hong Kong at all.

If Hong Kong is to encourage its people to take out medical insurance policies through the offer of tax incentives, we think that the practices in countries like Australia and Switzerland should be taken into reference to devise a proper regulatory regime, in order to prevent negative impact from forming on the health care system because of tax concessions offered to private medical insurance policies.

I so submit. Thank you, Deputy President.

MR RONNY TONG (in Cantonese): Deputy President, an ageing population is a major trend faced by many developed international metropolises. As technology advances continuously, the average life expectancy has also been extended continuously, and the elderly population is actually the biggest challenge we face. According to the projection of the Government, one in every four Hong Kong people will be over 65 years of age in 2033. At the end of last year when I assisted my party members in contesting the District Council election, I had particularly deep feelings about the problems faced by the elderly. In fact, in New Territories East there are already a number of so-called "ageing communities" where the residents mainly comprise elderly people. During the election, we often saw some elderly people hanging around our electioneering teams, trying to remind us to fight for a higher amount of the "fruit grant" for them. Indeed, these communities have one characteristic in common and that is, when the elderly people lost their economic vigour, these communities would at the same time lose the ability to make improvement. We have seen worsening conditions in many old buildings where the inhabitants are mainly elderly people, and another example is that we have also seen elderly people aged 70 or 80 still insisting on engaging in vending activities on the street or braving wind and rain while carrying cardboard on the street, only to earn a meagre income to help meet their living expenses. Deputy President, as a member of this cosmopolitan, I feel greatly saddened and ashamed seeing this.

The ageing population is inextricably linked with the problem of poverty. On the solution to the problem of elderly in poverty, it is not the case that as long as there is economic growth, the poor people can become self-reliant and the problem will be automatically solved, just as officials of the SAR Government have always said. If our society still expects an elderly person aged over 65 who has lost the ability to work to collect cardboard and aluminum cans on the street in cold winter days or under the scorching sun and lashing rain, in order to

make ends meet, this is absolutely not permissible, whether in any western or Chinese community. We have seen this happen and yet, we have turned a blind eye to it. In a Chinese community this can be considered as defiance against filial piety.

However, our Government has all along allowed and even connived at this phenomenon which is against moral principles. The Legislative Council Subcommittee to Study the Subject of Combating Poverty submitted to the Government 25 recommendations relating to elderly in poverty last year and the reply given to us is: "We will continue to follow up this issue, and we urge Members to continuously support the work of the Government." But up to this moment at least, we still do not see any of these 25 recommendations being specifically put into practice. At the beginning of this Session, this Council passed the Motion of Thanks which calls for, among other things, an increase in the "fruit grant" payment. But the Government has rejected all the painstaking efforts made by Members by simply saying that the "fruit grant" is not meant to solve the problem of poverty. However, when no solution can be identified to the problem of elderly in poverty, the "fruit grant" has actually become most crucial to alleviating poverty among the elderly. How can the problem be addressed if the Government is not prepared to spend even a small amount of money? Could it be that the \$250-worth health care vouchers are already sufficient to solve this problem?

We understand that many of the recommendations submitted to the Government by the Subcommittee for eliminating poverty among the elderly are long-term policies and time will be required to study them. However, immediate review and implementation are still possible for a substantial part of these recommendations. Here, perhaps let me talk about several of them: First, in respect of providing financial assistance to the elderly, the Government should immediately increase the monthly payment of the Normal Old Age Allowance to \$900 and that of the Higher Old Age Allowance to \$1,000; this is already the bottomline and consensus of the community and can brook no delay. Besides, the Government must immediately extend the Portable Comprehensive Social Security Assistance Scheme to all places outside Hong Kong. Second, the requirement of the so-called "bad son statement" must be abolished and elderly in poverty included as a major part of the poverty alleviation work. Third, the application procedures for medical fee waiver must be streamlined immediately, and the waiver to Chinese medicine consultation and medication charges extended, and also medical treatment at public hospitals and clinics to all elderly

must be provided at half price, while increasing manpower to provide telephone booking service for the elderly. Fourth, more tax incentives must be provided to families for taking care of elderly family members. Fifth, the provision of residential care home places must be expedited to shorten the waiting time and public housing units must be provided for victims of elder abuse cases.

What I have just mentioned are measures that can be implemented immediately. As for policy directions in the longer term, including detailed studies on the feasibility of a universal retirement protection scheme and formulating care and medical policies for the elderly in the long term, there should not be any more delay. It is certainly best to immediately re-establish the Commission on Poverty, so that the community and the Government can join hands to review these issues and make improvement.

Deputy President, Miss TAM Heung-man's proposal today actually offers a very good opportunity for the Government to make early preparation for the problem of elderly in poverty. We Cantonese people have this saying: "Collect firewood in sunny days and save it up for rainy days". A decade ago the Hong Kong economy was booming but our colonial government at that time refused to make any undertaking for the long-term planning of society and as a result, we let slip the opportunity to start planning early for the elderly and the disadvantaged. Now, with the daily stock transaction volume being as high as over \$80 billion and a fiscal surplus of \$100 billion this year, and when the grassroots may have to again suffer from the hardships brought by inflation, we think it is high time we properly planned for our future and for the future generations and also made good preparations for narrowing the gap between the rich and the poor.

Deputy President, I support Miss TAM Heung-man's motion. Thank you.

MR LI KWOK-YING (in Cantonese): Deputy President, given the appreciation of Renminbi and continual rise in the price of imported goods, inflation has persisted and the people have to face waves after waves of price hike. The local public utilities operators, such as the CLP Power Hong Kong Limited and the Hong Kong Electric Company Limited, have taken the lead to increase tariffs. On the other hand, as the prices of imported goods have remained on the high side but the increase in wages has been far lower than inflation, this has put a

heavy burden on the people, especially the disadvantaged groups. Meanwhile, in view of the economic upturn last year, the Taxation Institute of Hong Kong estimated that the Government will have a fiscal surplus of over \$100 billion this year, which is a record high. Financial Secretary John TSANG also said that the fiscal surplus of the Government in 2007-2008 will be higher than expected. Under such circumstances, the Government should seize the opportunity of a fiscal surplus to increase the strength of measures to alleviate poverty, with a view to easing the pressure of inflation on the public.

Undeniably, as also pointed out by Financial Secretary John TSANG, the factors contributing to last year's fiscal surplus, which included a substantial increase in stamp duty revenue from robust stock transactions and higher-than-expected proceeds from land sale, may not necessarily exist every year. This is why Financial Secretary John TSANG said that he is inclined to spend the surplus on one-off measures to return wealth to the people, rather than spending it on recurrent measures which may create a burden on the Government in the long term. However, I hope the Financial Secretary will understand that disregarding whether or not there is a huge fiscal reserve, in view of the substantial price increases and the plights of the grassroots whose burden of living has become even heavier, poverty alleviation is a major and unshirkable duty of the Government that cannot be considered as a measure which will create a burden on the economy in the long term.

Certainly, it is true that the Government can reduce unnecessary administrative expenses and pre-empt a recurrent burden on its finance in considering such one-off measures as rates waivers or tax rebates. However, these concessionary measures may not enable all the people to enjoy the benefits of tax exemption; nor can they benefit the grassroots who do not own any property. Everyone is still suffering from the consequences and pressure of inflation. Therefore, in considering giving out "candies" on a one-off basis, the Government should enhance the existing policies and measures for supporting the low-income group and also implement the many recommendations made by the subcommittee on poverty alleviation of the Commission on Poverty (CoP).

In fact, the Government has, through a diversity of channels, encouraged organizations to apply for funding to carry work to help the poor in the districts. For example, the Community Investment and Inclusion Fund aims to develop social capital by encouraging community participation and cross-sectoral partnership; and the Enhancing Self-Reliance Through District Partnership

Programme aims to upgrade the skills and employability of employable persons, in order to meet the objective of self-help and helping others, thereby promoting sustainable poverty prevention programmes at the district level. In simpler terms, the Government has already provided support to various target groups through various funding schemes. Therefore, insofar as district-based poverty alleviation initiatives are concerned, the key lies not in whether or not there are adequate resources in the districts, but whether these resources are fully utilized to take care of people who may not benefit from the existing services. As pointed out in a report of the CoP, the authorities have not provided funding specifically to encourage employment. The CoP considered that in the long term, it is necessary for the Government to streamline and consolidate the different sources of funding. From this we can see that there is no practical need to set up a new fund as proposed in the original motion, and the fund may not serve the purpose of putting resources to good use for promoting poverty alleviation work in districts.

For this reason, instead of continuously wasting unnecessary administrative resources to create new funds which will impede the progress of the allocation of funds for organizations, it is better to practically improve the existing policies and measures to benefit more needy people in the lower class. For instance, in respect of tackling the ageing population, the enormous health care expenditure and housing needs are big challenges that the Government is set to face. The Legislative Council Subcommittee to Study the Subject of Combating Poverty has long since made a series of recommendations focusing on elderly in poverty. They include the provision of financial assistance and health care services to the elderly and meeting their housing needs. As inflation worsens, elderly people who have neither the ability to work nor income will definitely be the first to bear the brunt. To reduce their living expenses, some elderly people will choose to spend their old age in the Mainland. However, the existing absence limit from Hong Kong for recipients of the "fruit grant" has created much inconvenience for the elderly. In this connection, the Democratic Alliance for the Betterment and Progress of Hong Kong proposes that the Government should increase the amount of Old Age Allowance and abolish the absence limit, in order to ensure a secured old age for the elderly.

Moreover, the Government should actively provide support to social enterprises, because short-term welfare and relief measures cannot achieve the objective of enabling the disadvantaged to become self-reliant and strive for improvement. The operation of social enterprises can help the disadvantaged in

their employment while achieving the effect of wealth creation and hence sustaining the development of the social enterprises. I understand that the Government has included the promotion of social enterprise as a key area of work for helping the disadvantaged. However, many locals have reflected that the resource constraint aside, the lack of experience in business operation is also a major obstacle deterring organizations from setting up social enterprises. In this connection, the Government should provide more channels and opportunities for co-operation between social enterprises and the business sector, thereby encouraging participation from the business community in the operation of social enterprises. On the other hand, the Government can encourage academic institutions to provide professional programmes in the start-up operation of social enterprises and through the provision of subsidies, encourage social enterprise operators to pursue studies in the operation of social enterprises, so as to facilitate the professional and sustained development of social enterprises.

Deputy President, the fiscal surplus offers a good opportunity for the Government to increase the strength of support measures for the disadvantaged. I sincerely hope that the Government can, under the existing policies and measures, extend the scope of support and assistance for the lower-class and further encourage the development of social enterprises, thereby achieving the objective of improving the living of the grassroots and helping them to help themselves as well as others.

Deputy President, I so submit.

MR LEE CHEUK-YAN (in Cantonese): Deputy President, recently, the Financial Secretary has run into the trouble of "overflowing with money". Indeed, he is very much blessed in running into this trouble, for the cause of his distress is "overflowing with money". That said, he should still feel a bit troubled because as money has been overflowing to such an extent, what is he going to say to the people as to how he will utilize these public funds?

However, I am very disappointed by the remarks made by Financial Secretary John TSANG recently, from which I can see that his approach or philosophy of fiscal management is very short-sighted. In his response to the public on the question of "overflowing with money", Financial Secretary John TSANG said to the effect that in considering how the surplus should be utilized, we must ask a fundamental question: Will the factors contributing to an extra

surplus definitely recur every year, so that they can be factored into the formulation of future budgets? In view of the many uncertainties in the economy in the short term, he considered that the answer to the question is in the negative. He said that this is why the surplus should be spent mainly on "one-off" measures, rather than recurrent measures which may create a burden in the long term.

On behalf of the Confederation of Trade Unions (CTU), I must say that these remarks are utterly disappointing. Our Financial Secretary is so short-sighted as to hold that any measure to be implemented must be one-off at the most and cannot be made permanent. In fact, the measures in respect of ageing population and poverty alleviation do require long-term commitment. But much to our regret, Financial Secretary John TSANG already made it clear that no matter what measure will be implemented, no consideration will be given to implementing it as a long-term measure and only one-off measures will be considered.

I think nobody will believe him anymore. Deputy President, it is because there have been precedents of the Government "crying wolf" when it made projection of the surplus or financial estimate. The Government will invariably say that there will not be much surplus; it says that the surplus will not be much, but the surplus will eventually turn out to be full to overflowing. The Government has cried wolf all the time, and its forecast is incredible. The Government also cautioned against uncertainties next year, but the thing is that it cautions against uncertainties every year, and I just do not know why. This is like what the boss will do. When we ask for a salary increase, the boss will say that there are uncertainties in the situation next year. This will happen to every salaried employee, as their boss will simply say the same thing. The Government will say that there are uncertainties but it will always turn out to be overflowing with money. This is unhealthy to our finance as a whole, because the measures implemented are always on a one-off basis and long-term measures are not given consideration.

Financial Secretary John TSANG said that the surplus is attributed to an unexpected increase in land sale proceeds or stamp duty. This, I think, is not true. I can cite some statistics to prove what he said is untrue. Why is there such a huge surplus? There is another reason for it, that is, the Government has continuously compressed its expenditure even when the economy has turned the corner with so huge a surplus, rather than increasing public expenditure in line

with the economic growth. In 2006-2007, the total government expenditure was \$229.4 billion, which was 7.9% less than the \$247.5 billion in 2003-2004. As we all know, the year 2003-2004 was a difficult time, for that was when we were hit by SARS, whereas the year 2006-2007 was good as the economy was bottoming out and the coffers were overflowing with money and yet, the recurrent expenditure in 2006-2007 was reduced by more than \$16 billion, and in terms of its proportion in the Gross Domestic Product (GDP), the expenditure was reduced from 20.1% to 15.6%, showing a reduction of almost 30%.

So, we can see another reason contributing to the surplus and that is, it is actually because the Government has constantly compressed the recurrent expenditure. And what will happen when the recurrent expenditure is compressed? The problems have emerged now. We see a manpower shortage and succession gap in health care personnel and social workers, and many grades in the Government also face the crisis of a succession gap, which has taken a heavy toll on the quality of public services. For instance, there is not sufficient staff to man the 24-hour emergency hotline and this, the Secretary should understand only too well as the waiting time for the first consultation appointment in some specialties at public hospitals can be as long as two years. These problems have already emerged, but the most serious problem is that the Government has always stressed "big market, small government" and it has also been aspiring for the reputation of being the freest economy. The Heritage Foundation of the United States conducts a survey on economic freedom, and the Government is very keen to be ranked second to none.

Deputy President, I hope that the Government will note one point. The freest does not mean the richest. What use is there to be the freest? What matters most is to be the richest? Members can look up the findings of the survey conducted by the Heritage Foundation. Those countries which are not as free as Hong Kong, so to speak, are all developed countries with very high rankings, including the United States, Britain, Denmark, Sweden, Switzerland and Japan. They may not be as free as Hong Kong, but they are all richer than Hong Kong.

So, it is most important to be an affluent society, rather than the freest society. The next thing to do is to consider how this affluent society can provide the people with good health care, education and social welfare services, rather than craving for the reputation of being the freest all the time, which is meaningless.

In Hong Kong, the social expenditure covering education, medical and health care, housing and welfare services accounts for 9.3% of the GDP, which is only half of that in European countries. Some people may ask: Does it mean that we have to follow the policy in Europe featuring high taxation and high welfare elements? Let us not go this far. We are not suggesting that we should reach this standard but at least, our social policies should not remain stagnant. We should at least move forward, and we should move forward along with economic growth.

So, we in the CTU have consistently put forward a demand: With such a huge surplus, we can see that there is room for manoeuvre, and the Government is absolutely in a position to make long-term commitment. So, we call on the Government to allocate an additional \$15 billion for recurrent expenditure, which is equivalent to 1% of the GDP, in order to make up for the previous reductions in public expenditure.

Finally, Deputy President, I would like to discuss the poverty alleviation measures. I would like to make a suggestion. The Secretary said earlier that employment is most important. Certainly, we agree that employment is important. But more importantly, in addition to employment there must also be reasonable wages. A very big problem now is that the unemployed are unwilling to turn to the Government for assistance. We have all along suggested to the Government that it should — my time is almost up — provide an allowance at a monthly rate of \$600 for workers to find jobs, so as to encourage them to come forth and seek assistance from the Government in employment. Only in this way can the Government encourage the unemployed to find a job.

DEPUTY PRESIDENT (in Cantonese): Time is up.

MR LEE CHEUK-YAN (in Cantonese): Thank you, Deputy President.

MR ALBERT CHAN (in Cantonese): Deputy President, with regard to setting up a fund to help the disadvantaged and people in need, the League of Social Democrats has, for two years in a row, made concrete proposals to the Financial Secretary. Two years ago we already proposed that the Government should set

up a \$20 billion fund to improve the living of the grassroots. I am very glad to see that a number of political parties and groupings have followed this line of thinking and put forward similar proposals targeting various special needs.

Setting up a fund is a good approach, because when the Government has a surplus, it should utilize it to provide stable financial support for future development and the future needs of the people. For example, the Government is going to seek approval for setting up a \$1 billion fund for environmental protection on Friday, and this shows that the Government has adopted a similar approach in respect of many services before. Since the Government has recorded a surplus in tens of billion dollars in recent years and this year's surplus is even projected to stand at a hundred billion dollars, the Government should break with its past approach of "dishing out money".

Certainly, under the approach of "dishing out money", the more wealthy a person is, the more he is going to benefit from it; the more tax a person pays, the more rebates he will be offered, which is certainly something to rejoice in. But from the position of the Government, an organ managing public finance, this is absolutely not the wisest, the most appropriate or the best thing to do. Certainly, this bears a close relationship with many people in the senior echelons of the Government, the plutocrats, as well as high-income earners in society, and many senior members of political parties may also benefit directly from tax concessions or rebates, and the Government will certainly be put under immense pressure. For example, on a previous occasion a month or two ago when the Legislative Council discussed rates concessions in this Chamber, only the League of Social Democrats cast an opposition vote, whereas other political parties all called on the Government to offer rates concessions.

The handling of public finance certainly involves a process of give and take, as there are calls for rates relief and tax rebates and also reduction of this and that but in the end, these may not in the least benefit the most disadvantaged groups. So, I would make an appeal to political parties and Members that when handling public finance, they must set priorities and consider clearly which group of people should be given first priority to obtain support when, insofar as public finance is concerned, the Government has recorded a huge surplus. We are not talking about benefits and we are simply talking about giving them support, so that these people who are living in dire straits, people who are living below the poverty line can live a more humane life.

Many Members have repeatedly said in this Chamber that many elderly people go to bed at 7 pm in order to cut down on their consumption of electricity, and in order to economize on the consumption of electricity, they do not even turn on the fan but as their flats are hot and stuffy, they stay outside and come home only at bedtime. In order to economize on the consumption of flush water, sometimes they would rather use public toilets; in order to reduce the consumption of water for taking baths, they take towels with them to wipe their body in public toilets. These examples have abounded. Since the Government has a surplus of close to a hundred billion dollars and if the surplus is distributed equally to all citizens, each citizen will have a share of more than \$10,000. So, if this Government still refuses to take care of the disadvantaged in Hong Kong and those Hong Kong people who live below the poverty line when it has amassed a huge fiscal surplus, it would be a shameless, unscrupulous government. Certainly, this is absolutely not something on which Secretary Matthew CHEUNG can make a decision today, for the consent of the Financial Secretary and even the entire Government, including the Chief Secretary for Administration and the Chief Executive, will be required.

So, when I see that only one Director of Bureau representing one Bureau is in this Chamber, I feel very disappointed because I think this is absolutely not something that can be decided by one Director of Bureau unilaterally. I have discussed these issues with the Secretary for many times and in particular, when we discussed the problems in Tin Shui Wai and Tung Chung, I said time and again that nothing can be done if money is not ploughed in. Do not lie to the people about how assistance would be provided to them. Nothing can be possibly done if the Government does not inject substantial resources in terms of public finance. This is like the case of infrastructure development. Could we rely on consortiums to fund the development of infrastructure, as in the case of the Western Harbour Crossing? After investing their money, the consortiums will take back everything and recover the full costs plus interests, and members of the public are now made to suffer from the high tunnel toll precisely because of the investment made by the Western Harbour Tunnel Company Limited. Improving the people's livelihood is a duty of the Government, especially when it has a huge surplus.

On the setting up of a fund, our discussion today has focused on the elderly. In fact, the ideal way, as we have discussed this in this Chamber for many times, should be to introduce universal retirement protection as early as possible, which is most practical. Since there is a surplus now, we can set up

funds such as an elderly fund or whatever, and I do not wish to get entangled with the nomenclature. It is most important that the social groups in need, especially the disadvantaged, can ultimately be provided with support.

So, I hope that the Secretary can further reflect the situation to the Financial Secretary based on the relevant justifications. As I also proposed to the Financial Secretary when I met him on a previous occasion, on the culture front, a \$2 billion culture fund can be set up; and in respect of agriculture and fisheries, a fund of some \$1 billion to \$2 billion can be set up for agricultural and fishery development. With a surplus to the tune of \$100 billion, setting up funds can be a direction of development, and when the relevant policies have been established, they can be supported by recurrent operating expenditure. But since the Government has a surplus, it should put this proposal into practice as soon as possible and if the Government again rejects it, that would only be proof of the unscrupulous, shameless side of the Government.

Thank you, Deputy President.

MRS SELINA CHOW (in Cantonese): Deputy President, I think in our debate today, we have a very strong consensus among us and that is, we indeed face the problem of an ageing population and the poor people are in need of care and support. I think this is an issue of concern to any caring society or political figure. The Government has reaped a good harvest in this financial year as a huge surplus of \$50.6 billion has already been recorded in only eight months since the beginning of the financial year, which is indeed a world of difference compared with the \$3.6 billion deficit recorded during the same period of the last financial year. Some newspapers even reported that the surplus might aggregate to as much as \$100 billion. When delivering the policy address Chief Executive Donald TSANG said that he was indebted to Hong Kong people. Given the very promising developments now, it is opportune for the Government to repay its debt to the people.

For this reason, the Liberal Party, when meeting with the Financial Secretary earlier, put forward a "tripartite" proposal. If, at a conservative estimate, this year's surplus will be \$60 billion, the Liberal Party proposed that one third of it be spent on one-off tax rebates, rates relief and reduction of government rates, while another \$20 billion should be allocated for poverty alleviation and tax reduction and the remaining \$20 billion should go to the

Treasury. This proposal aims to relieve the people of their plights and return wealth to the people while having regard to maintaining stable revenue for the Government.

We have particularly noticed that the economic upturn has brought with it the problem of inflation, as we see price increases in the basic necessities of the people's living, such as food, electricity tariffs, transport fares, and so on, and even the price of bread has also increased recently. We all know where the crisis lies, and particularly to the lower-class people, the price hikes may put an even heavier burden on them in their living. In this connection, the Liberal Party supports that more support should be provided to the elderly and the poor and also to children about whom we are most concerned. We propose that in the budget to be published next month the Financial Secretary should increase the "fruit grant" from \$900 to \$1,000, which would cost the Government an additional \$1.63 billion per annum. We also propose that the Government should allocate \$700 million to substantially increase the amount of health care vouchers for the elderly from \$250 to \$1,000 for each elderly person, and we hope that the Government will consider extending the eligible groups of health care vouchers to other age groups.

(THE PRESIDENT resumed the Chair)

In respect of tax revenue, to encourage children to provide for and take care of their parents, we in the Liberal Party propose to increase the tax allowance for dependent parents and also relax the requirement of living together in a way that children who live in the same housing estate as their parents should also be eligible for the allowance. Meanwhile, as the existing determination mechanism of the Comprehensive Social Security Assistance (CSSA) rates fails to catch up with inflation, we, therefore, support a flexible adjustment mechanism for CSSA. For instance, the review cycle can be shortened from one year to half a year, so that CSSA recipients do not have to wait for one year and bear the ordeal of inflation before their CSSA payment can be adjusted.

Madam President, the Liberal Party agrees that the Government must address squarely the problems caused by an ageing population, including the additional expenditure incurred in health care services and the retirement life. It is because according to the projection of the Census and Statistics Department, the percentage of people aged 60 or above in the population will have

substantially increased from the present 16.3% to 32% by 2036. Therefore, we consider that the Government, with the coffers rolling in money, should provide adequate resources to implement a series of recommendations to help the poor and the disadvantaged, and also to cope with the challenges of an ageing population.

With regard to the speeches made by Members earlier, we actually very much share their views. For instance, Mr LEE Cheuk-yan opined that long-term commitments should be made, and Mr Albert CHAN even questioned earlier whether Secretary Matthew CHEUNG should be the only official in this Chamber. We do very much share these views. We are talking about facing the trend of an ageing population, and an ageing population is not a problem that can be addressed purely through welfare. In fact, we should indeed consider long-term and ongoing policies and strategies and conduct studies on how we can meet this challenge on all fronts and also how we can "save up for the rainy days" given this situation. Therefore, it is actually inadequate for this issue to be taken care of by just one Bureau. Certainly, Secretary Matthew CHEUNG does have the duty to take care of the impoverished, but today, we are discussing the problem of an ageing population which actually involves issues of concern in many areas. So, we call on the Government to consider this question: Can the problem be solved purely by "dishing out money", "giving out money" or even purely setting up a fund? We do not think that the problem is just this simple.

With regard to the recommendations made in the report of the Subcommittee to Study the Subject of Combating Poverty, we have said repeatedly that we support a great majority of the recommendations made therein, just that we may not necessarily agree on certain details. But we support the overall spirit and principle and, especially in respect of medical and health care services, greater care is indeed warranted.

Madam President, since the Government has an unprecedented fiscal surplus now, apart from meeting the immediate needs in respect of, say, the "fruit grant" and health care services, in the long term, we must have in place a good plan and a good strategy to meet the challenges. Thank you, Madam President.

DR FERNANDO CHEUNG (in Cantonese): President, today, I very much thank Miss TAM Heung-man for proposing this motion. In relation to the

arrangements to be made in the budget, it is indeed necessary to set aside additional resources to address the long-term social problems which we can envisage and which require commitments from society in the future.

An increasing elderly population and an ageing society may not always be a negative problem for society. In fact, as our population ages, it can be something very positive if we look at the experiences of our population in various aspects as well as the contributions made by the elderly to society. That said, the financial implications involved may still worth our consideration, and the impact on the health care system or other aspects will be significant. In respect of poverty, I think, as a number of colleagues have actually said earlier, the poverty problem in Hong Kong is very serious. Citing statistics provided by the Census and Statistics Department, the Hong Kong Council of Social Service said that the population of the poor now stands at 1.33 million in Hong Kong, and compared with our population of about 7 million, the percentage is very high and pretty astonishing. Faced with such a serious problem, do we have adequate resources to deal with these issues or social problems? In fact, these arrangements are what a responsible government must consider.

I think the crux of the issue may not only be the needs of an ageing population, poverty or other social problems, but how the Government should arrange the public resources and how it can, through the budget, enable these resources to reach the people most in need.

President, I think the biggest problem with our budget is two-fold. First, insofar as the mindset is concerned, we have the concept of "small government, big market". Obviously, the SAR Government has taken pride in this approach, equating "small government, big market" with a good direction which will surely lead to a robust economy. Therefore, if we look at the latest information on the budget, we can see a declining share of public expenditure in the Gross Domestic Product (GDP) in the future. For instance, our public expenditure this year accounts for 17.4% of the GDP, but its percentage as projected in the next five years will drop continuously to reach 16.3% five years down the road. Let us take a look at this: Under such a situation, the proportion of public expenditure in the overall economy will actually shrink consistently. This is the big framework.

As for the small framework, it is reflected in the fact that we have abandoned the "bottom-up" approach, under which the budget is formulated

according to needs. There is the so-called RAE (Resource Allocation Exercise) in the Government and now, the RAE exists in name only. Why? Because we have completely changed the rules of the game by adopting the financial envelope system.

Under this "envelope" system, it is pointless for us to say however substantial the needs are, and it is a waste of effort to do so. Now, the "pie" before us is just this big, and this "pie", which stands for our public expenditure, will only account for an ever diminishing proportion *vis-a-vis* the overall portfolio of expenditure, economic growth or the wealth of Hong Kong. We have to implement "small government, big market" and so, we have to continuously make this pie smaller. We cut this pie of public expenditure into pieces, allocating a share to health care services, a share to welfare services, a share to labour, a share to medical services, and a share to education, and after the pie is shared out, each area will be given a particular share or percentage which basically will not be changed significantly because, in order to increase the expenditure on welfare services, does it not mean that the share of education must be partially slashed? In order to increase the expenditure on public health care services, does it not mean that we have to cut expenditure in other areas? So, it is actually very difficult to decide which area of resources can be cut away. Under the accountability system, all the departments will certainly fight for resources and every department will say that they do not have adequate resources. So, the percentage will basically remain unchanged, and on the principle that the percentage will remain unchanged, each department will accept an envelope. The big envelope is handed out by the Financial Secretary to the Directors of Bureau, and the Bureaux will receive funding according to their respective percentage of public expenditure annually and after receiving their funding, the Bureaux will operate on their own.

The envelope system is one which basically underwrites everything by imposing restrictions on a year's — Indeed, calculation is made on a yearly basis, rather than considering the resources of a particular Bureau in the long run. Even if an extremely serious problem occurred under the purview of a Bureau, the Bureau has to sort it out on its own and underwrite all the expenditure incurred. The Tin Shui Wai incidents have revealed many new problems, such as many ex-mental patients have not been taken care of properly, many new arrivals are found to be living in the very remote parts of the territory, and the low-income families in the district do not have access to sufficient support.

But what can we do? It turns out that we can do nothing. There is no way for us to obtain new resources. In Tung Chung there is this case: Several days ago I chatted with a volunteer worker who organizes football training courses in Tung Chung. He said that if I just picked a few youngsters randomly on the street and asked them whether they have had their lunch, three out of four will say that they have not had their lunch, for they only eat two meals a day because they do not have money for lunch. Despite the gravity of the situation, no new resources are provided. The envelope system is the framework and everything is juggled within the envelope, and not even magic can conjure up new resources.

So, the problem fundamentally lies in the home truth that the big framework is wrong, whereas the smaller framework, that is, the envelope system, has imposed great constraints. Our public resources are not planned and arranged according to the needs of society but purely as an accounting game. So, President, I very much hope that Miss TAM's motion can be endorsed.

Thank you, President.

MS LI FUNG-YING (in Cantonese): Madam President, the future of Hong Kong is full of challenges, and a major challenge is the problem of an ageing population faced by Hong Kong. An ageing population is a topic well known by all of us, as it is raised for discussion in every Session of this Council. But today, we are discussing the ageing population against one new social condition, that is, the Government is thinking about a health care financing scheme while the treasury is seriously overflowing with money, and insofar as an ageing population is concerned, a key point is the needs for health care service and the resultant increases in public expenditure in various areas.

As pointed out in the Report of the Task Force on Population Policy in 2003, a serious economic problem caused by an accelerated increase in the number of elderly people in the population is a substantial increase in social security payments. The report estimated that by 2031, the payment for CSSA on elderly cases will be as high as \$20.8 billion, which does not even include the payment for non-means-tested Old Age Allowance. The report considered it essential to find practicable ways to address the implications of an expanding ageing population. The report has sounded the alarm for the problem of an ageing population in Hong Kong.

The ageing of the population is serious in Hong Kong. One of the reasons is that Hong Kong is a late starter in institutionalized retirement protection. This, coupled with the limited coverage of retirement protection, has put a heavy pressure on the ageing population in Hong Kong. The Mandatory Provident Fund (MPF) scheme was officially introduced in Hong Kong in 2000, and those middle-aged employees who were in their forties at that time will reach the retirement age of 65 from the next decade onwards. Based on the average life expectancy of Hong Kong people of 82.45 and the maximum monthly MPF contribution of \$2,000 jointly made by the employer and employee, an employee will receive only a few hundred thousand dollars at the age of 65, and it will be difficult to support his living for nearly 20 years of retirement life with this amount of money. Moreover, only half of the current population of some 6.8 million is engaged in economic activities and what is more, the MPF has not incorporated into the scope of protection those people of working age who cannot engage in economic activities, including a large number of housewives. These people who are excluded from retirement protection will face greater uncertainties in their retirement life, and this has created considerable inherent pressure on the problem of population ageing in society.

Another worry is the health care financing scheme which the Government has studied for a long time, for this will certainly affect the elderly who have a keen demand for health care services. No matter how many sound justifications are advanced for introducing health care financing proposals, the ultimate objective is to see increased commitment by the public in the public health care sector. Disregarding the method for making contributions, problems similar to those of MPF contributions may still arise. That is, during the initial stage of the scheme, the contributions made by some middle-aged citizens will not be sufficient to meet their basic medical expenditure during retirement life.

Even though the ageing of the population that we now face is a formidably difficult problem, I still have misgivings about setting up a sustainable fund to address the needs of the ageing population and alleviate poverty as proposed in the original motion today. I have no objection to the Government providing additional resources to resolve the problems of population ageing and poverty in Hong Kong, but I am concerned about the viability of setting up a fund with the surplus of the Government to carry out the relevant work, and also whether this can achieve effective utilization of resources. From the perspective of sustainable development, I have consistently called on the Government to

introduce a universal retirement protection scheme. I maintain that this is a major target in the work to ease the heavy burden caused by the ageing population on society.

Besides, the objective of the fund is to meet the needs of the ageing population while carrying out poverty alleviation measures. Both are major projects of great importance in society, and to deal with just one of the projects effectively is already no easy task for the fund. I was a member of the Commission on Poverty and I also very much support the setting up of a fund by the Government to provide resources to address the problem of poverty in society. But I am concerned that setting up a fund targeting both the ageing population and poverty will make it impossible for both areas to be given equal and adequate attention.

Madam President, as the trend of price hikes has become increasingly prevalent in society, the grassroots will be the first to bear the brunt of inflation, with the poor and the elderly being hit the hardest. On the other hand, many commentaries have estimated that the Government will record a budget surplus of as much as \$100 billion in this financial year and different strata in society are expecting the Financial Secretary to "give out candies" in his budget. But judging from the measures introduced in the past budgets for the benefit of the people, it is most difficult for the grassroots to be covered by the vision of the Financial Secretary. I hope that in this year's budget, even if the Government is not going to set up a fund to address the ageing population and carry out poverty alleviation work, it should channel adequate resources to these two aspects as a matter of priority to address the problems.

Thank you, Madam President.

MR ABRAHAM SHEK: Madam President, in the light of last two years' economic recovery and budget surplus, I support the Honourable TAM Heung-man's motion on setting up a fund to meet the needs of the ageing population and help the poor. However, I also feel that it is incumbent upon the Government to carefully manage the present surplus in preparation for rainy days ahead. Prudent financial management by our Government ensures our economic prosperity and health, but compassion in social policies also nurtures social harmony and social equality. Economic prosperity without social harmony is only a political mirage.

Over the years of economic recovery, the Government has introduced various schemes to alleviate poverty. These measures are merely window dressers for political purposes, for they completely lack sincerity in addressing the real issue of poverty. They have barely scratched the surface of this poverty iceberg. The Administration should improve the well-being of the people for not just a few days, or just pay a visit to a poverty's den with caring words. What they need is not kind words but good actions to help them out of poverty. The Government should introduce a mechanism to ensure that constant and incessant support is provided for those relying on the social security net. Setting up a sustainable social security fund could serve this purpose. After all, preparations for an economic downturn should be made when the economic momentum is strong. And now is the right time for the right action.

Social security funds are in fact nothing new. In China, the Central Authorities have set up the National Social Security Fund (NSSF) in 2000, and the National Council for Social Security Fund for managing and operating the NSSF's assets. The NSSF aims to provide solutions to the problem of an ageing population and to act as a strategic reserve fund accumulated by the Central Government to support future social security expenditure.

Since the establishment of the NSSF, the Central Authorities have provided a fiscal injection each financial year from RMB 41 billion yuan in 2002, to RMB 57.4 billion yuan in 2006. The size of the NSSF increased from RMB 124 billion yuan in 2002 to RMB 272 billion yuan in 2006. Its fast growth is attributed to prudent investment initiatives, and more importantly, by government annual injections into the NSSF.

Likewise, Macao, our neighbour, has run the Social Security Fund since 1990, and the Macao SAR earmarks 1% per annum of the budget surplus for funding this particular project.

Madam President, in confronting the challenges of an ageing population and the problem of poverty, the Government must invest in a variety of fields, including nurturing talent and enhancing infrastructure. The Government should ensure that everyone, in particular the socially disadvantaged, can fulfil his potentials and live in dignity, hope and purpose, for there is nothing to be ashamed of in being poor, but the Government must come and help people out of poverty.

Over the past decade, we have missed many opportunities to improve the structure of the economy due to under-investment. Now, the problems have come to the surface. While the unemployment rate has lowered in recent months, there is continuing unemployment among the low-skilled and low-educated workers. There is a major gap between wealth and poverty. Construction workers, contract and temporary staff also find their future unsecured. Providing them with secure jobs and regular income will not only bring economic stability and social harmony, but will also relieve social burden as self-reliance enables them to earn a living and support their families. All these require the Government to use its financial resources to attract more overseas corporations by reducing bureaucracy and encouraging more local investment. The Government should take away the obstacles for them, make them invest more in Hong Kong to create more jobs. This will help to make people work as and when they want to. The Government should also make the best use of our fiscal surplus and resources to accelerate economic restructuring so as to create more social wealth and pursue inclusive economic prosperity, making the economy less susceptible to fluctuating economic cycles and unpredictable disasters by strengthening its entire structure.

I oppose the Honourable SIN Chung-kai's amendment urging the Government to inject half of the annual investment income of the Exchange Fund to this fund. The primary objective of the Exchange Fund, based on the Exchange Fund Ordinance, is to protect the exchange value of the currency of Hong Kong as well as to maintain the stability and integrity of our monetary and financial system. I strongly believe that the Financial Secretary has a duty to spend the Exchange Fund wisely. To allocate the fund with so peculiar and statutory objectives entails ample justifications and overriding reasons.

Rarely do I support Dr the Honourable KWOK Ka-ki's amendments, but this time, he speaks with logic. And for this, I support him.

MR LEUNG YIU-CHUNG (in Cantonese): President, there is a newspaper, and I wonder if I can call it an official newspaper because as a matter of fact, there is no official newspaper in Hong Kong, but for a very long time, this newspaper has carried reports that have not only been exclusive, but also very accurate on the Government's inclination or policies. This is why I call it an official newspaper.

Today, a report in this newspaper said that the treasury is "overflowing with money" and that the 1.3 million-odd taxpayers in Hong Kong will reap a good harvest in this financial year because Financial Secretary John TSANG is considering giving out candies generously to make them happy by adopting three strokes, namely, increasing the tax allowance, narrowing the tax base and offering tax rebates on a one-off basis.

All these sound very appealing, and everyone will give an applause to the tax rebates, but the point is that the thrust of this motion proposed by Miss TAM Heung-man today is to help the poor and address the problem of an ageing population; Mr SIN Chung-kai talked about problems in the health care aspect, which are echoed by Dr KWOK Ka-ki, and Mr TAM Yiu-chung also spoke of such issues as the ageing population.

I have noticed a phenomenon and that is, the future direction of the Financial Secretary seems to be different from that in our mind. Particularly, the Financial Secretary said yesterday that the external objective factors must be considered. I think he might mean that he would implement one-off measures, but not long-term ones. However, the issues of our concern today, including health care problems, the ageing population, and also problems relating to education and medical services, are all long-term in nature. The Financial Secretary nevertheless holds diametrically opposing views. So, with regard to this motion today, what advantage does it have? The advantage is that it precedes the publication of the budget, which means that we still have time.

So, even though the Secretary for Labour and Welfare is not representing the Financial Secretary, I hope that he can tell the Financial Secretary that we are very concerned about these several issues and that we have reached a consensus which, I believe, is also the consensus of the community. If the Financial Secretary is really prepared to provide tax rebates or whatever because there is money to spare Of course, people who can benefit from the tax rebates will certainly be happy but this may not be useful to the community as a whole; nor can this be a solution to the problems. To people who will receive the tax rebates, the rebates may be no more than gilding the lily.

Just this morning on my way to school, I heard this discussion on the issue of tax rebates in a radio programme. Some people said that even if they would receive tax rebates in a few thousand or some ten thousand dollars, they would not keep it for themselves. They questioned: What use is there to give them just

a little more money? They said that they might as well make a charity donation or do some good deeds with the money.

Such being the case, President, what is the point of doing this? This cannot help people who are genuinely in need of assistance. We are discussing fiscal operation today, and it is most important to provide assistance to people in need in the community. If we neglect the long-term problems, I think this would not only be regrettable, but also a dereliction of duty from the perspective of public finance management. This is why I think today's motion is very good, for it reminds us, especially the Government, to channel resources to these areas, with a view to addressing the problems in the long term. Many colleagues already pointed out earlier that when we face an ageing population, health care needs are the first and foremost problem but the Government has only conducted studies on health care financing.

Honestly speaking, President, whose responsibility is it when it comes to health care financing? It lies not only with the Government, for public commitments are also required. If public commitments are required, I think this is certainly not a problem to those people who can afford the costs. But who will suffer most? The marginalized will suffer most, because their living expenses have already put a huge burden on them and if they even have to make contributions for this purpose, it would further add to their burden. So, what should we do? Even if we have to secure financing for health care services, it is necessary to establish a premise and that is, we must come up with a better criterion, in order not to put too heavy a burden on the marginalized.

The fund proposed by Miss TAM Heung-man today allows flexibility in the ways to provide support and assistance to these people. Certainly, while I think setting up a fund may not be the best method, at least we must identify a direction and understand how we can address the problems of the poor and the marginalized.

In fact, Dr Fernando CHEUNG has also cited some figures earlier. Interestingly enough, President, he pointed out that according to the survey of the Hong Kong Council of Social Service, there are 1.3 million people in poverty, but who are these 1.3 million people in the newspaper report today? They are the taxpayers who will receive the tax rebates or benefit from tax reduction. These two groups of people, both consisting of 1.3 million people each, have not been accorded equal treatment, which is grossly unfair. Instead,

I think the ageing population is a serious problem and poverty alleviation measures are more important. Why do we not address the wealth gap problem? In fact, in recent years Hong Kong has given people a very bad impression and that is, the wealth gap in society is too big. Therefore, it is impossible for us not to take action. The provision of tax rebates, if really implemented, would only widen the wealth gap. What reason is there for us to do this? So, this point does warrant our attention.

Moreover, President, earlier on I noted the last remark made by the Secretary about transport subsidy for people with disabilities which is my greatest concern. President, as you may recall, we have discussed this for many years and now, it is going to be implemented and I hope that more details will be announced in the budget. Certainly, this is not a bad thing, but its implementation has again been put off to a later date and we do not know in what way it will be implemented. I hope that this can really be put into practice, so as to answer the aspiration of people with disabilities, an aspiration that they have pursued for years. This can help them address the problem of poverty while facilitating their integration into society because transport subsidy is very important to them. I hope that this can be truly implemented, in order to provide them with assistance and hence relieve their hardships.

President, I so submit.

PROF PATRICK LAU (in Cantonese): President, an ageing population is a common problem faced by all advanced countries and regions. It is estimated that by 2033, there will be over 2 million people aged over 65 in Hong Kong. As the elderly population grows considerably, a huge amount of expenditure will be incurred to meet their basic needs of living in respect of clothing, food, housing and transport. After setting up the fund, I think in-depth studies should be conducted to find out whether there are other measures that can more effectively address their problems, such as health care problems mentioned by Members earlier on.

Despite the fact that the economic recovery has brought a huge budget surplus to the Government, demographic changes and economic restructuring have nevertheless led to polarization of income and as a result, the number of low-income households has increased rather than decreased. The need to provide subsidies to a greater number of households has also imposed an

enormous pressure on public finance. In this connection, I think the Government should, apart from considering the provision of more financial subsidies, draw up practical measures to help low-income households, particularly low-income households with elderly members in the family, reduce their living expenses, so as to enable them to truly enjoy the quality life as stated in the policy address.

In fact, insofar as clothing, food, housing and transport are concerned, I think if the housing problem can be resolved, the living expenses and burden of the elderly and low-income households can be greatly alleviated, thus enabling them to spare more money for other expenses. So, it is also very important to enhance the housing policies, particularly as inflation prevails and "wage earners" are generally given a pay rise, should adjustments be made to the eligibility for public rental housing accordingly? Only in this way can those low-income families in need be truly benefited.

With regard to helping the elderly solve their housing problem, I think it is all the more necessary to enhance the development of care and attention homes or consider other housing subsidy schemes for the elderly. In fact, the senior citizen residences developed by the Housing Society (HS) have achieved very good results. The Government should formulate support policies to further enhance the functions of senior citizen residences. As far as I know, as the Government has not drawn up a clear housing policy for the elderly, the HS cannot develop senior citizen residences at concessionary land premium and as a result, the senior citizen residences have become residences for wealthy senior citizens and failed to provide inexpensive accommodation with care services for elderly people in need, hence undermining the role that senior citizen residences are expected to perform.

For this reason, the Government should expeditiously formulate a clear housing policy for the elderly to resolve their housing problem, so that they can reduce their expenditure in this respect and spend the money hence saved on, say, health care services and food. Only in this way can they be truly helped.

President, whether to the elderly or low-income households, if we just give them more money without addressing their actual problems, such as their expensive expenses on housing, their money will eventually be spent on rental and so, this cannot be of any help to them. Therefore, the measures for addressing the ageing population and providing assistance to low-income

households should include the formulation of a clearer housing policy expeditiously. Meanwhile, consideration should be given to other measures, such as universal retirement protection, increasing the "fruit grant" and the Comprehensive Social Security Assistance (CSSA) payment, restoring the CSSA rates to the previous levels, and so on, in order to help people truly in need. This way, their standard of living will not be affected by inflation in times of an economic upturn, thereby ensuring that everyone can live in a quality environment. Thank you, President.

MISS CHAN YUEN-HAN (in Cantonese): Madam President, the topic of this motion debate today is meeting the needs of the ageing population and helping the poor.

I think, insofar as this issue is concerned, we all know that the ageing of the population in Hong Kong will become more and more serious in the future. As we can see from the statistics released by the Government, the median age has increased from 26.3 in the past to the present 30.6. This is the median age of our population now, and our society has become a society of people in the forties, which means that people in the community are generally aged 40 something. Moreover, we can also see the future development: By 2036, 26% of the population will be elderly people aged above 65. Coupled with an extended life expectancy of human beings, I think an ageing population will actually bring about problems in, say, living, the economy, as well as the medical and health care system, which will require the entire community to make a lot of preparations. This will be an impact on us.

Madam President, let us look back on our community. Very often, when it comes to the ageing of the population, what preparations has the Government made? We would naturally think of universal retirement protection, and the Government will be poised to stifle us by advancing the argument of the three reserves of the World Bank, namely, the Mandatory Provident Fund (MPF), the Comprehensive Social Security Assistance (CSSA) system and personal savings. But these three topics have been discussed for countless times in the Legislative Council and every time, we just do not see eye to eye with the Government. We can see Just this afternoon we endorsed the amendment of the MPF provisions and this has naturally provided the avenue for us to express our views on the existing system. This system has been operating for seven years and we

can see very clearly that it has a defect. For instance, when a company is wound up or ceased to operate or when "wage earners" are dismissed, there will be the so-called severance pay or long service payment, but under the existing legislation, there is the offsetting arrangement whereby the employer, after making this payment, will not be required to make payment for the employer's share of MPF contributions, for his MPF contributions can be offset by the former payment.

We already gave a warning a long time ago and we invariably raised this point every time we discussed the MPF, urging the Government to address this problem of the offsetting arrangement early. The MPF contributions should not be offset because the severance pay is meant to give employees a transitional payment at a certain amount to provide for their living in times of sudden closure of their company but now, their retirement benefits accrued by contributions from their employers will be offset. How can it They simply cannot be replaced by each other and in the end, I can say that the "wage earners" will be put in a very difficult position. We, therefore, call on the Government not to defer actions to deal with this problem to a later time. If the MPF is reviewed only after it has operated for eight or 10 years, this problem would become all the more acute.

The second problem is that if we only rely on the MPF, it is still impossible to solve the problems of the retirees and also housewives who are actually working although they do not have a job. How can their problems be resolved? We have told the Government that the existing measures cannot solve their problems. As for savings, not everybody can have enough money for retirement. In fact, many people are living in a very miserable situation. As life expectancy extends — if a person is lucky enough to retire at 60, he has to provide for his living for almost 20 years. How can he make money to provide for his living? The grassroots will find this even more difficult. How can they have any savings?

So, in order to address this issue, I think I would not propose the setting up of a fund. In fact, I have been telling the Government Starting from this year, I have Since the beginning of this term of the Legislative Council I have held that the Government should seriously work on a universal retirement protection fund system before the problem can be solved. Otherwise, even if we have set up a fund and injected tens of billion dollars into it, the fund still may

not target these problems. I think setting up a universal retirement protection fund and system is the way to solve a very important problem brought by the ageing population and that is, the financial problem faced by these people.

Madam President, the Legislative Council Panel on Welfare Services has set up a subcommittee on the elderly. There will only be seven to eight months before the end of the term, and I hope that we can address the problems of the elderly in three aspects. First, the financial problems, second, health care problems and third, problems relating to in-patient care, and of these problems the financial problems are very important. I hope that the Government, in the face of these problems, the existing loopholes in the MPF and the ageing of the population in the future, will expeditiously set up a universal retirement protection fund to effectively address these problems. Otherwise, in debates similar to our debate today, we will often express a lot of different views — this, we welcome, but the problem is that logically, the Government should properly put in place a universal retirement protection system; this would be the best option and it has been the aspiration of many people in the community, including the academia.

Moreover, I would like to say that apart from the financial problem faced by the elderly, there is also a big problem on the health care front. The Government originally said that in relation to the health care system, discussion would start on health care financing but now, it seems that this is still on the drawing board, although the relevant advertisement has been shown rather frequently. I think if the Government is considering these issues, it is most imperative not to put the onus on insurance, so to speak. The Federation of Trade Unions has all along held the view that insofar as the health care system is concerned, the administrative costs of the existing health care system should be reviewed as a first step. The Panel on Health Services will soon discuss in the next meeting those several hospital clusters and look into ways to solve the problem of resources, which are also major problems. So, while we welcome discussion on health care financing, the Government must be cautious in order not to go in the wrong direction, and it must not wield the axe at the grassroots, the elderly and the lower-middle class by putting forward some specious proposals.

These problems aside, I think insofar as institutional care for the elderly is concerned, while this type of care is provided, or it seems to be provided now, it

is nevertheless a far cry from our aspirations, and we also need to resolve this. So, with regard to the amendment proposed by Mr TAM Yiu-chung, we agree that a sum of money should be allocated by the Government for handling the existing problems one by one and this, compared with the existing health care as I have always said, the Government has not been able to foster a consensus on health care financing and so, it has secretly sought to achieve its purpose in other ways, introducing measures about Chinese medicine, the drug formulary, and then making the public pay for this and that, thus subjecting the grassroots to increasingly more difficulties in their living and making them wait for a longer and longer time for a medical appointment and they are often not provided with suitable care when seeking medical consultation. All these are resource problems in the entire health care system of the HA which precisely warrant actions from the Government, and this is also my concern.

Furthermore, I wish to make one point concerning the issue of poverty. With regard to the issue of poverty, we in the Legislative Council have presented a series of opinions to the Government and we hope that the Government can handle them properly. As it is almost time to prepare the budget, I hope that the Government will do a few things to address the problem of poverty, such as increasing the "fruit grant" for the elderly, and disregarding whether this payment will be increased or not, the Government must introduce measures to protect the living of the so-called elderly in poverty. This is what we have told the Financial Secretary, because some elderly people who are not recipients of CSSA have difficulties in their living and so, it is necessary to help them and provide assistance to them in this respect.

Another problem is that to people who belong to the "three-nots" category, that is, people who do not pay tax, do not have mortgaged properties and do not receive rates rebates or other rebates, what can they do? I think the cross-district allowance is a very good initiative to help the grassroots in their living, and this is necessary. Certainly, the call for reducing the salaries tax, that is, the call for restoring the tax rates to reasonable levels, is also necessary. I think the Government should solve these problems in a focused manner.

Madam President, I so submit.

MR HOWARD YOUNG (in Cantonese): Madam President, the topic of our discussion today is increasing expenditure to meet the needs of the ageing

population and help the poor. As pointed out by Mrs Selina CHOW when she spoke earlier on, the Liberal Party absolutely supports the provision of additional resources to meet these needs.

To meet the needs of the ageing population and poverty alleviation, the Liberal Party agrees that it is necessary to make early planning and preparations. However, we have noticed that a number of amendments and the original motion propose the setting up of a fund for this purpose, and the Liberal Party has reservations about the idea of setting up a fund.

Take the Democratic Party's proposal as an example. They propose that \$50 billion be appropriated to set up a reserve fund, but our view is that this type of fund will not achieve very significant effects and on the contrary, it may easily run the risk of full depletion. Assuming that the annual investment return of the fund is 7% on average, same as that made by the Government from its investment in the Exchange Fund, the accumulated income of that \$50 billion will only be about \$3.5 billion per annum.

However, according to the population projection of the Census and Statistics Department, in 2027, the number of elderly people aged over 60 is estimated to have increased to 2.44 million, accounting for nearly 30% of the total population. By then, the expenditure on elderly cases under the CSSA and "fruit grant" alone will, compared with the current spending, increase by nearly \$10 billion, which is at least three times of the return of the fund. Meanwhile, according to the papers provided by the Democratic Party, we can project that the annual medical and health care expenditure in 2020 and 2033 will outgrow that in 2006-2007 by \$32.7 billion and \$61.67 billion respectively, which is far higher than the return of just billions of dollars to be yielded from the fund. Apparently, the annual return of the fund is only billions of dollars but the additional expenditure to be incurred in any of the above items, such as the Old Age Allowance, will already involve billions of dollars and such being the case, it is basically impossible for the fund to meet the expenditure, let alone meeting all the additional expenditure in full amounts.

In fact, the Democratic Party also pointed out that half of the annual investment income of the Exchange Fund will need to be allocated to the fund, which means that some \$20 billion to \$30 billion will have to be appropriated to the fund per annum in order to meet the additional expenditure. But as we all know, the original intention in setting up a seed fund is to first inject a huge

amount of capital into the fund and then use the accumulated income from investment, interests, and so on, to meet the recurrent expenditure or the expenditure on a particular item. But under their proposal, an enormous equity injection by the Government will be required every year, thus this may not be consistent with the original intention of setting up a fund and this may not necessarily be a solution to the problem that we wish to resolve today.

Madam President, I also wish to point out that if we are really going to rely solely on the accumulated income of the fund to maintain its operation, I am afraid that the initial equity injection into the principal body of the fund will be astronomical before any effect can be achieved. We may have to inject over \$1,000 billion in order for the fund to be sufficient to meet the additional expenditure incurred for helping the poor and the elderly. No matter how enormous the Government's surplus will be, I am afraid that it would not be sufficient to afford this giant fund. The Liberal Party is concerned that the fund would not only fail to play its expected role, it would even lead to a large amount of pointless, unnecessary expenditure. The Mandatory Provident Fund is a case in point. According to the information of the Mandatory Provident Fund Schemes Authority, the average fund expense ratio of 33 guaranteed funds is as high as 2.54% to 4.07%. Earlier on when the relevant bill was endorsed, some Members already mentioned this point, cautioning that a substantial part of the return accumulated in the participants' accounts is often eaten up by the management fees charged by these funds.

Therefore, the Liberal Party considers that in respect of poverty alleviation and the ageing of the population, while we must throw great weight behind the relevant initiatives, considerable resources will be required, as it will require funds to the tune of tens of billion dollars before the needs can be met. For this reason, the Government had better allocate sufficient resources from its recurrent expenditure to meet the needs. This will be a more direct and effective way to achieve the purpose that we all wish to achieve.

We noticed that Mr TAM Yiu-chung's amendment also crosses out the idea of setting up a fund. I think this is consistent with the views that I have just explained. Mr TAM also considered that sufficient resources should be made available for alleviating and eliminating poverty, and we basically share the same view. We wish to put on record that we agree with a great majority of the recommendations made by the Commission on Poverty or the Legislative Council Subcommittee to Study the Subject of Combating Poverty on poverty

alleviation and elimination, except for certain details, such as whether a minimum wage can address the problem, on which our view has remained different. But such a small difference in opinion does not affect our support for Mr TAM's amendment.

I so submit.

MR JAMES TO (in Cantonese): Madam President, this is the first time that I speak while going on a hunger strike and so, I may not be strong enough to speak up. The Government has estimated that the surplus will be as much as \$70 billion this year. The Government's recurrent expenditure in the whole year of 2007-2008 was \$205.6 billion, and the past decade has seen an aggregate increase of \$47.8 billion only. If the Government will resolutely uphold the principle of "small government, big market", I think it will be difficult for the Government to use up all the projected surplus of \$70 billion in the coming year.

We are not suggesting that the Government should spend public funds frivolously only to expend all the surplus. The enormous surplus that has been amassed now precisely provides the best opportunity for the Government to make plans for the longer term on the use of public expenditure, so as to start handling the approaching problem of population ageing as well as a series of growths in public expenditure brought by an ageing population.

According to the projections of the Census and Statistics Department, the population of Hong Kong will start ageing from 2011 onwards, with the proportion of people aged over 65 increasing from the present 12% to 26% in 2036. In the meantime, the percentage of the working age population in the total population will be decreasing, which means that the dependency ratio will increase considerably in that the number of children and elderly per 1 000 persons in the 15 to 64 working age group will increase from 341 in 2006 to 611 in 2036, representing an increase of 79% in the dependency ratio.

What warrants more attention is that the late-stage elderly population made up of people over 75 will increase from the present 4.7% to 12.3% in 2033. Even if the quality of health of the future elderly population will be improved and the demand for and expenditure on elderly care services will not be proportional to the growth of the elderly population, a substantial increase in late-stage elderly population will inevitably lead to a considerable growth in expenditure in respect

of health care service, nursing care, elderly care service and retirement protection.

As the population ages, many singleton or doubleton elderly families will emerge. More elderly care services will be required, and from community services such as social centres for the elderly to the services of residential care homes, their demand will rise significantly. Based on the costs of some \$91,000 per care-and-attention place per year, some \$134,000 per nursing place per year and \$223,000 per convalescent place per year, it is estimated that the Government will have to spend billions of dollars per annum on the provision of elderly care services to 1.12 million people aged over 65 a decade later and 1.78 million elderly people 20 years later. By rough estimation, unless the health of the elderly is significantly improved and service efficiency greatly enhanced, the annual expenditure on elderly care services will become some \$9.5 billion 30 years later.

In respect of social security, Hong Kong has since 2000 implemented the Mandatory Provident Fund (MPF) scheme. In 2011 when the population is expected to age rapidly, it is estimated that only about 20% of the elderly population will have retirement protection, while the accrued MPF benefits will not exceed \$150,000 because the contributions have been accumulated for a short time only. By 2027, the MPF benefits of the elderly will only be about \$500,000 at the maximum, which is actually insufficient to meet the living expenses for several decades of retirement life. The MPF benefits of the working population with a monthly income below \$5,000 upon their retirement will be even smaller, far short of their living expenses in retirement. Moreover, as there are still employees not covered by retirement protection, coupled with such population groups as housewives, even though an increasing number of elderly people will enjoy MPF protection, as the elderly population grows, there will be over 1 million elderly people not covered by retirement protection or having only inadequate retirement protection 30 years later, and the expenditure on social security for the elderly will constitute a heavy burden.

On health care services, according to the results of surveys conducted by the University of Hong Kong, the percentage of the total health care expenditure in Gross Domestic Product will increase from less than 5% at present to 10% in 2033, while medical inflation is generally 0.9% to 1% higher than the economic growth. Although the Chief Executive has undertaken to increase the health

care expenditure to 17%, this will actually be eaten up by inflation in no time. Coupled with the population growth and an increased number of service users, the increase in public health care expenditure will only be sufficient to maintain the standard of health care service and prevent it from declining for a few years.

After 2011, there will be a larger population of elderly people who have a greater demand for health care services. According to studies conducted by the Government, the hospital utilization rate will rise sharply for people after reaching 60 years of age, while the overall hospital utilization rate for elderly people aged over 75 is 80% higher than that of young people aged 15 to 24. Therefore, the increase in health care expenditure is basically inevitable as the population ages. The Government has studied various proposals on health care financing for years but no progress has been made, and there have been repeated delays in the latest proposal on health care financing and reforms. While we urge the Government to expeditiously put forward proposals on health care financing for consultation with various sectors of the community, we also consider that the Government can set aside part of the surplus for this purpose. If the Government proposes a contribution-based system, a lower rate of contribution could then be adopted to make the implementation of health care reforms less difficult.

A number of overseas countries have long since made preparations for the ageing of population. Some countries have set up reserve funds into which their governments will inject equity annually for interests to be accumulated to meet the growth in expenditure brought about by the ageing of the population in future. According to the Secretary's projection, assuming that the economic growth will be 4.5% per annum in the future, a surplus will be continuously recorded in the Government's accounts in the next five years up to 2011-2012. This, judging from an economic growth of more than 6% in each of the past few years, is already an extremely conservative estimate. The Government should seize the opportunity of economic growth in the next five years just before 2011 when we will face the problem of an ageing population by appropriating part of the surplus to set up a fund, in order to meet the expenditure to be incurred in the provision of services in various areas due to the ageing of the population.

I so submit.

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

MR LEUNG KWOK-HUNG (in Cantonese): From the various motions under discussion today, I can see that they are actually proposed on one premise and that is, the SAR Government has a huge fiscal surplus this year and so, it must do something.

I think this topic is specious. If we consider that it is indeed necessary to tackle the problems relating to the elderly and poverty, or the earlier they are tackled the better, things must not have developed to a state as reflected by the remarks of the Financial Secretary who said, "We may have a surplus of \$100 billion" and then he went on to say this: "However, we are not going to carry out any reform whatsoever, and only one-off measures will be implemented." "One-off" means doing something just once, right? It means doing it once and for all, not on a sustained basis.

In fact, neither the motion nor the many amendments agreed to this idea. Nobody would agree that only one-off provisions should be made or actions be taken only on a one-off basis to provide relief to the people when so much wealth has been amassed. Nobody would consider this agreeable. The wording may be a bit equivocal, like that in Mr TAM Yiu-chung's amendment, for what he said is tantamount to saying nothing at all, as he only suggested routinely the appropriation of funds without stating the objective or other information. So, his amendment is actually no different from suggesting one-off provisions. For this reason, I will not vote for him, for he did not talk about anything concrete. But other Members have made some concrete proposals. What I mean is that if a motion or any of the amendment is carried and if the Government accepts the proposals made by this Council, it will certainly give effect to all the endorsed proposals. All that Mr TAM Yiu-chung has proposed is nothing concrete, but just routine business.

What is another major point at issue? There is actually a point of contention hidden here. That is, with the current financial strengths of Hong Kong and as the Government is so rich that a surplus of close to \$100 billion will be recorded this year, should we carry out more fundamental reforms to provide a platform, so as to tell us that the problems of population ageing and poverty can be cracked? From the motion and the amendments we can see that some Members have indeed made this point. The Democratic Party pointed out the problem relating to old age and this is concrete, and they are really doing something. From this we know that there are many people alleging that the opposition camp has not done anything for they know only to pay lip-service, but

when we are talking about concrete matters, telling the Government to do this and not to do that, we are often said to be chanting slogans when we are actually talking about concrete matters, and when we do not talk about concrete matters, we would be described as practising occult arts and portraying illusions. Secretary Matthew CHEUNG will give a response later to questions such as these: Should the \$50 billion be allocated? Will the \$20 billion as demanded by the League of Social Democrats be allocated? Should the stamp duty be increased? If there is not sufficient capital for these, the Government should not offer tax rebates, rates relief, and so on, and on the contrary, it should increase the tax a bit, in order to do what the Government wishes to do or what we wish to do.

But this has not happened. Therefore, politically, this is like the case of universal suffrage. We call for the implementation of universal suffrage in 2012. This demand cannot be clearer and is put forward in a determined and forceful manner and yet, this is said to be just a slogan. Some people have made ambiguous remarks and they are invariably waiting for people up north to press the button and yet, these people are described as pragmatic. So, this world has indeed confused right and wrong. It is so politically; it is so in respect of livelihood reforms. I will not venture to say that everything that the pan-democratic camp says is correct but at least we have a position, buddy. You can say that I am right or I am wrong, but I am absolutely not cunning. What does cunning means in politics? It means making remarks that are always ambiguous, and it is only after their superiors have looked up to and consulted the higher echelon that they will immediately think of a reason to explain what they were trying to say before is actually this and this.

Is this not happening now? This happens wherever we hold discussions. When we talked to them about the roadmap, they talked about the timetable; when we talked about the timetable with them, they talked about the roadmap. So is the case of reform. We told them that the wealth gap must be regulated and they could not reduce tax when the monopolistic consortiums have reaped so much profit that they cannot even pull up their socks and when you also admit that the surplus is huge this year, for that is a one-off concession and such one-off concession cannot benefit people who do not have to pay tax or who pay rates at a marginal amount. I myself live in a public housing estate and I may benefit a bit from this concession. The Housing Department will be writing to me saying, "Mr LEUNG, the rates of your unit has been reduced and you can pay tens of dollars less.

Our position is simple and that is, since we see that there is a hole in this ship of Hong Kong, we should get some cement plaster to repair it. Go buy it as early as possible, buddy! Don't spend the money on soft drink and leave not a penny for cement plaster. You know only too well that there is high tide. Why do we not build a high platform early? You should even build a Noah's Ark. But they refused, saying that it is too costly to build a Noah's Ark, and that if a Noah's Ark is built, no money would be spared to feed us. In fact, we are not going to starve even if a Noah's Ark is built. Just take an overview of the developed regions around us and we will see that our economic performance is the best, but our wealth gap problem is the most serious.

This shows that when a government plays deceitful tricks politically and when you ask it what it can give us, it will say, "If you promise to accept what I will give you, then I will give you something and that is, a one-off concession." If you try to bargain for more, it will say, "Sorry, if you do not give us your word, you will get nothing." This is what this Government is doing today. It is forcing down the throat of Members what it wants to give us. Now, what we are given is as meagre as rice mixed with scrap fish for cats, and after we have eaten it we even have to praise it or else, nothing will be given to us, and this offer, if rejected, will not be made again.

So, I think through this debate today we can most clearly see who are working for Hong Kong people and who have proposed concrete measures. As in the case of universal suffrage, I think Hong Kong people should wake up. They should come forth to support universal suffrage this Sunday. They should come forth to support people who are working for the people, and they are called the democrats.

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

MR ALBERT HO (in Cantonese): Madam President, the rationale behind the motion and amendments proposed by Members belonging to the Democratic Party and other Members is very simple — since it has not been easy for us to amass such an amount of surplus over the past two years, and especially because the surplus this year is going to be very substantial, we must make sure that all our surplus is put to good uses. We must not be carried away by any sense of being rich and then hasten to spend all the money by, for example, returning

wealth to the business sector or handing out money to the rich. This I can hardly accept. Therefore, we really have some very strong views on the Chief Executive's policy address this year.

Actually, there is an urgent need for us to spend our reserves on many different problems and to employ fiscal policies to bring forth solutions and improvements. And, the following two problems have become all too apparent. First, our society is still marked by acute poverty, the poverty of the grassroots. According to statistics, some 1 million people among us are living below the poverty line.

When examining our report on the International Covenant on Economic, Social and Cultural Rights, the United Nations Human Rights Committee once pointed out that if Hong Kong continued to ignore the problem of elderly in poverty, it would fail in the discharge of its obligations under the covenant. Therefore, if Hong Kong still does not make any active use of its current surplus and wealth to tackle the poverty problem, and if poverty thus comes to pose a problem to Hong Kong again, we will certainly lose face, and we will not know how to face the international community.

It is not necessary to dwell on the urgent need for improvements in poor and backward districts marked by inadequate facilities, such as Tin Shui Wai, Sham Shui Po and Lantau Island. There is a population of some 200 000 in Tin Shui Wai, but it does not even have a hospital or integrated medical centre. How can we still face others without shame? Besides, in regard to residential care places for the elderly, we have been talking about expediting their provision for years, but the Government has never shown any determination to do that immediately or formulate any timetable which can tell us which kinds of places will be increased drastically to reduce the waiting time. Severely mentally handicapped persons and people with disabilities must wait six or seven years for a residential care place. How can I accept such a situation?

Actually, as long as there is determination and money, all such poverty-related problems can be solved. At this very time when we have such a large surplus, when the Financial Secretary is racking his brain to find out ways of spending this money, has he ever thought about doing something for those in the greatest need? What problems are difficult to solve? What problems should require further consideration? Why should he still plan to offer huge tax rebates, particularly to those large consortia or corporations which have been

reaping huge profits? Why should there be such a need? Regarding tax revenue, Members all know that Hong Kong has been upholding a low-tax policy for many years. Many of my friends from other places are willing to work and do business in Hong Kong on a long-term basis simply because they are satisfied with Hong Kong's stable policy of low taxation.

Therefore, there is already enough appeal in Hong Kong to induce people to stay behind for investment and work. And, some do not want to leave even upon retirement because they find it worth the while to remain here to look for further opportunities. For this reason, honestly, the Government must not give any further thoughts to revamping the tax regime or even offering more incentives to high-income earners by introducing tax cuts. Is there any need to do so anyway?

The second point is that the rationale behind the fund proposed by the Democratic Party is actually very simple — saving for the rainy days. Members will agree that in the future, we must cope with our ageing population and the expenses on providing the required medical care and welfare services. All this will necessitate huge expenditure. On the other hand, of course, we must also tackle the problem of inter-generational poverty by perfecting our education. But all of these are long-term issues. Adequate planning is precisely what we need, and through planning, we must reserve money for future use. This is just a very simple rationale.

I frankly cannot understand what Mr Howard YOUNG said just now. He remarked that it would require huge amounts of money, maybe more than \$1,000 billion, to handle the problems relating to the elderly, and he wondered whether a mere sum of \$50 billion was enough. I really cannot follow his reasoning. Precisely because we now have so much money, because our society can now amass a considerable surplus year after year, we must set aside part of the money as the savings of our society, so as to cope with the future expenditure of more than \$1,000 billion mentioned by him. Are we supposed to sit on this and hasten to increase taxes only when we are eventually confronted by the need to spend several hundred billion dollars? Are we supposed to sit on it and ask everybody to dip into their purses only when that time comes?

The Democratic Party has put forward this proposal precisely because we know that the problem is a long-term and structural one that requires planning.

I am not saying that we should be tight-fisted on the pressing poverty-related problems we are facing. Money should be spent immediately if there is any urgent need. But when it comes to some problems requiring long-term planning, we should take the long view and establish a fund, so as to amass or reserve the money required for future uses and for tackling the long-term problems.

Fund management is, on the other hand, a technical issue. If we do not establish the proposed fund simply because of any worries about fund management, we will be "trimming the toes to fit the shoes". Therefore, I hope that Members can agree to our view that our proposal is in line with social expectations and can cope with our long-term needs.

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

(Mr Howard YOUNG rose to his feet)

MR HOWARD YOUNG (in Cantonese): President, may I clarify one of my remarks quoted by Mr HO just now?

PRESIDENT (in Cantonese): Do you think that your remark has been misinterpreted?

MR HOWARD YOUNG (in Cantonese): Yes.

PRESIDENT (in Cantonese): Please clarify the remark which has been misinterpreted.

MR HOWARD YOUNG (in Cantonese): Yes. Mr HO quoted me as saying that a sum of \$50 billion was too small to solve the problem. This is not what I meant to say. I was saying that the interest that could be generated by \$50 billion would just be some \$3 billion, not enough to solve the problem.

MR ALBERT HO (in Cantonese): I also wish to make a point of clarification. He has also misinterpreted my point. I mean to say that not only the interest but also the whole fund may be used for tackling the problem in the future.

PRESIDENT (in Cantonese): I have allowed you to make a point of clarification. But you have instead advanced an argument. This is no clarification. Does any other Member wish to speak?

MR LEE WING-TAT (in Cantonese): President, since I have not spoken so far, perhaps let me explain the Democratic Party's proposal to Mr Howard YOUNG.

At a time when our society has financial surpluses, it is only natural that various demands are made. But the Democratic Party has always dismissed the idea of using our money purely for meeting short-term demands. The most impoverished ones aside, the middle classes in general, employees and wealthy people will not do too badly this year. There may be investment returns for the rich and salary increases for the middle classes, coupled with the appreciation of their stocks and properties.

The Democratic Party has always maintained that even though there are fiscal surpluses, it is still best for society to make long-term investment in areas such as education, infrastructure construction and the upgrading of manpower quality. The views of many social sectors have already been submitted to the Financial Secretary.

One novel proposal we have put forward is the establishment of a \$50 billion fund. This is certainly a novel idea, one which some may not like. But why have we made such a proposal? The reason is that from all the reports published by the Government, be they about the ageing population or health care financing, we can notice the projection that after the mid-2020s, a good part of the budget will have to be devoted to meeting the expenditure on medical care. And, the rate of increase will only keep rising. Anyone who is well-versed in health care development knows that in most Western countries, the expenditure on upgrading medical technology and medical equipment invariably increases at rates higher than those of their GDP. This means that in many countries, it will

be impossible to depend solely on economic growth as a means of coping with the expenditure arising from health care needs and the ageing population.

This explains why the Democratic Party maintains that it is necessary to put aside this sum of money when we are well-off. Mr Howard YOUNG questions us whether it is the intent of our proposal to meet the expenditure with the interest generated by the fund. Actually, our proposal is based on the five-year projection made by the Financial Secretary last year — Members are aware that this is what we call the five-year forecast. The five-year forecast indicates that we will have surpluses throughout the period covered. We think that if there are surpluses, we should make better preparations for the future.

This means that our intention is not just to put aside \$50 billion and then use the interest generated to tackle the problem. If we can put aside this sum of money and make some savings every year, then by the mid-2020s, in case our financial situation worsens, we will still have money to use. Members all know that the economy is subject to cyclical fluctuations and the shape of the economy will vary from year to year. After a period of sustained economic growth lasting four to five years or six to seven years, there may be a recession or economic slackening in the next five to six years or six to seven years. This is not at all surprising, but even in times of recession, the elderly population and their needs will not thus decrease, nor will the expenditure on the provision of health care and welfare services to the elderly.

It is for this reason that we have come up with such an idea. The intent is not to cope with the expenditure by using the interest generated by the \$50 billion. An investment of \$50 billion will at most yield a return of 4% or 5% even when it is all used to purchase United States bonds. Some \$2 billion is of course not enough. The aim of our proposal is to make savings, so that many years later, after the mid-2020s, we can still depend on all such savings to meet our needs even when we do not have sufficient revenue. President, I hope that in these several minutes, I have managed to explain once again to Mr Howard YOUNG the part of our proposal which he does not quite understand.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): If not, I now call on Miss TAM Heung-man to speak on the three amendments. You have up to five minutes to speak.

MISS TAM HEUNG-MAN (in Cantonese): Madam President, I shall speak on behalf of the Civic Party on the various amendments.

Mr SIN Chung-kai's amendment prescribes a fixed amount of money for my proposed fund, and it also proposes to allocate half of the annual investment income of the Exchange Fund to the fund. But I must point out that the original intent of my proposed fund is not so much to replace the Government's recurrent expenditure on coping with the ageing population and the wealth gap. Rather, it is meant as an extra source of money on top of the Government's recurrent expenditure, something that can enable it to promptly introduce appropriate policies in response to social changes without worrying about the problem of resources.

The investment income of the Exchange Fund should be regarded as the Government's normal revenue; it should be used for meeting the day-to-day expenditure of the Government. It is more appropriate to consider allocating part of the investment income to the fund only when there is still surplus at the end of the day. The fund should not be accorded priority over normal government expenditure.

I can of course appreciate that Mr SIN Chung-kai's amendment is actually meant to support the Civic Party's proposal on establishing a fund to cope with the needs of the ageing population and helping the poor. And, as I have mentioned, we are quite open-minded about how money should be allocated to the fund. On this very basis, the Civic party will support Mr SIN Chung-kai's amendment.

The Civic Party will also support Dr KWOK Ka-ki's amendment. We agree that the Government should adopt different measures to increase the resource support for its health care policy, so that the elderly and low-income earners can be provided with satisfactory health care services. Although Dr KWOK Ka-ki's proposal is not directly relevant to the establishment of a funding mechanism mentioned in my original motion, I think we should still render it our support because the amendment does not contradict the contents of the motion.

The Civic Party will, however, vote against Mr TAM Yiu-chung's amendment, because it actually negates the whole idea of establishing a fund. Since the DAB opposes the establishment of a fund, I fail to understand why it should still propose such an amendment that distorts the intent of the whole motion and tear its spirit apart, instead of opposing the motion altogether. Although we agree that the Government must spend more resources on tackling the issues of ageing population and poverty alleviation, we nonetheless have no alternative but to oppose such an amendment that seeks to defeat the original intent of the motion.

Madam President, I must emphasize that the Civic Party has always been concerned about the issues of ageing population and wealth gap, and it will continue to put forward policy proposals on them, with a view to solving the problems long term. I so submit. Thank you, Madam President.

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): Madam President, once again, I wish to thank Miss TAM Heung-man, Mr SIN Chung-kai, Dr KWOK Ka-ki, Mr TAM Yiu-chung and 17 other Members for their valuable advice on the issues of ageing population and poverty alleviation.

This Members' Motion is constructive, visionary, well-intentioned and well thought out, showing that Members all agree that Hong Kong must save for the rainy days and formulate longer-term planning on meeting the future challenges posed by social and demographic changes.

Many of Members' views are connected with the imminent budget, so I will relay all the views truthfully to the Financial Secretary.

I have earlier described in detail the measures adopted by the Government to tackle the problem of ageing population and the work it has undertaken to help the poor. I shall now give a concise reply to the remarks made by Members just now.

To begin with, I must point out that the fiscal reserves of Hong Kong are meant to serve two purposes. First, they are used to relieve the financial pressure resulting from cyclical economic downturns, emergencies and the structural changes of society. Second, they are used to assist the Exchange Fund in maintaining the stability of Hong Kong's currency and financial systems.

The Government must also make good use of the fiscal surplus to answer the various social sectors' demand for better government services, poverty alleviation measures, tax reductions and returning wealth to the people. It must also consider the long-term interest of Hong Kong and make good preparations for meeting future challenges, such as the problem of ageing population and increasing health care expenditure. For all these reasons, we must adhere strictly to the principles of prudent financial management and spending within our means.

The annual total expenditure of the Government is roughly \$250 billion, \$70 billion of which is used for the provision of welfare and health care services. We are of the view that the existing appropriation mechanism can already achieve the purpose of allocating government resources effectively and flexibly to meet the expenditure arising from the ageing population and the work of alleviating poverty (including the implementation of the whole series of proposals to help the poor). As a matter of fact, over the past 10 years, our social welfare expenditure has increased by 75%, and our health care spending has also risen by 17%.

I agree with Mr TAM Yiu-chung that the issues of ageing population and poverty alleviation must be tackled in the context of the overall situation.

Generally speaking, the funds established by the Government are meant to meet certain non-recurrent short-term needs. The provision of assistance to the elderly and the poor is a long-standing key area of work of the Government, so the required expenditure actually forms part of the Government's recurrent expenditure. For this reason, we do not think that it is necessary to establish any special fund for this item of recurrent expenditure.

At present, there are three pillars of financial support for the elderly in Hong Kong, namely, the Comprehensive Social Security Assistance Scheme and Old Age Allowance, the Mandatory Provident Fund Schemes and voluntary personal savings. The Government has been conducting studies on the sustainability of these three pillars. Decisions on what further actions to take will be made on the basis of the findings of the studies and other important factors, including the protection of traditional family values, the maintenance of Hong Kong's overall economic competitiveness, the upholding of our simple tax regime and the sustainability of the existing social security system.

The Government has also been actively considering the views of different social sectors on the provision of more appropriate assistance and support to elderly persons in financial difficulties.

"Active ageing", "ageing in the community", "continuum of care" and "helping the most needy" are the basic principles of the Government's elderly policy. We encourage the elderly to live a rich life. We provide elderly persons in need with subsidized home-based community service and day care service, with a view to assisting them in "ageing in the community". We have been providing carers of the elderly with support. And, subsidized places in residential care homes for the elderly are also available to elderly persons in need who are able to receive adequate care at home.

As our population ages, a sole reliance on continuously increasing the subsidy for elderly services will not enable us to cope with the variegated and ever-increasing demands. For this reason, we will continue to foster a sense of joint commitment among individuals, families and society as a whole, with a view to satisfying the needs of the elderly. We will also encourage the balanced development of public-sector and private-sector elderly services, so that the elderly can enjoy more choices. In this connection, we will conduct studies in conjunction with the Elderly Commission on the formulation of long-term planning for elderly services.

Many Members are very concerned about poverty alleviation, especially the work of the Task Force on Poverty (Task Force), which has been established by the Government under my chairmanship.

The Task Force will follow up the 50 or so recommendations made by the Commission on Poverty, co-ordinate the work of poverty alleviation within the Government and encourage social involvement and self-reliance.

The Task Force will closely monitor the needs of poverty alleviation and conduct adequate exchanges with different Policy Bureaux, departments and stakeholders. It will also consider the organization of consultation sessions and seminars on topics relating to poverty alleviation, with a view to collecting the views in society and enhancing communication with all those concerned.

On the health care front, the Government is at present conducting studies on ways to improve the existing health care system. The primary objective is to

improve the overall quality of our health care services and the health of all in Hong Kong. We will look into the types of health care protection required by different social strata, including health care insurance as a form of health care protection. In this regard, there must be thorough consideration before deciding whether health care insurance should be encouraged. The Government plans to conduct a public consultation exercise in 2008, with a view to gauging the views of the public.

Health care vouchers for the elderly have now been implemented as a pilot scheme. The aim is to enhance the primary health care services for the elderly through the involvement of the private health care sector. Since public money is involved, the Government must adopt the prudent approach of first introducing a pilot scheme involving fewer participants and less subsidy, so as to ensure that such a scheme can really work smoothly after implementation. The Government will review the pilot scheme on a regular basis. If it is proved to be effective and feasible, we will adopt an open attitude towards the technicalities of implementation.

At present, the total annual expenditure on psychiatric health care services (covering psychiatric service and community rehabilitation service) stands at \$3.2 billion. During the period between 2001-2002 and 2006-2007, the Government provided the Hospital Authority with an additional funding of \$209 million and allocated a sum of \$39.4 million to the Social Welfare Department for the purposes of launching several initiatives, including the early detection and treatment of psychiatric health problems, purchase of new drugs and enhancement of psychiatric community health and outreach services. The Government will review the demand for and usage of psychiatric health services, and additional funding may be provided to the Hospital Authority in 2008-2009 if necessary.

In the long run, the Government will conduct a comprehensive review of the existing psychiatric health policy and services. A future direction for the development of such services will be formulated on the basis of social needs.

The Government has both the confidence and financial capacity to cope with the challenges brought about by our ageing population and the poverty problem. I hope that Members can continue to support the Government's efforts and offer us more valuable advice. Madam President, I so submit. Thank you.

PRESIDENT (in Cantonese): At this juncture, I should call upon Mr SIN Chung-kai to move his amendment to the motion. But I notice that Mr SIN Chung-kai is not in the Chamber now. Staff of the Secretariat have searched in vain for him. I therefore suspend the meeting now and request staff of the Secretariat to look for him and ask him to return to the Chamber.

6.04 pm

Meeting suspended.

6.07 pm

Council then resumed.

PRESIDENT (in Cantonese): I now call upon Mr SIN Chung-kai to move his amendment to the motion.

MR SIN CHUNG-KAI (in Cantonese): President, I move that Miss TAM Heung-man's motion be amended.

Mr SIN Chung-kai moved the following motion: (Translation)

"To delete "as" after "That," and substitute with "according to the Hong Kong population projections by the Census and Statistics Department, the old age population will continue to increase in the next 30 years from 2011, bringing about a substantial increase in medical and welfare expenditures, which may exert pressure on public finance, and"; to add ", which include appropriating \$50 billion to set up an 'Old Age Reserve Fund' to meet the surging medical, welfare and related public expenditures from 2011 onwards because of the ageing of the population" after "help the poor"; and to add "and half of the annual investment income of the Exchange Fund will be allocated to the fund," after "a certain level,".

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr SIN Chung-kai to Miss TAM Heung-man's motion, be passed.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the amendment, moved by Mr SIN Chung-kai to Miss TAM Heung-man'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 CHAN Kam-lam rose to claim a division.

PRESIDENT (in Cantonese): Mr CHAN Kam-lam has claimed a division. The division bell will ring for three minutes, after which the division will begin.

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

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

Functional Constituencies:

Dr David LI, Ms Margaret NG, Mr CHEUNG Man-kwong, Mr SIN Chung-kai, Ms LI Fung-ying, Dr KWOK Ka-ki and Miss TAM Heung-man voted for the amendment.

Dr Raymond HO, Mr Abraham SHEK and Prof Patrick LAU voted against the amendment.

Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr Howard YOUNG, Ms Miriam LAU, Mr Timothy FOK, Mr Tommy CHEUNG, Mr WONG Kwok-hing, Mr Daniel LAM, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr CHIM Pui-chung and Mr KWONG Chi-kin abstained.

Geographical Constituencies:

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

Mrs Selina CHOW, Mr CHAN Kam-lam, Mr Jasper TSANG, Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr LI Kwok-ying, Mr CHEUNG Hok-ming and Mrs Anson CHAN abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 23 were present, seven were in favour of the amendment, three against it and 13 abstained; while among the Members returned by geographical constituencies through direct elections, 24 were present, 15 were in favour of the amendment and eight abstained. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negatived.

MS MIRIAM LAU (in Cantonese): President, I move that in the event of further divisions being claimed in respect of the motion on "Setting up a fund to meet the needs of the ageing population and help the poor" or any amendments thereto, this Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.

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

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

(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.

(Members raised their hands)

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

I order that in the event of further divisions being claimed in respect of the motion on "Setting up a fund to meet the needs of the ageing population and help the poor" or any amendments thereto, this Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.

PRESIDENT (in Cantonese): Dr KWOK Ka-ki, you may move your amendment now.

DR KWOK KA-KI (in Cantonese): President, I move that Miss TAM Heung-man's motion be amended.

Dr KWOK Ka-ki moved the following motion: (Translation)

"To add "including implementing a tax rebate scheme for purchasing medical insurance, increasing the amount of health care vouchers, allocating additional resources to enhance mental health services, providing more resources to the Hospital Authority to improve the uneven distribution of resources among hospital clusters," after "promotion of economic development,"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Dr KWOK Ka-ki to Miss TAM Heung-man's motion, be passed.

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

(Members raised their hands)

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

(No hands raised)

Mr CHAN Kam-lam rose to claim a division.

PRESIDENT (in Cantonese): Mr CHAN Kam-lam has claimed a division. The division bell will ring for one minute, after which the division will begin.

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

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

Functional Constituencies:

Ms Margaret NG, Mr CHEUNG Man-kwong, Mr Bernard CHAN, Mr SIN Chung-kai, Mr Abraham SHEK, Ms LI Fung-ying, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Prof Patrick LAU and Miss TAM Heung-man voted for the amendment.

Dr Raymond HO, Dr David LI, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr Howard YOUNG, Ms Miriam LAU, Mr Timothy FOK, Mr Tommy CHEUNG, Mr Vincent FANG, Mr WONG Kwok-hing, Mr Daniel LAM, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr CHIM Pui-chung and Mr KWONG Chi-kin abstained.

Geographical Constituencies:

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

Mrs Selina CHOW, Mr CHAN Kam-lam, Mr Jasper TSANG, Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr LI Kwok-ying, Mr CHEUNG Hok-ming and Mrs Anson CHAN 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, 10 were in favour of the amendment and 16 abstained; while among the Members returned by geographical constituencies through direct elections, 24 were present, 15 were in favour of the amendment and eight abstained. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negated.

PRESIDENT (in Cantonese): Mr TAM Yiu-chung, you may move your amendment.

MR TAM YIU-CHUNG (in Cantonese): President, I move that Miss TAM Heung-man's motion be amended.

Mr TAM Yiu-chung moved the following amendment: (Translation)

"To delete "part of its surplus for setting up a long-term sustainable fund to meet the additional expenditures arising from implementing policies to cope with the ageing population and help the poor and, at the same time, establish a funding mechanism for the fund under which a certain proportion of the surplus will be injected into the fund if the fiscal surplus in a financial year exceeds a certain level, so as to maintain the fund's effective operation" and substitute with "sufficient resources for the

expeditious implementation of various existing measures to cope with the ageing population and help low-income families, including the recommendations set out in the reports of the Commission on Poverty and the Legislative Council Subcommittee to Study the Subject of Combating Poverty" immediately before the full stop."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr TAM Yiu-chung to Miss TAM Heung-man's motion, be passed.

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

(Members raised their hands)

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

(Members raised their hands)

Mr Albert HO rose to claim a division.

PRESIDENT (in Cantonese): Mr Albert HO has claimed a division. The division bell will ring for one minute, after which the division will begin.

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

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

Functional Constituencies:

Dr Raymond HO, Dr David LI, Mr Bernard CHAN, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr Howard YOUNG, Ms Miriam LAU, Mr Timothy FOK, Mr Abraham SHEK, Ms LI Fung-ying, Mr Tommy

CHEUNG, Mr Vincent FANG, Mr WONG Kwok-hing, Mr Daniel LAM, Mr Jeffrey LAM, Mr Andrew LEUNG, Prof Patrick LAU and Mr KWONG Chi-kin voted for the amendment.

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

Mr CHIM Pui-chung abstained.

Geographical Constituencies:

Mrs Selina CHOW, Mr CHAN Kam-lam, Mr Jasper TSANG, Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr Frederick FUNG, Mr LI Kwok-ying, Mr CHEUNG Hok-ming, Mr Albert CHENG and Mrs Anson CHAN voted for the amendment.

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

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 26 were present, 19 were in favour of the amendment, six against it and one abstained; while among the Members returned by geographical constituencies through direct elections, 25 were present, 10 were in favour of the amendment and 14 against it. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negatived.

PRESIDENT (in Cantonese): Miss TAM Heung-man, you may now give your reply. You have up to two minutes and 30 seconds.

MISS TAM HEUNG-MAN (in Cantonese): Madam President, I am very happy that three amendments have been moved and 16 Members have spoken today, evident that all political parties and groupings are concerned about the problems of ageing population and poverty. I agree that we need to formulate a long-term strategy to tackle these two worsening social problems. But I cannot understand the reservations of Members belonging to the DAB and the Liberal Party about the establishment of the proposed fund. Since everybody agrees that a long-term strategy must be formulated, we must make preparations to secure resources in the long run. As the saying goes, the mobilization of any army must be supported by adequate provisions. All policies must be supported by resources, or all will be reduced to mere empty talks.

As pointed out by Mr LEE Cheuk-yan just now, Financial Secretary John TSANG has made it very clear that rather than increasing its recurrent expenditure, the Government only plans to spend the surplus on one-off measures. Since this is the Government's attitude, how can Members belonging to the DAB and the Liberal Party make sure that the Government will always allocate sufficient resources to satisfy the needs arising from the ageing population and poverty in the future?

As I already emphasized when I spoke earlier on, the establishment of a fund is actually part of the long-term strategy. The establishment of a fund does not mean that all problems can be solved. I hope Members can understand this point and support my proposal.

I also wish to respond to Secretary Matthew CHEUNG's remarks. He simply kept repeating what efforts the Government had made without answering whether it is advisable to establish the fund proposed by me. I am frankly a bit disappointed. I hope the Secretary can bring this proposal to the Financial Secretary's attention and reflect the relevant views to him.

With these remarks, I hope Members can support my motion. Thank you, Madam President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Miss TAM Heung-man be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

Mr CHAN Kam-lam rose to claim a division.

PRESIDENT (in Cantonese): Mr CHAN Kam-lam has claimed a division. The division bell will ring for one minute, after which the division will begin.

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

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

Functional Constituencies:

Dr Raymond HO, Ms Margaret NG, Mr CHEUNG Man-kwong, Mr Bernard CHAN, Mr SIN Chung-kai, Mr Abraham SHEK, Ms LI Fung-ying, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Prof Patrick LAU and Miss TAM Heung-man voted for the motion.

Dr David LI, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr Howard YOUNG, Ms Miriam LAU, Mr Timothy FOK, Mr Tommy CHEUNG, Mr Vincent FANG, Mr WONG Kwok-hing, Mr Daniel LAM, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr CHIM Pui-chung and Mr KWONG Chi-kin abstained.

Geographical Constituencies:

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

Mrs Selina CHOW, Mr CHAN Kam-lam, Mr Jasper TSANG, Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr LI Kwok-ying and Mr CHEUNG Hok-ming abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 26 were present, 11 were in favour of the motion and 15 abstained; while among the Members returned by geographical constituencies through direct elections, 25 were present, 17 were in favour of the motion and seven abstained. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the motion was negatived.

PRESIDENT (in Cantonese): Second motion: Report on Public Consultation on Green Paper on Constitutional Development.

I now call upon Mr Albert CHAN to speak and move his motion.

REPORT ON PUBLIC CONSULTATION ON GREEN PAPER ON CONSTITUTIONAL DEVELOPMENT

MR ALBERT CHAN (in Cantonese): President, I move that the motion, as printed on the Agenda, be passed. This motion was proposed in response to the Report on Public Consultation on Green Paper on Constitutional Development (the Report) published by the Government earlier on. The Report has seriously distorted the wishes of the Hong Kong public and seriously deprived them of their basic human rights. Therefore, it is incumbent on me to propose this motion to condemn it. I must reiterate that the deprivation of the inherent human rights of the Hong Kong public cannot be tolerated. To continue to deprive the Hong Kong public of their rights to democracy and freedom is a disgrace in the 21st century, irrespective of the kind of government, and a tyranny unacceptable to the Hong Kong public.

President, if we review historical developments, and if we look around the world, we will find that the currents of democracy are sweeping various parts of

the world and many authoritarian and totalitarian governments have been toppled. However, the political system in Hong Kong has remained a dictatorial and totalitarian one. The Chief Executive is elected by a small circle comprising 800 people, whereas 7 million members of the public in Hong Kong are deprived of their basic electoral rights. If we look around the world, such a harsh, dictatorial, totalitarian and small-circle system cannot be found anywhere else. Of course, this is due to the fact that the Basic Law has put the Hong Kong public in a strait jacket, as a result, they cannot create or choose their own political leaders.

When we were still studying, we witnessed the decolonization process in the 1960s and 1970s and it was possible for one former colony after another to establish and elect their own democratic governments. It would be impossible to enumerate all of them even if one had a whole day's time to do so. President, from the 1940s or 1950s onwards until the 1980s, many regions established their own democracies. From small places with only hundreds of thousands of people to those with tens of millions of people, all of these places have one after another put into practice the principle of democracy for all. In view of this, one can say that it is an extremely ironical and lamentable political phenomenon that Hong Kong has failed to attain this goal to date.

More than 200 years have passed since the French Revolution and the 1911 Revolution was an event that happened almost a century ago. The Revolution that happened in our Great Motherland in 1949 is also more than half a century old. Even in our Great Motherland, the elections in some villages and towns have adopted the mode of direct elections 10 years ago, however, President, the selection of the Chief Executive in Hong Kong has remained a small-circle election. Hence, we can see that such a system runs completely counter to the global trend. Such a dictatorial system basically owes its existence to the numerous groups with vested interests, including some senior officials who refuse to give Hong Kong people a fair deal because they want to consolidate their own interests, power and influence, so they continue to deprive the Hong Kong public of their fundamental freedoms and human rights.

President, read against the history, I believe the Report is marked by three violations. First, it violates DENG Xiaoping's principle of running Hong Kong; second, it violates the concept of running Hong Kong democratically as spelt out by the Central Authorities in the 1980s; and thirdly, it violates the wishes of Hong Kong people. President, let us review the comments made by

DENG Xiaoping in the 1980s. On 22 June 1984, he said, "Hong Kong people must have the aspiration and confidence to run Hong Kong properly. After the resumption of sovereignty over Hong Kong by China, the economic system and the way of life will remain unchanged and 'one country, two systems' will be practised." On 24 June of the same year, DENG Xiaoping said, "I believe Hong Kong people have the ability to run Hong Kong properly. The Chinese are not dumb." To deprive the people of their rights is to think that the 7 million people in Hong Kong are dumb and to continue to deprive them of their rights is to act counter to the judgment made by DENG Xiaoping. On 6 November, DENG Xiaoping said further, "Our compatriots across all sectors in Hong Kong, with their intelligence, talent and hard work, are playing an important role. They are familiar with the local setting and the capitalist way of governance. They are totally capable of running Hong Kong properly. The Central Authorities, by not tasking someone with governing Hong Kong, will enable our compatriots in Hong Kong to give full play to the spirit of being the masters of their own place." The presence of the Central Authorities' offices in Western District runs counter to this direction given by DENG Xiaoping.

President, if we look further at a number of other comments — at that time, DENG Xiaoping made a lot of comments and Members can conduct a research on them in future — the most important part therein has to do with the principle of Hong Kong people running Hong Kong democratically as adopted by the Central Authorities. The former Premier, ZHAO Ziyang, wrote in his reply to the Student Union of the University of Hong Kong on 22 May 1984, "To protect the democratic rights of the people is the fundamental principle in the political domain of our country. In the future, to implement a democratic political system in the Hong Kong Special Administrative Region, that is, what you described as running Hong Kong democratically, will only be a matter of course." The present Report also runs counter to this notion of running Hong Kong democratically as spelt out by ZHAO Ziyang back then. The whole Green Paper fully reflects the fact that the *modus operandi* of its author, which is to talk black into white. Basically, such an attitude is all-pervasive and it is designed to continue to consolidate one's political privileges and deprive the Hong Kong public of their basic human rights.

President, on today's motion, I do not hold any hope that this legislature will be treated fairly by the Government because the conclusions drawn in the Green Paper are in fact irrational and unreasonable and they are the product of a

privileged class. Many Members in this legislature, in particular, those in the royalist camp, will only continue to rule out the introduction of universal suffrage in order to consolidate their own power, influence and privileges. I can only point out that in history, this Report marked by "three violations" and the decision characterized by "three violations" will only be spurned in disgust and condemned by posterity. History is always fair, and whoever uses his privileges to deprive the public of their rights will surely be consigned by history to infamy.

Mr Albert CHAN moved the following motion: (Translation)

"That this Council strongly condemns that the Report on Public Consultation on Green Paper on Constitutional Development published on 12 December 2007 by the Administration has given a distorted account of public aspirations for expeditiously implementing dual universal suffrage for the Chief Executive and the Legislative Council, and has failed to provide a specific and clear timetable as well as a roadmap for dual universal suffrage, thus universal suffrage for the Chief Executive and the Legislative Council cannot be fully implemented at an early date; in addition, this Council considers that dual universal suffrage for the Chief Executive and the Legislative Council should be implemented by no later than 2012."

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

PRESIDENT (in Cantonese): Five Members intend to move amendments to this motion. The motion and the five amendments will now be debated together in a joint debate.

I will call upon Dr YEUNG Sum to speak first, to be followed by Mr LEE Cheuk-yan, Mr Alan LEONG, Mr Ronny TONG and Mr LEUNG Kwok-hung; but no amendments are to be moved at this stage.

DR YEUNG SUM (in Cantonese): Madam President, I am grateful to you for allowing my fellow party member, Mr LEE Wing-tat, to ask an oral question

concerning the King Yin Lei for me because I had to accompany my mother to the hospital this morning. Thank you.

Madam President, I found the decision of the National People's Congress (NPC) against introducing dual universal suffrage in 2012 extremely disappointing and deeply regrettable. On behalf of the Democratic Party, I would like to speak in support of all the amendments proposed today.

Madam President, the civil society in Hong Kong is in fact very mature and we have sufficient conditions for the introduction of dual universal suffrage in 2012: We have an independent legal system, we have the freedom of the press, we have high education standards and comparatively stable economic development. Therefore, be it in the domains of politics, the economy, culture or the law, the conditions in Hong Kong for the introduction of dual universal suffrage, particularly in 2012, are actually adequate. However, unfortunately, the Central Authorities do not attach any importance to our social conditions and the need of society for development. We find this profoundly regrettable.

In addition, I wish to ask what the Central Authorities are actually afraid of insofar as universal suffrage is concerned. Do they really believe that Hong Kong people, who are so pragmatic, would elect a Chief Executive who cannot stand on the same platform with them — and I quote Mr QIAO Xiaoyang — "a Chief Executive with whom they can communicate"? Do Members think that such a thing would really happen? Since there is so much intelligence at the disposal of the Central Authorities, are they not capable of finding out at an early stage that Hong Kong people also have a very pragmatic side? Hong Kong people can be idealistic, but they can also be pragmatic. Therefore, concerning universal suffrage, what are the Central Authorities actually afraid of? Since the DAB has achieved good results in the District Council elections, this should make the Central Authorities feel highly confident. What actually are the Central Authorities afraid of? Since the Central Authorities and the SAR Government keep dragging their feet in introducing universal suffrage, this gives one the impression that they are in fact not committed to universal suffrage in any way and they are only adopting a delaying tactic to keep the public waiting. However, I believe that the steadfastness and will power of the public in campaigning for dual universal suffrage will not wane. In fact, Madam President, even if dual universal suffrage is implemented in 2012, there will already have been too much delay. In fact, the progress has been exceedingly gradual, or excessively gradual, as a result, the public are disappointed.

The third point that I wish to raise is that if our Government and the Central Authorities keep deferring the introduction of universal suffrage, it will only further impinge on the Government's administrative efficiency. I ask Members to think about this: The levy of the so-called goods and services tax, the scuttling of the project on the West Kowloon Cultural District Development and the rejection of the so-called constitutional reform proposals in 2005 all show clearly that the Chief Executive lacks adequate mandate and there is no political party commanding a majority of seats in the Legislative Council to support him. In fact, no one is capable of practising effective governance, be it senior civil servants or seasoned businessmen. In such a mature civil society as Hong Kong, it is highly necessary to have an efficient political party commanding public support and a majority of seats that supports the Government, however, it seems that the Central Authorities have failed to see this point. Given that the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region is capable of gathering so much intelligence, what kind of report has it actually written and submitted to the Central Authorities?

In ruling out dual universal suffrage for 2012, it seems the Central Authorities have hinted a number of times that it is due to the fact that the pro-democracy camp rejected the constitutional reform proposal put forward by the Government back in 2005. Here, I have to stress again formally and openly that the Hong Kong public should take a look earnestly to see whether the so-called constitutional reform proposal put forward by the Government in 2005 was really a proposal on universal suffrage. Was there a timetable on universal suffrage? There was none at all. Therefore, even now, I still have no regret about the fact that the pro-democracy camp opposed the proposal in 2005. If it were not for the campaigning by members of the public and the pro-democracy camp over the years, the present timetable floated by the Central Authorities for the selection of the Chief Executive by universal suffrage in 2017 and for the formation of the Legislative Council by universal suffrage in 2020 would not have come into being at all. If it were not All of us can take a look and see what the royalist parties here did at that time to lobby for a timetable for universal suffrage. Everyone should take note of this and settle the scores in the Legislative Council elections in 2008.

Madam President, a timetable for universal suffrage is very helpful to solving a lot of problems. I believe that the wrangles that have persisted for more than two decades will be resolved automatically with the advent of

universal suffrage. Therefore, it is really very important to have a timetable for universal suffrage.

In addition, with a timetable for universal suffrage, various political parties and interest groups will adapt themselves to it. No matter if they like it or not, if universal suffrage will really be introduced a decade later, I believe the entire political scene will see some changes, for example, the roles played by political parties will even be more formalized, political fund-raising activities will become more diverse and political talents will emerge from many quarters because there will be opportunities for them to turn their political aspirations into reality. Therefore, I believe a timetable for universal suffrage will hasten the emergence of all these developments.

However, Madam President, on behalf of the Democratic Party, I wish to appeal openly to the Hong Kong public to make sure that we will meet at 3 pm this Sunday. We will not part until we have met because even though a timetable for selecting the Chief Executive by universal suffrage in 2017 is now available and a timetable for forming the Legislative Council in 2020 is available, I still wish to ask sincerely here whether they will be genuine elections. Will they truly be elections by universal suffrage? I think this may not be the case. I really think that this may not be the case. Therefore, we must not think that with a timetable for the introduction of universal suffrage, all issues will be resolved because in fact, judging from a lot of tell-tale signs and the impressions that I have got, I am worried that the universal suffrage in 2017 and 2020 may not be genuine. Therefore, here, I make an open appeal to Hong Kong people and friends who support universal suffrage to come out this Sunday to campaign for genuine and democratic universal suffrage for the sake of our children.

Do Members think that the universal suffrage for the election of the Chief Executive in 2017 will be genuine? First, I believe that at that time, there will certainly be a round of advance screening and a high threshold. One Sunday, I attended the City Forum with Ms Margaret NG and Ms Maria TAM. Ms TAM was sitting next to me. She said that the so-called democratic procedures stated in the Basic Law referred to nomination by a group, not by individuals. This makes things very clear. Members of the public, a group nominator means preliminary voting by an election committee, no matter if it is made up of 800 persons, 1 200 persons or 1 600 persons. Two to four candidates will then be selected. The Chief Secretary for Administration, Mr Henry TANG, said that

it would be best if there were two to four candidates and Mr QIAO Xiaoyang also said in the Government House that it would be best if there were two to four candidates. How can these two to four candidates be selected? There will certainly be advance screening. Second, it will not be that easy to become a candidate because the threshold will be very high. This time around, Mr Alan LEONG from the pro-democracy camp was fortunate enough to get some 130 votes out of 800. However, many NPC deputies have proposed that 25% of votes should be obtained from each of the four sectors, namely the professions sector, social service sector, religious sector and the industrial, commercial and financial sector. In that event, there is no need to hold any hope for anything. I dare assert that no candidate from the pro-democracy camp will be able to secure 25% of the votes from the business sector. Not to mention 25%, it is possible that not even one vote can be garnered. I can assert that none of the candidates will be from the pro-democracy camp. What does this mean? In fact, a high threshold and advance screening only serve one end — I hope it will not turn out this way in the future, however, the likelihood is great — that is, to screen out people with different political views because the aim is to allow universal suffrage only if a candidate who can be trusted by Grandpa can be selected. And the candidate must be completely trustworthy — and I stress "completely trustworthy". I wish to ask Hong Kong people whether this is their idea of genuine universal suffrage. Surely not.

The second issue relates to the forming of the Legislative Council by universal suffrage in 2020. I have to ask again if the universal suffrage will be genuine. I believe it will not be because the other day, our Mr ZHANG Xiaoming, Vice-minister of the Hong Kong and Macao Affairs Office of the State Council, sounded as though he were giving us a lecture in the Government House and he talked at length about political science. He explained that universal suffrage did not mean that the functional constituencies would be abolished. This is really the greatest joke of all, and the most ridiculous of all in the world. This runs completely counter to the recognized international standards. Hong Kong is a very mature civil society and I ask Mr ZHANG Xiaoming to study political science further before he speaks to the Hong Kong public. Therefore, if the functional constituencies, which enjoy political privileges, are retained under a wrapping of universal suffrage, this is not the public's idea of universal suffrage.

I have only very little speaking time left. I have to make good use of the time left to appeal to the Hong Kong public again to support genuine universal

suffrage, to support the equal right of participation in elections and the equal right to nomination. Only this is genuine universal suffrage. Such a day has not yet dawned and the revolution is still not successful. Furthermore, I am not calling on people to rise in revolt, but calling on everyone to bring along their family members to the Victoria Park peacefully and meet at 3 pm to fight together for our next generation, to prove that from a historical perspective, we Hong Kong people have never wasted our efforts. For the sake of democracy, we will write Hong Kong's history with each step we take. Thank you, Madam President.

MR LEE CHEUK-YAN (in Cantonese): These days, when Hong Kong people watch the television, they will always see Hillary and OBAMA. They hear them speak every day and no matter what they say, they can only hear both of them say the same word: Change. One of them said that he was capable of leading the changes and the other said that only she could really lead the changes. However, in Hong Kong, this time around, when we look at the Report submitted by the Chief Executive and the veto by the NPC, it is also all about just one word — or one should say two words: No change. I think Hong Kong people are quite pathetic. There is nothing that we can change. We are tightly bound and cannot change anything.

In view of this, today, on behalf of the Hong Kong Confederation of Trade Unions, I propose an amendment to Mr Albert CHAN's motion because we do not accept that nothing can be changed. We demand that the Chief Executive submit another report to the NPC to request that it withdraw its decision. This is totally permissible under the present mechanism and the Chief Executive should have the courage to do so.

Why is it necessary to do so? President, the reason is actually very simple. I believe that we must consider one question. What course of action is good for Hong Kong? If something is done for the good of Hong Kong we say that we love our country, we love Hong Kong, we love the people, so we will lobby hard with reason. What course of action is the best for Hong Kong? It is to implement dual universal suffrage. We should have introduced dual universal suffrage in 2007 and 2008. We now insist that dual universal suffrage should be implemented in 2012 because this is the best thing for Hong Kong. If all of us agree on this point, I think we should continue to lobby and persevere.

Why is the implementation of dual universal suffrage in 2012 the most appropriate thing to do? First, obviously, it has the basis of having all along been supported by 60% of the people and by that I mean the implementation of dual universal suffrage. Apart from public support, another equally crucial question is whether, if the political system moves slowly by taking one step after another, this is the most beneficial to Hong Kong. Members can see that after the reunification, crises in governance have occurred from time to time in Hong Kong, mainly because the political system cannot keep up with changes in the social and economic conditions. The political system is still slanted in favour of capitalists and the elites, while the general public are unable to influence administration by the Government in any effective way, as a result, the legitimacy of the Government is low and its credibility is being eroded. Only by implementing full universal suffrage will it be possible to thoroughly solve the SAR's problems in governance. This is a direction that is good for Hong Kong. To delay the introduction of universal suffrage will only perpetuate the problems in governance and cause further internal debates in society. The existing political system in Hong Kong has made the Government, the legislature, civil servants, political parties and even all members of the public losers. There is no winner and to defer the introduction of universal suffrage by 10 years is to make the public losers for 10 more years.

Another even more practical issue is that, without democracy, there will not be any decent living for the public at all. If Members take a look, they will find that recently, the prices of various items have become very high and the prices of everything have increased — the fares of public transport services are set for increases, the tolls of the Western Harbour Crossing have increased and the two power companies also plan to increase their tariffs. Obviously, since democracy is absent in Hong Kong, the entire political system and the entire policymaking process are slanted in favour of capitalists and consortia. In this way, Hong Kong people really will not have any decent living, so this problem is related to the public's livelihood. For example, we have been clamouring until our throats are sore for an increase in Old Age Allowance (OAA) but the Government is still unwilling to do so. Obviously, without universal suffrage, it is very difficult to demand that the Government increase the OAA immediately. There is also foot-dragging in a lot of issues relating to the public's livelihood due to the absence of universal suffrage. On the issue of a minimum wage, due to the absence of universal suffrage, Members of functional

constituencies have all along posed obstacles and hindered the world from evolving by preventing legislation on a minimum wage, consequently, it is not possible for us to improve the public's livelihood in this regard. Therefore, without democracy, there will not be any livelihood for the public. If we really want to improve the public's livelihood, it is definitely necessary to have dual universal suffrage.

President, some people often maintain, and the Chief Executive or the Secretary will surely say later, that no consensus has been reached in Hong Kong, that without the support of two thirds of the Members of the Legislative Council, it will not be possible to proceed, that it is a must to have the support of two thirds of the Members of the Legislative Council. In fact, Members will find that this matter can be dealt with most easily. Obviously, when the NPC gave the final word, saying that we have to wait until 2017 and 2020 to have dual universal suffrage, those political parties immediately joined the chorus saying "OK, we will strictly adhere to the thinking of the Central Authorities" and as a gesture of support, they will even raise their feet immediately. Therefore, frankly speaking, the public also know that if the NPC were to say that there would be dual universal suffrage in 2012, these people would also give their support all the same. In fact, what they really care about is not Hong Kong. The most important thing is that they can get opportunities on the Mainland, to secure the favours of the central leadership. If the leaders of the Central Authorities were to say that there would be dual universal suffrage in 2012, they would say OK immediately. If the Central Authorities were to say 2008, they would still say OK. Therefore, this matter can in fact be dealt with most easily. The question lies in whether the Central Authorities will give the nod. However, the Chief Executive should offer assistance so that the Central Authorities will give the nod.

Second, President, regarding the whole process, our greatest dissatisfaction in the whole process is the NPCSC operating in a black box, which is at variance with the speech delivered by HU Jintao in the 17th National Congress of the Communist Party of China. On that occasion, what he said sounded most appealing: "let power be exercised in broad daylight". The present state of affairs is really deplorable. How was the power exercised in broad daylight on this occasion? On this occasion, the power was exercised entirely in a black box. We Hong Kong people had no idea whatsoever of how the decision would be like beforehand. We could only rely on informed sources

or reading the newspapers, and then make our conjectures. We did not know anything beforehand and there was no consultation whatsoever, so how can this be called "exercising power in broad daylight"? I think and I hope that HU Jintao I ask the newspapers to report this so that he can read about this and communicate with us because Old Master QIAO said that Mr HU reads Hong Kong newspapers every day. Was power exercised in broad daylight on this occasion? This is completely a black-box operation.

I think this is an extremely disappointing approach because the Hong Kong public could not take part in any way. The decision of the Standing Committee of the NPC (NPCSC) also spelt out one unexpected point, that is, the proportion of seats returned by functional constituencies and those by direct elections in the Legislative Council would remain unchanged in 2012. Again, no prior consultation whatsoever was conducted and it just cropped up all of a sudden. President, I think that the most pathetic thing about Hong Kong now is that we have been saying all the time that we will lobby hard by presenting good grounds, however, we find that a lot of people are saying that since the NPC has already made a decision, we must not voice any opposition and we are told to be more pragmatic, not to voice any opposition and they say that any radical expression of position will only be counter-productive. This is what Donald TSANG said. I wish to ask him whether we will get democracy if we act like quails. I wish to trouble him to teach me how I can act like a quail. I think that at present, there is a kind of sentiment in Hong Kong President, do you understand what a "quail" is? You do not? However, most people do. Since my speaking time is limited, I am not going to explain it.

President, I think that an undesirable situation exists in Hong Kong, that is, the prevailing sentiment of people thinking that if the NPC has made a decision, we all have to hail the emperor, thank His Highness for the great favour, then everyone should comply with the stipulations of the NPC. Should we Chinese be so miserable that we cannot say our leaders are wrong under an authoritarian culture? This is how it was like during the Cultural Revolution, when only one voice was allowed, and this is how it was like during the anti-rightist movement, when no one dared say that the people at the top were wrong. As a result, they made mistakes repeatedly and catastrophes developed. I think this is the most pathetic thing about Hong Kong people. If everyone bootlicks and fawns like WEI Xiaobao and no one dares act like QIAO Feng, who is righteous and upright, and lobby hard by presenting good grounds, I think

that would really be pathetic for Hong Kong. If we say that since the NPC has made a decision, we have to be pragmatic and hail the decisions, who will act like Mr JIANG Yanyong, who exposed the problems during the SARS outbreak despite the pressure exerted on him by the people on top? We got to have this kind of spirit. If Hong Kong people lose this kind of spirit, what contribution can we make to our country? In mainland China, a lot of people dare challenge authority and speak the truth now. If we Hong Kong people only bootlick and fawn, we cannot even compare favourably with them and the values of Hong Kong will no longer exist. Therefore, I think that this is very pathetic. Recently, a lot of people published notices in newspapers to express their support for the decision of the NPC. If anyone does not support the decision, he will be branded as counter-revolutionary. I think this is also a very pathetic situation. We Hong Kong people should not be like this. We should persevere and lobby hard by presenting good grounds.

Finally, President, I wish to say a little bit more. We have made it very clear that we do not want to see the introduction of pseudo-democracy in 2017. This is our greatest concern. Why? Members can see that even condoms can be turned into hair ties. In view of this, all Honourable female colleagues in the Legislative Council do not use hair ties because they are afraid that such items can also turn out to be fakes. The fakes make us very worried about whether the future system of popular election or universal suffrage will be like those discarded condoms, which are used to make hair ties. Those hair ties made from condoms are harmful as there are a lot of germs. Therefore, we do not want 2017 and we hope that there will be genuine democracy. ZHANG Xiaoming said that it was necessary to retain functional constituencies and I think it has already sounded the alarm. It is likely that the democracy will also be bogus. I am also very disappointed by the remarks made by ZHANG Xiaoming. I think that he as a member of the Communist Party has betrayed the working class in regarding the GDP as solely the contribution of capitalists, as if workers have no part to play in it.

Finally, President, I hope that this Sunday, Hong Kong people will show up in a display of their perseverance and show that they are truly upright Hong Kong people. What is right is right and, what is wrong is wrong. The people have to come out and say that we want the implementation of dual universal suffrage in 2012. Only such a course of action is good for Hong Kong. Thank you, President.

MR ALAN LEONG (in Cantonese): President, after reading this Report on Public Consultation on Green Paper on Constitutional Development (the Report) and the "decision" made by the Standing Committee of the National People's Congress (NPCSC), I can use five words to describe them: "Justice has not been done".

"It's a Matter of Choice.". In fact, in demanding the election of the Chief Executive and all Legislative Council Members by "one person, one vote", Hong Kong people only hope that they can have the opportunity to identify the basis and direction of administration by the Government through regular policy debates and different ways of thinking, so that the Chief Executive can really make decisions founded on the welfare of 7 million people instead of being only at the beck and call of the business sector, so that society can become more balanced and fairer.

The Chief Executive's Report recognizes the fact that more than half of the people support introducing dual universal suffrage in 2012, however, it played upon the pragmatic mentality of the public by asking manipulatively, "If universal suffrage for the Chief Executive cannot be introduced in 2012, do you accept 2017?" The word was spread far and wide that it would be easier to reach a consensus on introducing universal suffrage in 2017. In fact, people having vested interests may as well go on asking: If universal suffrage cannot be introduced in 2017, what about 2022 or 2027? They can even keep on asking this question until they get to the year 2047.

President, originally, universal suffrage was a serious and solemn pledge made by the incumbent Chief Executive when he was standing in the election. However, it has degraded into a debt that the Government has deferred repaying time and again. Furthermore, the pro-establishment camp behaves like a rogue tenant who bullies the helpless landlord, saying, "I am not going to pay the rent for this month and I will do so only next month. You can take it, or leave it." This is really the greatest injustice of all.

President, an unfair report serves to perpetuate an unfair political system. People having vested interests continue to erode public interests under the protection of an unfair political system. The stock market is bullish and inflation has returned. Consortia and tycoons are given tax reductions when over 1 million members of the public are still living below the poverty line. The Old Age Allowance for the elderly has not been increased for a decade.

The new scheme of control agreements enable the two power companies to continue to build plants and make huge profits, whereas the so-called fines on emissions are in fact only a slap on the wrist. In redeveloping old districts, attention is paid only to government revenue and the business opportunities of big property developers, whereas people who had lived together in the same neighbourhood for years were broken up and relocated to different places, as a result, the features and traditions of various local communities were completely wiped out.

President, an imbalanced political system gives rise to unfair policies. Originally, our aim in campaigning for constitutional reform is precisely to bring about an opportunity to introduce reforms in administration and get rid of injustice. However, people with vested interests are prepared to exhaust all means to preserve their own interests and the system on which these interests depend. This deformed system will continue to exist at least in the next 10 years and Honourable colleagues who campaign for democracy in the legislature will continue to face the impasse of not being able to move in any way in a political system controlled by people with vested interests.

In this impasse, the people in power will make private power deals and gradually get rid of the systems that prove a hindrance to them and abandon the rational and objective attitude and adherence to the truth by replacing them with a style of administration that confounds black and white and turns right and wrong around. After the constitutional reform proposal was voted down, the Government did not reflect on how the proposal ran counter to the principles of democracy in nature, instead, it brought all its firepower to bear on people voicing dissent, accusing them of hindering the introduction of universal suffrage. In the same vein, the urban planning mechanism has put the Government in a very passive position, as a result, the credibility of the Town Planning Board is being eroded, yet the Development Bureau still has no intention of amending the Town Planning Ordinance further. In another example, a former senior official in charge of education who had resigned could circumvent the Civil Service Regulations to run in the NPC deputy election, thus rendering the existing system nominal.

President, the public hopes dearly that constitutional reform can make justice prevail in Hong Kong at an early date, however, what they get is a Report on constitutional reform which is unjust. The Chief Executive, who is the author of the Report and the leader of the SAR, naturally has to assume ultimate

responsibility. I still remember that when Donald TSANG talked about the issue of constitutional reform when running for a second term, he sounded very grand and lofty and vowed to "do something big" together with Hong Kong people. He wanted to set out three proposals on universal suffrage that meet recognized international standards, complete with timetables and roadmaps, in the Green Paper. He even promised that he would recommend to the Central Authorities the proposal having the support of 60% of the people, so that it would become the ultimate proposal that could fully address the aspirations for universal suffrage; that he would also seek to completely resolve the issue of universal suffrage in his tenure and would not leave the task to his successor, so on, and so forth.

President, after Donald TSANG has launched his grand plan for constitutional reform, it turns out that none of his pledges has been honoured: The three proposals he talked about became a hotchpotch giving the public options A, B, C, and so on, that can form more than 70 combinations and it turned out that the SAR Government, which vowed to follow recognized international standards, does not have to heed Article 25 of the International Covenant on Civil and Political Rights, so the functional constituencies can be passed down to posterity indefinitely. The universal suffrage to be introduced in 2017 must clear five more hurdles in 2012. In other words, this will surely become a political bomb passed by Donald TSANG to his successor.

President, in fact, Donald TSANG also said when running in the election that if his new constitutional reform proposal was voted down by the Legislative Council again, he would not propose any new proposal again in his term. If this remark made by Donald TSANG on that day is considered in the light of this Green Paper and Report that distort public opinion and run counter to his pledges, one cannot but harbour suspicions about the intention of the Government and the pro-establishment camp, that is, they want to bring about a repeat of the constitutional reform trap set in 2005, so that the Hong Kong public will have no alternative but to choose unwillingly between getting a rotten orange and getting no orange to eat at all.

In view of the present state of affairs, we really cannot cherish any romantic fancy about Donald TSANG, the SAR Government and even the entire pro-establishment camp. Ever since the Sino-British Joint Declaration stated that the legislature of the SAR would be formed by democratic elections, Hong

Kong people have been waiting for this cheque on democracy to be honoured and they have waited for a full 24 years. We cannot possibly wait for another 12 years and pray that the authorities would deign to give us democracy.

The Report prepared by Donald TSANG and the decisions of the NPC have taken democratic development in Hong Kong to a crossroads. We can choose to continue to act in the way we have been in the past 24 years and give the pro-establishment camp a free hand in using a timetable that keeps retreating and bogus proposals on democracy to fool or deceive us, or we can choose to go in the opposite direction and resort to self-help in a civil society to make justice prevail in Hong Kong.

The public should reflect on their misfortune and fully understand the inalienable relationship between democracy and people's livelihood. When all of us realize how important fair elections are to the establishment of a Hong Kong that we wish to see, that will be the day when the democratic movement in Hong Kong comes to fruition.

President, only with such an awakening will it be possible for us to stop Donald TSANG from reintroducing the proposals put forward in 2005. Only with such an awakening will it be possible for us to dash the vain hopes of the pro-establishment camp to install more elements enjoying special privileges by means of the proposals for 2012; only with such an awakening will those in power realize that public opinion cannot be belittled, so that they will hold discussions with society on a genuine proposal on universal suffrage earnestly, in order to solve the problems in governance, eradicate the unfair practices in administration and restore right and wrong and black and white in our society to their proper niches.

President, we are prepared to explore any proposals that do not deviate from principles of democracy with officials and political parties that are sincere in establishing democracy. As regards any bogus proposal on universal suffrage and any bogus timetable for universal suffrage designed to stall the progress of democracy, we definitely cannot and will not endorse them.

Today, through the debate on this motion and amendments, we have fulfilled our responsibility as Members of the legislature. On Sunday, 13 January, we bid every member of the public who supports democracy come out and take to the streets to fulfill their responsibility.

With these remarks, President, I propose the amendment and make an appointment with friends who are willing to voice their demand for democracy for their own sake and the next generation's sake to gather at Victoria Park at 3 pm on Sunday and set off together on an expedition for democracy once again.

MR RONNY TONG (in Cantonese): President, in every civilized society, all political parties, be they the ruling party or the opposition, must have at least two basic *raison d'être* and functions: The *raison d'être* and function of the ruling party are to honour through administration the promises it made to voters through the mandate it received in the form of the votes cast by the public, whereas the *raison d'être* and function of the opposition is to play the role of a bridge between the public and the government, monitor the operation of the government and reflect the public opinions and demands that have not been taken on board by the government. President, in this world, there are of course also some political parties representing minority interests or minority groups, but these political parties would still respect the views of the majority, only that they will lobby hard for the interests of minorities. However, in the entire world, one can hardly find any political party that sets as its goal the representation of all members of the public on the one hand but is also happy to play a part in stymieing the ardent aspirations of society on the other.

President, before and after the reunification, all the public opinion polls of all scales conducted in the course of more than a decade all confirmed the ardent aspiration of Hong Kong people for universal suffrage. The pro-democracy camp even conducted a series of public opinion polls, numbering 12 in total, between June and December last year to repeatedly gauge the views of the public on universal suffrage. The results of these public opinion polls persistently reflect the fact that close to 60% of all the people hope that the political system in Hong Kong can attain the goal of universal suffrage as soon as possible. This is a fact that even the Chief Executive, Donald TSANG, dares not and cannot deny. However, since public opinion is so clear-cut, why did the NPCSC still rule out dual universal suffrage in 2012 on the ground that the support of two thirds of the Members of the Legislative Council and that of members in the District Councils had not been secured? Why could the DAB and the Liberal Party, which occupy the majority of seats in the Legislative Council and the District Councils, defy the wishes of the people and oppose dual universal suffrage in 2012?

President, just look at the past positions of the DAB and the Liberal Party, and we will find that they once expressed support for the early introduction of universal suffrage. For example, the election platform of the DAB in the Legislative Council Election in 2004 stated that it supported dual universal suffrage in 2007 or 2008. After 2004, they revised their party platform to supporting dual universal suffrage in 2012 instead. However, after 2005, they revised their party platform again and simply deleted the year for the introduction of universal suffrage.

As regards the Liberal Party, nothing is mentioned in its party platform. I think they are being more honest because they said right from the beginning that they represented the business sector, which is a small group, and it is true that there is some opposition in the business sector to universal suffrage. Nevertheless, at various points of time, its party leader has expressed support for universal suffrage for the Chief Executive in 2012, only that an election with a high threshold would be acceptable as a start and he would accept an election with a lower threshold afterwards.

Given that these two political parties have both expressed support for the implementation of dual universal suffrage as soon as possible, what makes them think that even though society has advanced, they themselves have on the contrary regressed, that they have gradually become immature or lack leadership abilities? President, I do not have any evidence, nor do I believe that the DAB and the Liberal Party are in fact controlled by the Central Authorities. I think there can only be two explanations for their political dithering and their rejecting the demands of the public: First, they have been second-guessing the thinking of the Central Government and use the results as the bearings for their political stance. As they cannot please "Grandpa" and the public at the same time, the political ideals of Hong Kong people have become the sacrificial offerings to sycophancy. Second, in order to preserve their vested interests, in particular, the power and influence they got from the functional constituencies, they invoke the authority of the Central Authorities in resisting the democratization of the political system.

However, President, no matter if either or both of these possibilities have contributed to such an effect, this is not the kind of thinking or behaviour that should be exhibited by political parties claiming to represent the public as a whole. If some political parties posture themselves as representing all members

of the public but negate the wishes of the majority public and rule out the aspirations of the Hong Kong public on account of their self-interests or some special political reasons, they warrant our condemnation.

President, what is even more incomprehensible is these political parties — I am talking about the Liberal Party and the DAB, and Chief Executive Donald TSANG — all regard lobbying the Central Government hard on the issue of universal suffrage by presenting good grounds as an unpardonable act? If people hold dialogue rationally and advocate and campaign for their political aspirations peacefully, in fact, there is no need for people to turn against each other or for the situation to evolve into negative or even violent struggles. On the contrary, the absence of rational dialogue and peaceful communication will often give rise to the potential factors leading to vicious struggles and the so-called revolt against bureaucratic oppression.

Even so, I believe Hong Kong people will still not rise in revolt because this is not the age of rising against injustice. The peaceful pursuit of aspirations by Hong Kong people was not dented in the slightest way even at the most difficult of all times, for example, in 2003, and this is sufficient proof that it is totally groundless to adopt the mentality of avoiding rebellion when handling the issue of constitutional development in Hong Kong. In view of this, the DAB and the Liberal Party, as political parties representing all Hong Kong people, should understand this rationale. Since they know full well that they are the political parties most trusted by the Central Authorities, why do they not make use of their status to explain to the Central Authorities and win their trust in Hong Kong people but defied the wishes of Hong Kong people, failed to do what Hong Kong people entrusted in them and opposed the introduction of dual universal suffrage in 2012? Why do they not do so? It is the pro-democracy camp that does not have any platform for communication. But the Liberal Party and the DAB can go to Beijing at any time, so why have they never conveyed what they understand to be the public opinion in Hong Kong?

President, 29 December is a day of sorrow. As sad as it is, when we met Deputy Secretary-General QIAO Xiaoyang, he made a remark that made me feel that he was rubbing salt into our wound. He said to this effect, "Since you people still want to lobby for dual universal suffrage in 2012 even now, that means we do not have any platform for communication." I almost wanted to say that that was outrageous. It means that since we did not have any

communication in the past and we do not have any communication now, we will not be able to have any communication in the future either. However, it is not the case that the pro-democracy camp is not willing to communicate with the Central Authorities, rather, our difficulty lies in finding no channel for communication. However, the DAB has the channel for communication, so why do we not rely on them to engage in communication and lobby for the ardent political aspirations of Hong Kong people? Quite the contrary, why did they use the votes in their hands or their votes in the legislature to rule out the wishes of Hong Kong people?

President, that the political parties supported by the majority public do not have a majority of seats in the legislature and a commensurate amount of political power is the adverse result of the imbalance in the SAR's political system. This is also the cause of deepening social contradictions. However, if the DAB and the Liberal Party can be amenable to public opinion, join hands with the pro-democracy camp and the majority of Hong Kong people to secure genuine universal suffrage for the SAR as soon as possible through rational and sincere dialogue, it will be possible to attain the goal of universal suffrage even in 2007 or 2008, not to mention 2012. However, the reality did not turn out in this way. The DAB and the Liberal Party were even prepared to run the risk of turning themselves into the enemies of the people instead of standing up, lobbying the Central Authorities hard by presenting sound arguments and contributing to the development of democracy in Hong Kong. As a result, the NPCSC was able to rule out dual universal suffrage in 2012 on the ground that the DAB and the Liberal Party were opposed to it.

President, I really do not know whether this is the woe of the DAB and the Liberal Party or the woe of all Hong Kong people.

MR LEUNG KWOK-HUNG (in Cantonese): My amendment mentions the decision of the NPCSC. A lot of people would say, "The NPCSC has already made the decision. They are like the 'siu mai' dim-sum that was made the day before. You can either take it or leave it.". In fact, this is not how the situation is like. If the "siu mai" dim-sum made the day before is tainted, it must be discarded because the NPCSC is only a power organ that operates when the NPC is not in session, that is, it was only entrusted to handle this matter. Buddy, how do you know that when March comes, the NPC deputies will

definitely support the decision? Therefore, those people who claim that the decision made by the NPCSC cannot be undone are not reasonable, and they want to appeal to authority instead of common sense.

Let us look at the modern history of China. Our Constitution has been constantly amended, probably because it was outdated or because it was believed that mistakes had been made in the past, so it was amended. The so-called "Three Represents Theory" was something that was grafted onto it regardless. In order to leave a mark for themselves, leaders would invent a set of precepts or theories and add the whole thing to the Constitution after they had come to power. Even these things can be amended. Why is it not possible to amend the decision on whether 6.9 million people can exercise their fundamental rights and when they can exercise them, which is a decision that will indirectly serve as a catalyst of democratization in China?

In fact, are we not electing deputies to the NPC now? Although I have a role to play in electing the deputies, I do not know who they are. When these people serve as NPC delegates, can they not raise this with the NPCSC, for example, to tell them that this will not do and amendments should be made? Therefore, those people who say that since the NPCSC has made the resolution, we should not argue anymore and should not do this or that in fact do not respect the legal system. In other words, we still stand a chance insofar as the legal system is concerned, unfortunately, it is impossible for us to go to the Mainland to raise this matter.

In fact, what is this all about? I did not see how the NPC held its meeting, however, I could see a question mark and it was a question mark about Donald TSANG. I do not know if Secretary Stephen LAM is aware of this, however, rumour has it that Donald TSANG is very good at speaking through mass media that are on cozy terms with him. He regards himself as a spin doctor and said that this time around, he would "do something big" with Hong Kong people. In fact, what exactly did he say? He said that this time, he certainly wanted to play a big joke on Hong Kong people. That was what he said. However, it was then claimed that he was misquoted and that he only had a slip of the tongue. Does anyone mean to say that he has not played a big joke on us yet? He also talked about a so-called ultimate proposal and that he definitely would not distort public opinion. We also know that in the results of the public opinion poll published by those people, it has indeed been confirmed that the introduction of dual universal suffrage in 2012 has the support of more

than half of the members of the public, however, by substituting concepts, they asked the public: If it is not possible to do so in 2012, do they accept it in 2017? This is how they substituted the concepts.

What is the present outcome? The outcome is that Donald TSANG has lied. Members must not be mistaken. He did not deceive the NPC, in fact, he was fawning on the NPC. In response to the dictates of the NPC, he fabricated a lie to explain away another lie. This is to explain away a lie, not to deceive. Members must make sure that they have a good standard of Chinese. He did not deceive the NPC. Is he in a position to deceive the NPC? That day, I could not see QIAO Xiaoyang but I was in fact less than one foot away from him. This is an exclamation mark and by that I mean a heavy hammer. He said that there was no need to talk any further because there would not be universal suffrage in 2012 and there would be, perhaps in 2017. Next, he said that the purpose of his visit on that occasion was not to listen to views but to explain the decision. In fact, there was no need for him to come here to do so. If his purpose was to make explanations, he needed only send an e-mail to Mrs FAN and ask her to forward it to us, and that is it. This is a very simple thing and what QIAO Xiaoyang said was also a substitution of concepts.

In the past, we suggested that there should be a roadmap first and a timetable later. They also said so because when we asked them for a timetable, they said that it would be necessary to state clearly what actually there would be first, otherwise, how could they provide a timetable? Later on, they found that it would be a big deal to talk about a roadmap because their bottomline would be exposed all the more faster, so they are now talking about having a timetable first. How is this timetable like? It says that we may get it in 2017, that by then, it would be given to us, so we are asking them what will be given to us. Just now, Mr Alan LEONG compared this to a rogue tenant. I think he has put it very aptly. A rogue tenant says that he will pay you the rent next month, however, if you do not agree, he will never pay it. He then gave you a wad of fake banknotes. If you use them, you will be in serious trouble. This is the present situation. Now, what we want is a wardrobe. We have paid for it and signed a contract spanning 10 years. When it is about time for delivery, a coffin is delivered instead. I then say, "How come you give me a coffin? I will not take it." However, the other party says, "It is also made of wood and it is also rectangular in shape. If you do not take it, you will never get anything in future and this will be regarded as a cancellation of order and the deposit will be forfeited." The day before, I dined out and ordered a steak, however, the

waiter served me some beef offal instead. I asked him why this was so and that I was not going to pay. He said, "So Mr LEUNG, you are not going to pay? This is also bovine product and you refuse to pay? You can refuse to eat beef offal but you must pay. I have served you the food so quickly. This restaurant takes deliveries only once in every two hours. Now that we have served you the food, you can either take it or leave it."

Members, this is what is called a ruse. If they talk about a high threshold, that is no longer universal suffrage, is that? The candidates can stand for election only after screening, so how can the principle of universality and equality be fulfilled? Stephen LAM has droned on and on about functional constituencies. The Secretary talked about "one person, two votes" and even Alan HOO refuted him. Now that he is someone belonging to the same group, he should refute Alan HOO. However, can he solve another problem? It is a problem relating to candidature and it may stir up a lot of trouble.

To sum up, he is copying my trick. I once said that if we wanted to have a transition, we could have "two persons, two votes". Last time, before we voted, I said that the only possible concession would be for each person to have two votes, then, in 2008 in 2012, universal suffrage should be implemented immediately. I said that this could be the only concession. All that he proposed to us is not universal suffrage at all. He then told other people that he had been quite co-operative and he had already given us what we wanted, so why did we refuse to take it? Members, this is where the real danger lies, because his design is to scuttle everything if the pro-democracy camp lobbies hard by presenting sound arguments and exposes him as the real devil, just as in the story of the "Monkey King Subduing the White-Bone Demon", in which the Monkey King gave the White-Bone Demon a sound beating on three occasions until the latter revealed itself as such. Donald TSANG also said that it would only be necessary to recognize the constitutional status of the Central Authorities and that would put everyone on the same platform. In other words, what we have to recognize is that we have to take whatever the Central Authorities give us. I ask, "If I am not happy with the Chief Executive elect, what then?" The Central Authorities then say, "All right, I will choose one for you in advance." I say, "I cannot elect the one that I like." They say, "I will first establish a mechanism so that you can elect one and that will do." Members, not only do we have to do this fast, we also have to do a good job and this is the spirit of the Great Leap Forward — go all out, aim high and achieve greater, faster, better and more economical results. In campaigning for democracy, we got to have

the Spirit of the Great Leap Forward: achieve greater, faster, better and more economical results.

President, that day, you were in front of me and you could not see what happened. At that time, I was holding this paper and wanted to hand it to QIAO Xiaoyang to let him have a look, but I was treated as though I were a thug by the bodyguards of Donald TSANG. On this paper, I wrote, "The NPC has to open its eyes wide. The introduction of dual universal suffrage in 2012 must not be delayed. It is only righteous for it to return power to the people." I will say it again. In standing here to deliver my speech, what I am seeking is not just the right of Hong Kong people to universal suffrage, but also the right of the Chinese people to universal suffrage, which they have lost for decades. I am contributing my effort because our compatriots in Taiwan are afraid of losing their right to universal suffrage as a result of unification. If one wants to practise benevolent governance, it is now the time. I hope all the people who are watching the live broadcast on television will go to the Victoria Park at 3 pm this Sunday to walk and chant together with me, "We want democracy, China needs democracy."

PRESIDENT (in Cantonese): Secretary for Constitutional and Mainland Affairs.

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, I will speak later.

DR KWOK KA-KI (in Cantonese): Madam President, I wonder if you know that we will hold a rally in Victoria Park on 13th of this month with the theme of "Campaigning for dual universal suffrage in 2012" and the colour chosen is black and white. Why did we choose black and white? Because we find that more and more Hong Kong people cannot tell right from wrong, or black from white.

When the Chief Executive, Donald TSANG, published his Report on 12 December, we understood how confounding black and white or right and wrong was like. Even though more than half of the Hong Kong public had

clearly expressed their wish of seeing dual universal suffrage introduced in 2012, he could still propose, in a show scripted, directed and acted out by himself, that firstly, it would be preferable to do so no later than 2017 and secondly, that a consensus has been reached on introducing universal suffrage for the Chief Executive first, to be followed by that for the Legislative Council later. Where did this consensus come from? This is why it is a show scripted, directed and acted out all by him. This show staged between 12 December and 29 December adopted the approach of cutting the Gordian knot. In a short period of time when everyone was not prepared, democracy in Hong Kong was sentenced to death.

Since the 1980s in the last century, Hong Kong people have been lobbying for democracy for more than two decades, so this is not a new phenomenon. In these two decades, many places in the world have transformed from totalitarian states into democratic and open ones. Some countries in Eastern Europe as well as South Korea were still under military rule when we were lobbying for direct elections in the 1980s. However, nowadays, the Members of Parliament and President in South Korea are all elected by "one person, one vote". When elections by "one person, one vote" were held in Hong Kong, Taiwan was still under the totalitarian rule of the Kuomintang, however, what we see there today is an open society.

Looking back at Hong Kong, in this Chinese society in which everyone is concerned about constitutional development, from the Chief Executive at the top to the cheerleading royalists at the bottom, all these people continue to confound black and white and right and wrong. When we were talking about universal suffrage and when Hong Kong people thought that they would have universal suffrage, we were fortunate enough to have Mr ZHANG Xiaoming and Mr LI Fei reminding us, like a knock of waking our head, that it was possible for universal suffrage not to take the form of "one person, one vote". In the kind of universal suffrage that they talked about, functional constituencies can be retained. In the kind of universal suffrage that they talked about, universal suffrage can be based on the Gross Domestic Product (GDP). What sort of rationale is that? A rationale confounds black and white and right and wrong.

As Hong Kong people, what pains us the most is none other than seeing the Chief Executive, Donald TSANG, wagging his tail, begging for mercy. In the face of something totally unacceptable, he still continues to intimidate the

people, saying that they should not be radical. Even though something is unsatisfactory, they still have to swallow it quickly before all else.

I do not know how we are supposed to teach our children. Even my daughter, who is studying in primary school, knows that this will not do. She asked, "Daddy, why is it possible for universal suffrage not to follow the principle of 'one person, one vote'? Is he lying?" I smiled and replied that I did not know, and then asked in return, "Do you think he is telling the truth?" Even a child not yet 10 knows that he was lying, that he did not lobby for genuine democracy for Hong Kong people. Not long ago, in March last year, he also deceived Hong Kong people by pledging adamantly that he would come up with an ultimate proposal, that he would resolve the issue of universal suffrage within his term of office. All these words are nonsense.

We have thoroughly contemplated and got to the bottom of the NPC's decision. Apart from passing a death sentence on universal suffrage in 2012, in fact, it does not say that there would definitely be universal suffrage in 2017. It only says that the Chief Executive can — and of course, he can On which occasion was not a death sentence passed when we had the opportunity to introduce universal suffrage? That has been the case on every occasion, so how possibly can Hong Kong people have confidence and how can they hold any hope?

Second, on the so-called universal suffrage, different people are probably talking about different things. What kind of universal suffrage is it if functional constituencies are to be retained? What kind of universal suffrage is it if it does not take the form of "one person, one vote"? When new China was established, our Communist Party practised socialism. MARX, ENGELS, LENIN, MAO Zhedong and all revolutionary martyrs all pointed out that if we wanted a new China, everyone had to be equal.

Despite China having developed to the present state, we can still hear some officials on the Mainland talk about the GDP. In fact, there would have been no need to change anything. In the past, the situation was just the same. In the past, landlords generated 99.9% of the GDP in China, so why was it necessary to change anything? Why was it necessary to establish a new China? What pains us is that a lot of people are deliberately distorting the meaning of democracy and universal suffrage. However, if we look carefully, is the situation like this throughout the whole country?

In February last year, or some time ago, the President, HU Jintao, in fact stated clearly during a number of overseas visits and in articles published within the country that democracy, freedom and elections are not the monopoly of Western societies. China would also practise them but it was necessary to have regard to the timing. I can see very clearly that in fact, President HU, Premier WEN Jiabao and some members of the leadership of our country have something that they want to do.

Unfortunately, many officials in Hong Kong and some in fact, I have great expectations for some people such as the Honourable colleagues from the DAB because in fact, I believe that regarding the system for universal suffrage, they will be able to show their abilities and their real ability to garner votes. Why should they stage such a circus show? Why is it necessary for them to make such specious comments?

In fact, Hong Kong people are very humble. Even if they show up or join a rally, they are absolutely rational because, what else can they do other this. How can they make their requests to the Chief Executive and officials of the Central Authorities? Even if they have spoken, what then? Will anyone listen? I call on all members of the Hong Kong public to go to the Victoria Park on 13 January, Sunday. Thank you, Madam President.

MR LEUNG YIU-CHUNG (in Cantonese): President, as many colleagues have said just now, when the Chief Executive was conducting his election campaign last year, he had said emphatically that he would "do something big" on the issue of constitutional reform, and would thoroughly solve the issue of implementing dual universal suffrage within his term of office.

However, before the NPCSC made the decision Even if we do not discuss this decision made by the NPCSC, that is, whether the Chief Executive election in 2017 can really be implemented by universal suffrage, we still feel that throughout the entire procedure and process, we do feel that, as mentioned by other colleagues, it was just a show, in which we cannot see any sincerity on the part of the Chief Executive in solving the problem of dual universal suffrage for us.

During the consultation period of the Green Paper on Constitutional Development, Chief Executive Donald TSANG said that he would put forward

three packages. If one of those three packages was supported by 60% of the people, he would submit it to the NPC for a decision.

Many Members present today might have believed in his words. They had diligently worked out a package for the introduction of universal suffrage in the dual elections, invited the University of Hong Kong to conduct opinion polls, and kept arriving at some findings of the polls. These things were mentioned by Members just now. In all such cases, the findings of the polls indicated that they were supported by over 50% of the people, but unfortunately, what did the Chief Executive do? Instead of providing packages for the people to choose, in his consultation report, the Chief Executive simply provided the people with a series of multiple choice questions. Many people were at a loss of what to do. The consultation exercise did not appear to be a sincere attempt to collect the views of the public at all. As some colleagues have described it just now, the entire exercise has given people a feeling that it is more a show than a sincere attempt of conducting consultation.

He has drawn a conclusion now, after finishing compiling the consultation report In fact, Chief Executive Donald TSANG is really formidable. He completed the whole "show" without leaving it half-way. He quickly came up with a decision with the NPC, and it was quick indeed — it took just three weeks for them to draw a conclusion. However, that was just a conclusion made in a top-down fashion, and nobody is allowed to challenge this conclusion. It is a decision that really makes us feel I think I share the same feelings of many Members and the people, that I am extremely discontented about it. Of course, apart from feeling discontented, I feel a bit helpless. Why am I helpless? Because the views and opinions of Hong Kong people have been completely distorted, not taken seriously.

Now some packages have been proposed, and it seems that the problem of universal suffrage has been resolved, but what is the actual result that we can see? First, there will be an election of the Chief Executive in 2017, but how will the election be conducted? It is still unknown, and that will have to be handled by the SAR Government. Moreover, what about the Legislative Council? No conclusion has been drawn either, and that will have to be explored by the SAR Government as well. Therefore, with regard to this decision, first, it is empty in itself; second, how can the issue of dual universal

suffrage be thoroughly resolved? There are completely no results and no details.

Let us assume that we shall act according to the decision of the NPC and see how we could resolve the problem. It is said that a Chief Executive will be elected in 2017, but we know nothing about the details of the election, nor is there anyone telling us such details. Is this what we call universal suffrage? Besides, ZHANG Xiaoming also told us that the functional constituencies still have their value of existence and should continue to have a role to play. If that is the case, how can they tell us Even if we do make an excessively enormous concession and agree to the introduction of universal suffrage for the Legislative Council in 2020, but would that not be contradictory? On the one hand, the functional constituencies are said to have their value of existence, and on the other, it is said that universal suffrage will be implemented. So what does it actually mean? That is really contradictory.

Therefore, I feel that the Government simply keeps asking the pro-democracy camp to make compromises. They are asking us to be realistic and accept these decisions, and that we can sit down for careful discussions. President, that is fine to me, because we have already anticipated that it may not necessarily take place so soon after all. Even if it is necessary for us to sit down and discuss the actual details, I would still find it acceptable and I can even make a concession in my discussion with them. However, can they tell me the major direction and the major principles?

With regard to the decision of the NPC, please tell me, in terms of the major direction and the major principles, how will full universal suffrage be really implemented? President, if they could tell me that, I can discuss the details with them. But how? I have cited two examples just now. First, it is about the Legislative Council. Since the functions and value of existence of functional constituencies are recognized, how could this lead to universal suffrage? Therefore, with regard to this decision, we are not stubborn and oblivious to the realistic situation. Instead, even if we want to deal with the realistic situation, there is no way for us to do so. As such, I feel that they have not shown any respect, nor have they sincerely discussed the matter with us with a view to resolving the problem. All that they have ever wanted to do is to stage a show to tell the people that they will be doing this. This is why the people are left helpless, regretful and discontented.

Today, as we insist on implementing universal suffrage in 2012, the people may think that we are fighting for an impossible cause and there is no point for us to pursue such a superfluous course of action. However, President, we have not intended to do so, and we are doing this simply because we are left with no alternatives. It is because the current SAR Government and the Central Authorities are not sincere at all in listening to the voices of the people. And our Chief Executive and Secretary Stephen LAM have not truthfully reflected the views and opinions of the people to the Central Authorities, thus leading to such results. Therefore, it should be the SAR Government, instead of the pro-democracy camp, who should be bearing the responsibilities.

President, I so submit.

DR RAYMOND HO (in Cantonese): Madam President, the SAR Government published a Green Paper on Constitutional Development in July 2007. After three months of extensive consultation, the SAR Government endorsed the Report on Public Consultation on Green Paper on Constitutional Development (the Report) in which relevant opinions had been collated. The Chief Executive then submitted the report to the Standing Committee of the National People's Congress (NPCSC) on 12 December 2007 to give the Central Authorities with a truthful account of the aspirations of Hong Kong society on the subject of universal suffrage. The NPCSC scrutinized the report in a meeting held between 23 to 29 December and made important decisions on 29 December on the election methods of the Chief Executive and the Legislative Council of the SAR in 2012 and on issues related to universal suffrage. The decisions are welcomed and accepted by people from all walks of life in Hong Kong, being in line with the interests of Hong Kong.

Some people in Hong Kong keep demanding the implementation of universal suffrage for the dual elections of the Chief Executive and Members of the Legislative Council no later than 2012. However, their views do not necessarily represent the mainstream opinions in Hong Kong. On the contrary, the views and opinions contained in the Report are the result of extensive consultation, and they fully reflect the views and opinions of the Hong Kong public on the subject of universal suffrage, to which the NPCSC made a positive response in the decision it made on 29 December 2007. As such, the allegation that the Report has given a distorted account of public aspirations is completely without objective justifications, untrue and invalid.

In fact, the NPCSC's decision has taken the most significant step in Hong Kong's constitutional development by providing an explicit timetable for the implementation of universal suffrage in the elections of the Chief Executive and the Legislative Council. The NPCSC's decision clearly indicates that universal suffrage can be implemented in the election of the Chief Executive in Hong Kong in 2017. It also clearly indicates that subsequent to the implementation of universal suffrage in electing the Chief Executive, all the Members of the Legislative Council can be elected by universal suffrage, meaning that subsequent to the implementation of universal suffrage in the election of the Chief Executive in 2017, universal suffrage in the election of all the Members of the Legislative Council can be attained in 2020.

At the end of 2005, when this Council was conducting discussions on the constitutional reform package, I remarked that if suitable arrangements could be made for the nominating procedures for the Chief Executive, it should be possible to implement universal suffrage in electing the Chief Executive in 2012. Unfortunately, the constitutional reform package was voted down, and as a result, universal suffrage in the election of the Chief Executive cannot be materialized in 2012. Against this background, implementing universal suffrage in the election of the Chief Executive in 2017 should already be the earliest possible arrangement. The NPCSC's decision is a reasonable and responsible one. It is also compliant with Article 45 of the Basic Law, which stipulates that "The method for selecting the Chief Executive shall be specified in the light of the actual situation in the Hong Kong Special Administrative Region and in accordance with the principle of gradual and orderly progress. The ultimate aim is the selection of the Chief Executive by universal suffrage upon nomination by a broadly representative nominating committee in accordance with democratic procedures". In fact, 2017 is only 20 years into the reunification, which took place in 1997; and it is only 35 years since the commencement of the Sino-British talks on the future of Hong Kong, which took place in 1982. We should be pleased that the SAR can implement universal suffrage in the election of the Chief Executive within such a short period of time. Compared with other developed countries in which more than a hundred years were required to achieve universal suffrage, we should be proud of the SAR.

With regard to the Legislative Council, under the existing system, members from the commercial and business sector and professionals can apply their professional knowledge and bring their experience into the Legislative Council through functional constituencies. In addition to providing in-depth

professional knowledge in their respective fields, representatives from functional constituencies are able to provide a more balanced point of view on a wide range of issues based on their professional knowledge and experience, instead of only adopting political considerations.

Article 68 of the Basic Law stipulates that "The method for forming the Legislative Council shall be specified in the light of the actual situation in the Hong Kong Special Administrative Region and in accordance with the principle of gradual and orderly progress. The ultimate aim is the election of all the members of the Legislative Council by universal suffrage." In the process of achieving this goal, representatives from functional constituencies can precisely provide a stabilizing effect for the Legislative Council. Meanwhile, functional constituencies should do something to expand their electorate base. Since the first functional constituency election was held in 1985, the "one person, one vote" mechanism has already been adopted for a total of 13 functional constituencies. This can be described as a form of universal suffrage, in preparation for further expanding their electorate bases. Personally, I have always believed, and I have actually suggested that graduates and associate members of the Hong Kong Institute of Engineers should be included as eligible voters in order to increase the number of electors from the existing 12 000 to over 30 000. Graduates refer to holders of recognized university degrees who have yet obtained any professional qualifications, whereas associate members are basically engineering technicians holding associate degree or certificates in various disciplines. In addition, for functional constituencies with voters being primarily corporate voters, I believe they too could consider expanding their respective electorate bases to enhance their representativeness. Insofar as expansion of electorate bases is concerned, adjustments should be made by individual functional constituencies in the light of their specific circumstances.

The five steps of the constitutional reform of Hong Kong have already been activated. The Chief Executive submitted the report to the NPCSC on 12 December 2007, and the NPCSC made an important decision on 29 December 2007 on the election methods of the Chief Executive and the Legislative Council of the SAR in 2012 and on the subject of implementation of universal suffrage. It is now for this Council to take the third step. I hope that Members can strive to reach a consensus while bearing in mind the overall interests of Hong Kong, so as to agree on a commonly accepted method for selecting the Chief Executive and the Legislative Council subsequent to 2017, which could then be passed by a two-thirds majority of all the Members in

accordance with the stipulation of the Basic Law. Then, after securing the consent of the Chief Executive, it could be submitted to the NPCSC for approval, thus completing all five steps of the constitutional reform of Hong Kong.

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

MR JAMES TIEN (in Cantonese): Madam President, when many countries in the world fight for democracy, they probably do so out of two different reasons. The first is the absence of justice in society. In such a society, due to racial problems, religious or other problems related to their living environment, a small group of people may be subject to continued suppression that can be dated back to their historical past, unless democratic "one person, one vote" universal suffrage is implemented. Therefore, I believe that democracy is all about fighting for a better way of life.

Insofar as Hong Kong is concerned, I believe the situation is just the contrary. Generally speaking, in aspects like our economy, our medical and health care service, education, housing or social welfare services, we are in no way inferior to many other countries of the world — and we are not comparing Hong Kong with backward countries; instead, we are comparing Hong Kong with the most advanced countries.

Of course, in saying so, I am not arguing that we need not fight for democracy. The thrust of my argument is whether there is any urgency. Do we, like other peoples, really have that urgency? In putting forward this argument, I am also not arguing that, since 50 years has been stipulated, we could as well wait until 2047 to implement universal suffrage. Now, if we say that the NPCSC has made a decision to implement universal suffrage in 2017, which is 20 years past 1997, then we could as well argue that in the timeframe of 50 years, a period of 20 years is less than halfway.

I have taken part in politics for so many years and I feel that people's livelihood is good in Hong Kong. On the contrary, we have a major controversy on the issue of whether we need to have elections of "one person, one vote". In the past, I was slightly worried if a Chief Executive returned by a "one person, one vote" election is a populist who knows nothing but spending

lavishly on social welfare. What will happen if all the public funds are used up? Would people from the middle class or the business sector, those who are the contributors, be asked to pay hefty amounts of tax? Now, I am much less concerned about this than I was in the past. Our reserves and Foreign Exchange Fund amount to approximately \$1,400 billion. As long as we can invest these funds properly and make a decent rate of return, it would be easy for us to reap a return of \$100 billion. The annual expenditure of the Government is over \$200 billion. Let us take the situation of this year as an example. Everyone of us expects that the Government will record a huge surplus in the current year, so why should different political parties and groupings find it necessary to be pointing fingers at each other in this Chamber? We believe the Government is capable of offering tax concessions to the middle class and the industrial and business sectors on the one hand and offer assistance to the disadvantaged groups on the other. The Government is capable of coping with different kinds of expenditure, such as those for social welfare services, elderly services and medical and health care services, and so on. In fact, not many places in the world are as fortunate as Hong Kong.

From the political perspective, why are so many governments in other countries unable to go about their business properly? The reason is that people cannot go about their business without money. It takes money to get things done. In particular, Hong Kong does not have to take care of its national defence and foreign affairs. Madam President, we are very fortunate as we rarely have natural calamities such as earthquakes or avalanches, and so on, and so we do not have to spend a whole lot of money on repairing our infrastructure facilities. Why can we not create a more harmonious society? The majority of Hong Kong people are Chinese, and we do not have any racial — pardon me, we do not have religious problems. Even if we do have some problems, at most we may have the problem of wealth gap between the rich and the poor. The Liberal Party is very concerned about this issue. In our opinion, as the economy picks up and the companies begin to recruit more staff, wages will certainly rise as employees move to greener pasture. We believe that as long as we can create a favourable economic environment where every employee will have a decent job, they will certainly enjoy improved standards of living.

I understand that another problem will emerge in the process, that is, inflation. When employers go all out headhunting, it will lead to inflation. When businesses are good, prices in shops will go up. When the food industries in the Mainland are aware that the market conditions in Hong Kong are

good, coupled with the increased demand in the Mainland, prices will rise as well. In fact, as far as a society is concerned, this is a dilemma: When the economy is not good, people are afraid of becoming unemployed; however, when the economy recovers and wages go up, people are afraid of inflation.

Now, let me come back to the topic of democracy. The Liberal Party thinks that since the NPCSC has made a decision in favour of 2017, whereas all the different political parties and groupings in Hong Kong think that their respective proposals are the best, under such circumstances, shall we at least agree on a relatively moderate solution? It may not be the best solution to the respective parties, but are they willing to accept this?

Of course, I have also noticed another major issue, that is, the mutual trust between the pan-democratic camp and the Central Authorities. When the Central Authorities say that they would do it, the pan-democratic camp says that, based on their members' experience in dealing with the Central Authorities in the past, they simply do not trust them, regardless of what the Central Authorities would say. However, the Central Authorities would say that, since we are a large country, and Hong Kong is just a special administrative region; as the Central Authorities have said it, and the NPCSC has made the decision, then of course they would honour the promise. How can the pro-democracy camp suspect that the Central Authorities would not honour their words? Of course, the pan-democratic camp would say that the Central Authorities have not spelt out the details of the Chief Executive election by universal suffrage in 2017. But the Central Authorities would say that if too many details are set out, are they not imposing too much restriction on Hong Kong? Is it not a better arrangement for the Central Authorities to allow some scope for Hong Kong's different political parties and groupings to — regardless of whether they support the earlier or later deletion of functional constituencies — arrive at a package? I think this is a more appropriate approach.

After all these years, I find that the functional constituencies have actually served some effective functions. The only drawback is that they are not broadly representative enough. Besides, the Basic Law already stipulates that universal suffrage will eventually be implemented. As such, although the Liberal Party holds the view that functional constituencies still have a great value nowadays, based on the two above reasons, I agree to have them abolished. The NPCSC has decided to abolish functional constituencies all in one go in 2020. Comparing this with the Liberal Party's proposal of abolishing functional

constituencies in phases Actually this has merits too. Because after putting forward our proposal of abolishing functional constituencies in phases, we have been asked why the Liberal Party proposes to abolish the functional constituency of the commercial and industrial sector only in the last phase, while those seats that would be more easily returned by direct election should be abolished first? This is not without merits, because by 2012 by 2016 Members returned by the functional constituency of the commercial and industrial sector and who are also members of the Liberal Party should think about this in a more positive way. Since universal suffrage will be implemented in 2020, active participation is necessary.

Madam President, due to the time constraint, I can only reiterate that I sincerely hope Members can support implementing universal suffrage in the election of the Chief Executive in 2017. I know there will be difficulties, because in fact, this is really a decision that will be made by the Legislative Council in the 2012 to 2016 term. Due to a variety of reasons, many Members present in this Chamber today may no longer be Members of this Council by then. Nevertheless, I still hope that, since many political parties do intend to support this cause, we should be united and take the moderate route that is supported by the majority public. Let us resolve the simple issues before the difficult ones, and proceed to implement universal suffrage in the Chief Executive election in 2017 and then handle the 2020 Legislative Council election afterwards.

Thank you, Madam President.

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

MS MARGARET NG (in Cantonese): President, after the NPC has announced its decision, it seems that public opinions have focused on the discussion of the year concerned, that is, 2017, the year in which universal suffrage will be implemented — but it seems the issue of whether or not what will be implemented is genuine "universal suffrage" has been forgotten by the people. Are we putting the cart before the horse?

President, I would like to cite one example for illustration. Now the Chinese New Year is fast approaching. So many people would like to renovate

their homes and certainly they would require that the works be completed before the Chinese New Year. However, what kind of quality of works is delivered? We cannot just specify the time of completion of works, without specifying the kind of quality to be delivered. There are also many people who think that, regardless of what will happen, arguments must be avoided by all means. However, if renovation works are conducted at your home, the process involves lots of money and efforts. In that case, will you say "regardless of what will happen", just settle the account quickly and avoid all arguments?

In fact, the original essence in Hong Kong people's effort in striving for universal suffrage is crystal clear: That it is the election of the Chief Executive on the basis of "one person, one vote" and it should be free of any hurdles; and that it is the election of all the Members of the Legislative Council on the basis of "one person, one vote", which will enable everyone to have equal rights, with no one enjoying any special privileges, no one having any extra votes and no one being able to set up any hurdle that may interfere with fair competition. The essence of this fight for universal suffrage is a fair system which will enable us to formulate policies fairly. Because only in this way can we have fair laws and a fair society, and can we ensure that bias in favour of the interests of any party will not occur.

We need to have open competition. Only with competition can we promote progress. Those who do well can continue with their work, whereas those who have newly assumed their posts may move up to higher positions as long as they can prove themselves to have such capability. If those who had once done well show any regression or if someone does not do his work at all while occupying certain positions, then he will not be elected next time. This is how a society can make progress. Therefore, it is not a very technical issue for us to strive for universal suffrage. It is a very explicit issue. President, we often say that justice lies in the heart of everyone, simply because justice itself is not a highly technical issue. The point that invites our greatest criticism against Donald TSANG is that, through his Green Paper on universal suffrage, he has distorted such justice that is so straightforward and well understood by everyone into some twisted concepts. He distorts universal suffrage to make way for some twisted concepts. Therefore, when he released the Green Paper in July last year, Members of the pan-democratic camp issued some leaflets to warn everyone that there were five traps in the Green Paper. We asked everyone to read it carefully because those traps could distort the original meaning of

universal suffrage. For this reason, we made a list of some recommended answers in order to enable everyone to steer clear of those hurdles. However, the wicked ones can always outwit the righteous people by identifying some wicked loopholes. Those who wish to distort public opinions can always find a way of doing so.

The five major traps are devised mainly to achieve three purposes. First, they may secretly include some screening hurdles in the election of the Chief Executive by universal suffrage and fix the number of candidates beforehand. If the number of candidates has already been fixed beforehand, how can it be called a democratic procedure? This requirement will turn the "democratic procedure" into the synonym of "screening", and only the pre-fixed number of candidates will be screened. First of all, it appears most reasonable to ask the people on the most appropriate number of candidates. But if the number of candidates has been fixed beforehand, it will lead people to identify hurdles, thus becoming "I nominate, you choose". The nominating party is the nominating committee. After the committee has nominated the candidates, the people can then make their choices. If the nominating committee does not nominate a certain person, then the people will not be able to choose that person.

Secondly, the implementation of universal suffrage in the Legislative Council election is originally intended to abolish the functional constituencies. But one of the choices provided by the Green Paper on universal suffrage is surprisingly "retaining functional constituency seats, but changing the electoral method". How can we call this universal suffrage? Under such arrangements, people not belonging to the relevant constituencies will not be able to make any nomination, and likewise, they will not be able to run in the election. If so, how can it be called a universal and fair election? Is this not an attempt to preserve the prerogative and veto right of certain persons? Why do some people still want to be superior to others?

Thirdly, the proposition of "resolving the easy issues before the difficult ones", that is, universal suffrage should first be implemented in the election of the Chief Executive, and universal suffrage for the Legislative Council can only be discussed later. Although there are certain issues that are still unresolved now, in January 2008, how can we know that such issues will remain unsolved next year? Why must we wait until the term of 2017 to implement universal suffrage? It is simply because of the remark of "tackling the easy issues before

the difficult ones" that has made it a remote possibility for us to eliminate the unfairness involved in the election of the Legislative Council.

We highlighted five major traps after the release of the Green Paper in July 2007. Unfortunately, things predicted by us have really happened one after the other. Helped by the Green Paper, the NPC made a decision that was really intended to distract the people's attention from the real issues at stake. That the Chief Executive has played a trick on the people in such an arrogant manner saddens us enormously. If the people are only tricked for the first time, it is understandable. But now they must wake up and realize that they should re-affirm their real goal as implementing genuine dual universal suffrage, thus demanding that the elections of the Chief Executive and all the Members of the Legislative Council must be conducted fairly by way of "one person, one vote". This is where the real interests of Hong Kong lie, and likewise, it is also where the real interests of the entire China lie.

Thank you, President.

MR HOWARD YOUNG (in Cantonese): President, when the Green Paper was released, we noticed that the opinions of the Liberal Party were explicitly listed in the two Annexes. Earlier on, some Members said that they did not agree with us. But the Liberal Party had mentioned that we hoped that universal suffrage could be implemented in the election of the Chief Executive in 2012, and then universal suffrage could be implemented for the Legislative Council later, that is, "resolving the simple issues before the difficult ones", but its implementation should be by no means later than 2017. Now the NPC has decided that universal suffrage can be implemented in the Chief Executive election in 2017. While naturally not everyone would find this satisfactory, this is acceptable to the Liberal Party in the context of our original proposal.

If someone says that the Green Paper has distorted the people's opinions, we cannot agree with such a viewpoint. We think this is an unreasonable accusation. Of course, apart from the original motion, I can also see that such wordings like "condemns", "expresses deep regret" and even "to propose to NPCSC to withdraw the decision" are used in the amendments. I think these are unrealistic. Be it "condemns", "withdraw" or "regret", all these suggest moves that look backwards because the decision has already been made. I

suggest that we had better look ahead by supporting and accepting the NPC's decision, and to move forward on the basis of this decision. Otherwise, the situation will develop in the same way as what happened in 2005 — we should have been able to move forward, but we could not and everything had to remain unchanged. So, we should identify a solution to enable us to move forward. This is the only constructive approach.

Earlier on, some Members mentioned the functional constituencies. The Liberal Party advocates the gradual abolition of functional constituencies in three phases. In the meantime, we also notice that QIAO Xiaoyang said on 29 December that universal suffrage could be implemented in the election of the Legislative Council in 2020. However, he did not mention whether universal suffrage for Legislative Council would be implemented all in one go or in phases. He did not mention this. It means the abolition of functional constituencies once for all is not ruled out. So this is not completely in line with the Liberal Party's proposal. However, I think this point is not important. We still have plenty of room in our discussion now. Our Party Chairman has said that, after the election method for 2020 has been decided, it will take two to three further Legislative Council elections for new faces to emerge. By then, some new ideas may pop up and then the right package may then be formulated. In my opinion, we should support the NPC's decision, and do not stop at the stage of chanting slogans. In fact, given that we can implement universal suffrage in the Chief Executive election in 2017 at the earliest, if we now still fight for implementing dual universal suffrage in 2012, it will only make us stay at the stage of chanting slogans, which does not serve any concrete purpose at all.

Therefore, I would like to supplement the remarks made by our Party Chairman earlier. I would support neither the original motion nor the amendments. On the contrary, I would like to call on the various political parties and groupings to, on the basis of the NPC's decision, put forward concrete suggestions to facilitate our discussion and negotiation which will then enable us to expeditiously work out a good proposal for conducting the Chief Executive election by universal suffrage in 2017. This will enable us to elect the Chief Executive by universal suffrage and then we will strive for implementing universal suffrage in the Legislative Council Election in 2020.

Thank you, President.

MR MARTIN LEE (in Cantonese): President, I have listened to many Members delivering their speeches today. In fact, they have not specifically focused their discussions on the Chief Executive's report. Many of them have discussed the decision of the NPC. President, you did not stop them. I believe you must have very good reasons for acting that way. It is because we first have this report which then leads to the emergence of this decision. Therefore, it is in fact very difficult for us to separate the two issues.

PRESIDENT (in Cantonese): Mr LEE, that part is in fact covered in Members' amendments. That is why I have allowed them to speak on that part.

MR MARTIN LEE (in Cantonese): Thank you, President. When we read this report, actually we could imagine that there would be such a decision. Of course, somebody would ask whether there had been some kind of "pulling the cat's tail", meaning secret collaboration intended to cheat others. We do not have any evidence, so we do not know. Only government officials and the Central Authorities would know if there had been any "pulling the cat's tail" involved. However, judging from the Green Paper and the Report, one point has been said very clearly, that the SAR Government totally agrees that the NPCSC has full control on the constitutional affairs of Hong Kong. Officials from the Central Authorities even said that "the power is vested in the Central Authorities".

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

I would like to remind Members of what had been said at the time and before the reunification took place, or when the Sino-British Joint Declaration was promulgated. It was made very clear that with the exception of national defence and foreign affairs, which must be handled by the Central Authorities, Hong Kong people could enjoy autonomy on all other matters. Emphasis on these two points had been made repeatedly. National defence and foreign affairs were something beyond us, which all of us accepted. Since Hong Kong is just a special administrative region, we are incapable of handling national defence and foreign affairs, and they should certainly be handled by the Central

Authorities. However, why a point is added to the list now, to the effect that the constitutional development of Hong Kong is also a matter that must be handled by the Central Authorities?

Does this mean that things mentioned in the Sino-British Joint Declaration have completely — we cannot say "completely" yet — but have at least taken on something extra? Even the Sino-British Joint Declaration can be changed in this manner, what else cannot be changed? The Basic Law can be changed by means of an interpretation exercise of the Basic Law itself, which is something we have experienced for a couple times. Now we find that, to our amazement, even the Sino-British Joint Declaration could be changed unilaterally. The SAR Government fully accepts the fact that matters in relation to national defence, foreign affairs and constitutional reform should all be handled by the Central Authorities. Therefore, if the Government also says that things should be conducted this way, the Central Authorities will naturally agree and so "the power is vested in the Central Authorities".

We used to rely on the Basic Law. In the Sino-British Joint Declaration, there are three sentences that made us very excited back then, namely, the executive has to comply with the law and be accountable to the legislature, and the Chief Executive will be appointed on the basis of the results of elections or consultations to be held locally. Nowadays, no one would mention consultation anymore; certainly all these must be returned by election. The legislature is to be formed through election as well. And then, when the Basic Law was promulgated, we found it most unfortunate that we were not able to have a democratic system in 1997. Instead, we had to wait 10 years, but only 10 years. So, we should be able to implement dual universal suffrage in 2007. However, the formation of the Provisional Legislative Council caused a delay to the election of all the Members of the Legislative Council through universal suffrage by one year. As a result, we could not implement dual universal suffrage until 2007 and 2008. Had this not been the case, the Chief Executive as well as all the Members of the Legislative Council should have been elected by universal suffrage in 2007.

So, nobody has ever mentioned "resolving the simple issues before the difficult ones", nor has anybody said that the two events could not take place at the same time. Basically, the decision made by the NPC is the implementation

of dual universal suffrage in the same year. Later on, on 26 April 2004, since the NPCSC had unilaterally ruled out the implementation of dual universal suffrage in 2007 and 2008, society had to forge a consensus again, and this time the consensus was 2012. Definitely, the majority of Hong Kong people have this aspiration, a point even the Chief Executive has acknowledged in the Report. Therefore, implementing dual universal suffrage in 2012 is just a coincidence. That was something right to do, something that could be implemented simultaneously, something founded on logic. While the Chief Executive is given the mandate of the people through a "one person, one vote" election, the same cannot be implemented for Members of the Legislative Council. How can something like this happen? On the contrary, if all the Members of the Legislative Council were returned by universal suffrage on the basis of "one person, one vote", but the same is not yet implemented for the Chief Executive, will that create certain difficulties in terms of operation?

Therefore, it is most appropriate for universal suffrage to be implemented in both elections. But I am baffled by the idea of "resolving the simple issues before the difficult ones". In fact, what exactly does "simple" mean, and what does "difficult" mean? At certain points of time in the past, all the political parties in this Council agreed that universal suffrage should be implemented in the dual elections in 2007 and 2008. At that time, no one had ever said that it was premature to implement universal suffrage then, and no one had ever said that things could not be done all in one go. That was absolutely the consensus of everyone in the entire territory of Hong Kong, only that it was crushed by the NPCSC. Now this is the second time it was crushed by the NPCSC. Why are we unable to implement dual universal suffrage in 2012? In fact, not a single good reason has been given. Since this is the common aspiration of the majority of Hong Kong people, and since the Chief Executive has kept saying that he too would like to implement democracy in Hong Kong expeditiously, why is he not fighting for it for us?

We learnt about one incident directly from the mouth of QIAO Xiaoyang in the meeting held on 29 December. He said he knew Martin LEE was about to submit a package in which he would propose to abolish 15 functional constituency seats in 2012 and replace them with seats returned by universal suffrage. But he immediately added that from what he had heard, the DAB and the Liberal Party would oppose the proposition, so this could not be implemented. Therefore, we know that the democratic development in Hong

Kong has met obstructions which are caused by such political parties, and we must realize this point. They are now making a counter-argument, saying that there is no democratic progress because the pro-democracy camp did not support the 2005 package. Such an allegation is literally confounding right and wrong.

Thank you, Deputy President.

MR CHEUNG MAN-KWONG (in Cantonese): Deputy President, Hong Kong people's aspiration for democracy is very clear: They aspire for the implementation of dual universal suffrage in 2012. Before the NPCSC had made the decision, this was the mainstream opinion supported by more than 50% of the people. Even after the NPCSC has promulgated the definitive decision, 36% of the people still uphold this view. The people's aspiration for democracy is like the battered reed described in the *Bible*: It will not break off. Throughout history, people with such an aspiration have been suppressed, aggrieved, deceived and hurt. However, the people still pursue it unswervingly and successively, like flames that never go out. Be it in 1988, 2007, 2008 or even 2012, Hong Kong people have always upheld this pursuit insistently. Such an aspiration of the people cannot be overlooked.

Our struggle has been meaningful. The NPC ruled out 2007, 2008 and 2012, but at long last it has put forward a timetable for 2017 and 2020. We are certainly disappointed, but apart from feeling disappointed, we can still see the power of the people. We can see that although nowadays the Central Authorities are still practising their dictatorial rule, they cannot overlook Hong Kong people's aspiration for a timetable, and they have to put forward a timetable, albeit overdue. Therefore, the pro-democracy camp has the full responsibility of never giving up any chance that can enable the earlier realization of democracy or that can bring about universal suffrage. In fact, if the royalists are willing to get back onto the right track, 2012 should be the earliest possible time for the implementation of universal suffrage.

The people's eyes are crystal clear. Who ruled out the 2012 option? QIAO Xiaoyang said in the Government House that, one of the reasons for the failure of implementing universal suffrage in the dual elections in 2012 was that the Legislative Council had failed to reach a consensus with a two-thirds majority of all the Members. What QIAO Xiaoyang did not say is that the reason for the

failure of reaching a consensus was that the royalists had kept moving backwards, from 2007 and 2008 to 2012, and now they have moved backwards to 2017 and 2020. If they truly respect public opinion, and if they are willing to change their minds, the Legislative Council can definitely implement universal suffrage in the dual elections in 2012. On this particular issue, the royalists have betrayed the aspirations of the people. If they do some soul searching, they should feel ashamed and they should feel remorseful in the face of the people and the democratic cause.

Some people coax Hong Kong people by saying that although universal suffrage cannot be implemented in the dual elections in 2012, it will still be implemented in 2017 and 2020. A belated timetable is still a timetable after all. However, who can guarantee that the royalists would not move backwards again in 2017 and 2020, or the people would not be cheated again? Even if the Chief Executive is elected by universal suffrage in 2017, who can guarantee that stringent requirements will not be imposed on the nominating procedures, so much so that the pro-democracy camp will be blocked from taking part in the elections, or that universal suffrage will just become bogus universal suffrage? Who can guarantee that functional constituencies will not be included in the universal suffrage for the Legislative Council election in 2020, that it will not create a situation in which some people can take advantage of a complicated system and result in the people being cheated once again or result in a bogus democracy? What Hong Kong people want now is not a timetable with figures. They want a timetable for implementing genuine universal suffrage and true democracy, and if they do not get it, it is the Government that is forcing the people to resort to revolt. Hong Kong people have been deceived too many times in history. That is why we have to be particularly careful, challenge those remote undertakings or illusionary timetables, or challenge the authenticity of universal suffrage packages. To resolve this confidence crisis, the Central Authorities will have to start conducting direct dialogues with the pro-democracy camp and encourage dialogues that would promote internal solidarity among different parties. Due to historical reasons, such dialogues have been severed for 18 years. This is an extremely ridiculous political wall that has rampantly deprived Hong Kong of the opportunity for resolving problems in relation to its constitutional system. I hope dialogue and communication will commence expeditiously so that we could put an end to such internal debates and break this deadlock with concrete actions and re-establish mutual trust between the two sides.

Frankly speaking, most of the Members who are taking part in this debate on constitutional systems today will not have the opportunity to take part in the so-called elections by universal suffrage in the future. The chances of realizing this in 2012 are slim, and by 2017 and 2020 we probably will have retired. In spite of this, the pro-democracy camp, having pursued this goal for more than 20 years, still has the full responsibility of never giving up any chance of fighting for the realization of the earliest and most genuine democratic political system for Hong Kong. Even if stringent requirements are imposed in future on the implementation of universal suffrage in the election of the Chief Executive, so much so that only the "King of the Leftists" or the "Queen of the Leftists" can contest against each other, let the Central Authorities not think that they can mastermind the whole game. In that case, a massive amount of voters will cast "blank" votes. If one third of the votes are "blank", that would become a laughing stock in the international arena, why should they do that? If functional constituencies continue to exist in future Legislative Council elections by universal suffrage, the Hong Kong Professional Teachers' Union which I represent will register its commercial services for the purposes of contesting for the functional constituency seats in the commercial sector. By then, we will be fighting toe-to-toe against our rivals in the battlefield of the elections by universal suffrage. There are many enterprises running under our name. Flame cannot be contained by a piece of paper. Bogus democracy cannot fool the people. Only genuine democracy can bring about long-lasting prosperity and peace.

When it comes to democracy, we refuse to accept counterfeit products or "parallel imports". We demand to have the genuine products. Be there a mountain to be removed, or an ocean to be filled, we will have the courage of our conviction, and we believe in our cause. All the people who are fighting for universal suffrage today, including the people who support democracy, will see the realization of democracy in Hong Kong one day. We will be able to cast this vote, and that will be genuine democracy.

DR FERNANDO CHEUNG (in Cantonese): Deputy President, after fighting for the cause for so many years, it appears that Hong Kong people can at long last have a timetable for implementing universal suffrage. The NPC's decision has stated clearly that universal suffrage for the Chief Executive could be implemented in 2017. In the evening when the NPC promulgated its decision, I had the honour of being invited to the Government House to meet with Deputy Secretary-General QIAO Xiaoyang and officials from the Central Government

such as LI Fei and ZHANG Xiaoming, and participants had the opportunity of exchanging views with them. In my opinion, among questions raised in the meeting, there were three that I should share with you, so as to enable Hong Kong people to see for themselves clearly what this timetable is all about.

Regarding the first question, someone asked them in the meeting that since the NPC's decision had stated clearly that there would be universal suffrage for the Chief Executive in 2017, why it did not mention that there would be universal suffrage for the Legislative Council in 2020. The NPC's decision did not mention this. Subsequently, both the Chief Executive and Deputy Secretary-General QIAO Xiaoyang said that universal suffrage for the Legislative Council could be implemented in 2020. According to the explanation given by Deputy Secretary-General Mr QIAO, the decision did not state that there would be universal suffrage for the Legislative Council in 2020 because there was the need of "resolving the simple issues before the difficult ones", meaning that universal suffrage for the Chief Executive would be implemented first and then universal suffrage for the Legislative Council would be implemented afterwards. He said, in case universal suffrage for the Chief Executive did not take place in 2017, then it would give rise to problems if it was clearly stated that universal suffrage for the Legislative Council would be implemented in 2020. It suddenly dawned on us that even if it was stated that universal suffrage would be implemented for the Chief Executive in 2017, it might not happen eventually. He further explained that it was possible that universal suffrage for the Chief Executive might not take place in 2017. Why? He said, it might not necessarily be the result of intervention by the Central Authorities, but it might be caused by the possibility that those motions could not be passed in the Legislative Council — even the constitutional reform package could not be passed — then there would be no universal suffrage for the Chief Executive in 2017. This is the first point.

The second question we asked him was — I remember some people from the pro-establishment camp were also very concerned about this — if universal suffrage was implemented, since it was very worthwhile to retain functional constituencies, would they be completely abolished? Officials from the Central Authorities responded clearly that universal suffrage and functional constituencies should not be mutually exclusive. Subsequently, ZHANG Xiaoming made this very clear in the press conference held on 29 December. From within our establishment, many The DAB and the Liberal Party have

stated clearly that the functional consistencies merit retention. ZHANG Xiaoming even described the contribution made by functional constituencies in terms of GDP. In other words, even if universal suffrage is implemented in future, it may not necessarily take the form envisaged by us. I really cannot imagine how universal suffrage and functional constituencies can avoid becoming mutually exclusive. That is totally beyond me. Please forgive me for my ignorance.

The third question is that, after repeated attempts to find out the reason, we were still unable to understand why the implementation of dual universal suffrage in 2012 must be ruled out. Deputy Secretary-General Mr QIAO had given a very frank reply. He said it was all very simple, because that would require a two-thirds majority of all the Members of the Legislative Council, and there were not enough supportive Members to make up the required two-thirds majority in the Legislative Council. In fact, only less than half of all Members supported implementing dual universal suffrage in 2012. Clearly, this point was about gauging the existing public sentiments of Hong Kong and in response to the report submitted by the Chief Executive, that it was found that the public opinions in Hong Kong were not in favour of implementing dual universal suffrage in 2012. Irrespective of the fact that over 50% over 60% of the people are in favour of implementing dual universal suffrage in 2012 or as soon as possible, only less than half of the Members here in this Chamber are in favour of implementing dual universal suffrage in 2012. Put in even simpler terms, it is not even necessary for "Grandpa" to intervene in blocking our democratization. As long as we continue to have the "royalists" and "pro-establishment camp" in this Chamber, as long as they keep causing obstruction and say that universal suffrage cannot be implemented, then actually universal suffrage will never be realized.

Deputy President, after summing up the three questions, the case is in fact very straightforward. First, the timetable we are talking about can be something "unreal", because the universal suffrage for the Chief Executive slated for 2017 may not necessarily materialize. They do not even have the courage to put it into writing that we shall have universal suffrage for the Legislative Council in 2020. Second, even if universal suffrage is really implemented, it may not emerge in the form that is internationally recognized, which is the one we have in mind. It is possible that functional constituencies are retained; as such, that will be universal suffrage in a distorted way, which only bears the

name but without the substance of universal suffrage. How stringent the requirements will be in nominating a candidate to run in the election of the Chief Executive? We do not know. Given that functional constituencies will continue to exist in the Legislative Council in future, I wonder what kind of a messy, so-called universal suffrage package they will eventually put forward. Third, I believe Hong Kong people have to open up their eyes to see for themselves who are those obstructing the implementation of universal suffrage in Hong Kong. During the 2004 election, our political party was bold enough to state in our platform our support for implementing dual universal suffrage in 2007 and 2008. Today, however, they do not even support implementing dual universal suffrage in 2012.

Mr James TIEN said just now that the pursuit of democracy would only occur in a society where there was no justice, but the current situation of Hong Kong is not that bad, as we have fairly good social welfare, as well as medical and health care services. I am afraid Mr TIEN has no idea of what the realistic world is. As a representative of the social welfare sector, I am aware that many disadvantaged groups are living in dire straits. Let us not talk about the imminent inflation for the time being. Let us just look at our medical and health care services. Even the middle-class people are, let alone the grass-roots people, I talked to a colleague yesterday who related to me the painful experience of his relatives in using public medical services. Not only do they have to wait for a very long time, the quality of service is also extremely poor.

With regard to housing and social welfare benefits, how can we compare ours to those provided in overseas countries? Insofar as our Government is concerned, the ratio of public expenditure to the GDP is pathetically small. The scale of our social services is totally incomparable with the social welfare services, housing benefits, education and medical and health care services provided in overseas countries. Tragedies keep happening on a daily basis. More than 10 accidents happened in which elderly persons were hit by vehicles while they were scavenging on the streets. Come to think about this. One third of the elderly are poverty-stricken, whereas the number of poor people amounts to more than a million. How can we call ours a society of justice? Without democracy, people's livelihood will suffer. Therefore, as a representative of the social welfare sector, I think, if we want the people to enjoy a decent living, we must realize democracy with immediate effect. Thank you, Deputy President.

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

(Mr James TIEN stood up)

DEPUTY PRESIDENT (in Cantonese): Mr James TIEN, do you wish to clarify your

MR JAMES TIEN (in Cantonese): I wish to clarify what I had said as quoted by Dr Fernando CHEUNG just now.

DEPUTY PRESIDENT (in Cantonese): Are you saying that your speech has been misunderstood, right?

MR JAMES TIEN (in Cantonese): Yes.

DEPUTY PRESIDENT (in Cantonese): Do you wish to explain? You can do so now.

MR JAMES TIEN (in Cantonese): Deputy President, Dr Fernando CHEUNG alleged that I had said that since all kinds of conditions were very good in society now, it was not necessary to pursue democracy. I did not say so. I only said that our case was not so urgent. Being "not necessary" and being "not so urgent" are entirely different. Thank you, Deputy President.

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

MRS ANSON CHAN (in Cantonese): Deputy President, on the basis of the Report submitted by the Chief Executive, the NPCSC made a decision on 29 December to rule out the implementation of dual universal suffrage for the Legislative Council and the Chief Executive in 2012. Sharing the same

sentiments of the public, I feel great disappointment and deep regret at the entire consultation exercise, the Report and the NPCSC's decision.

The Chief Executive acknowledged in the Report that over half of the population of Hong Kong aspired to the implementation of universal suffrage in 2012. Nonetheless, his Report had distorted the people's aspirations and he had only recommended the implementation of universal suffrage for the Chief Executive in 2017. In addition to ruling out the implementation of dual universal suffrage in 2012, the NPCSC further decided that the proportion of directly elected seats to functional constituency seats in the 2012 Legislative Council Election shall remain unchanged at a 50:50 ratio. The voting procedures of the Legislative Council in dealing with bills and motions shall remain unchanged, too. These moves are tantamount to maintaining the *status quo*, and they are in violation of the principle of gradual and orderly progress prescribed for the constitutional system of Hong Kong in the Basic Law. Hong Kong people will find this unacceptable.

Subsequent to the decision made by the NPCSC on 29 December, Hong Kong people feel very discontented and helpless. Even if the timetable for the implementation of universal suffrage for the Chief Executive in 2017 is real, the next step should be the provision of a clear roadmap to the people.

The Chief Executive and his Principal Officials have repeatedly called on us to be pragmatic and set aside our differences. I have always been a pragmatic person, but I have to stress that pragmatism must be based on principles that are clear and lucid.

First, I believe the Government and the public must reach a consensus on the definition of universal suffrage in the first place. In this regard, we do not need to waste our effort arguing about anything. Article 25 of the International Covenant on Civil and Political Rights has already drawn a clear definition for this, whereas Article 39 of the Basic Law stipulates that the provisions of the International Covenant on Civil and Political Rights as applied to Hong Kong shall remain in force.

I wonder why there are still some noises recently which argue that keeping functional constituencies is in compliance with the definition of universal suffrage as defined in international covenants. It is an attempt to confuse the

people. With functional constituencies, certain people in specific sectors are given special privileges and an additional vote as candidates running in the Legislative Council election. Basically, this is already inconsistent with the definitions of "equality" and "universal" as defined in international covenants.

Even if universal suffrage for the Chief Executive election is implemented as late as 2017, no screening mechanism should be instituted. What Hong Kong people need is a genuinely democratic, open and impartial election.

First of all, we must reach a consensus on the gradual abolition of functional constituencies. Although the NPCSC has made the decision that the proportion of directly elected seats to functional constituency seats in the 2012 Legislative Council election shall remain unchanged, a great deal of advance preparatory work will have to be done in the next four years on our way of progressing towards implementing genuine universal suffrage.

During the 2008 Legislative Session, I cannot see why the Government cannot proceed to do some practical preparations, such as amending the electoral law, redefining corporate votes and expanding the electorate base for the majority of functional constituencies.

I sincerely request that the Government not to submit a "replica" of the 2005 constitutional reform package to this Council, because not only is this retrogression, it will also divide society once again and intensify the arguments in this Council. It does nothing at all to help unite society or to contribute to a consensus for charting a roadmap for universal suffrage.

With regard to the Chief Executive election to be held in 2012, the electoral base of the nominating committee sub-sector elections should be expanded too, so that they could truly represent the views of Hong Kong people. The nomination process must be compatible, simple and have a high level of transparency. It should not be used as a tool for collective endorsement or rejection of other candidates. On the day when the NPCSC ruled out the introduction of dual universal suffrage in 2012, the Chief Executive remarked that the Task Group on Constitutional Development of the Commission on Strategic Development would convene its first meeting after the Lunar New Year to discuss methods for the two elections to be held in 2012 within the framework of the decision made by the NPCSC. I would like to point out that the Commission on Strategic Development does not have sufficient

representativeness, and it cannot genuinely represent the views and opinions of different sectors of the community. Furthermore, for real progress to be made, it must be supported by a two-thirds majority of Members of the Legislative Council. The Government should engage in direct dialogues with the four major political parties in order to devise a package that Hong Kong people are willing to accept.

Deputy President, I so submit.

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

MS EMILY LAU (in Cantonese): Deputy President, I rise to speak in support of Mr Albert CHAN's motion and all the amendments.

First, I must commend Mr Albert CHAN for having moved a very timely motion. Besides, Mr Albert CHAN has all along not participated too much in the discussion on constitutional affairs, nor is he a member of the Panel on Constitutional Affairs. However, this time he has acted very bravely in moving this motion. This is indeed very good.

Deputy President, in fact, we should have discussed this issue a long time ago because when we Members of the pan-democratic camp were having a meeting with the Chief Executive on 27 December — Secretary Stephen LAM was present at the meeting as well, though he had left the meeting before it was over — at that time, we asked if the announcement was made, whether he should go to the Legislative Council to answer questions. No, no way. We said we could come again to hold a discussion with him. No, no way again. Later, our Honourable colleague, Dr YEUNG Sum, had drafted a letter for presentation at a meeting of the Panel on Constitutional Affairs Since the NPC has made such a significant decision, should we hold a meeting? No, no way again. We end up in an "all-naught" situation, with every request turned down. Fortunately, we have this "Bald" Albert CHAN proposing this motion.

I know that when this shocking incident occurred on 29 December, it also aroused very substantial concern among the international mass media. I believe someone must have found this quite unexpected because in his opinion, since there had been no bloodshed in Hong Kong and more than a decade had passed,

what else can be said? But it turns out that the international community is still watching such a tiny place called Hong Kong. Because they find Beijing has been too high-handed, bearing in the undertaking made. Everyone thought that universal suffrage should be implemented in 2007 and 2008. But it was ruled out in 2004. It did surprise everyone that the same thing happened again at the end of 2007: That universal suffrage was ruled out once again. The delay of 10 years was extended by another 10 years and even a further 10 years. How much longer will it take? On the other hand, the international community does not think in the same way as some of our colleagues in this Council do; they simply do not believe in the supposed development in 2017 and 2020. Some even say, "2017? The Communist Party might no longer be in power. There will not be any need to wait." Therefore, such moves have already become the laughing stock of the world.

I believe many people also do not believe in it. But some may say, "Forget it! How can you fight against the Communist Party? We have neither the machine guns, nor the cannons. We also do not have any lethal weapons. How can we fight against them?" This is what some people would say. However, opinion polls also reveal that many people do not subscribe to such a view. Deputy President, therefore, many people will support us and they will come forward and join the walk this Sunday and they will dress like me, either in black or white. As a common local saying goes, "Adopting a low profile, we shall give them a big surprise."

What did "Bow-tie Donald" say? Deputy President, Donald TSANG says that expressing our opinions in a radical manner will by no means help our communication with the Central Authorities. As Ronny TONG said just now, "Then what can we do?" They also do not know How does Yuk-man describe him? An elegant democrat. But he still ends up getting nothing. LEE Cheuk-yan also said earlier that if the objective could be achieved by allowing them to describe us as "quails" (cowards), we can agree to playing the role of "cowards", and we can even do it immediately. If we agree to play the role as "cowards", and then we can implement universal suffrage, you can immediately find dozens of "cowards" here. But, it is all useless. Deputy President, we find that if you act in an elegant manner and keep quiet, you end up getting nothing; and as for us, we keep on fighting for our cause, but we also end up getting nothing still. In fact, really What on earth do the Central Authorities want us to do?

"Bow-tie Donald" is even more ridiculous. He says are you not expecting that fighting for the implementation of universal suffrage is as easy as wiping your Octopus Card (Deputy President, your most favourite term in the transport industry) over a card reading machine? If this wiping action is compared to our fight for universal suffrage, then we must have been wiping cards for several decades and hundreds of card reading machines must have to be replaced due to excessive usage. Therefore, this person can be described as "becoming madly arrogant after having gained prominence". He had said that fighting for democracy could lead to the outbreak of a Cultural Revolution and now he says fighting for democracy is like wiping an Octopus Card over a card reading machine. It is really a fatal tragedy to us to have such a person as our Chief Executive and submit the Report, is it not? Mr LEE Cheuk-yan is right in saying this. He said that the Chief Executive had submitted the wrong stuff and distorted public opinions and failed to keep tabs on the actual situation in Hong Kong on behalf of the NPC. Deputy President, what is the actual situation in Hong Kong? It is the absolute majority of the people — not more than half of the population, as said in the Report, but as many academics have come forward to say that — there are more than two thirds of the people supporting the implementation of universal suffrage in 2007 and 2008 then and they are also supporting the implementation of universal suffrage in the dual elections in 2012 now. This is the actual situation in Hong Kong.

Besides, the actual situation in Hong Kong is, in the last Legislative Council election, representatives elected by 62% of the votes can only have 41% of the seats. On the other hand, those political parties having gained over 30% of votes in the election, together with the group of people who occupy 102 appointed seats in various District Councils, have come forward to oppose dual universal suffrage. This is the actual situation in Hong Kong. On the one hand, the majority of the people have this demand, and the majority of voters cast their votes to support these political parties, which end up becoming the minority after joining the establishment. But this minority come forward to say that they oppose it. What do they do this for? Are they simply taking instructions from "Grandpa"? Actually they do this for protecting the interests of themselves as well as their respective sectors. The longer they can protect their interests, the better it will be. Therefore, I told QIAO Xiaoyang — Deputy President, you were present too — "Stop those acts of secret collaboration among yourselves. In the past they asked for implementing universal suffrage in 2007 and 2008, later it was said that you did not allow it. Now you said they did not allow it." Wow, things always happen that way —

this time you do not allow it, and next time they do not allow it. Should this practice be allowed to go on, we shall never be able to implement universal suffrage. Let us comment on this report, and let us comment on these political parties that gained their way into this Council through the minority votes they could get. Are they not absurd? And are they not ridiculous?

Therefore, Albert CHAN has done a very good job. He has proposed this motion for debate. In fact, right after 29 December, a meeting should have been called on 30 December to hold a debate on this. The Chief Executive has made democracy in Hong Kong move backwards and backwards. The regression has been so substantial. Members' requests for holding a discussion on this subject were turned down; the Chief Executive is unwilling to come here and answer questions; and we cannot even request a committee meeting for it. It was not until the "Bald" Albert CHAN proposes this motion that we have the chance to air our grievances and angers. How ridiculous it is! Deputy President, we are the minority here, but outside this Council, we are the majority. Time and again, they have acted against the people's aspirations and they have betrayed justice and righteousness. I must voice the strongest condemnation of this Government, this Chief Executive and this Donald TSANG regime.

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

MR ANDREW CHENG (in Cantonese): Deputy President, first of all, I would like to have the case of Albert CHAN vindicated. May I ask Members stop addressing him as "Bald"? Because when I saw him today, I had thought that a player from the Premier League had come to the Legislative Council. I must commend him for being so strong and robust. I also hope that Emily would not become so agitated because if we become agitated, then we would fall for the tricks devised by the Central Authorities, the SAR Government and the ruling coalition within the Legislative Council. Their strategy is to advocate harmony and economic development, and avoid political confrontation and chanting slogans.

Let me skip for the time being discussing the issue of whether we know nothing but chanting slogans. When it comes to chanting slogans, Mr Donald TSANG had chanted so many slogans when he was campaigning in the Chief

Executive election. Who can refrain from chanting slogans altogether? If not, are we expected to, whenever we have the chance to speak, read out all the details of our platform like reciting classical Chinese literary works? That is out of the question. In any election campaign, there must be platforms expressed in the form of slogans. Therefore, it is absolutely untrue and groundless to accuse us of doing nothing but chanting slogans.

The more rows we have, the more it gives the public the feeling that we are incompetent, or the Legislative Council is incompetent, if all they can see is that we keep arguing all the time and accusing each other as mean and confrontational. In that case, the public will gradually distance themselves from the pro-democracy camp and continue indulging themselves in the speculation on stocks and properties. When the economy is robust, it is the hardest time for us to fight for democracy. However, we must keep on striving for our cause with perseverance.

Therefore, I hope the people can understand this. Under the current circumstances when economy is robust, many people are asking: "What on earth are you people in the pro-democracy camp doing? All we need is a robust economic environment. To us, it is most important to have a good economy, to be able to make money and to get a job. Members of the pro-democracy camp keep talking about the issue of universal suffrage, but are you not putting up a show in doing all these? In fact, you are the ones who do not like to see the implementation of universal suffrage most." I was chilled to my spine at hearing such comments and criticisms. So, in the eyes of many people, the pro-democracy camp's work in carrying on with the fight for democracy is nothing more than a slogan. We need to keep having confrontations simply because this is a tool for showing the value of our existence. This is really most unfortunate. How could something so unfortunate happen? Because the Government has made use of the media. With this powerful media machinery, they have solicited the support of some people. The ruling coalition in this Council keeps using the same machinery to brainwash people who have made handsome profits in the stock market. This is precisely the predicament we are facing now.

Therefore, it is my wish that, if the people have higher expectations of us, such as requiring us to have a higher level of ethics and integrity, and so on we, being Members of this Council Mr TAM Yiu-chung is in the Chamber

now, who is the representative of the DAB; and the Deputy President is the only member of the Liberal Party in the Chamber now, while none of the members of The Alliance is present now. So I would like to ask the two of you to ask members of your party to make some brief remarks in response. As Members of this Council, should we not be more steadfast and more disciplined in upholding the principles for the purposes of building up a more progressive society for Hong Kong in future?

At a time when the people are busily speculating in the stock market with their focus on making short-term profits, and when the most they would care about is whether their children can gain admission to universities, should we, as Members of this Council, not work hard to fight for a better future for Hong Kong on the basis of justice, political rights, human rights and equality, which are standards internationally recognized? This is our responsibility as Members of this Council, and this is also the higher level of ethics and integrity that is expected of us by the public. And we should also require ourselves to meet such expectations.

Unfortunately, Mr James TIEN began his speech by saying that (Dr Fernando CHEUNG has mentioned this just now, and I have also heard it myself), people in other societies demanded to implement universal suffrage because there were incidents of injustice in their societies; but this was not the case in Hong Kong, so there was no such urgency in Hong Kong, as this problem was not present in Hong Kong. To Mr James TIEN, this is certainly the case. I hope colleagues from the Liberal Party can respond to this later on. The Liberal Party is a party with vested interests, as it has interests in the commercial and business sector. If you like to delve into the question of justice, I can tell you that there is nothing called absolute public justice in this world. If you believe in God, then you can find universal values, love and justice in the *Bible*. However, if you are not talking about religion, then in any society, justice is relative instead of absolute. Having said that, in spite of this relativity, we really want to find a spirit of justice that is universally recognized. In politics, this refers to universal suffrage, that is, the equality in political rights.

If we accept the meaning of justice as defined by the Chairman of the Liberal Party just now, things will certainly be like this, because the people they usually meet come from the commercial and business sector. If you raise this question in Cyberport with LI Ka-shing, who is so rich and fat that he cannot

even bend down to tie his shoestrings, he would certainly think that justice does prevail in Hong Kong, and that there is no problem here whatsoever. However, as Dr Fernando CHEUNG mentioned just now that, in Tin Shui Wai this city of sadness, a city where we can see the huge disparity between the rich and the poor as many elderly persons got killed in car accidents while they were scavenging, where do we find justice there? Why do some people have extra votes that they can cast in the elections of the Chief Executive and the Legislative Council? Is this justice?

Mr James TIEN said there is no urgency. If we follow the explanation given by the Liberal Party just now, why did they include this point in their party platform to say that they supported implementing universal suffrage in 2008? By the logic of what he said just now, or according to the allegations made by the DAB and the Liberal Party, that they think all along there has been no problem, with everyone enjoying a good life and with nothing to worry in society, and instead of giving rise to any disputes, we should carry on with our harmony, then universal suffrage should not be introduced even in 2047.

Deputy President, these are exactly my fears now. This is precisely the reason: When some people are enjoying vested interests, how can we secure the votes from a two-thirds majority of all the Members of the Legislative Council in order to pass any constitutional reform package in future? Therefore, I hope the Secretary and Members can wake up now. Perhaps you are already wide awake. But I hope Hong Kong people can also become wide awake. They must come forward this Sunday to join the protest in order to uphold our cause of fighting for the implementation of universal suffrage, for we are not just putting up a show.

Deputy President, I so submit.

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

MR TAM YIU-CHUNG (in Cantonese): Deputy President, thank you. I wish to deliver my speech after I have listened to all the speeches. But, of course, there may still be people making responses after me. It all depends on who has the greatest patience.

In fact, the DAB is a responsible and constructive political party. Therefore, we attach fairly great importance to divergent opinions expressed in society, and we also respect different opinions.

Constitutional development packages have always been extremely controversial. Regarding the kind of attitude displayed by Emily in delivering her speech just now, I have seen it on many other occasions, too. However, in my opinion, it no longer works in this day and age if she always insists on adopting such an attitude. Therefore, I find it reasonable for Andrew CHENG to give her a friendly reminder. As LEE Cheuk-yan has also mentioned, even candidates in the presidential election of the United States are also advocating the idea of "change". So, it would be better if we can see a change in the attitude of certain persons.

In fact, all Hong Kong people hope that there can be stability and harmony in society, and they also hope that the constitutional system of Hong Kong can move towards democracy. The DAB really hopes that we can identify a constitutional reform package for Hong Kong which is acceptable to all parties concerned. The NPC has made a decision recently to specify that universal suffrage can first be implemented in the election of the Chief Executive in 2017, and then universal suffrage for the Legislative Council election will be implemented afterwards. The Central Authorities have drawn up an explicit timetable for implementing universal suffrage. We think this is useful to minimizing arguments in society and creating good conditions for implementing universal suffrage.

After the NPC had made this decision, I took part in several relevant current affairs debate programmes and I joined such programmes together with Mr Albert HO. At that time, I heard him express the worry for many times that, even by 2017 and 2020, the implementation of universal suffrage still might not be possible. He was afraid that some people (including those in the DAB) would, for various reasons, delay its implementation or even make it impossible. However, I had told him categorically for many times that I very much hoped that the different political parties and groupings in this Council could adopt a rational and pragmatic attitude and hold meetings with a long-term view to discuss ways of formulating specific arrangements and details for implementing the timetable proposed by the NPC. Since we have ample time, we can work out a package of specific methods of implementation that is acceptable to all

parties concerned. I said we had adopted an open attitude and were willing to narrow the differences in order to arrive at a consensus. We are even prepared to propose a motion in this Council to suggest that we should work unswervingly in implementing the timetable formulated by the NPC, in the hope that universal suffrage could be implemented successfully in the Chief Executive election in 2017 and in the Legislative Council election in 2020 as originally scheduled.

Therefore, when a reporter asked me a question about this on 1 January, I had an idea in my mind, and I had even thought of bringing up this idea in the Legislative Council. It would be ideal if Members can support this idea, and then we can work in this major direction. However, later, I received information from the Legislative Council and learned that there would be five amendments in today's motion debate, and all of them expressed condemnation and extreme discontent. And, after listening to the speeches just now in the debate, my heart sank. I knew my well-intentioned wish would definitely fall through and it could not be materialized. Of course, I will not push ahead with causes that others are unwilling to accept because by imposing my own ideas on them, I will not be able to bring about any fruitful results. It is simply not my intention to force others to do anything, such as forcing them to indicate their stances or giving others a hard time by embarrassing them. It is meaningless to do such things. On the contrary, the DAB sincerely hopes that, since the NPC has already pointed out that universal suffrage can be implemented in the Chief Executive election in 2017, then we should work according to this method. With regard to the threshold issue, we do not have any requirements. But we must take note of one point, that is, we must formulate these in compliance with the requirements specified in the Basic Law. As to the question of whether the threshold should be high or low, it is meaningless to discuss it in very general and non-specific terms now. One may say it is too high and another may say it is too low. We should try to think of a method that is acceptable to everyone. But such a method cannot include an assurance in writing to the effect that the Democratic Party must be able to field one candidate in the election because it will be relatively difficult to do so. We cannot write down something like that. However, if everyone finds the proposed method reasonable and in compliance with the Basic Law, I think it should be OK.

The DAB's well-intentioned wish is in fact consistent with the aspirations of the majority of the people. After listening to many speeches just now, I find that none of them has mentioned some recent surveys. In fact, if Members care

to go over some surveys, and read them carefully in order to gain an in-depth understanding, they would probably find themselves in a better mood and may not have to feel hot with rage. Many of the recent opinion surveys show that most of the people accept the NPC's decision to implement universal suffrage in the Chief Executive election in 2017. For example, in a survey conducted by the Research Association of Hong Kong, it is revealed that 59% of the people are satisfied with the decision of implementing universal suffrage in the Chief Executive election in 2017; 56% of the people are satisfied with the decision of implementing universal suffrage in the election of the Chief Executive first, and that for the election of the Legislative Council later. Even if we choose not to read this survey, there is still another one conducted by the Hong Kong Institute of Asia-Pacific Studies of The Chinese University of Hong Kong. We often have the opportunities of reading their research reports. Its research figures are even higher: 72% of the respondents say that they accept the NPC's decision. But as we are listening to the debate just now, it seems to have reflected a completely different picture.

Therefore, to those Members who frequently claim that they respect public opinions and often accuse us of "turning ourselves into enemies of the people", may I ask them to read the findings carefully? However, if they really go ahead organizing something like the "four boycotts" as suggested by Mr Ronny TONG, then they are really "turning themselves into enemies of the people". The people will neither support nor accept such behaviour. Therefore, I hope he can exercise greater caution in future whenever he wants to say something. Otherwise, it will not be good for him if he needs to change what he has previously said later on, right?

Let us hope that we can once again use the NPC's decision as a fresh starting point. Let us hope that the different political parties and groupings in the Legislative Council can work together and, for the future constitutional development in Hong Kong, *(The buzzer sounded)*.....

DEPUTY PRESIDENT (in Cantonese): The speaking time is up.

MR TAM YIU-CHUNG (in Cantonese): we can join hands to do our best.

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

MR SIN CHUNG-KAI (in Cantonese): Deputy President, I have listened carefully to Mr TAM Yiu-chung's speech just now. He stated right from the beginning that he was looking for a package acceptable to all parties. We certainly hope this would be the case, too. In fact, we used to have a package that all parties had found acceptable. It was once stated in the DAB's party platform that they supported implementing universal suffrage in 2007 and 2008. That was something they had stated in their party platform or political platform.

In spite of the fact that universal suffrage will not be introduced in 2007 and 2008, the Legislative Council still supports the implementation of universal suffrage in the election of the Chief Executive in 2012 at the latest. In fact, in the last debate, even the Liberal Party argued that there should be a high threshold in 2012, whereas 2017 should have a low threshold. Actually, only one political party, which is your party, the DAB, did not accept it. So, that is why we said that it was accepted by all the parties, except the DAB. Had they supported implementing universal suffrage in 2012 prior to the Chief Executive's submission of his consultation report, even if it was regarded as a high-threshold option, as described by the Liberal Party, or a certain kind of threshold for 2012, a certain form of universal suffrage could have already been attained. Therefore, the obstacle on the way was not placed by us, but by the DAB.

Second, people are now saying that we should look forward to 2017 and 2020 for implementing universal suffrage; people from different political parties and groupings should work specifically to implement this, and that they should adopt an open attitude and work with perseverance for the purpose of implementing universal suffrage in 2017. This is what Mr TAM Yiu-chung said just now. The problem is, we have actually mentioned in our package that the threshold of nomination pursued by the pro-democracy camp in striving for dual universal suffrage in the 2012 had already been put forward in the Report. With regard to the Report presented today, if we have to accept the reality that we will not be having universal suffrage in 2012, and it can only be implemented in 2017, then the threshold would even be lower.

Today, even if we were to propose other packages, there is in fact not much room for manoeuvre. Apart from the remarks made by QIAO Xiaoyang

and ZHANG Xiaoming in Hong Kong, particularly the argument that functional constituencies do not conflict with universal suffrage, which made us horrified, we have not heard of any viewpoints discussing the issue of threshold, still less any remark by the DAB on whether or not they will discuss the issue of threshold again in the future. With regard to the issues of the abolition of functional constituencies and the threshold, which are two core issues in the upcoming political debates, I have not heard any members of the DAB make any comments on these two issues. Of course, I have no intention of labelling them. However, and this is actually the case, that every time after "Grandpa" has made any comments, they will indicate their support for such comments. But before "Grandpa" makes any comments, they will never indicate their own stance. So how is the pro-democracy camp supposed to make any response?

Mr TAM Yiu-chung mentioned one viewpoint just now, that the nomination threshold cannot provide specifically that the Democratic Party must be guaranteed to have a nominee. Of course, the Democratic Party will not make any proposal like that. However, I believe both the democratic camp and the Democratic Party want to have a genuine election that would offer some real choices — a genuine election, and the people can enjoy the concrete rights to make their own choices. If the election will end up in Mr TSANG Tak-sing contesting against Mr TSANG Yok-sing, that will not be a real choice then. I have just pointed out two core issues. The first is the threshold issue, and the second is the issue of abolishing functional constituencies. Regarding the threshold issue, I hope members of the DAB can put forward some concrete and feasible proposals that can be implemented, thereby making the elections fair and universal and the people can have some real choices. These are what Hong Kong people care about.

However, the "crying wolf" stories have happened for too many times in the past. The SAR Government and the Central Government have vetoed the people's aspirations for universal suffrage time and again, first for 2007 and 2008, and this time for 2012. As a matter of fact, the so-called foundation of trust is rather feeble. The people need to take to the streets in order to strive for universal suffrage.

Therefore, I would like to take this opportunity to call on everyone to take part in the march in support of universal suffrage to be held this Sunday. I hope the Secretary can join the walk and lead us in the fight for the implementation of dual universal suffrage in 2012.

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

MR ALBERT HO (in Cantonese): Just now, Mr TAM Yiu-chung advised us to make some changes, saying that we must not maintain our present approach, that is, an approach similar to that of Ms Emily LAU, because such an approach simply will not work. What changes does he want us to make? If he wants us to change the direction and objective of our struggles, what is the purpose of our presence here? Is there still any point for us to stay here if we must even give up what we have been fighting to achieve for years just for the sake of starting dialogues? If he thinks that we can stick to our objective and only wants us to change our approach, can he advise us on an approach that can lead to success? Is he saying that only their approach can lead to success? But I honestly do not know what their approach is.

Deputy President, we can observe that the decision of the NPCSC, the Green Paper on Constitutional Development and the views put forward by the DAB and the Liberal Party actually all follow the same line. Therefore, it is appropriate to discuss all related issues at one sitting today, and there is no need to discuss each of them on separate occasions.

In retrospect, we can all see that there was in fact a decision first, followed by the publication of the report and their expression of opinions. After reading the Chief Executive's report, we will notice that the answer is just all too obvious. In other words, the decision of the National People's Congress (NPC) is nothing but a pre-decision. I am sorry, but I must say a few words on certain Members' mindset and speeches. Is the implementation of universal suffrage in 2017 the result of the DAB's struggle? Do they dare to claim that this is the result of their struggle? They will not admit so. They only argue that it is feasible to implement universal suffrage in 2017. They are really very shrewd, for they can foresee things very accurately. On the other hand, many propositions in the Chief Executive's report, such as the possibility of choosing 2017, the idea of "resolving the simple issues before the difficult ones", and so on, and the retention of functional constituencies in the future, are all the main points of the NPC's decision. There is only one honest comment in the whole report (I am sorry, but I must say so): The majority of the people demand the implementation of universal suffrage. All other points are distortions of the facts or just half-truths.

While pointing out that the majority public supports the implementation of universal suffrage, the Report also claims that implementing universal suffrage for the Chief Executive in 2017 will stand a better chance of being accepted by the majority in our community. What is meant by "the majority"? It means the privileged classes, all those functional sectors and business tycoons who do not want to relinquish their political privileges. The answer is predetermined. When it comes to other issues, such as functional constituencies, Members have all along been very clear that they must be abolished eventually because they are not in line with the international covenants on human rights. Maybe, the Secretary can respond to this a moment later. Around the time of reunification, even after Chris PATTEN had expanded the electorate of functional constituencies, the NPCSC still ruled out the arrangement, saying that it was against the Basic Law and might turn the elections into *de facto* direct elections. At that time, the NPCSC did not accept such an arrangement and explained that functional constituency elections must not be turned into direct elections. We have in fact discussed this issue many times before, pointing out that while functional constituency elections must not be turned into direct elections, they should not be expanded either. Our discussions have all along followed this direction. But then, today, it is suddenly argued that functional constituency elections can be turned into direct elections. If this is possible, why were functional constituencies abolished during the transition?

(THE PRESIDENT resumed the Chair)

What worries people most is the arrangement of "making nominations in accordance with democratic procedures". As far as I can remember, both the Government and the DAB have refused to discuss this issue. They have even refused to start any discussions. What is the hidden intention? The hidden intention is that they can be enabled to devise any mechanism they like. And, one must not forget that the mechanism concerned will determine whether we will have a meaningful election underpinned by competition. Why do they want to "resolve the simple issues before the difficult ones"? The only reason is that the authorities know that in the case of the Chief Executive Election, it is easier to devise a mechanism that can ensure predictable election results. That is why they decided that it is better to adopt the approach of "resolving the simple issues before the difficult ones". The Secretary should be aware that under the two Annexes to the Basic Law, instead of requiring any approval, amendments to the

method for forming the Legislative Council only need to be reported to the NPCSC for the record. And, approval is required only in the case of amendments to the method for selecting the Chief Executive. During the Sino-British negotiations years ago, even Mr LU Ping commented that such issues could be decided by the SAR on its own. All this is actually information known to all. It was only after the interpretation of the Basic Law on 8 April 2004 that "reported to the NPCSC for the record" started to be interpreted as approval.

President, this is the situation as far as we can observe. It is not true to say that we do not want to sit down and talk things over with Honourable colleagues, including those belonging to the DAB. The only problem is that they have time and again abandoned the positions in their party platforms all too easily. They have even abandoned the very goal they themselves put forward, the objective of implementing universal suffrage in 2012. I have almost forgotten one thing. A kaifong has asked me to show them a newspaper. This is an issue of the *Sing Tao Daily* on 24 July 2004. The huge headline there reads: DAB fights for universal suffrage for the two major elections in 2012. Actually, they also made a lot of efforts to fight for the implementation of universal suffrage in 2012. Having seen them back down for so many times, how can we still have any confidence that discussions with them can yield any results? And, even if there can be any results, will they overturn them once again? This is a question that worries us a lot. Can they think of any ways to show that they are sincere and prepared to honour their words? If they cannot, people will inevitably think that it is better to discuss with the Central Authorities by all means, and that this will yield better results. This is where the problem lies. I hope Mr LAU Kong-wah can respond to this point.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): If not, I now call upon Mr Albert CHAN to speak on the five amendments. He has up to five minutes to speak.

MR ALBERT CHAN (in Cantonese): President, what I find most disappointing is that the Secretary has chosen not to speak first, and we had to speak before

him. In this way, at the end of the debate, he can attack us with more stones and more punches, so to speak. Such behaviour is ungentlemanly. But well, this is common with some "eunuchs".

President, I am also very disappointed that only two Members from the "royalist" parties have spoken, one of whom is Mr James TIEN. There are three if Dr Raymond HO is also counted. Basically, they have just repeated what they have been saying all the time. In fact, the democratic camp has similarly been repeating their viewpoints for some two decades. There is no new idea.

But the very moderate attitude of Mr TAM Yiu-chung certainly does not accord with the DAB's traditional leftist image as a fighter of the interests, liberties and human rights of the grassroots. He has not mentioned any traditional leftist theories, neither any Marxism nor any theories of the European social democrats. He really sounds more like Mrs Margaret THATCHER and Ronald REAGAN than a social democrat. Obviously, the DAB has abandoned its own political conviction. They have already become a political group with vested interests. They now have a share of the political benefits. They belong to the working class, but they all have their own chauffeurs and expensive saloons now. It saddens me to see that the leftists in Hong Kong have degenerated into political hired guns.

President, even these days, the democratic camp must still hold marches. But I believe that even if they continue to do so for 20 more years, there will not be any democracy. Last week, in the programme "Letters to Hong Kong", I advocated a non-co-operation campaign. My advocacy was similarly conservative and moderate. But to continue to call upon syndicates with interests at stake to give up their vested interests and privileges and share benefits with the masses will be like negotiating with a tiger for its hide. Secretary Stephen LAM, who has been talking nonsense since he rose to success in his career, is an example. His sudden promotion to D9 of the Directorate Pay Scale, to his present position, is entirely due to his willingness to suppress the rights of all the 7 million people in Hong Kong and act as a political hired gun. Will he give up all this? No, he will not. One simply does not know how many properties he owns and he earns four million or five million dollars a year, so how can he be willing to give up his position? No.

Therefore, it is only by asking the masses to stage a struggle which really hurts the syndicates with vested interests that we can make them contemplate the

idea of giving up something. Otherwise, with all the political privileges which enable them to control our economy, society and culture, they will never share any powers with the people.

For this reason, the democratic camp must refrain from daydreaming anymore. They must not hope that through one or two marches of 10 000 or 20 000 people, they can change the political reality. They must hit at the right spot, meaning that they must do something that can really hurt the syndicates with vested interests.

I have said many times in this Chamber that the human rights movement in the United States did not depend only on Martin Luther KING. There was also the economic damage inflicted by Malcolm X and the Black Panthers, without which those in power would not have been willing to consider the empowerment of the Blacks. This was also the case in South Africa, where success did not come about just because of one or two marches. MANDELA was imprisoned for 27 years for the cause of human rights. Therefore, if the democratic camp wants to achieve any success in democratization and recognition of democracy and human rights in Hong Kong, it must escalate its actions.

I have actually considered the idea of throwing eggs and tomatoes — I mean throwing eggs and tomatoes at Stephen LAM the Eunuch today. He looks most authoritative, so I really want to see what will happen if I defy the law. I have managed to arrest such an impulse today. But I do not know whether I can still do so tomorrow. I have actually been considering this idea for several weeks. President, the people's discontent will erupt into violent protests sooner or later. Frankly speaking, over the past few years, I have been having a hard time trying to control myself. I do not know when I will attack the system, throwing stones and Molotov cocktails instead of soap. I do not know when this will happen. I have such an intention, so do members of the public.

There may be eruption of protests. And, it is not so easy to avoid such eruption simply by making the changes described by Mr TAM Yiu-chung. Years ago, when the leftists attacked the British Hong Kong administration, they also used Molotov cocktails. Forty years ago, Molotov cocktails were thrown, and no one can guarantee that this will not happen again today. Therefore, they must not think that since they are in total control, they can deprive the people of their rights.

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): Madam President, in today's motion debate, a number of Members have expressed their views on the Report submitted by the Chief Executive to the Standing Committee of the National People's Congress (NPCSC) and reiterated their positions on how Hong Kong can attain the goal of universal suffrage.

The decision made by the NPCSC on 29 December last year sets a definite timetable for universal suffrage in Hong Kong and marks a crucial step in the course of constitutional development in Hong Kong. As the NPCSC made this decision only after considering the Report submitted by the Chief Executive on 12 December last year, the SAR Government does not accept the allegation made by some Members, that the Report distorted public opinion in Hong Kong.

In fact, the Chief Executive's Report has faithfully reflected the sentiment and views of the Hong Kong public to the Central Authorities by fully conveying and summarizing the reports submitted by the Legislative Council, the District Councils, various political parties and groupings, various sectors, organizations and individuals.

We also mentioned in the Report the views favouring the implementation of dual universal suffrage in 2012: More than half of the members of the public surveyed in various public opinion polls support the introduction of dual universal suffrage in 2012; less than half of the Members of the Legislative Council support this position and 12 600 representations support the proposal of attaining the goal of universal suffrage in 2012, as put forward by Members of the opposition. The Chief Executive also made it clear to the Central Authorities that these views should be taken seriously and given consideration.

At the same time, the Chief Executive also concluded in the Report that implementing universal suffrage for the Chief Executive first by no later than 2017 would stand a better chance of being accepted by the majority in the community. Such a conclusion is founded on four factors:

- half of all Legislative Council Members support that universal suffrage for the Chief Executive should be implemented first by no later than 2017, in 2017 or after 2017;
- motions have been passed in more than two thirds of all District Councils supporting universal suffrage for the Chief Executive by

no later than 2017 or in 2017, and that universal suffrage for the Legislative Council should follow thereafter;

- various public opinion polls have indicated that about 60% of the respondents accept the implementation of universal suffrage for the Chief Executive in 2017 if universal suffrage for the Chief Executive is not implemented in 2012; and
- some 150 000 members of the public signed their names in support of universal suffrage for the Chief Executive by no later than 2017, in 2017 or after 2017.

Since the Chief Executive had reached such a conclusion, of course, he had to reflect this to the Central Authorities and the NPCSC to enable the Central Authorities to fully consider the overall situation in Hong Kong before making its decision.

The Chief Executive has also explained in public that he would adopt the approach of "formulating a roadmap before a timetable" in dealing with the issue of universal suffrage. However, from the experience gained in public consultations and discussions over the past two years, we found that it was not easy to reach a consensus due to the differences in society. In view of this, we have to be pragmatic, proactive and flexible. We believe that if we can set a timetable for universal suffrage for the Chief Executive and for that of the Legislative Council, it would be easier for us to reach a consensus on the roadmap and the model for universal suffrage, so as to implement universal suffrage at an early date. For this reason, it is totally unfounded for any Member to allege that this Report has distorted public opinion.

In fact, the Chief Executive made several important and crucial conclusions in the Report submitted to the NPCSC. The first is that universal suffrage for the Chief Executive should precede that for the Legislative Council. The second is that implementing universal suffrage for the Chief Executive first by no later than 2017 will stand a better chance of being accepted by the majority in the community. The third is that setting a timetable for universal suffrage for the Chief Executive and the Legislative Council will be conducive to the final resolution of the issues relating to the implementation of universal suffrage. Why have we reached such a conclusion? Because we noticed that given a

timetable for universal suffrage, it will motivate various political parties and groupings, groups, sectors and the community as a whole to form the necessary consensus before the deadline.

In the past few weeks, some Members queried whether such a timetable for universal suffrage carries any legal effect. Madam President, I can say very definitely to this legislature that the NPCSC's decision is a legal decision and the part concerning a timetable for universal suffrage forms part of the decision made with the power conferred by law. Members can see that the timetable for universal suffrage mentioned in the decision is most explicit and it is also mentioned therein that at an appropriate time prior to attaining the goal of universal suffrage, the SAR can activate the procedure for amending the electoral methods in accordance with the Basic Law and the NPCSC's Interpretation made in April 2004, so that the SAR can attain the goal of universal suffrage.

Apart from setting a timetable for universal suffrage, the NPCSC has also prescribed the procedure that we should follow. This is done entirely in accordance with the law. In his speech, Mr Ronny TONG mentioned in particular the importance of public opinion polls. We also attach great importance to the public opinion polls conducted by universities and various think-tanks. Therefore, after the three-month consultation period for the "Green Paper on Constitutional Development" (the Green Paper), we collated the representations received and an entire Appendix was devoted to setting out the public opinion polls conducted by various universities and think-tanks in the previous few months. We also noticed that the two universities have conducted some rather crucial public opinion polls in the past few weeks. According to the poll conducted by the University of Hong Kong in early January, close to half of the public accepted the NPCSC's timetable for universal suffrage. The poll conducted by The Chinese University of Hong Kong several days ago also indicated that as high as 70% of the public accepted the NPCSC's decision on the timetable for universal suffrage.

It can thus be seen that in setting a timetable for universal suffrage for the Chief Executive and the Legislative Council this time, the Central Authorities have indeed responded to the demands of Hong Kong society and the public and fully considered the interests of the SAR, too. Therefore, in response to the amendment proposed by Mr LEUNG Kwok-hung, we can see that the NPCSC's decision is sincere and legal, so the question of requesting the NPCSC to

withdraw its decision should not arise. It is a solemn as well as legal and constitutional decision.

Several Members queried whether the Chief Executive had fulfilled the pledges he made when standing in the election. Mr Alan LEONG talked about this and other Members also made comments in this regard. I wish to point out that when the Chief Executive was standing in the election early last year, he made it very clear to Hong Kong society and the public that in the new five-year tenure, he would strive to resolve the issue of universal suffrage. Not only has the Chief Executive honoured the pledge he made during the election, from the report he submitted to the Central Authorities and the NPCSC's decision, we can see that a very crucial and major breakthrough has been made on the issue of universal suffrage, that is, a timetable for universal suffrage has been set, and the direction is clear. In the past six months, we have lost no time in doing what should be done. Eleven days after taking office, we published the Green Paper. After a public consultation period of three months, we submitted the Report to the Central Authorities within two months, that is, on 12 December and published the final report in Hong Kong. The NPCSC also made its decision at the end of last year. The present-term Government spent the first six months of its five-year term on these efforts, precisely because it hopes that in the remaining four and a half years, Hong Kong society will have more time to discuss and hammer out the amendments to the methods for electing the Chief Executive and the Legislative Council in 2012, as well as paving the way for the introduction of universal suffrage in 2017 and 2020.

In fact, we have already accumulated some experience in the past four years and gradually grasped the considerations and procedures involved in taking forward constitutional development and moving towards universal suffrage. First, we grasped the legal procedure early in 2004. According to the Basic Law, it is necessary to take five steps to activate and effect changes to the two electoral methods. Subsequently, in 2005, we put forward the proposal for 2007 and 2008. The experience in 2005 taught us that it was not enough to rely solely on the support as indicated by the results of public opinion polls because the District Councils and the Legislative Council are the other bodies representing public opinion in Hong Kong. According to the stipulations of the Basic Law, apart from the support in society, that is, the public support as indicated by public opinion polls, it is also necessary to secure the support of two thirds of the Members in the legislature for a proposal before anything can be

accomplished. Therefore, prior to the launch of the public consultation last year, we had continually explained to Members that apart from securing the majority support of two thirds of the Members of the Legislative Council, we also hoped that the proposal put forward by us could have the support of 60% of members of the public.

Madam President, now, I wish to respond to the various matters and issues raised by various Members.

Dr YEUNG Sum and Ms Emily LAU mentioned in particular the issue of a timetable. Dr YEUNG Sum said that we were adopting a delaying tactic. In fact, had we wanted to cause delays, there would have been no need for us to carry out a public consultation last year. There would have been no need to submit a report to the NPCSC, nor would there have been any need for a decision on a timetable for universal suffrage. Now that a timetable for universal suffrage has been set, there will be a clear direction in future.

On a number of occasions, Ms Emily LAU asked, "We have waited 10 years after 10 years. How much longer do we have to wait?" In fact, we are not talking about a difference of 10 years, but five years. In this legislature, some political parties and groupings support universal suffrage for the Chief Executive in 2012, while others support the year 2017 and consider this acceptable. Hence, we are talking about a difference of five years. Nevertheless, if we want to do a good job in developing the constitution in Hong Kong in the long term, it is desirable in fact to stop wrangling over a short period of time and more time should be spent on preparing for the dawn of universal suffrage in Hong Kong.

A number of Members voiced their concern about how democratic procedures would be laid down in future. In fact, we have stated clearly in the Green Paper that any "democratic procedure" must comply with Article 45 of the Basic Law to ensure that the candidates will have broad support and adequate acceptance, as well as enabling people who intend to stand in the election to have equal opportunities in obtaining nominations. At the present stage, the SAR Government has not made any decision regarding "democratic procedures". In the future, when it initiates the discussion on this issue, the three important points that I mentioned just now must be complied with. Members will be able to explore this subject of "democratic procedures" together.

Some Members have mentioned the future of functional constituencies. At the present stage, in this legislature, some Members support the abolition of the seats returned by functional constituencies at one go, however, there are also Members who believe that the functional constituencies should be retained. From now to 2020, we will have plenty of time and room to discuss what model should be adopted in order to attain the goal of universal suffrage for the Legislative Council.

Madam President, in the Green Paper, three models are proposed for Members' reference and discussion. Apart from direct elections, we also proposed that it was possible to put in place a "one person, two votes" system, that is, one vote for the public in the direct elections of geographical constituencies and another vote for them in the elections of functional constituencies. Another proposal that we put forward for Members' discussion was to let members of the District Councils elect additional Members of the Legislative Council from among themselves and this is an option that can also be considered. A fairly significant element of democracy can also be found at the level of the District Councils as directly-elected District Council members are elected by 3.3 million registered voters through "one person, one vote".

Mr Alan LEONG and Mrs Anson CHAN both mentioned issues relating to the International Covenant on Civil and Political Rights (ICCPR). I wish to reiterate here that Hong Kong will attain universal suffrage by virtue of the Basic Law, not the ICCPR.

This is because in 1976, when the ICCPR was applied to Hong Kong, a reservation was made by the United Kingdom Government not to apply sub-paragraph (b) of Article 25 of the ICCPR to Hong Kong. In accordance with the notification given by the Central Government to the United Nations Secretary-General in 1997, this reservation continues to apply to the SAR. Therefore, according to Article 39 of the Basic Law, which deals with the applicability of the ICCPR to Hong Kong, Article 25(b) of the ICCPR was excluded. However, in 1990, when the Central Government drew up the Basic Law for Hong Kong, in response to the views in Hong Kong society and of the Hong Kong public, the ultimate goal of universal suffrage was included in the Basic Law. Therefore, when one day — now, everyone knows clearly that it will be in 2017 and 2020 — we attain the goal of universal suffrage, we will have complied with such principles as universality and equality.

Mr Martin LEE mentioned in particular the Sino-British Joint Declaration and stressed that the Sino-British Joint Declaration accords a high degree of autonomy to Hong Kong. However, this high degree of autonomy for Hong Kong does not include allowing Hong Kong to decide its own constitutional structure and electoral methods. The Sino-British Joint Declaration only mentions two points in brief, that is, the legislature should be constituted by elections and the Chief Executive should be selected through local consultations or by election. In fact, these two provisions of the Sino-British Joint Declaration have already been fully realized and implemented in Hong Kong. Nevertheless, the Basic Law allows Hong Kong to attain the ultimate goal of universal suffrage. This has already transcended the provisions of the Sino-British Joint Declaration. In view of this, Mr Martin LEE should understand clearly that according to the stipulations of Annexes I and II of the Basic Law, it is the NPCSC that will make the final decision on the electoral methods — or give its approval or keep the record. Members also know clearly that under Article 62 of the Constitution, the system of the SAR is instituted by the NPC.

Mr LEE Cheuk-yan, today, you mentioned the novel by Louis CHA and talked about QIAO Feng. In my view, although you are taller in build, your internal power is not yet as profound as QIAO Feng's and you cannot yet deploy the "18 Dragon-Subduing Palms". However, this is not the point that I wish to respond to. You said that there were no change, however, since you have been in the legislature for a number of years and we have had debates for countless times, if you rewind and try "playback", from 2002 to 2004, you would find we were mainly engaged in a debate on the principles in the Basic Law and how the principle of gradual and orderly progress can actually be put into practice. From 2004 to 2005, we talked about the proposal for 2007 and 2008. What did we talk about from 2005 to 2007? We discussed the timetable, model and roadmap for universal suffrage. It is now 2008 and we are now discussing how to further take forward democracy in Hong Kong according to the timetable for universal suffrage set by the NPCSC. In fact, a lot have changed in the overall situation, the decision and principles relating to the constitutionality as understood by us. We are moving steadily towards universal suffrage. However, today, many Members in the opposition queried why there was a timetable but not a roadmap or a model for universal suffrage. In fact, I am also aware that if the decision made by the NPCSC on this occasion does not just touch on a timetable for universal suffrage but also on the options for

implementing universal suffrage for the Chief Executive and the Legislative Council, Members of the opposition would then say that this does not comply with the procedure or the Basic Law, and that Hong Kong people are not allowed to participate in the formulation of the models of universal suffrage in accordance with the stipulations in Annexes I and II.

Therefore, I have explained to Members just now that on the one hand, the NPCSC's decision has set a definite timetable for universal suffrage in Hong Kong; on the other, it has left enough room for us to discuss in the SAR how to take forward the democratization of Hong Kong further in 2012 and achieve the goal of universal suffrage in future, so here lies the starting point.

Mrs Anson CHAN is particularly concerned about how the two electoral methods can be amended in 2012. After the Lunar New Year, we will give Members an account on how a task group on constitutional development under the Commission on Strategic Development will be set up, so that there can be an incubation period in the first half of 2008 and a phase in which Members can put forward diverse views concerning the two electoral methods. The experience we gained in the past four years tells us that more incubation, more public discussion and more consultation will be conducive to reaching a consensus. Although a broad-based consensus on a timetable for universal suffrage cannot be reached in this legislature today, Hong Kong society finds the timetable acceptable because we have encouraged discussion on this at various stages over the past four years.

Finally, I have to respond to Mr Albert CHAN. He directed his criticisms and attacks at the SAR Government, individual officials and various political parties and groupings, however, we are not as restricted in vision as he is. Because we want to do this job properly for the sake of Hong Kong and implement a system of universal suffrage. Therefore, it is necessary for us to obtain the concerted assistance of various political parties and groupings, including that of the League of Social Democrats and other political parties and groupings in the opposition, as well as the various political parties and groupings in this legislature, in order to accomplish this task properly.

Another point raised by Mr Albert CHAN that I wish to respond to is that, at the beginning of the debate, he said that the political system in Hong Kong is dictatorial and totalitarian in nature, however, this is not the reality. One may

say that the ultimate goal of universal suffrage has not yet been attained in Hong Kong, but one cannot say that Hong Kong is a dictatorial and totalitarian place. Our political system is one in which the relationship between the executive and the legislature was that of moving in concert and mutual checks and balances. If the bills and budgets proposed by us cannot secure the support of a majority of Members, they will not get anywhere. The legal system in Hong Kong also fully reaches international standards. This is why judges at the top tier from Australia, New Zealand and the United Kingdom play a part in the work of the Court of Final Appeal in Hong Kong. Hong Kong is also a corruption-free society that we can take pride in. What needs to be done now is for various political parties and groupings to truly make concerted efforts to bring something desirable into fruition for Hong Kong and attain the goal of universal suffrage.

In dealing with issues relating to the constitution and politics, the SAR Government hopes very much that progress can be made on all fronts. After setting a timetable for universal suffrage, it will make preparations for the formulation of a model and roadmap for universal suffrage. On political participation, apart from creating the hardware for the electoral system, we will also establish more political appointment positions, in the hope that in addition to serving as members of the representative councils, the younger generation can also serve as officials. In the next decade, when universal suffrage for the Chief Executive is introduced, the general social sentiment and setting will be more favourable and each candidate running for the office of the Chief Executive will have an all-round political team to assist him in drawing up his platform and securing the support of various sectors and the public. Apart from formulating an electoral system and expanding the channels for participation in elections, it is also necessary to pay attention to society, the economy and people's livelihood. For this reason, the Chief Executive mentioned in his policy address that the 10 major infrastructure projects had to be implemented, social enterprises had to be promoted and small-class teaching and the "3-3-4" academic structure had to be introduced into the education system. Why did I mention these irrelevant issues? Because I wish to say to various political parties and Members in the Legislative Council that we must all pay attention to all aspects when involving ourselves in politics and working for Hong Kong.

Finally, I wish to offer three pieces of advice to various political parties and groupings, including Members of the opposition: a step-by-step approach must be adopted when implementing universal suffrage, we must avoid excessive worry and we must keep abreast of the times.

A step-by-step approach means that between now and 2012, it is necessary to make improvements to the two electoral methods in 2012 to pave the way for the implementation of universal suffrage in 2017 and 2020.

To avoid excessive worries means that although at the present stage, questions such as whether functional constituencies will continue to exist when universal suffrage for the Legislative Council is introduced and how the nominating committee for the universal suffrage of the Chief Executive and the democratic procedures will be like can be raised, you must have confidence in yourselves. Be it Members from major or minor political parties and groupings or independent Members, constitutionally speaking, you have in your hands the power to vote in the legislature and no matter when the SAR Government puts forward a proposal, it has to secure your support. There are now 10 to 12 years for implementing the two sets of arrangements on universal suffrage, so we have plenty of time and room for discussion and we all have to put aside our prejudices.

What keeping abreast of the times means is that we should begin to see that Hong Kong society is changing and it is possible that it will change rather quickly. The discussion on universal suffrage will shift quickly from a timetable for universal suffrage to the models of election and society may shift very quickly from paying attention to political wrangling to concerns about society, the economy and people's livelihood. In campaigning for a greater degree of democracy, a shift from mass movements to discussions and moving in concert with the Government and the legislature will occur quickly. Since the wheels of the times are moving and the times are changing, we, as people playing a part in politics and as members of political parties, must keep abreast of the times or the new era may leave us behind in the folds of history.

Madam President, I hope that various political parties and groupings will not stay at the same spot when it comes to their positions and that they will not cause constitutional development in Hong Kong to stall. Let us give each other encouragement. Madam President, I so submit. I hope Members will oppose the original motion and will not support the amendments. Thank you, Madam President.

PRESIDENT (in Cantonese): I now call upon Dr YEUNG Sum to move his amendment to the motion.

DR YEUNG SUM (in Cantonese): President, I move that Mr Albert CHAN's motion be amended.

Dr YEUNG Sum moved the following amendment: (Translation)

"To delete "this Council" after "That" and substitute with ", given that Articles 45 and 68 of the Basic Law stipulate that the Chief Executive and the Legislative Council of the Hong Kong Special Administrative Region will ultimately be elected by universal suffrage, and at present over half of the people support the implementation of dual universal suffrage for the Chief Executive and the Legislative Council in 2012, this Council expresses regret that the Standing Committee of the National People's Congress made a decision on 29 December 2007 to rule out the implementation of dual universal suffrage in 2012; and also". "

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

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

(Members raised their hands)

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

(Members raised their hands)

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 begin.

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

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

Functional Constituencies:

Ms Margaret NG, Mr 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 amendment.

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

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, 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 Mrs Anson CHAN voted for the amendment.

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 amendment.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 28 were present, seven were in favour of the amendment and 21 against it; while among the Members returned by geographical constituencies

through direct elections, 27 were present, 16 were in favour of the amendment 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 amendment was negatived.

MS MIRIAM LAU (in Cantonese): President, I move that in the event of further divisions being claimed in respect of the motion "Report on Public Consultation on Green Paper on Constitutional Development" or any amendments thereto, this Council do proceed to each of these divisions immediately after the division bell has been rung for one minute.

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

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

(No Members 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 of each of the two groups of Members present. I declare the motion passed.

I order that in the event of further divisions being claimed in respect of the motion "Report on Public Consultation on Green Paper on Constitutional Development" or any amendments thereto, this Council do proceed to each of these divisions immediately after the division bell has been rung for one minute.

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

MR LEE CHEUK-YAN (in Cantonese): President, I move that Mr Albert CHAN's motion be amended.

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

"To delete "this Council strongly condemns that" after "That"; to delete "thus universal suffrage for the Chief Executive and the Legislative Council cannot be fully implemented at an early date; in addition, this Council considers that" after "a roadmap for dual universal suffrage," and substitute with "which has led to the ruling out of the implementation of dual universal suffrage in 2012 by the Standing Committee of the National People's Congress ('NPCSC') because it was unable to fully grasp the actual situation in Hong Kong; this Council expresses strong condemnation of the SAR Government's handling of Hong Kong's constitutional development, and urges the Chief Executive to request the State Council to propose to NPCSC to withdraw the above decision and affirm that"; to delete "should" before "be implemented" and substitute with "may"; and to delete "by no later than" after "be implemented" and substitute with "in Hong Kong in"."

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

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

(Members raised their hands)

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

(Members raised their hands)

Mr LEE Cheuk-yan rose to claim a division.

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

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

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

Functional Constituencies:

Ms Margaret NG, Mr 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 amendment.

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

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, 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 Mrs Anson CHAN voted for the amendment.

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 amendment.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 28 were present, seven were in favour of the amendment and 21 against it; while among the Members returned by geographical constituencies through direct elections, 27 were present, 16 were in favour of the amendment 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 amendment was negatived.

PRESIDENT (in Cantonese): Mr Alan LEONG, you may now move your amendment.

MR ALAN LEONG (in Cantonese): President, I move that Mr Albert CHAN's motion be amended.

Mr Alan LEONG moved the following amendment: (Translation)

"To delete "strongly condemns that" after "That this Council" and substitute with "notes that during his election campaign the Chief Executive made a number of specific undertakings to resolve the controversies over the political system in Hong Kong, but"; to add "not only completely failed to honour those undertakings, but has also" after "the Administration has"; and to add ", this Council therefore expresses strong condemnation against the Chief Executive" after "at an early date"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That Mr Alan LEONG's amendment to Mr Albert CHAN's motion, be passed.

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

(Members raised their hands)

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

(Members raised their hands)

Mr LEE Cheuk-yan rose to claim a division.

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

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

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

Functional Constituencies:

Ms Margaret NG, Mr 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 amendment.

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

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, 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 and Mr Ronny TONG voted for the amendment.

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 amendment.

Mrs Anson CHAN abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 28 were present, seven were in favour of the amendment and 21 against it; while among the Members returned by geographical constituencies through direct elections, 27 were present, 15 were in favour of the amendment, 10 against it and one abstained. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negatived.

PRESIDENT (in Cantonese): Mr Ronny TONG, you may now move your amendment.

MR RONNY TONG (in Cantonese): President, I move that Mr Albert CHAN's motion be amended.

Mr Ronny TONG moved the following amendment: (Translation)

"To delete "strongly condemns" after "That this Council" and substitute with "expresses deep regret"; to delete "and" after "the Chief Executive and the Legislative Council,"; and to delete ", thus universal suffrage for the Chief Executive and the Legislative Council cannot be fully implemented at an early date" after "a roadmap for dual universal suffrage" and substitute with "and has, using the majority of the political parties/groups in the Legislative Council and the District Councils

opposing the implementation of dual universal suffrage in 2012 as the reason, ruled out the implementation of full universal suffrage in 2012, and strongly condemns the SAR Government and those political parties/groups opposing the implementation of dual universal suffrage in 2012". "

PRESIDENT (in Cantonese): I now propose the question to you and that is: That Mr Ronny TONG's amendment to Mr Albert CHAN's motion, be passed.

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

(Members raised their hands)

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

(Members raised their hands)

Mr Ronny TONG rose to claim a division.

PRESIDENT (in Cantonese): Mr Ronny TONG has claimed a division. The division bell will ring for one minute, after which the division will begin.

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

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

Functional Constituencies:

Ms Margaret NG, Mr 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 amendment.

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

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, 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 and Mr Ronny TONG voted for the amendment.

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 amendment.

Mrs Anson CHAN abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 28 were present, seven were in favour of the amendment and 21 against it; while among the Members returned by geographical constituencies through direct elections, 27 were present, 15 were in favour of the amendment, 10 against it and one abstained. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negatived.

PRESIDENT (in Cantonese): Mr LEUNG Kwok-hung, you may now move your amendment.

MR LEUNG KWOK-HUNG (in Cantonese): President, I move that Mr Albert CHAN's motion be amended.

Mr LEUNG Kwok-hung moved the following amendment: (Translation)

"To add "; furthermore, this Council expresses strong dissatisfaction that the Standing Committee of the National People's Congress ('NPC') has ruled out the implementation of dual universal suffrage in 2012, considers that this decision is a sign of undermining the political rights of the people of Hong Kong, appeals to the NPC deputies to exercise their power to reverse this decision which throttles dual universal suffrage in 2012, and also appeals to the people of Hong Kong to unite in striving for the implementation of dual universal suffrage in 2012" immediately before the full stop."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That Mr LEUNG Kwok-hung's amendment to Mr Albert CHAN's motion, be passed.

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

(Members raised their hands)

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

(Members raised their hands)

Mr LEUNG Kwok-hung rose to claim a division.

PRESIDENT (in Cantonese): Mr LEUNG Kwok-hung has claimed a division. The division bell will ring for one minute, after which the division will begin.

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

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

Functional Constituencies:

Ms Margaret NG, Mr 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 amendment.

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

Geographical Constituencies:

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

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 amendment.

Mr Frederick FUNG and Mrs Anson CHAN abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 28 were present, seven were in favour of the amendment and 21 against it; while among the Members returned by geographical constituencies through direct elections, 27 were present, 14 were in favour of the amendment, 10 against it and two abstained. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negatived.

PRESIDENT (in Cantonese): Mr Albert CHAN, you may now give your reply. You have up to seven minutes and 37 seconds.

MR ALBERT CHAN (in Cantonese): President, I am grateful that 19 Members in total have spoken. I also wish to thank the five Members for moving their amendments. All the amendments have been negatived, but it is all expected.

President, I was initially very angry when listening to the Secretary's reply. But later, my anger turned into grief. As I listened on, I could not help feeling that his words were mere sophistry, literally confounding right and wrong. I could not help feeling that justice was really nothing before totalitarianism. With every remark he made, I could think of another in refutation.

This reminds me of a man in Taiwan. Twenty years ago, when I was in Taiwan to observe the election there, I once saw some footage about ZHENG Nanrong. ZHENG Nanrong was a dissident in Taiwan at that time. Since he was against the dictatorial rule of CHIANG Kai-shek, the Kuomintang police wanted to arrest him. He resisted arrest, and after pouring petrol onto his body, he burnt himself to death in the end. The flame that devoured him aroused the indignation of many people in Taiwan who were opposed to totalitarian rule. Eventually, the Kuomintang was forced to lift the ban on political parties and the press. And, as a result, Kuomintang also started to embark on the path of gradual democratization.

That the Secretary is allowed to advance such sophistry and confound right and wrong in this very Chamber is a disgrace to the people of Hong Kong. That he is allowed to distort the truth and subject the 7 million Hong Kong people to political deprivation is probably due to the fact that Hong Kong people have

gradually become indifferent to their political rights after enjoying so much economic benefits and sharing the fruit of prosperity. The democratic camp should be held responsible for such indifference, for over the past 20 years, we have failed to take any active steps to arouse any intense aspiration to democracy among Hong Kong people.

At this juncture, I suddenly remember LU Xun's decision to abandon his medical practice and become a writer, a decision that led him to write the True Story of Ah Q. Years ago, observing the Chinese people's attitude of non-resistance towards Japanese oppression, he realized that it was useless to cure them physically, for their souls would still be dead and numb. I therefore hope that rather than writing any more poems, "Uncle Wah" can write more enlightening essays to wake up the people of Hong Kong, especially young people. Nowadays, the young people in Hong Kong are better at stocks speculation than fighting for democracy. They attach more importance to the pursuit of financial gains than to the pursuit of political rights, democracy and liberties. This is all due to the dereliction of duty of the pro-democracy Members present here, who have been struggling for democracy for 20 years. I hereby bow in apology to all Hong Kong people.

President, if the democratic camp continues to put up with such apathy and indifference, I suppose it will be useless to wait even 20 more years, and we will be able to do nothing but continue to wait in our graves. We frequently say that we must be patient no matter what. But with what must we be patient anyway? Does it mean that we must tolerate the deprivation of our democratic rights for 10 years after 10 years simply because of some economic benefits? The so-called Chief Executive Election in 2017 will just be a bogus election because there will certainly be a very stringent "screening" mechanism that renders the choices and votes of Hong Kong entirely meaningless.

Taiwan is a good example, and so is South Africa. In all places we bother to look at, there is no example of the realization of democracy through mere empty talks. In many cases, blood must be shed in exchange for democracy and liberties. Admittedly, we are certainly powerless in front of the Motherland with 1.3 billion people and the gigantic People's Liberation Army. But a non-co-operation campaign will certainly arouse the political awareness of some Hong Kong people.

Yesterday, the Court passed its verdict on the case of the People's Radio. The whole case started with "Ah Ngau", a man who hardly has any knowledge of

the law, and who does not accept any calls for surrender like those persons described by the Secretary. His rationale is based on this question: Since people in Taiwan can operate people's radio stations, why can't we follow suit? Since his return from Taiwan, he has been engaged in illegal broadcasting in Hong Kong modeled on the example of Taiwan. There are more than a hundred illegal radio stations in Taiwan. The Democratic Progressive Party was able to rise because it managed to disseminate its messages through all these illegal radio stations, thus shattering the media monopoly and blockade, defying the Kuomintang's control over television and radio services, and in turn establishing its interface with the masses.

I therefore call upon all pro-democracy people to go to the pedestrian precinct in Mong Kok at 7 pm tomorrow. There, we will conduct illegal broadcasting once again. I call upon all pro-democrats and all Hong Kong people to go there. Anyone who wants to defy the law is welcomed to launch the first wave of civil resistance. We will defy the law and attack the dictatorial and totalitarian regime.

The Secretary has responded to the questions asked by many people, but he has not responded to my point on "three violations", on DENG Xiaoping's and ZHAO Ziyang's remarks. He has made no clarification. I do not know whether he is just like TUNG Chee-hwa, who is noted for equating silence with admission.

President, the democratic camp must start afresh, must escalate its struggle, must arouse the people's awareness and must mobilize the masses. It is only with the power of the masses that we can force those syndicates with vested interests to relinquish their privileges. It is only with the power of the masses that we can succeed in fighting for genuine democracy. We cannot wait here any longer. We have been waiting for 20 years. We cannot wait for another 20 years. It is time to wake up. It is time to take actions, to escalate the struggle.

PRESIDENT (in Cantonese): I now put the question to you and that is: That Mr Albert CHAN'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 Albert CHAN rose to claim a division.

PRESIDENT (in Cantonese): Mr Albert CHAN has claimed a division. The division bell will ring for one minute, after which the division will begin.

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

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

Functional Constituencies:

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

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, 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 Mrs Anson CHAN 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, 28 were present, seven were in favour of the motion and 21 against it; 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 January 2008.

Adjourned accordingly at one minute to Ten o'clock.

MANDATORY PROVIDENT FUND SCHEMES
(AMENDMENT) BILL 2007**COMMITTEE STAGE**Amendments to be moved by the Secretary for
Financial Services and the Treasury

<u>Clause</u>	<u>Amendment Proposed</u>
2	<p>By deleting the clause and substituting –</p> <p>“2. Commencement</p> <p>(1) Subject to subsection (2), this Ordinance shall come into operation on the day on which it is published in the Gazette.</p> <p>(2) Sections 35, 36, 37, 38, 60, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71 and 72 shall come into operation on a day to be appointed by the Secretary for Financial Services and the Treasury by notice published in the Gazette.”.</p>
3	<p>By deleting “a written undertaking to the Authority by deed, or by like form” and substituting “an undertaking to the Authority by deed, or by a document of like effect”.</p>
4	<p>By deleting “a written undertaking to the Authority by deed, or by like form” and substituting “an undertaking to the Authority by deed, or by a document of like effect”.</p>

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- 5 By deleting everything after “amended” and substituting “by repealing “a written undertaking to the Authority” and substituting “an undertaking to the Authority by deed, or by a document of like effect acceptable to the Authority,”.”.
- 6 By deleting everything after “amended” and substituting “by repealing “a written undertaking to the Authority” and substituting “an undertaking to the Authority by deed, or by a document of like effect acceptable to the Authority,”.”.
- 7(1) By deleting everything after “amended” and substituting “by repealing “a written undertaking” and substituting “an undertaking by deed, or by a document of like effect,”.”.
- 7(2) By deleting everything after “amended” and substituting “by repealing “a written undertaking” and substituting “an undertaking by deed, or by a document of like effect,”.”.
- 8 By deleting “a written undertaking to the Authority by deed, or by like form” and substituting “an undertaking to the Authority by deed, or by a document of like effect”.
- 9 By deleting “a written undertaking to the Authority by deed, or by like form” and substituting “an undertaking to the Authority by deed, or by a document of like effect”.
- 10 In the proposed section 7(3A) of Schedule 3, by deleting “like form” and substituting “a document of like effect”.

- 15 In the proposed section 20(6)(b), by deleting “a written undertaking to the Authority by deed, or by like form” and substituting “an undertaking to the Authority by deed, or by a document of like effect”.
- 16 In the proposed section 21(8), by deleting “a written undertaking with respect to the administration of the scheme by deed, or by like form” and substituting “an undertaking with respect to the administration of the scheme by deed, or by a document of like effect”.
- 17 In the proposed section 21A(8), by deleting “a written undertaking with respect to the administration of the scheme by deed, or by like form” and substituting “an undertaking with respect to the administration of the scheme by deed, or by a document of like effect”.
- 19(4) In the proposed section 14(3), in the English text, by adding “is or” before “are”.
- Part 7 By deleting the Part.
- 23 By deleting the clause and substituting –
- “23. Section added**
- The Mandatory Provident Fund Schemes Ordinance (Cap. 485) is amended by adding –
- “7D. Application of Ordinance to certain employees and self-employed persons**
- (1) If –
- (a) an employer enters into a

contract of employment with an employee who is less than 18 years of age; and

- (b) the employee reaches 18 years of age on or after the date of commencement of this section; and
- (c) the employer continues to employ the employee after he reaches 18 years of age,

then this Ordinance applies to the employer and the employee as if they had entered into the contract of employment on the day on which the employee reaches 18 years of age and the employment had begun or commenced on that day.

(2) If—

- (a) a person is self-employed before he is 18 years of age; and
- (b) he reaches 18 years of age on or after the date of commencement of this section; and
- (c) he continues to be self-employed after reaching 18 years of age,

then this Ordinance applies to him as if he had become a self-employed person on the day on which he reaches 18 years of age.”.”.

- 24 By deleting the clause.
- 37 (a) In the proposed section 172C, by adding –
“(3A) The register is to be made available for inspection to enable a person who may be entitled to benefits in a registered scheme to ascertain whether he has any unclaimed benefits in the scheme.”.
- (b) In the proposed section 172C(4), by deleting “to ascertain whether he has any unclaimed benefits in the scheme”.
- 41 By adding –
“(5) Section 42 is amended by adding –
“(5A) The information that may be disclosed under subsection (1)(g) includes (but is not limited to) information relating to –
- (a) the investment portfolios and investment policies of provident fund schemes, constituent funds or approved pooled investment funds;
 - (b) the investment performances of provident fund schemes, constituent funds or approved pooled investment funds;
 - (c) the risks associated with investing in provident fund schemes, constituent funds or approved pooled investment

- funds;
- (d) the fees and charges payable under provident fund schemes, constituent funds or approved pooled investment funds; and
- (e) the types of services available to members of provident fund schemes.”.”.

- 47 By deleting the proposed section 43C(3) and substituting –
- “(3) Notwithstanding section 26 of the Magistrates Ordinance (Cap. 227), proceedings may be instituted for an offence against this section –
- (a) within 6 months after the offence is discovered by, or comes to the notice of, the Authority; or
 - (b) within 3 years of the commission of the offence,
- whichever period expires first.”.
- 48(2) By deleting the proposed section 43E(2) and substituting –
- “(2) Notwithstanding section 26 of the Magistrates Ordinance (Cap. 227), proceedings may be instituted for an offence against this section –
- (a) within 6 months after the offence is discovered by, or comes to the notice of, the Authority; or
 - (b) within 3 years of the commission of the offence,
- whichever period expires first.”.

- 49(2) By deleting the proposed section 26(2) and substituting –
- “(2) Notwithstanding section 26 of the Magistrates Ordinance (Cap. 227), proceedings may be instituted for an offence against subsection (1)(a) consisting of a failure to comply with section 4(1) or 15(1) –
- (a) within 6 months after the offence is discovered by, or comes to the notice of, the Authority; or
- (b) within 3 years of the commission of the offence,
- whichever period expires first.”.
- 54 (a) By renumbering the clause as clause 54(1).
(b) By adding –
- “(2) Section 56(5) is amended by repealing “(f)” and substituting “(fa)”.”.
- 58 (a) In the English text, by adding “a” before “related”.
(b) In the English text, by adding “an” before “associated”.
- New By adding immediately after clause 60 –
- “60A. Application of the Mandatory Provident Fund Schemes (Amendment) Ordinance 2007**
- The Mandatory Provident Fund Schemes Ordinance (Cap. 485) as amended by section 60 of the Mandatory Provident Fund Schemes (Amendment) Ordinance 2007 (of 2007) applies in relation to a contribution period that begins on or after the date of

commencement of that section.”.

63(6)

By deleting the proposed section 18(5) and substituting –

“(5) The Authority must pay any arrears or contribution surcharge paid to or recovered by the Authority –

- (a) in the case of an employee who is still employed by the employer concerned at the time the Authority makes payment –
 - (i) to the approved trustee of the registered scheme nominated by the employer for this purpose; or
 - (ii) if the employer has not nominated a registered scheme, to the approved trustee of the registered scheme nominated by the employee for this purpose; or
 - (iii) if neither the employer nor the employee has nominated a registered scheme, to the approved trustee of a registered scheme that the Authority considers appropriate; or
- (b) in the case of an employee who has ceased to be employed by the employer concerned at the time the Authority makes payment –

- (i) to the approved trustee of the registered scheme nominated by the employee for this purpose; or
 - (ii) if the employee has not nominated a registered scheme, to the approved trustee of a registered scheme that the Authority considers appropriate; or
- (c) in the case of a self-employed person –
 - (i) to the approved trustee of the registered scheme nominated by the self-employed person for this purpose; or
 - (ii) if the self-employed person has not nominated a registered scheme, to the approved trustee of a registered scheme that the Authority considers appropriate.”.

Appendix I

WRITTEN ANSWER

Written answer by the Director of Home Affairs to Mr Daniel LAM's supplementary question to Question 4

As regards the timeframe and related details regarding Greening Master Plans (GMPs), information obtained from the Development Bureau is given below for Members' reference.

The Administration has been actively promoting greening in order to improve our living environment and enhance the quality of our living.

As far as the implementation of GMPs is concerned, greening works in Central and Tsim Sha Tsui were completed in March 2007 while greening works in Sheung Wan, Wan Chai, Causeway Bay, Mong Kok and Yau Ma Tei will commence in September 2008 for completion by end 2009. The study on the development of GMPs for the remaining urban areas is in progress for completion in early 2009.

The Development Bureau also plans to commence the development of GMPs for the New Territories in mid-2009. Prior to this, the Bureau shall implement greening enhancement proposals at focal points/locations as interim measures. The proposed greening enhancement measures cover areas including Sha Tin, Tai Po, North District, Yuen Long, Tin Shui Wai, Tuen Mun, Tsuen Wan and Tung Chung.

Building on the District Councils' positive response, the Development Bureau would continue using the Enhanced Partnering Approach to collect more views from stakeholders prior to working out the GMPs. This would include consulting the District Councils, as well as Heung Yee Kuk and Rural Committees for the New Territories districts at the outset, conducting focus forums for members of public in the locality, and so on, which would not only help understand the characteristics of the district, identify suitable locations and local constraints, establish the greening theme in a more cost effective manner, but would also help achieve consensus, partnership and sense of belonging in developing GMPs.

If Members have any questions regarding the reply of the Development Bureau, please contact Mr HO Ka-keung, Assistant Secretary (Infrastructure Coordination)² of the Development Bureau at 2848 2578.