

OFFICIAL RECORD OF PROCEEDINGS

Thursday, 22 April 2010

The Council continued to meet at Nine o'clock

MEMBERS PRESENT:

THE PRESIDENT

THE HONOURABLE JASPER TSANG YOK-SING, 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

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

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

DR THE HONOURABLE MARGARET NG

THE HONOURABLE CHEUNG MAN-KWONG

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

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

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

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

THE HONOURABLE VINCENT FANG KANG, S.B.S., J.P.

THE HONOURABLE WONG KWOK-HING, M.H.

THE HONOURABLE LEE WING-TAT

DR THE HONOURABLE JOSEPH LEE KOK-LONG, 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 CHEUNG HOK-MING, G.B.S., J.P.

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

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 KAM NAI-WAI, M.H.

THE HONOURABLE CYD HO SAU-LAN

THE HONOURABLE STARRY LEE WAI-KING

DR THE HONOURABLE LAM TAI-FAI, B.B.S., J.P.

THE HONOURABLE CHAN HAK-KAN

THE HONOURABLE PAUL CHAN MO-PO, M.H., J.P.

THE HONOURABLE CHAN KIN-POR, J.P.

DR THE HONOURABLE PRISCILLA LEUNG MEI-FUN

DR THE HONOURABLE LEUNG KA-LAU

THE HONOURABLE CHEUNG KWOK-CHE

THE HONOURABLE WONG SING-CHI

THE HONOURABLE WONG KWOK-KIN, B.B.S.

THE HONOURABLE IP WAI-MING, M.H.

THE HONOURABLE IP KWOK-HIM, G.B.S., J.P.

DR THE HONOURABLE PAN PEY-CHYOU

THE HONOURABLE PAUL TSE WAI-CHUN

DR THE HONOURABLE SAMSON TAM WAI-HO, J.P.

MEMBERS ABSENT:

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE MRS REGINA IP LAU SUK-YEE, G.B.S., J.P.

PUBLIC OFFICERS ATTENDING:

THE HONOURABLE HENRY TANG YING-YEN, G.B.M., G.B.S., J.P.
THE CHIEF SECRETARY FOR ADMINISTRATION

THE HONOURABLE JOHN TSANG CHUN-WAH, J.P.
THE FINANCIAL SECRETARY

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

THE HONOURABLE MICHAEL SUEN MING-YEUNG, G.B.S., J.P.
SECRETARY FOR EDUCATION

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

MR LAI TUNG-KWOK, S.B.S., I.D.S.M., J.P.
SECRETARY FOR SECURITY

THE HONOURABLE DENISE YUE CHUNG-YEE, G.B.S., J.P.
SECRETARY FOR THE CIVIL SERVICE

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

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

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

THE HONOURABLE EVA CHENG, J.P.
SECRETARY FOR TRANSPORT AND HOUSING

THE HONOURABLE MRS RITA LAU NG WAI-LAN, J.P.
SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT

PROF LAU SIU-KAI, J.P.
HEAD, CENTRAL POLICY UNIT

MR GREGORY SO KAM-LEUNG, J.P.
UNDER SECRETARY FOR COMMERCE AND ECONOMIC
DEVELOPMENT

DR KITTY POON KIT, J.P.
UNDER SECRETARY FOR THE ENVIRONMENT

MR KENNETH CHEN WEI-ON, J.P.
UNDER SECRETARY FOR EDUCATION

MR YAU SHING-MU, J.P.
UNDER SECRETARY FOR TRANSPORT AND HOUSING

MS FLORENCE HUI HIU-FAI, J.P.
UNDER SECRETARY FOR HOME AFFAIRS

MISS ADELINE WONG CHING-MAN, J.P.
UNDER SECRETARY FOR CONSTITUTIONAL AND MAINLAND
AFFAIRS

CLERKS IN ATTENDANCE:

MRS JUSTINA LAM CHENG BO-LING, ASSISTANT SECRETARY
GENERAL

MRS PERCY MA, ASSISTANT SECRETARY GENERAL

BILLS**Committee Stage**

CHAIRMAN (in Cantonese): We will now continue to deal with the Committee stage amendments of Appropriation Bill 2010.

APPROPRIATION BILL 2010**Resumption of debate on Second Reading which was moved on 24 February 2010**

CLERK (in Cantonese): Head 163.

MR WONG KWOK-HING (in Cantonese): Chairman, I move that head 163 be reduced by \$147 million in respect of subhead 000.

Chairman, today, when there are 29 months and nine days left in my remaining term of office, I propose this amendment to the Budget in a serious and solemn manner. In putting forward this amendment, I am, on the one hand, fulfilling my responsibility as a Member to monitor the Government, and on the other hand, fulfilling my responsibility to history. This is because the funding is used to conduct by-elections in the five geographical constituencies and the by-election is described by some people as a *de facto* referendum or referendum, which is an unjust cause.

Chairman, I would like to clarify a point. I have all along been criticizing the spending of \$159 million of public money, but why the amount to be reduced is \$147 million? The reason is that the Government has already spent a certain amount in the by-elections in the five geographical constituencies. Thus, with the help of our colleagues and after deliberation, it is considered that the amount to be reduced under head 163 should be \$147 million. However, since we have all along been criticizing the spending of \$159 million for the by-elections in the five geographical constituencies or the *de facto* referendum, I will still quote the

amount of \$159 million, or in brief, "150 million", in the following part of my speech.

Chairman, as Secretary LAM of the Government has stated, the by-election for the five geographical constituencies, or the *de facto* referendum, is a campaign or an event that is unnecessary and unnatural. Why do we say so? In fact, we have to go back to the origin of the issue. Why is there such a campaign? Why do we consider this campaign unjust and unrighteous? We will have to return to the origin. On this issue, we cannot help but thank "Uncle Wah" for revealing the closed-door politics, a covert and furtive plan. The whole incident was planned by the "new gang of four" in the 21st century in Hong Kong, namely Anson CHAN, Martin LEE, Allen LEE and Jimmy LAI. They planned to promote the so-called referendum in Hong Kong behind closed doors. This so-called "referendum" has contravened the Basic Law, because we are not empowered by the Basic Law to conduct such kind of activity in Hong Kong. Thus, it has contravened the Basic Law.

Such an act is not allowed by the law of Hong Kong, nor is it specified in our legislation. However, some people claim that since the Basic Law has not specified that it is not allowed, that means it can be done. In fact, society has already made its judgment, and that is, such an act is neither right nor proper. "Uncle Wah" has a famous line: "We would not do anything that is improper." I think he is right in saying so. The *Apple Daily* has earlier quoted this saying and commented that WONG Kwok-hing quoted the words of "Uncle Wah" to attack the pan-democratic camp, thereby drawing in one faction to hit out at another. I would like to respond to the *Apple Daily*. In analysing any subject matter, not just government policies, I have all along adhered to the principle of "calling a spade a spade". With regard to these political incidents and the development of these events, I have also adhered to the principle of "calling a spade a spade". I will not stop talking because of certain people. I agree to anything that is correct, and criticize anything that is incorrect. I am of the view that "Uncle Wah", a veteran of the Democratic Party, is correct in letting the cat out of the bag. Thus, this is not an issue of drawing in one faction to hit out at another. Being improper is improper. The nature and origin of this incident are very clear. It is not necessary for me to elaborate any further.

Why should I propose this amendment then? As some Members have pointed out, this incident had been brewing for quite some time. It has long been put forward by political parties, and the Government has also foreseen that. Since the incident has been foreseen, and with the resignation of five former Members, by-elections have to be held, the Government should apply for funding in accordance with the normal procedure, that is, submit the funding proposal to the Finance Committee of the Legislative Council for approval. However, the problem lies in that the Government has not followed the routine practice, and has instead included the by-election expenditure in the Budget, bundling the two together. I have carefully read the entire Budget speech and found that throughout the 178 paragraphs, the issue of by-election has not been mentioned. It is not accounted for in the Budget. I consider the practice of bundling the funding for the by-elections and the Budget together unfair.

Some people have initiated the by-election in the five geographical constituencies, promoting it as a *de facto* referendum while imposing the expenditure on taxpayers. They have their own political objectives and motives. Since the Government knows about this and has foreseen this situation, why does it compel the Legislative Council to approve this funding which amounts to \$159 million? Why can it not separate the funding from the Budget? Why can it not allow us to scrutinize the funding? Why can it not allow us to vote on this funding separately? There are many good measures in the Budget, such as allocating \$20 billion for poverty alleviation measures, for which we have been striving for. Then why does the Government present the Budget in a way that "a living toad has to drag along a dead toad"? — it is a toad not a dove (the pronunciation of "toad" and "dove" is the same in Cantonese). I think this is unfair. Why does the Government have to impose this on us? It is precisely due to such abject practice that forces me to propose the amendment today.

Chairman, speaking of spending \$159 million for the so-called by-elections in the five geographical constituencies or the *de facto* referendum, I have to show you the banner hung by the public on the street once again. There are only a few words on the banner, but they truly and strongly criticise the nature of the by-election, promoted as the so-called "referendum for five geographical constituencies". Let me read the words out because members of the public who are listening to the live radio broadcast of today's meeting cannot see the banner.

I must read out the words. It is written on the banner: "Referendum, Uprising, Revolution and Liberalization of Hong Kong! Oh My God, the Cultural Revolution is really endless!" I do not know who hangs this banner on the street. I am grateful to him. Though he is only a member of the public, he is able to go straight to the heart of the matter by saying that the movement is unjust, unnatural and unnecessary.

The Civic Party and the League of Social Democrats have incessantly heighten the public's sentiment towards the so-called referendum campaign of the by-elections in the five geographical constituencies, and have overplayed the matter by talking about conducting "referendum, uprising, revolution and liberalization of Hong Kong". I think they really are getting too radical, and are distancing themselves from public sentiments. It is their own choice to do so. However, can this kind of movement — "referendum, uprising, revolution, liberalization of Hong Kong" expedite the pace of democratization of Hong Kong, can the community reach a consensus on the controversial subject of constitutional reform, and can the pace of democratization of Hong Kong truly take forward? This is not possible! By such an act, they are incessantly painting the rivals as demons, and putting labels on them. As the banner reads "Oh My God!" Even God has found it hard to remain silent. What is the difference between this and staging the Cultural Revolution in Hong Kong? It is true that "the Cultural Revolution is really endless!"

Chairman, it is not necessary for me to quote too many theories. I wish to go back to what the public really think. There is another banner here. This banner also reflects that the public can see clearly. They have a clear-cut scale in their hearts. They see that in this political campaign, two parties have emerged in the pan-democratic camp. One party is extremely radical and ignores public sentiments completely. The other party is rational, arguing strongly on sound grounds. To quote "Uncle Wah", they will not support "anything that is improper". Of course, I may not be completely accurate in quoting the original wordings of "Uncle Wah". I have to say I only learnt that from the newspapers. Thus, the Democratic Party does not take part in this "resignation *en masse*". Originally it was said to be "resignation *en masse*". Subsequently there is no mass resignation, but just a small-scale resignation.

Just like the criticism on this banner: "五區蠢辭", meaning "Stupid resignation of Members returned by five geographical constituencies" — Chairman, I did ask you about this word "蠢", which I cannot find in the dictionary. So I pronounce it as "chun" "蠢", because I really do not know the pronunciation — "Stupid resignation of Members returned by five geographical constituencies, the public does not want to watch a show". Since those who are listening to the radio broadcast cannot see this banner, I will read it out: "Stupid resignation of Members returned by five geographical constituencies, the public does not want to watch a show, but every member of the public has to pay some \$20 for the show they are going to stage! Is it worth the while?" This is really hitting the nail on the head. It reflects what members of the general public think, and depicts the helplessness and dissatisfaction of the general public.

Chairman, at present, several tens of thousands of people receive Comprehensive Social Security Assistance. Over a million people are living in the lowest stratum and below the poverty line. We hope that the Budget will allocate more resources to help those in poverty. An amount of over \$100 million, or \$150 million, will be enough to provide the public with transport subsidy for half a year. The implementation of a pilot scheme on improving dental care for the elderly entails \$21 million only. If the amount of over \$100 million is used to step up efforts for poverty alleviation measures, many people will be benefited. But now five Members have resigned, and we have to spend over \$30 million for each person in each geographical constituency. How very generous! I resign and you have to spend more than \$30 million of public money in each geographical constituency. It is indeed generous! Chairman, who will be that generous?

Thus, members of the public say: "They have imposed this on me. I have to pay over \$20 for them to stage the show". And this show has become more farcical recently. What does it mean by victory or defeat? What does it mean by a successful referendum? Which one is the goal post? Chairman, you have played soccer before. I do not know how to play soccer. But now the goal post can be moved as they wish. They can decide on the size of the goal post, so that they can kick at goal from whatever direction and in whatever way they like: corner shot, straight shot, left shot, right shot, upper shot or lower shot. All in all, the standards of right or wrong, victory or defeat are determined by them. It is just a farce — the criticism of the member of the public is right. We give

them the chance to stage a show. Is it worth the while? Secretary LAM, why do I put this forward for discussion? The reason is that I wish all of us can discuss whether it is worth the while, and whether it should be like this.

The other party of the pan-democratic camp has formed the Alliance for Universal Suffrage, and has incessantly made efforts to communicate. I learnt from the newspapers earlier that Chairman Albert HO, he is not the Chairman now, said that there have been communications. It will be good if they continue to communicate. Are they not striving for democracy?*(The buzzer sounded)*

Mr WONG Kwok-hing moved the following motion:

"RESOLVED that head 163 be reduced by \$147,000,000 in respect of subhead 000."

CHAIRMAN (in Cantonese): Mr WONG, your speaking time is up. Does any Member wish to speak?

DR PRISCILLA LEUNG (in Cantonese): Chairman, last time I also debated with Secretary LAM, saying that it was actually not necessary for the Financial Secretary to experience the difficulties encountered by Secretary TANG, who is responsible for the constitutional reform. The additional item of expenditure in this year's Budget, namely the controversial funding for the by-elections, has loaded the Budget with a political bomb. I do not know the sage who has advised the Government to do so, but I think this is a "poor trick". In doing so, the Government is "taking away the burning firewood from under the cauldron", by adopting a radical measure, it may win temporary applauses, and, according to my estimate, may even win more supporting votes for this Budget than that of last year. However, the Government may also lose some of the supporters who have all along supported the Government without raising any queries. Now they will query why the Government is taking such acts.

Why has the Government placed a political bomb in the Budget, bundling the two so that they have to go through thick and thin together? Why has the

Government taken so much pain to the matter? I think the pan-democratic camp has no reason not to approve this year's Budget because all funding applications in the Budget are raised in accordance with law. Of course, people with different perspectives will have different comments on approving or disapproving the allocation of funds, or on whether the money is used appropriately. Today, we all think that the funding for the by-elections should not be included in the Budget. The explanation given to us by the Government is that costs related to any by-elections should be included in the Budget under the expenditure of the Registration and Electoral Office.

I think this argument is not convincing. If certain Members wish to resign — certain Members resort to resignation to "play tricks", their resignation may not necessarily occur every time before the Budget is released. Thus, the funding may not be included in the Budget and be approved together. By then, the Government will have no other options but to submit the funding application for by-election to the Legislative Council separately. As long as the applications are submitted to the Legislative Council, there is a chance that they will not be endorsed by the Members. So, this time, the funding is included in the Budget as a recurrent but what about the next time?

As a matter of fact, at the district level, when we attended the District Council meetings, I heard some members say during discussion that once was not enough, it should be held many times. They said that they should keep on doing this, so that the Legislative Council would "enjoy no peaceful days", and this practice would last until 2012. There are actually some people who think that way, and they are not just one or two radical members of the public. We realize that incident like this may happen again. It may happen even before next January. However, I am very sympathetic towards the Government. Why does the Government resort to the trick of inflicting injury on itself to win the confidence of the enemy? With respect to the funding for this by-election, as compared to the discussions of funding approval for by-elections in the past, at least the Government has gained the support of the Democratic Party. The Democratic Party is standing out front in saying that the funding should be supported. Insofar as this move of the Government is concerned, we should not even use the Chinese idiom of "taking away the burning firewood from under the

cauldron" to describe, because this funding application is made in accordance with law. In this regard, it is indeed rare for the Government to receive such a loud applause from Members who are used to opposing the Government.

Five Members have resigned arbitrarily on the grounds of staging a referendum. I believe I am the first Member who has all along disagreed with the Government in allocating the funding so promptly and without full discussion. I am even more surprised that the Government suddenly indicates to include this funding application in the Budget, a move that is beyond my comprehension. As a matter of fact, I believe that even if the Government submits the funding application for separate discussion, its request will not be vetoed. With the Government's ability in canvassing votes from the pro-establishment camp, coupled with the fact the funding for the by-elections is a motion fundamentally supported by the pan-democratic camp or Members from the opposition, the application will certainly be passed. It will not be vetoed. Even though it may not be passed in one go, but as long as the Government undertakes to amend the Legislative Council Ordinance as we have proposed, or agrees to study how the Legislative Council Ordinance will be amended, it is possible that we will endorse the application, only that there may be a delay in time. But no matter how long it is delayed, it will not be delayed to four months before 2012. It is not a practice to approve all funding applications in just one go. Then why does this funding application has to be included in the Budget? I think this is exactly why we are so very dissatisfied with the arrangement.

The Government has insisted that this referendum does not conform to the Basic Law — of course, there are many different descriptions of this campaign among the public. It was very clear from the very beginning, but right now, even I, just like the "kids" of the Tertiary 2012 who stand for the by-elections, believe that this is a referendum. So, people like us who are examining the funding application regard this as a by-election, while those who take part in this game say that this is a referendum. The public are also facing the same scenario. The leaflets and publicity material they receive refer this by-election as a referendum. Thus, you can see that the media can do nothing about it. They have no other options. So some media follow suit and refer it as a referendum as well.

Under this circumstance, we feel very helpless. The Legislative Council Ordinance allows some people to conduct this by-election which contravenes the provisions of the Basic Law. The Basic Law is the upper-level law. According to Article 8 of the Basic Law, the laws in force in Hong Kong should be invalid when they contravene the Basic Law. The Legislative Council Ordinance stipulates that after a Member resigns, a by-election should be held in accordance with law. So the five Members have taken advantage of this loophole. The status of the Legislative Council Ordinance is inferior to that of the Basic Law. Since this loophole will incessantly put us in an embarrassing position, arouse controversies and generate problems in the area of legal grounds and logic, it is certainly reasonable for us to propose amendments to the Legislative Council Ordinance.

However, I have also read many other comments. Last time I also mentioned that Albert CHENG liked to query why people proposed amendments to the Legislative Council Ordinance. Fundamentally, if the Legislative Council Ordinance is not amended, these contradictions will persist. This is because people of Hong Kong do not want to face "one country, two systems". For these people, the best scenario is to hold on to the Legislative Council Ordinance. Secretary LAM of the SAR Government has said many times that according to Article 26 of the Basic Law, every person shall have the right to vote and the right to stand for elections. When I take a quick look at the Basic Law, not to mention other provisions stipulated in the Legislative Council Ordinance, I can find many restrictions, such as those provided under Article 79. Those who are bankrupt are normal people. They are also the permanent residents of Hong Kong. Then why does Article 79(5) stipulate that a member of the Council is no longer qualified for the office when he or she is bankrupt? Thus, not every person can stand for elections and be elected without any restrictions. In every society, if there are circumstances which are considered not appropriate, we will have to hold discussions about the situation.

I agree that conditions were different before the reunification. Previously, some Members were appointed. After their resignation, their seats could be filled without using any public money. The Governor only had to appoint another Member. Public money would not be spent on this and the appointed Member would be accountable to the Governor only. Insofar as the present Legislative Council is concerned, even for Members returned by functional

constituencies, if they resign, election will also have to be held to elect another member.

If we are to implement a fair and just election, we have to spend a lot of election expenses. Electors will receive publicity leaflets of individual candidates in a very passive way. In fact, many of those who receive publicity leaflets this time are ordinary people or those who are not interested in politics. When I went to visit some communities, especially the communities of the middle class, some housewives asked me, "Dr LEUNG, you propose an amendment, requiring them to pay a price for what they did. You propose that members cannot be re-elected, at least not within his current term of office, how come there are no follow-up actions?" First of all, I do not wish to propose this amendment before the "May 16" by-election, so as to avoid being criticized for obstructing the implementation of "May 16". So I have to wait after "May 16", and I also need the Government's determination to achieve this. That is why I will not put this forward before "May 16". Nevertheless, they asked why we did not force the Government to do so.

Therefore, I have to point out in my speech, Secretary, my action is actually supported by public mandate. The general public considers this act meaningless. If the Legislative Council Ordinance allows such kind of incidents to repeat, many members of the public will feel disgusted. Thus, we propose to amend the Legislative Council Ordinance and conduct a comprehensive discussion. Technically, we may have different views, but that is normal. However, this amendment should be put forward by the Government. As we all know, amendments put forward by Members have to go through a lot of barriers. Nevertheless, after "May 16", I will still try to overcome the barriers. I will still put forward the amendment to see whether there is any chance for discussion. But I hope that the Government will play a more active role.

When we said that we did not want to approve the by-election appropriation, many people commented that we were outrageous and they queried whether our level was so low, asking the Government to violate the law. I would like to point out that this by-election is different from that of LAU Chin-shek back then. The by-election of LAU Chin-shek did not touch on acts which we think are controversial or have violated the Basic Law. This is the fundamental difference. We do not disapprove funding for each by-election.

But this by-election has touched on the core of the issue. It has violated the Basic Law and has challenged "one country, two systems". It will not be beneficial to the development of democracy; instead, it will only achieve the opposite result. Many people may not wish to listen to these words, but we still have to spell them out.

Why do I have to make a voice? I believe if this Budget is not passed — the pan-democratic camp opposes it every year — a constitutional crisis will definitely arise. This is because it is provided for in Articles 50 and 52 of the Basic Law. According to Article 50, if Members of the Legislative Council unanimously refuse to pass a budget, the Chief Executive may dissolve the Legislative Council; if the new Legislative Council still refuses to pass the budget for the second time and if it has sufficient votes, it may force the Chief Executive to resign. There was no such system before the reunification. But now it is stipulated in the Basic Law. Thus, although I am very displeased with this funding proposal, I will still support the Budget, even if Mr WONG Kwok-hing's amendment is negated. Unless the Budget is extremely unreasonable; otherwise, we should pass it.

Regarding this point, I have to tell Members of the pan-democratic camp, we must pass the budget because it is an important item under Articles 50 and 52 of the Basic Law, yet funding for the by-election is not. Imagine what the consequences will be if other important bills, such as the Constitutional Reform Package of 2005, are not passed. The Chief Executive may not think this is an important bill, because the discretion is in his hands. I do not think that funding for the by-elections can be equated with the budget, in that disapproval of the latter may lead to the dissolution of the Legislative Council. According to the Legislative Council Ordinance, which is a lower-level legislation, it is not a rule that by-election must be held within four months. It can be held within six or eight months. It is our wish that the Secretary, in making such an amendment, can give us a convincing reason, so that we may change our minds and support the funding application. The Government may say that as this situation is unprecedented, this is just a one-off arrangement. We will understand. Before the reunification, no Members would resign, and vacant seats would not arise in

five constituencies. I do not know whether vacant seats will arise in 10 or more constituencies in future. This is something nobody knows.

Although Ms Audrey EU said that they were serious about their resignation — I believe this is true, no one regards resignation as a trifling matter — she has her own beliefs. However, once this mechanism is established, incidents like those I have just mentioned may happen. She may not see it that way, but we do not know whether someone will think like that. Anyone, even some newly elected Members of the coming term can do so because this system allows such acts. In my opinion, this is ridiculous. People of Hong Kong and the society as a whole are dragged in. This mechanism is ridiculous. In view of this, the Legislative Council Ordinance should be amended. The Government should not only focus on Article 26 of the Basic Law. In fact, there are many other provisions in the Legislative Council Ordinance that regulate those who are convicted and other people — I am not going to read them out. They are normal people. Why should we impose regulations and restrictions on them?

If Members of a certain term have behaved in a way we consider irresponsible, and their reasons for doing so are also in contravention of the Basic Law, why can we not ask them to pay a price? I think such a demand is reasonable, sensible, and in line with people's aspiration. I hope the Government will understand that, by holding this "political bomb", it has really resorted to the trick of inflicting injury on itself to win the confidence of the enemy. Frankly speaking, this incident has aroused resentment from the pro-establishment camp. However, I will still support the Government's Budget. Of course, I very much hope that Mr WONG Kwok-hing's amendment will be passed. At least we have made an effort in making a very fundamental and humble demand. We disapprove the funding application for the by-elections on the ground that the by-election is a referendum. We wish to state our position clearly that we will not support this funding. This is our wish.

Why does the Government take such an action? This is not the only option available, unless the Government is following the advice of a sage (just as I had mentioned before) to adopt the strategy of sowing distrust and discord among enemies. As a matter of fact, the incident demonstrates the Government's accommodating attitude towards Members of the pan-democratic

camp. Unexpectedly, it has taken swift actions and has incorporated the funding application in the Budget. By taking this action, the Government hopes that, first, the Budget will be supported by more Members; second, Members of the pan-democratic camp will understand the Government and will adopt a brisk manner in future discussions. If this is the case, this move of the Government cannot be considered as a stupid act politically. Otherwise, the move will only result in the resentment of a group of people, while the number of votes remains unchanged. Then I will have to ask: why all this trouble? The Government must not take such action next time. Finally, the Government must enact legislation to block unreasonable incidents such as this from happening (*The buzzer sounded*)

CHAIRMAN (in Cantonese): Dr LEUNG, your speaking time is up.

DR PRISCILLA LEUNG (in Cantonese): Thank you, Chairman.

MR IP KWOK-HIM (in Cantonese): Chairman, the Democratic Alliance for the Betterment and Progress (DAB) supports the amendment put forward by Mr WONG Kwok-hing to delete the funding proposal for the by-elections from the Budget.

At the meeting of the Panel on Constitutional Affairs on Monday, Ms Audrey EU queried why the DAB has changed its stance regarding the funding proposal for the by-elections. It was true that the DAB had initially considered supporting the funding proposal, because Members have the constitutional responsibility to support funding for conducting by-elections in order to fill vacant seats. However, there is subsequently a change in the nature of the by-election. Its objective is no longer to fill the vacancies. It has become the so-called "referendum as uprising", "liberalization of Hong Kong", and a farce in challenging the constitutional authority of the Central Authorities, destroying the social harmony of Hong Kong, and creating social division. Under this circumstance, how can the DAB support it?

Furthermore, the Central Government had stated clearly, (I quote): "Conducting such so called 'referendum' in any form in the Hong Kong Special

Administrative Region (HKSAR) in respect of its future constitutional development does not conform with the legal status of HKSAR. It is also a fundamental contravention of the Basic Law of HKSAR and the relevant decision of the Standing Committee of the National People's Congress" (End of quote). If we support the funding proposal, we may be misunderstood for supporting the "referendum show" staged jointly by the Civic Party and the League of Social Democrats (LSD), which is tantamount to rationalizing this illegal and unconstitutional campaign, so-called a referendum. Thus, the DAB has correspondingly adjusted its stance in view of the change in the nature of the incident. Such an adjustment is essential and necessary.

In fact, when we talk about changes, many people know that changes are permanent. The question is whether we are changing for the better or for the worse. In promoting the "*de facto* referendum", I can see that the Civic Party has also experienced changes, and their changes bring about surprises to people. Although the Civic Party has all along claimed to be a rational political party, its rationality has gone after they have joined hands with the radical LSD to stage the so-called "five geographical constituencies referendum". Moreover, I think they have become increasingly impolite and rude. For instance, Ms Audrey EU had ridiculed an official as "eunuch" on the programme "City Forum", and was immediately reminded by the programme host that Members speaking in the Forum would not be protected by the Legislative Council (Powers and Privileges) Ordinance. I had never thought that such mean languages that deride others could have come from a senior counsel. Perhaps it is just like what Secretary LAM had said, "One takes on the colour of one's company".

In fact, the public's response to this so-called "*de facto* referendum" has not been positive. The Civic Party and the LSD have moved the "goal post" many times, trying to make this "*de facto* referendum" a success. Such acts have only made the public think that they are outrageous. In order to push up the voter turnout rate, the two parties have deliberately attributed all the deep-rooted problems of Hong Kong to functional constituencies (FCs). These acts of reversing right and wrong, blatant smearing, as well as attributing the disparity between the rich and the poor, minimum wage, "compulsory sale" and other

social problems to FCs have brought about confrontations in society. Moreover, they are putting the blame of all economic problems on the so-called unfair political system, with a view to attracting public attention in this regard, and hence push up the voter turnout rate. In my opinion, such acts of simplifying the problems and turning the solution to democratic universal suffrage mislead the public. The ulterior motives of the two parties are as clear as daylight. An amount of \$159 million of public money is wasted with nothing achieved, just as described by many people, flushing money down the drain. The two parties throw a banquet, but all members of the public have to foot the bill. How can the DAB turn a blind eye to this kind of unjust and unrighteous matter?

There is another reason why the DAB opposes the funding proposal. We worry that a bad precedent will be set once this funding proposal is approved, indirectly encouraging some people to blatantly stage this kind of "resignation show" in the future.

When WONG yuk-man of the LSD attended a forum at the University of Hong Kong last month, he said that if finally, the Civic Party and the LSD won three seats but lost two seats, that is, not meeting the threshold of a simple majority, he would resign even if he himself won a seat. Thus, I would like to ask, if in future, some Members once again play the trick of resigning and fooling the public, will the Government once again hold by-elections and ask the public to foot the bill. The money used is public money! If that is really the case, I am afraid that in future, even District Councils members will play the trick of resigning and conducting a by-election to promote a "*de facto* referendum" to request for the abolition of seats returned by appointment. In this way, incidents of resignation to achieve the so-called "*de facto* referendum" will occur again. Thus, I agree with the proposal mentioned by Dr Priscilla LEUNG just now, that is, the SAR Government should review the existing legislation as soon as possible, and put in place a mechanism to prevent Members from resigning in an arbitrary manner, so as to avoid public funds being abused and wasted again.

The DAB has made a decision. Insofar as this so-called "*de facto* referendum", a by-election with a change in nature is concerned, in order to

thwart this illegal and unconstitutional farce, the DAB will adopt the policy of "three Nos": No candidacy, No electioneering, No votes.

With these remarks, Chairman, I support the amendment.

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

MR ALBERT HO (in Cantonese): Chairman, in fact, since the Civic Party and the League of Social Democrats (LSD) initiated the movement of "resignation *en masse* of Members returned from five geographical constituencies as a *de facto* referendum", it can be said that up till now, many spectacular shows have been staged. We can see the reactions of various political parties, which reflect their mentality. To some extent, it also shows the future direction of these parties as a whole and their eagerness to show their royalty.

Chairman, as Members are also aware, after the proposal of resignation is raised, there is also a controversy within the pro-democracy camp but I do not wish to talk about it anymore. The controversy at that time was very simple. In fact, everyone in the pro-democracy camp, no matter if he agrees with this action or not, knows that this time, the referendum is a "*de facto* referendum". As its name shows, a "*de facto* referendum" is not a genuine referendum. In fact, it is designed to let the public express their opinion through ballots by way of by-elections. This is as simple as that. We all know this and the advocates are also well aware of this, otherwise, they would not have used the term "*de facto*". At that time, some people in the pro-democracy camp, including people holding certain views on this matter within the Democratic Party, considered that precisely because this was not a genuine referendum, even if it was taken forward with great effort, the Government would still behave like a bad loser. Therefore, it was not worthwhile to pursue. This is mainly what the debate was about. However, no matter what, there were indeed differences in the pro-democracy camp over this matter and at that time, we could see this very clearly.

The two major political parties in the pro-establishment camp, the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) and the Liberal Party, were raving for a fight and was getting ready to take part. The

Liberal Party had even identified their own candidates and had distributed hundreds of thousands of pamphlets to pave the way. For this reason, I ask the DAB to stop saying, it was after they heard about the mention of an "uprising" that they considered not to approve the funding proposal. In fact, was the DAB not prepared to take part in the election from the very beginning? I do not know what the position of the Hong Kong Federation of Trade Union (FTU) was because they did not state it clearly, but the position was very clear with regard to the DAB. At least, they did not tell others from the very beginning that this referendum violated the Basic Law and would impact on the principle of "one country, two systems", and that they would not take part in the election because it is a matter of distinct right and wrong. It was not like this. I remember that Mr TAM Yiu-chung made things very clear to Ms LEE Wai-ling on a telephone interview. At that time, the Liberal Party was more prescient and Ms Miriam LAU said that they would not take part because it seemed that this matter had made the Central Authorities very displeased. What she meant was that they did not wish to see any confrontation. Since the Basic Law does not allow any referendum, they do not wish to give the Central Authorities the bad impression that it was they who made the referendum possible, so they said very clearly then that they would withdraw from the elections. However, what did TAM Yiu-chung say? He said that he had to study this issue and understand how his colleagues look at this matter. It was after a full week that he came out to say that he took a different view.

Therefore, at the beginning, the nature of this incident was not like this. What actually happen is that a group of Honourable colleagues in the pro-democracy camp hope to use the by-elections to express public opinion and this is very clear. I believe that the Government, including Donald TSANG, is used to adopting the approach of Hong Kong people in dealing with this case — I am not praising him — Hong Kong people know this very well. Since the Government thinks that this election is not a referendum, it calls it a by-election instead and treats it as a by-election. On this point, I cannot make any criticism. How can I make any criticism? According to the law, if a Member resigns, it is necessary to hold a by-election and this is as simple as that. Nothing more and nothing less will be done. This is the approach adopted by Hong Kong people in general, that is, to act in accordance with law. I would not ask you to do a little more, no one would ask you to do a little more. As regards what kind of banner they would put up after that, it is their freedom, everyone is free to make any

publicity. So long as they follow the law, make declarations clearly, keep the expenditure within the budget, do not attack others or make misrepresentations — by misrepresentations I mean he has not made any misrepresentations — he has already said that it is "*de facto*". He has already used the term "*de facto*".

Chairman, we have a clear idea of this issue. In fact, at the beginning, the whole pro-establishment camp and even the pro-Beijing political parties and groupings in Hong Kong did not determine the nature of the incident in that way. Later, we learnt that the Politburo had changed its views, and people from top to down said that the incident was not permissible, and had to be considered from a political perspective. They considered that the nature of the incident was not that simple and some people even thought of having international impact, which would lead to international intervention. There were various analyses and speculations, and lastly, this incident was finally deemed to be an act challenging the Basic Law and impacting on the principle of "one country, two systems". This is how the tone was set. Therefore, the Central Authorities made a statement stipulating that there was no basis for a referendum in the Basic Law and if a referendum was held, it was a violation of the Basic Law. I cannot comment that this saying is wrong. If this is a genuine referendum, of course it has no legal basis and if we insist on saying that an act without legal basis is legally binding, of course this is a violation of the Basic Law. I believe even the Honourable colleagues of the Civic Party will not disagree with this. No one has ever said that it is legally binding. Have you ever heard anyone say so? For this reason, when the whole matter is emphasized time and again, it becomes a political statement which maintains that no matter how public opinion is expressed, it is still confined by the framework of "one country, two systems", that we are under a single system and we cannot use public opinion to bind the Central Authorities. This is a political statement. No matter if we agree or not, it has its own justifications and it is very clear.

However, we are talking about something at a different level. What the Civic Party and the LSD are doing now is to use the votes of the by-elections to express public opinion. This is what they have been stressing all along. No one has ever said that it is binding. No one has ever said that he wants to turn the referendum into one with legal basis. No one has ever said so. I have heard Ms Audrey YU say this many times but I do not understand why some Honourable colleagues still cannot grasp this point. How come they still do not

understand what kinds of actions are illegal or unlawful, and what kinds of actions that do not violate the law but have no legal basis. It seems some people still cannot get this and I do not know why.

After the Central Authorities has determined the nature of this matter I think the Liberal Party is fair. They do not want to cause unnecessary conflicts, so they do not want to take part. This is a political decision and I think this is fair. For the DAB or the FTU, they do not take part because they do not want the Central Authorities to have such strong views, they do not want to cause conflicts and want to act in line with certain policies. I think that does not matter either because anyway, this is their party line. However, today, you people have, for no reasons at all, gone so far as to turn some political statements of the Central Authorities into a legal language and a kind of interpretation, and then make their own explanation, claiming that the Legislative Council Ordinance has no legal power. This is downright a joke and a saying that contradicts common legal knowledge. I am very shocked by this. In fact, anyone with a little legal knowledge knows that if an ordinary piece of law contravenes the Basic Law, it has no legal power and there is no need to amend it, Dr Priscilla LEUNG. "Long Hair" won his legal battle in Court last time and he did not need to hire any lawyer. We have so many barristers here but still, he said that there was no need to bother them, and he could represent himself. He has not studied law. In the Court, he pointed out that the executive order has violated the Basic Law and asked the Court to declare the order null and void. That was a judicial review and in fact, such reviews had been carried out in Hong Kong not just once but many times. Last time, it was about the executive order concerning the interception of communications and LEUNG Kwok-hung was very confident, saying he did not need any barrister and he only had to conduct the defence by himself, whereas the other party had of course arranged for the best barrister to represent it. However, it lost its case in the first hearing, with the Court ruling that the executive order had no legal power, that it could not restrict our basic freedoms and had violated the Basic Law, that it is necessary to enact legislation to establish a so-called authorized communication interception system. The Government dared not lodge an appeal. If it believed that it stood a chance of winning, how possibly would it not appeal? That time, the whole Government lost face. It can be seen that our legal system is very clear. If something violates the law, it will be declared null and void and there is no need to amend the law. Often, after the Court had declared something null and void, we would amend the law and this is called subsequent legislation to comply with

judicial decisions. This is what we often do. Therefore, simply put, do not turn political statements into a kind of legal instruction for no reason. This is the first point.

The second point is: What the Central Government wants to say is that it does not like what is called referendums, like those in Taiwan, which are legally binding and even though they are not binding, they are referendums with legal basis. However, we all know that this is not what is being done in Hong Kong. Even the Civic Party and the LSD have launched publicity of this kind, they only want to use this campaign to express public opinion.

Frankly speaking, I can tell Members that in 2011, some other political parties may come out and say, let's turn the District Council elections in 2011 or the Legislative Council elections in 2012 into a referendum; or there may be some people who do not like Secretary Stephen LAM or a certain Bureau Director, or who are displeased with the governance practiced by Donald TSANG, appeal to others not vote for the pro-establishment camp. What is wrong with that? Do you want to abolish the whole thing? Which piece of law disallows me to launch publicity in this way? Even if I use the term "uprising", why is an uprising in the form of voting not allowed? Which law has been violated? Will I be arrested and charged for subversion? I believe this will not happen.

Therefore, my question is: I think there are two points which are most ridiculous. Simply put, if something has really violated the law, even if you give him the guts, do you think Stephen LAM would be bold enough to take such an action? Please take a look at him. Does he have the guts to do so? If Beijing says: this matter violates the Basic Law and the principle of "one country, two systems", none of the officials sitting on my left will have the guts to take that action. There is no need to say this explicitly and there is no need for you to teach him. On such matters, he is even better than you. This is the first point.

The second point is even more ridiculous. People have said clearly that this is a "*de facto* referendum", that this is an exercise in expressing public opinion. In fact, the Central Authorities also know about this. How possibly can they not? However, they only tell us not to treat it as a referendum. This is meaningless and the Central Authorities will not pay attention to it. This is only a kind of political statement. But now, I am sorry, because my colleagues wish

to show their royalty so much that they have elevated it to be a genuine referendum. You regard the *de facto* referendum illegal. Only by regarding it as a genuine referendum and something illegal that you consider it inappropriate to allocate funds because it violates the law. It is you who elevate this matter and even the Central Authorities do not wish to see this. To put it nicely, if someone says that you are shoe-shining, you are using the wrong shoe polish. This is not a binding referendum at all, yet you are telling people that this is a genuine referendum, which violates the law and is forbidden in Hong Kong. Since it has violated the Legislative Council Ordinance, funds should not be allocated. This is a downright joke, a joke running counter to common sense.

Chairman, the position of the Democratic Party is very clear. We do not have to repeat such matters as non-participation. There is no need to say those things any more but we call on everyone to vote. This is a civic responsibility. We in the Democratic Party have not changed our position towards the referendum either, even though we are extremely dissatisfied with this proposal put forward by the Government. However, we think that the public should vote to express their wishes. Anyway, what we have been campaigning for for so many years is exactly the right to vote, is it not? Now, since everyone has the chance to vote, each member of the public should exercise this right. I also want to remind the Government that it has the obligation to do some basic work. I am not asking it to do more but it should not do less either. Various parties should launch publicity campaigns and spend money on whatever is necessary and everything should be done seriously and earnestly. In the face of various kinds of pressure, Hong Kong should still adhere to the principles of law, and the place should be governed in accordance with law faithfully. These are the basic conditions for the subsistence of Hong Kong. Of course, if we want to resolve many deep-rooted problems, more actions are required but if we cannot even live up to this requirement, Hong Kong will crumble. I can tell you that Hong Kong will crumble in merely a couple of days. In casting this vote today, our aim is to give the Government a reminder, so we will give our support.

However, later we will oppose the Budget on the second ground. We can do nothing about this because things have been bundled together. I do not want to oppose this item but I want to tell you, regarding this by-elections, the Government should follow by the law and do its work faithfully.

MS MIRIAM LAU (in Cantonese): Chairman, the amendment proposed by Mr WONG Kwok-hing today is to take out from the Budget the \$140 odd million, that is, approximately \$150 million, earmarked for the by-elections of the Legislative Council. His intention is understandable and I also understand his feelings. However, after considering from a wider context, the Liberal Party will not support Mr WONG Kwok-hing's amendment today.

In fact, the Liberal Party has never agreed to the so-called "resignation *en masse* of Members returned from five geographical constituencies", resignation or "a *de facto* referendum". In Hong Kong, there is no referendum law and a referendum will not be recognized. This course of action is perhaps a challenge to the authority of the Basic Law. Therefore, at the beginning, the Liberal Party has regarded the so-called "a *de facto* referendum" an ordinary by-election. We do not oppose the holding of by-elections, nor do we support any referendum or "*de facto* referendum". This stance of the Liberal Party is very clear and unequivocal.

At a certain stage, I indicated that I agreed with what Mr Albert HO said and we have also carefully considered fielding someone to run in this so-called by-election. However, both the Civic Party and the League of Social Democrats (LSD) subsequently upped the ante by proposing the slogan "an uprising of all people". We think the nature of this incident has become much more serious. No matter how they play with words in giving an explanation, this still inevitably gives people the impression that that they are attempting to overthrow the regime by violent means and disrupt the peace and harmony of society. We think this is unacceptable.

Just now, Mr Albert HO talked about what the Central Authorities would do, I think he or other political parties have thought too much. Our consideration is purely related to what I described earlier on. Actually, we made this decision two days after the advocacy of the slogan of "an uprising of all people". We found that the circumstances had changed and believe that we should not take part in this so-called by-election. Therefore, we decided not to take part in it in order to avoid putting ourselves more and more involved in a movement that may have adverse effects on the community. We do not want to play a part in it because we think that doing so is being responsible to society.

Having said that, we still have to respect the rule of law. It is stipulated in the law that the Government has the constitutional responsibility to conduct by-elections when there are vacancies in the membership of the Legislative Council arising from the resignation of Members. We have to give the Government the resources so that it can do what it should do properly, rather than wilfully politicizing the matter. Therefore, we think that Mr WONG Kwok-hing's amendment is somewhat unjustifiable.

The present situation is somewhat as the old saying, "Making life difficult for the daughter-in-law." Once, there was a daughter-in-law who had to cook for the family and her father-in-law. Each day, her father-in-law would give her money to buy food for dinner. One day, the son brought some friends home for dinner. These friends might be some mischievous boys or people with dubious backgrounds. The father-in-law was very unhappy and said that he did not want his son to invite such friends home for dinner. However, the friends of his son were sitting there right in the living room, so what could the daughter-in-law do? The father-in-law said that he did not like his son's friends, so he was not going to give her money for food. However, she still has the duty to buy food and prepare dinner. I hope that Members will not "make life difficult for the daughter-in-law".

Of course, this analogy given by me may not be very appropriate because what I am talking about is a domestic matter but what is being discussed is an important matter in society. What we are talking about is to uphold the Constitution and abide by the law. This is very solemn. However, we still think that if someone does not follow the rules, if he is naughty or even does not abide by the law, are we going to say that for this reason, we also do not have to abide by the law any more? To be fair, I think it is not the Government but the instigators, the Civic Party and the LSD, who should be held responsible for costing innocent members of the public this sum of money for holding the by-election, which we still consider unnecessary and non-essential.

Chairman, I so submit and oppose Mr WONG Kwok-hing's amendment.

CHAIRMAN (in Cantonese): Dr Priscilla LEUNG, speaking for the second time.

DR PRISCILLA LEUNG (in Cantonese): Chairman, as a matter of fact, I am very grateful to Mr Albert HO for saying time and again that he wants to discuss this issue with me. With respect to the issue raised by Mr Albert HO, I very much hope that we can have a thorough debate when the Government proposes amendments to the Legislative Council Ordinance. However, since he has raised the issue many times, the first time he made a personal attack and for this time, he has not done so but he scolds people first, just like other people, saying that some people are low in quality yet all these have no direct bearing on the topic we are now discussing. He is better this time, as I think what he has said today is related to this topic, but he has distorted my comments.

He started by saying that I did not approve this funding because I considered the funding a contravention of the Legislative Council Ordinance. I do not know if he has heard my speech outside the Chamber, for I have just finished my speech when he comes in. Maybe that is his own wishful thinking.

All along I have been saying that there are loopholes in the existing Legislative Council Ordinance. It is because it allows one thing — the Government has also said that incident does not comply with the Basic Law, but it does comply with the Legislative Council Ordinance and so it must be done. In the event that a higher-level law, that is, the Basic Law and a lower-level law, that is, the Legislative Council Ordinance co-exist, consideration should be given to amending the lower-level law, that is Legislative Council Ordinance. This is the gist of the problem. In dealing with an incident that contravenes or does not comply with the Basic Law but complies with the Legislative Council Ordinance, he thinks that we have to act in accordance with law. It is all right if you act according to local law. This is what he means by saying act in accordance with law, purely from the perspective of that kind of law. This is precisely the greatest difference between Mr Albert HO and me with respect to this issue.

He thinks that if in future, there is a referendum again in whatever form, it is nothing more than an election slogan. But unless he puts the words in much bolder type and indicates that it is only an election slogan, from what we can see, the words "*de facto*" are missing in the publicity leaflets. Actually, we are all passive in this matter. We are all passive. People organizing this event say that this is a referendum, while in submitting the funding proposal, the authorities claim that this is a by-election.

As I have said earlier, the Government is facing some very great problems and it has really given much thought to the matter. With respect to this issue, while they can do nothing about it, they should at least provide a chance for us to voice our opposition. We oppose incorporating the funding application in the Budget without undergoing any in-depth discussion. As I have just said, regarding the budget, unless Members really think that it has some very serious problems, otherwise they should not veto it and oppose it. If Members do not pass a budget, it will definitely bring about a constitutional crisis.

However, Mr Albert HO has not mentioned the fact that they oppose the budget each year. Sometimes, the votes for and against the budget is very close. Like last year, government officials came here to canvass votes. The situation was so intense that Mr WONG Kwok-kin dared not leave Hong Kong to attend his son's graduation ceremony. Maybe he also worried that there were not enough votes and that a constitutional crisis might ensue. This will certainly happen for sure. Actually, the fact that they oppose this time is the same as when they oppose the funding application for some expenses. They will vote against it. Why do they not mention those situations? When they vote against the budget, it will certainly bring about a constitutional crisis, and they think that is no big deal. When we propose and support an amendment from Members, they claim that pursuant to the Legislative Council Ordinance, the task should be handled well. So, we all have problems. I think we should discuss the issue objectively.

Regarding the question on referendum and the Government's approach in dealing with this problem, I have, frankly speaking, taken part in many rounds of discussions. I have also talked to many experts who have the authority over matters in Hong Kong. We have reached a conclusion and that is, people of Hong Kong do not want to face squarely the principle of "one country, two

systems", and the question of referendum is outside the limits of the autonomy of Hong Kong. This is a serious question that cannot be treated lightly. Unlike what Ms Miriam LAU has just said, it is not something as simple as cooking a meal. Things may go wrong, because the issue of constitutional system is involved. If we really want to strive for universal suffrage and achieve it smoothly, then we should know ourselves and others well. We should know which areas will be outside our limits of autonomy and we had better play it smart instead of making blunders.

Now none of us are talking about this issue and no one raises this point. No one is acting as foolishly as I am to bring out this issue, knowing perfectly well that the person who brings it up will be rebuked. Why am I doing it? It is because we have the obligation to do so and we have the obligation to remind the Government. It is not a good thing if no one brings this issue up. The present development can sever the relationship between the central and local government, by that time, we will lose the only remaining channel for negotiation.

Let's take a look at the developments in Hong Kong, especially the controversies with regard to constitutional developments. Mr Albert HO has said more than once, though he has not said so today, "Sophie LEUNG, you should not talk about this point in the Legislative Council, you should raise it in court".

First, I ask him, why should I raise this point in court? I am a Member of the Legislative Council, why can I not talk about these things in the Legislative Council? They can repeat their ideologies hundreds of times and I have never said that they should not say anything. Being Members of the Legislative Council, we should speak out in the Legislative Council. We must play our role to remind and discuss with the Government. Yesterday, they proposed the reduction of funding for certain Directors of Bureaux, we did not agree to that, but we will never say that such matters must not be discussed in this Chamber.

Second, he thinks that judicial review can solve all problems. I tell him earnestly that I will not apply for leave to lodge a judicial review, though I am not sure if anyone will do so. I think even if the matter is brought to the Court, the

Court will be in a very difficult position to make a judgment because the relationship between the central and local government is involved. This is provided for in Article 158(3) and how the issue of a referendum should be considered.

There are three definitions regarding a referendum. First, the power is to be exercised by the Government; second, the subject matter is to be decided by the Government; and third, the costs are to be paid by the Government. To be honest, I have written on this subject before. Christopher PATTEN, someone whom the pan-democrats like very much, said clearly when he talked about this matter and Europe, "I have nothing to do with it." The word "it" refers to referendum. PATTEN is much more radical than us and it is his view that a referendum can only happen in a totalitarian society.

Today, I do not want to talk on this topic of what a referendum is because a lot of time may be needed to discuss this topic alone. I would like to go back to the suggestion made by Mr Albert HO to me a number of times that I should apply for a judicial review. If he thinks that this issue can be solved by a judicial review, he is wrong. Their naïve way of thinking may easily lead to an interpretation of the Basic Law by the National People's Congress (NPC). Do they want to see this happen? I do not and I hope that this problem can be resolved by peaceful means.

There is always a first time to everything. When "Long Hair" advocated this idea, he even said, and I believe it is true, "I have never dreamed that this would come true, even the Civic Party would join us. We can finally take action in five geographical constituencies." I think it is perfectly normal for him to say such things. He has been saying these for decades. Every person is entitled to having his or her own political views. Things actually happened and it is permitted under our system. As Albert HO has just said, it complies with the Legislative Council Ordinance, but on the other hand, it has breached the principle of "one country, two systems".

With respect to the issue of a referendum, the Sino-British Joint Declaration states that there is no provision in the Basic Law that allows a

mechanism for a referendum. Even in the United States, if a state government wants to conduct a referendum, its state constitution should have an express provision about the referendum. But we have no such provision. Audrey EU likes to say, "It is not written down, so, arrest me." Actually, this is not the point. The constitutional problem does not concern whether someone is arrested or not, but whether such action may topple the "one country, two systems". In the end, the NPC may have to reinterpret the Basic Law, like what happened last time. Do you want to place the Courts of the SAR in such a difficult position as to handle this thorny question? Do you want that to happen? The possibility is very high. Of course, nothing is definite in politics. Things may happen and they may not. So anyone, including Mr Albert HO, who likes judicial reviews so much should think of the next step if he or she applies for a judicial review. Not everything can be settled by a judicial review and not everything comes under the autonomy of the SAR. We hope that for things that can be settled by the SAR, let the SAR settle it.

Now I wish to talk about why the issue of a referendum cannot be dealt with under the Legislative Council Ordinance. There are loopholes in the Legislative Council Ordinance. But why should people exploit these loopholes? There are lots of loopholes in law. Why do we say so often that the law should be amended? This is because the law has got loopholes. And these loopholes should be plugged. This is something most normal. It is impossible not to plug the loopholes. Now I am forbidden even to discuss this issue and I am asked to take the matter to the Court. This is not possible. As Members of the Legislative Council, it is our duty to discuss matters in this Chamber. If you feel like it, you can listen. And if you do not feel like it, you can just walk out. I think we must be clear about it.

Article 8 of the Basic Law is inherent in nature and the power is clearly defined. In my opinion, whenever there is any conflict between a higher-level law and a lower-level law, the latter should be amended. You may disagree with this argument, let the votes make the decision then. Perhaps the Government will not amend that piece of legislation and in that case, we will try to do the impossible. Amendments proposed by Members are always voted down. That does not matter, for we have done our part. But you cannot say that no one can amend it and it is not right even if you raise the matter up. If this is so, then it is really double standards in the absolute sense. You people say that it is not right

to cut certain amounts in the Budget, that the reduction will make the Government contravene the law. Judicial reviews are not simply a constitutional question. Procedurally, anyone can file an application for judicial review if any public agency, like the Express Rail, has breached any statutory procedures. Other people may say that the Express Rail has not violated the constitution, you can say that it has not conducted enough consultation and for this reason, you can apply for a judicial review. But should judicial reviews be abused to solve all problems? Does everything have to be decided by a judicial review? Problems can never be solved this way.

If the problem can be solved at the level of this Council and the Government, I would think that it is our duty to strive to do so. I do not think every matter should be blown up and inflated to the level of forcing the NPC to come out and reinterpret the Basic Law. If the "one country, two systems" in Hong Kong is to succeed, we have to maintain the perspective of the two systems and recognize the limitations of the two systems. Now the limits of the two systems has been expanding. We should not take every chance to challenge For even if a tiger does not roar, but if you provoke it, pull its hairs, it will bite you. What is the point of provoking it until it bites you? I have witnessed this scenario many times. It may be due to ignorance or some well-intentioned ignorance, but should such things come from someone in politics and even from such a party which carries so much weight?

I do not come here to argue with Mr Albert HO over this question, because I can see that they have made a rational decision in respect of the referendum issue. In discussing whether the Legislative Council Ordinance should be amended, I believe every Member can to put forward his or her views for discussion. If every time someone raises a view, you scold them, make personal attacks, disallow any criticism, or even forbid to discuss this issue at the Legislative Council, claiming that it is a waste of time, this is not the right thing to do.

I have also heard some people say that Members had better not say anything. When we are discussing the budget, if we do not say anything, then why do we call ourselves Members of the Council? I fail to see why. I do not see why we are asked to speak less and let the matter finish off earlier. We are

asked to say less so that the issue will be settled quickly. There are people who do not want to hear about this issue. These are true facts. Last night, someone really said, "Do not discuss it tomorrow. Let it get finished early." Why is that so? I was very disappointed when I heard such comments. So I want to say it again. I do not want to waste everybody's time. But actually, this is not a waste of time, for we are discussing the Budget.

I think I really have to return to the issue at hand. We are discussing whether the Legislative Council Ordinance is to be amended. I hope that the amendment proposal would come from the Government, then we can hold a thorough debate. I hope we can do so. I hope Secretary LAM can think seriously about it. Now the public is not feeling happy. How can the public know what a referendum is? You tell the people to rise up, saying that it is their duty to rise up and vote. Many people may take that in. They really do not know what that is. But members of the public who understand it will express their discontent. I once talked to a taxi driver. He said that the matter would cause great trouble, for one resignation would follow another. I did not listen well to what Mr IP Kwok-him said about Yuk-man earlier on. Yuk-man said that if three candidates lost in the by-election and two people are reelected, there would be another round of resignation. At first people said that such things would never happen and I was merely exaggerating. But now things have proved that this is possible. What is at stake is not an ordinary person but a mechanism. This resignation mechanism is something within the scope of our autonomy and it does not involve the Central Authorities or other matters. We can bring it up for discussion.

I hope Mr Albert HO would not hold me in such high esteem as to label me like this every time. Actually, I felt lonely when I raised this issue. I put forward the issue up all by myself. It has never occurred to me that political sentiments could have developed to such a state as they are now. I have never thought about it. It may be due to my personality that I would be the first to speak up whenever I notice some problems. I will never change because of the political situation. I will say the same thing even though you may attack me. This is what I consider the duty of a Member of the Council. I will speak up even though I am the only person to do so. I think that the problem cannot be settled even if an application is made for a judicial review. On the other hand, the problem may get more serious and things may get out of control. That will be worse.

I wish to say here that I do not want to see people making personal attacks or saying that certain things should not be said in this Council. Do not say such words anymore. Let anyone who wants to speak speak. This is what we should do in this Council. Some people are going to resign. Like I just said, I may not oppose it when some Members want to resign. If the resignation is related to people's livelihood, like the case of LAU Chin-shek's resignation, I will respect such a move. It is all right. But I do not agree to such a move this time. I do not agree with them saying that it is a referendum. They said right from the beginning that it is a referendum, but now, they have changed and said that it is for real universal suffrage. Had they said real universal suffrage, I may not have tackled this issue right from the beginning. But you people have made numerous revisions before you arrive at what you are saying now (*The buzzer sounded*)

CHAIRMAN (in Cantonese): Dr LEUNG, speaking time is up.

DR PRISCILLA LEUNG (in Cantonese): Thank you, Chairman.

DR PAN PEY-CHYOU (in Cantonese): Chairman, WONG Kwok-hing, our colleague from the Hong Kong Federation of Trade Unions proposes today to delete the funding of \$147 million from the Budget. I think many of us sitting here may have a misunderstanding that we are deliberately trying to put the Government in a very difficult position. Actually, this is not the case. What we are doing is to state the views of an ordinary citizen regarding the basic principles and logic of financial management.

I can see that the Financial Secretary is sitting here. I will never question his professional competence and that of his colleagues. But I would like to say how ordinary people like us compile our budget. Each family has numerous items of recurrent expenditure and money will have to be spent every day on meals, transport, clothing, children's school uniform and so on. These are regular expenses which incur every year. In compiling a budget, we will naturally regard these expenses as regular expenses and estimate the amount

needed. For example, how much money will be spent on transport, food and so on each month. There are also some special events for a family, for example, the happy events like a trip to Japan or to the United States for the whole family, and the family will have to make provisions for it; or when children get marry, some money would have to be spared for the expenses. Such expenses will not incur every year as children will not get married every year. So, this family needs to set aside a special provision for such expenses. As for unhappy events, such as when someone gets sick, even though many families have taken out medical insurance, the family may sometimes have to be cut some expenses to pay the medical bill, such as operation costs and hospitalization fees. This is the way ordinary people like us manage our finance. It is very simple, on one side are the items of expenditure and on the other side, the amounts of money spent. Then how should a government manage its finance?

We can see that the Government is being quite sensible in its financial management. For example, it has a team of civil servants and they work every day to provide regular services to the public. For example, the policemen patrol on the streets to keep law and order; the firemen put out fire, the Treasury handles Government finance, and so on. And as we all know, regular expenses will incur in providing such services. However, when there are special events, such as building the Express Rail, an application for funding will have to be made. This is an important matter and a large sum of money is required, but we will not build an Express Rail every year, right? Another example is the provision for the disaster relief fund that we are going to discuss this Friday. Special funds will be allocated to help earthquake victims in Yushu County, Qing Hai Province. The earthquake has caused great injuries and deaths and many people are in need of relief. These are non-recurrent expenses, well understood by the public and the Members. So when the Government requests for funds to relieve disasters, we will be most willing to give our approval.

What about the by-elections for the five geographical constituencies? By-elections have to be conducted in the five geographical constituencies because Members belonging to two different political groups take part in an action which they call a referendum, in order to convey some of their ideologies, be they correct or not. Actually, the name referendum is not that important because like

I always say, even if you call a mouse an elephant, it will not turn it into an elephant. So, names do not really matter. What then is the action they plan to take? Five people who are sound in health and mind want to conduct by-elections in five geographical constituencies at the same time. Secretary LAM has told us earlier that, \$159 million was needed for conducting the by-elections. This sum of money is an astronomical amount for an ordinary people. If I owe someone \$159 million, I cannot repay it even I have to work for 10 lives. Well, money is now needed to carry out what they call a referendum. These five Members are not suffering from any serious illness that prevents them from discharging their public duties, they have not lost their mind, nor have they become mentally incapacitated, they are certainly not dead. As such, how come they can resign and take part in a by-election right away? How come they can regard by-election as a revolving door to enter into the Council again? They say that they want to make their ideologies known. Whether such ideologies are right or wrong, we just put aside this issue. I would like to ask the Government, if this sum of money is booked as the Government's regular expenses, how should ordinary members of the public see it? Does the Government think that such kind of incident will occur every year and so a sum of money has to be earmarked for that purpose. In this way, Members may resign as they want and take part in a by-election if they feel like it. Since life in Hong Kong is boring, shall we have some fun? Is that the case? I can see that Secretary LAM is shaking his head. Secretary, your reaction is right. The general public will never think that way, they will never think that is something funny.

A by-election will cost more than \$100 million. WONG Kwok-hing says it costs \$147 million because a portion of the funding has already been used. The actual amount should be \$159 million. Let me do a simple calculation. Each household in Hong Kong has three or four members, and that means every household will have to bear about \$70. What can be done with \$70? If we want to have a better meal tonight, we can spend the \$70 to buy barbecued pork. I am not saying that this is a large sum of money, or that Hong Kong people cannot afford it, but for the 500 000 poor families in Hong Kong, it is a different matter. If this sum of money can be used to help them, like buying computers

for their kids, buying reference books for students or offering transport allowances to those in need, this would be a sum well worth spending. \$159 million is not a small amount, on the contrary, it is quite a huge amount.

Now I would like to ask this question: five former Honourable colleagues have resigned and by-elections have to be held, can we say that people of Hong Kong are forced to take money from their pockets, so that these five people can realize their ideologies? If I put it in a vulgar way, it is like to dine and dash. I go in a restaurant, eat and then leave without paying the bill. What can you do to me? This is their mentality. Now the Government is being forced to pay the bill, and even if the Government has to foot the bill, it cannot corner the Members to approve this amount as a recurrent provision. If this is not a recurrent provision, the Government has to follow the practice regarding non-recurrent provision by seeking approval of this Council. We can then approve the funding in consideration of the Government's position. Right? But the Government is not doing that. The situation is like the boss of a restaurant saying that someone has not paid the bill. The waiter says, "All right, forget it, boss, it is no big deal. What does it matter if we make a few dollars less?" This is the attitude, right? The top officials are actually civil servants, yet the present situation is like this: the public is the boss, the money belongs to the boss, but the waiter asks the boss not to get the money back, for that will cause even greater trouble. Then the waiter says, "All right, close the door and everything will be fine." So the waiter is asking the boss not to pursue the sum. This is where the problem lies.

I have to say the following words to the political parties to which the five Members — or former Members — who resign to get a *de facto* referendum belong. What I want to say is: What would we, as an individual, as a member of Hong Kong, do to realize our ideal? To realize our ideal, we have to rely on our abilities and have work hard to realize our ideal. If I want to buy something, such as a flat which is an expensive item, I have to work hard every month to earn the money to buy it. Every cent I make will go for it. If I pay even one dollar less, the thing is still not mine. I believe this also applies to an individual or an organization, they should have the moral integrity. If I want to realize my dream, I will have to raise the money myself. I must think of ways to achieve that, instead of forcing other people to pay for the bill. Right? Manipulating

the legal gap and saying what can you do to me is not something an upright person should do. An organization or an individual with moral integrity should never do so.

\$159 million is a huge sum of money. After a simple calculation, I found that I can never make that much money even if I had to work for many lives. Will the people of Hong Kong forget this sum of money so easily? They are being forced to pay this bill, no matter they support this idea or not. They are being forced. Will they ever forget it? So I wish to make an appeal here, those people who start this resignation *en masse* in the five geographical constituencies and the by-election — or what they call a *de facto* referendum — should, after the election, call on their supporters to raise that sum of money and return it to the Government. Otherwise, the people of Hong Kong will always remember this sum of money. I so submit.

CHAIRMAN (in Cantonese): Mr WONG Kwok-hing requests to speak again. I would first see if there is any Member who wishes to speak and I will let the public officer concerned speak first. Although this is debate time, we have not made any arrangement to allow the Member who moves the amendments to speak in reply. However, I will try to allow Mr WONG Kwok-him to speak again after other Members have spoken.

MRS SOPHIE LEUNG (in Cantonese): Chairman, today is the second day of this Council Meeting. Yesterday, we spent hours discussing various amendments, in particular the last few. I really find it very meaningless that we should request the deletion of certain items, each amounting to ten-odd million dollars, from the Budget. There is no doubt that ten-odd million dollars is a very big sum and it is certainly a very big sum for me. However, it is only a small amount in the Budget. And, an even more meaningless is the amendment targeted at the annual salaries of certain Bureaux Secretaries. We received a number of e-mails from our friends and acquaintances yesterday asking what we were doing. Upon hearing all the arguments, and especially since even some speakers themselves could not help laughing at their own words, we could not but ask: what on earth is the Legislative Council doing?

Chairman, I also understand that in the Legislative Council, no matter how good you are and despite what you think, we are all bound together in our actions, as such is the practice. If some colleagues want to do certain things, sometimes we would have no alternative but to work with them and are forced to let them exploit our time and space. Of course, we would naturally save our breath and refuse to take part if we found their actions too senseless. However, even if we keep our silence or remain passive, our time will still be wasted since we are bound together.

Chairman, among the well-known figures in society elected as Members of the Legislative Council and served for some time, one of whom also known as "the conscience of Hong Kong" had once asked me in the antechamber less than two months after her election, why did we waste our time on all empty talks and meaningless issues and did nothing? I do not know whether I have misquoted her, but I shared her feelings when I heard what she said at that time. Why do we have such feelings? Perhaps, we should really ask ourselves, what exactly are we doing?

CHAIRMAN (in Cantonese): Mrs Sophie LEUNG, please speak on the subject matter.

MRS SOPHIE LEUNG (in Cantonese): Yes, Chairman. As some Members have talked about the issue of allegiance earlier, I have brought along a copy of the Legislative Council oath and affirmation. Though there are several versions of the oath, the one I see reads "Being a Member of the Legislative Council of the Hong Kong Special Administrative Region of the People's Republic of China, we will uphold the Basic Law, bear allegiance to the Hong Kong Special Administrative Region of the People's Republic of China and serve the Hong Kong Special Administrative Region, conscientiously, dutifully, in full accordance with the law, honestly and with integrity". So, why do people in this Chamber still talk about whom we should bear allegiance to and whom we should listen to? As such, I think it may be necessary for us to make it unequivocally clear or take a look at our oath of allegiance again today. We should actually serve the people of the HKSAR.

Chairman, what I would like to say is that, here in the Legislative Council, very often, we are engaged or are forced to engage in certain storms in a teacup. If what those people do are in accordance with law or are agreed upon by colleagues of the Legislative Council, then we would have to follow. This is especially true this time. Even the officials have said so, and we have, upon repeated reflection, concluded that, in view of the constitution, we do not wish to see resignations which are in contravention of the law. Under such circumstances, if there are Members who wish to resign from their duties, then we have to fill up the seats through by-election. In this way, 60 Members can work as a whole in conducting business at the Legislative Council. This is the concept of all Members. Of course, we do feel very helpless. Chairman, sometimes certain people would have done something which made us feel very helpless, as in the case when the last House Committee held two lengthy discussions, and in the end, we have to cite Rule 49B to deal with the actions of a Member and we felt very helpless. However, since this is the overall decision of the Legislative Council, we have to bite the bullet and continue to deal with the matter. I do not wish to hear people making "belated comments", or see people taking multiple about-turns and repeated about-turns, and then say that they do not support the decision and so on again. Similarly, Chairman, we also feel very helpless in regard to this issue and as there are no other choices, we can not but pass the funding proposal. As such, we have no objections to the fund allocation.

I would also like to voice the thoughts of some members of the public and ask whether we should really be doing something practical or playing tricks in a teacup. And, why have we done so? It is for no other purpose than to voice our feelings. There is actually a particularly large number of media and lots of spaces in printed publications in Hong Kong for us to air any views we may have. Why do we have to make 60 people, many government officials and members of the public watch us put on a show? Why can we not do something practical? I do not understand why it should be left to me, a representative of the functional constituency to make these earnest remarks, and why do we have to let the reputation of the Legislative Council fall so low? I really have to make an appeal. I have to reiterate that we, those in the Economic Synergy, feel very helpless during the whole process, but we have been watching the development very closely. I certainly believe that the five resigned Members and the parties backing them must also have studied the laws carefully to see whether they are

allowed to do so. It is true that a lot of things can be done if we just focus on certain words.

Chairman, there is, however, something else and it is called "ethical". The most inner core of our social conscience is to see whether something is "ethical", and it is up to the public to monitor whether the actions of those people are "ethical" or not. Chairman, I so submit.

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

MR RONNY TONG (in Cantonese): Chairman, I was asked both yesterday and today that whether I would speak on this amendment and I believe that people have done so not because they are unaware of my position, but because they want to join in the fun.

Chairman, it is really hard for me to speak on this motion. My position is very well-known and I have to face cynical remarks, verbal and written attacks, or even vicious threats every day. The other difficulty is, frankly speaking, during the years which I serve at the Legislative Council, it has been very rare that my views are for once similar to that of Secretary LAM, thus it is really hard for me to stand up and speak in favour of him. However, Chairman, I am always of the opinion that those of us in politics must treat principles and our own feelings separately and very often have to do so. As to whether we can really succeed, it varies from person to person and also definitely depends on whether we are forced by the circumstances.

Chairman, as regards to today's amendment, I think that it not only violates the spirit of the constitution, but also slights the expression of public opinion, and at the same time, please allow me as to be so rude to say, lacks political wisdom. Chairman, what is most important is certainly the spirit of constitutionalism. Perhaps, I may have to give a brief explanation, for some colleagues may not be very familiar or do not attach great importance to constitutionalism. The so-called constitutionalism, to put it simply, is the spirit of the rule of law in constitution. Constitution order should not be hampered by political orientation. Moreover, in what way is something constitutional or unconstitutional is also

very important. I also very much agree to what Mr Albert HO said earlier. On the day when I heard Mr LI Fei of the Central Government said that constitutionally there is a difference between civic rights and public rights, many members of the media asked for my views, so I made a few remarks in response and said I agree with this distinction. However, I feel that LI Fei was mistaken about whether it is public or civic rights that we are now talking about.

As it has always been the case in the past, *Ta Kung Pao* and *Wen Wei Pao* said I agreed with LI Fei and the *Apple Daily* said I pointed out directly that LI Fei was wrong. In fact, the answer is very simple, and that is, the constitution protects civic rights and restricts public rights. What the Government can do must be established in the constitution; and the Government cannot do what the constitution does not specify. The freedom of civic rights is protected under the constitution, and what is not provided for in the constitution can also be done.

Let me ask a simple question. Some people have now called the by-election a "referendum" but is that how the Government sees it? Is it actually holding a referendum? There is no doubt that it is unconstitutional for the Government to hold a referendum, but this is not the case. I cannot help laughing whenever I think about a cartoon which the cartoonist Zunzi published in a newspaper — I think it is the *Ming Pao Daily News* — the message of the cartoon is really very great. The cartoon describes a scenario in which a certain Member is watching television with his wife and there is a robbery scene. The Member says the robbery should be reported to the police and the robber should be arrested, and his wife says: "it is only a television drama". Unfortunately, we really have a feeling of "*déjà vu*" today for it seems that we are actually looking at the cartoon.

Chairman, since it is necessary to hold a by-election in accordance with the constitution, we should not inquire into the reason behind it. Many Members (including Dr Priscilla LEUNG) have talked about Article 26 of the Basic Law earlier. In fact, the key is not only in Article 26 but also in Article 68. The first sentence of Article 68 stated that: "The Legislative Council of the Hong Kong Special Administration Region shall be constituted by election." It also stated that the method for election is prescribed in Annex II, and Annex II clearly prescribed that the third Legislative Council should consist of 30 Members returned through direct elections. If there are less than 30 directly elected

Members, then the constitution specified that an election should be held to bring the number up to 30. It is just so simple and such is the constitution order. To say that an election is unconstitutional or not allowed under the constitution just because someone do not agree to the idea of holding an election from a political perspective is actually against certain spirits of the constitution which we are talking about.

When Dr Priscilla LEUNG spoke again earlier, she said in all earnestness that "Please do not try to stir up things again, for continuing to do so may cause the National People's Congress to interpret the law". Honestly speaking, everyone will turn pale at the mention of the interpretation of the law. However, is Dr LEUNG worried that certain people of the establishment camp may become accomplices since they have so obviously turned a constitutional by-election into a political referendum? I think that when someone wants to do something and thinks what he does is towards a certain purpose, then he is free to do so and his rights should be respected. As such, I think that it is clear and beyond doubt that it is against the spirit of the constitution to stop the Government from holding a by-election through the procedures of the Legislative Council.

Why did I say that this is in contempt of the expression of public opinions? In fact, it is very simple for we are now talking about an election and the right of the people to vote, and this can be expressed by not casting a vote, the kind of vote to cast and whom to vote for. Some people have resigned and would like to have their views confirmed through the public ballot boxes, then why are the public not allowed to express their views? Consequently, there may be several outcomes: perhaps no one will cast any votes, and in that case the Members who resigned will have to shoulder the political responsibilities, right? If there are no contestants, or if no one agrees to what they say for certain reasons, then let voters decide whether they should stay or go. What is the big deal? If the voting result is half-half, it implies that this is a very controversial issue in society and people have different views. Then, why are they not allowed to express such views? And there is also another possibility, and that is, if the voting rate is 50%, not to mention 100%, it implies that many people are in consent. Then may I ask, what powers or justifications do the Legislative Council have in going against the public opinion and forbidding the election to be held? Why do we not leave it to those who are most important in the election to decide? As such, I think that to exercise a power which is considered to be duly possessed by the

Legislative Council in obstructing an election which is in line with the constitutional order is in contempt of the expression of public opinions.

Why do I say that it lacks political wisdom? I am sorry for it is really very rude of me to say so, and I think that Mr WONG Kwok-hing may not agree with me. However, can the election really be stopped? Honestly speaking, people in the pro-democracy camp have said that we should express our dissatisfaction with the Secretary by cutting down on the expenditure in the Budget. In fact, I think it may not be the most appropriate method, but may be considered as an option if there are no alternatives. However, this will not have any actual effect, except a political effect. By the same token, does Mr WONG Kwok-hing think that if the amendment is passed and if the Government really adheres to the spirit of constitutionalism, then the by-election can be successfully stopped? It cannot be stopped. However, he has conveyed a message, and that is, he is trying to suppress a movement launched by people who want to fight for democracy. From a political point of view, should he do that? He may only be true to his own political philosophy but his actions may have a counterproductive effect, for the more we do not wish to see certain things happen, the more likely that it would happen. The final decision rests with the public's views on this issue. In moving the amendment and stirring up conflicts within the Council, what purpose will it serve? Does he wish to assure or even please the Central Authorities? I think that the amendment really shows a lack of political wisdom which he should possess.

Chairman, I absolutely disagree that the Legislative Council should utilize its power based on its own political orientation to obstruct a constitutional order and an election. Even if, like what Albert HO said, some people may make use of this election to vote on referendum in 2011 and 2012, we still cannot seal up their mouths because of this reason, for the more we want to seal up a person's mouth, the more it would make people agree with the idea. In order to really deal with the issue, we have to address the conflicts behind the issue. Since we now target at the constitutional development of Hong Kong, then why do we not focus on discussing constitutional developments, but got ourselves tangled up with the procedures instead?

I believe that if Mr WONG Kwok-hing agrees that Hong Kong should implement real universal suffrage as soon as possible, the Legislative Council should abolish functional constituencies and that we should not have a high

threshold for the Chief Executive election, then his views would be entirely different. However, by moving this amendment to obstruct the movement of a group of people who have made it clear that they are fighting for real universal suffrage, he will only give people an impression that he is obstructing the progress of Hong Kong people in their fight for universal suffrage. Is this politically correct? Will this do justice to his conscience?

Chairman, I am not speaking because I want to criticize Mr WONG Kwok-hing, but I think that in dealing with certain problems, as Mrs Sophie LEUNG said earlier (she actually has some points), sometimes we have to focus on the reasons behind the problems. We should not, just by looking at the surface arguments, decide whether the core issue behind the problem exist or not, or what should be done if conflicts occur.

Chairman, I most certainly do not approve of the amendment and can see no reason why it will be passed. If the amendment were really passed, then I think there is a big problem with this Council. Not only is there a big problem with this Council, there are serious problems regarding the election of the Council and the public opinions it represents. I do not want to see such a day.

MR CHIM PUI-CHUNG (in Cantonese): Chairman, I speak in support of Mr WONG Kwok-hing's amendment. As a Member of the Legislative Council, I have pointed out repeatedly that Members should have their own views, positions, vision and points of view, but they do not have the right to criticize the views of others by accusing a certain Member of being assertive, arrogant or conceited. Why? All Members of this Council, be they returned by geographical constituencies through direct elections or functional constituencies (FCs), must be accountable to their own constituents and some members of the public. I am referring to some members of the public. Those Members who are so arrogant as to say they have the support of the majority of the people in Hong Kong are only having an inflated image of themselves.

Chairman, first of all, we have to analyse the powers of Members of the Legislative Council. According to our understanding, this Council is responsible for vetting all fiscal budgets tabled by the Government. Surprisingly, I notice that there are some amendments proposing to cut one month's salary of certain Bureau Directors. Of course, I consider these merely a

joke. If we really do so, I should propose cutting the salary of some Members of this Council, for that will be even more symbolic. After all, we see, speak and think differently. This is one of the characteristics of the composition of the Legislative Council.

The first point I would like to raise concerns the power of the Legislative Council to allocate funds. As the Government has already had a funding package, why should this item be included? Why does the Government choose not to put aside all the funding programmes for the Guangzhou-Shenzhen-Hong Kong Express Rail Link? After all, it is a figure, whether it is in the region of \$140 million or \$150 million. The Government must come up with a principle governing under what circumstances the entire package has to be approved or under what circumstances can some items be taken out. After all, all things belonging to the Government should be considered as the Government's properties. I had said to the effect that Members referred to the Basic Law ("基本法") when needs arose, and to LAU Wong-fat ("劉皇發"), though it used to be Andrew WONG ("黃宏發"), when there were no such needs — as "法" and "發" are pronounced the same in Cantonese. Therefore, the Government should present everything clearly to us if we are to endorse the funding applications, so that we can discuss what is right and what is wrong. But now, the Government has included this item into the package. Is it attempting to exploit the power of Members in discussing politics and approving funding? The Government must conduct a review in this respect. Of course, the Government might not wish to see Members take the matter so seriously. But why should we not take it seriously? Why can we not conduct a detailed study? First of all, we must be clear about what we do and discuss in an orderly manner. It does not matter even if Members do not share the same opinions and political views, as long as they act in accordance with the principle of first discussing the power of the Legislative Council to approve funding. This is why I request that a review be conducted. The second point concerns the constitutional issue. Members hold different views on this issue, such as whether it is reasonable and legitimate to do so. Theoretically, it is imperative for us to look into the matter again. Hong Kong is not independent. The Central Government has already indicated that it is unconstitutional and unlawful to act in this manner. Although much discussion is still going on and the Central Authorities intends to respect the SAR Government so as to avoid excessive argument, why does the Government give the final word by saying that it is lawful to do so? Despite the query raised by

the Central Authorities, why does the Government insist not to conduct a detailed review?

The second issue I would like to raise is that I am doubtful about the mindset of the SAR Government. I wonder if the Government has some untold secrets or it is trying to please a certain party. Why can it not be more neutral and impartial? I do not want to discuss the details in a too in-depth manner because some people worry that should the funding application be negated, some people will apply to the Court for a judicial review. Is it not the best solution? So, go ahead with the judicial review! Anyway, we all believe that Hong Kong is ruled by the Court. There is no harm having one more judicial review. Let us see what judgment the Court will make regarding the judicial review. Perhaps some people will argue that this is allowed under the Constitution, so it is absolutely unnecessary to take the matter to court. However, there is no absolute certainty. Despite different views, interpretations, positions and backgrounds, the whole truth will still be uncovered in the end. Why does the Government reiterate again and again that this is the truth? Is it intending or attempting to favour a certain party? Why does the Government act in such a partial manner that raises queries? This is a constitutional issue. Which side does government officials who are responsible for handling constitutional affairs tend to support? We understand that even a football match will be influenced by the referee, not to mention some government officials who might unknowingly be physically or conscientiously inclined towards a certain party. This is the query and question raised by many members of the public.

Chairman, the third issue we have to discuss concerns the power to interpret the Basic Law. During the Question and Answer Session of the Legislative Council days ago, the Government already made it clear that all members of the Legislative Council refer to 60 Members. It is right to say that the Government has the power to interpret the Basic Law because most people do not want to raise any query. However, the Government should conduct a review because the Basic Law and the Central Government are involved. As the power to interpret the Basic Law is vested with the Standing Committee of the National People's Congress (NPCSC), has the NPCSC authorized the SAR? Secretary for Justice WONG Yan-lung might say that authorization can be granted now. However, authorization does not imply the power to interpret. He is just advancing a string of arguments to justify himself. Insofar as Hong Kong

people are concerned, there is not much to argue as to whether it is referring to 25 or 60 members. In spite of this, a review is still required. Does the Government really possess the power to interpret the Basic Law? Is it really the intention of the Government not to exploit the power of the Central Authorities? The Government might probably deny, saying that it has the authorization of the Central Authorities and it firmly believes so. Moreover, it has communicated with the Central Authorities, only that the Central Authorities has not reacted strongly to this issue. However, we must bear in mind that Hong Kong practises common law, which is slightly different from Mainland law. Sometimes, even counsels, especially senior counsels, might misunderstand common law. Of course, sometimes it depends on whether a lawyer is representing the defendant or the plaintiff, as the mindsets of the two are different. I had said that legal representatives have 10 major tendencies. But it is no longer meaningful for me to talk about this again.

Mr WU Bangguo, Chairman of the NPCSC, once said that all rights and interests enjoyed by Hong Kong are conferred by the Central Authorities. With the Central Authorities' authorization, we have the rights and interests; without which, we do not have the rights and interests. Though the Central Authorities have not said that there is no such thing as residual power and right, we have no such power and right. Of course, we have such power and right according to common law. So long as it is not stipulated in the law, members of the public can say and do whatever they wish, provided that they do not break the law. However, Chairman, given that the Chairman of the NPCSC has already made it clear that Hong Kong is governed by common law, should we abide by it? I think the SAR Government, the Hong Kong and Macao Affairs Office of the State Council and the Liaison Office of the Central People's Government in the HKSAR have every responsibility to stand forth and explain to all people in Hong Kong with regard to this issue, so that we can understand better. I am not saying that all people in Hong Kong must agree and listen to the words of the Central Authorities. However, at this critical juncture and insofar as facts are concerned, the SAR Government certainly has the responsibility and obligation to explain to all people in Hong Kong its position by repeating the remarks made by WU Bangguo, Chairman of the NPCSC, on a certain day. Can the SAR do so? Does it want to lead all people in Hong Kong to act in contrary to the Central Authorities' policies, refrain from giving a helping hand or even revolt? In countries practising common law, "revolt" might be seen as a civil right.

However, I am convinced that the vast majority of the people in Hong Kong do not understand.

Chairman, the fourth issue I would like to raise concerns "resignation en masse of Members returned from five geographical constituencies" and by-elections. It is right that it is stipulated in the law that a by-election will be held if any seat of the Legislative Council should become vacant. As we understand, should a Member of the Legislative Council unfortunately die, such as Mr MA Lik, who had already rested in peace — however, if Members believe in theology, he might probably respond should anyone mention his name (*Laughter*) — a by-election must be conducted. Or a by-election will be held because of CHIM Pui-chung's imprisonment. Furthermore, a by-election must be held should any Member of the Legislative Council become incapacitated. This is understood by members of the public. So, are the by-elections to be held this time due to the above reasons? We can all see that this is not the case. In other words, the legal justifications are inadequate. So, the SAR Government must examine if the legal justifications are really inadequate, in order to strive to be reasonable and fair.

Society should not be exploited by anyone. I do not wish to pinpoint the so-called "pan-democrats" because every one must abide by the law. How come it is all right for these people to exploit society while others are not allowed to do so? In what aspect are FC Members contravening the law or the Constitution? Some people say that the Government should amend the relevant law and code because the constitutional system is inadequate and in favour of FC Members. What wrong have I done? In 2004, I beat four candidates. I was returned by gaining more than 50% of the votes in the election. The number of votes gained by the four other candidates was even less than what I got. In what aspect did I break the law? Why should I be accused of having done wrong?

Chairman, the Government should take responsibility for all this because 30 FC Members have been treated unfairly and judged unreasonably. The Government should be held accountable for doing them injustice. Chairman, we must understand that these five Members have theoretically acted in contrary to the will of the people, though the Government has reiterated that they have done nothing wrong, only that our Constitution, our constitutional system and law are unclear. However, we cannot criticize others for being totally wrong. If they

have really done wrong, how come the Government would have taken the matter so seriously and allowed them to stand for by-elections.

The community will give a fair judgment on these five Members. Personally, I do not hope to criticize my past or future colleagues because the political views, aspirations and ideologies of many different persons are involved. However, it does not matter to me. In Hong Kong, "love the country, love Hong Kong" is everything. Of course, different people may have different interpretations of "the country", depending on their personal preferences and choices. In order to review its own inadequacies on the basis of "loving the country, loving Hong Kong", we must urge the Government that it must assume all responsibilities in an impartial manner.

Chairman, the media has recently — actually, it has been for quite some time — made impolite criticisms of the SAR Government's governance and acts. In this connection, the Government must conduct a self-review to examine if it has done right and whether it has favoured any one party while failing to be accountable to the vast majority of the people in Hong Kong. It is indeed worthwhile for the SAR Government to review this in a comprehensive manner. This is why I consider that Mr WONG Kwok-hing is merely exercising his right as a Member of the Legislative Council by proposing this amendment today and, hence, I absolutely support his point of view on this issue. However, I will not criticize other colleagues for holding different views on and interpretations of this matter. Anyhow, this is what parliamentary culture should be like. Although the more we debate, the more confused we might get, it is precisely our right and power to get ourselves into "more debate". As a responsible government, the SAR Government should review its own acts constantly. I have always said that a government is not to be regarded as a sacred and inviolable group or entity. A modernized mode of leadership must absolutely understand the interests of various parties, in order to strike a balance. Therefore, we must understand that the Government's allocation of funds this time is for the purpose of holding the so-called by-elections. As the public indeed has observant eyes, the future tasks of the Government will be even more formidable.

Thank you, Chairman.

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

DR MARGARET NG (in Cantonese): Chairman, I very much agree with the speeches delivered by Mr Albert HO and Mr Ronny TONG just now. They have also put forward many arguments considered important by me. What I can do now is to add my own views and express approval. In addition, I think I should express some issues of concern to me in this Council as these issues involve some major principles.

Chairman, I attempted to translate the English word "proper" while listening to Members' speeches just now. I was thinking how the expression "the Government must do proper work" should be translated. This issue is not purely about whether the work is done according to rules or law. Sometimes, one has to look at his or her deeds at a higher and a more fundamental level. I recall that when I was a student, I was taught the word "禮"(propriety), meaning reasonableness, or appropriateness. I think that if we are to translate the word "禮", we can actually translate it as "appropriateness to propriety". Very often, we adhere strongly to different political positions in this Council. However, it is my belief that the incumbent Government, Members of the current term and practitioners of the legal profession are duty-bound to uphold the constitutional system. As pointed out by Mr Ronny TONG in his speech just now, it is the common goal of this system and some rules and principles to uphold this system.

Regarding "resignation en masse of Members returned from five geographical constituencies as a *de facto* referendum", we can actually see two levels, namely the legal level and the political level. According to law or from the legal point of view, the by-elections are lawful. From the political point of view, according to campaigners of the referendum, the so-called "resignation en masse of Members returned from five geographical constituencies as a *de facto* referendum" is tantamount to a referendum in accordance with our political interpretation and the political effect we hope to achieve. People may disagree with this point of view, you can disagree that this is a referendum, but most importantly, you cannot change the fact that these by-elections are lawful. As asked by Mr Albert HO just now, are these by-elections lawful? In this regard, the SAR Government must seek its own legal advice. If the legal advice

considers that the by-elections are lawful, the Government will be legally liable to hold the by-elections. In holding by-elections or any other elections, a set of constitutional principles will definitely be involved, and that is, impartiality and neutrality are essential. Furthermore, the elections held must go beyond political stances, and the integrity of the elections must be upheld. Insofar as the footing of the SAR Government is concerned, this is extremely important.

Chairman, perhaps you still remember that during the transitional period prior to the reunification when the Legislative Council was still a Provisional Legislative Council, Members were not returned by election. The first Legislative Council elections held in 1998 attracted worldwide attention as everyone wished to find out how the elections, which were conducted by a Government enjoying no democracy and having reunified with a Communist regime, would be conducted. Therefore, the SAR Government at that time was very cautious, and the elections were conducted in a very open manner. Actually, although a lot of things were involved, the elections were still very open, and many international bodies were allowed to come to Hong Kong for observation. The purpose was to give everyone a strong message: Although we might not yet have a democratic system, we will not compromise our fundamental democratic spirit and the system governed by democratic procedures. These are the essential elements of election: fairness, neutrality and going beyond political stances.

Why should the Electoral Affairs Commission (EAC) be chaired by a judge? I oppose the present arrangement that the EAC is chaired by an incumbent judge. The Government has made this arrangement because it wishes to elevate our elections from the political level to the constitutional level. We are not saying that we will make less effort when we predict we will definitely lose in the election held today; and we will step up our effort if we predict we will definitely win. We will make more effort if we like this election, and make less effort if we do not like it. Or we will stay away from launching political publicity if we do not feel like it, and allocate more resources if we feel like it. That is not our way. Hence, we will campaign step by step if we do not have a democratic political system. However, should these fundamental principles be compromised, we will suffer enormous damage.

Chairman, if our Government considers the by-elections lawful, then obviously it should take the position that these are lawful by-elections, whether or

not it approves a referendum. If these by-elections are lawful, they should be treated on a par with other elections with the same approach by allocating funds and making electoral arrangements. Furthermore, the allocation of funds should be governed by a set of funding principles. Whether during the colonial era or in accordance with the Basic Law after the reunification, we were or are governed by a set of funding principles, all estimated expenditure, that is foreseeable expenditure arising from the work to be carried out as a result of legal liability, has to be proposed in the Budget. This is what the incumbent government ought to do.

Chairman, our Government today is not returned by elections. Perhaps the Democratic Alliance for the Betterment and Progress of Hong Kong or the Civic Party might become the ruling party one day. But still, we must protect and uphold the integrity of this system. In other words, we must fulfil the responsibilities under the law which has been passed. When we know that we have to fulfil these responsibilities, financial provisions must be made. Of course, Members can disagree and propose amendments to delete or reduce the relevant funds. They have the right to do so. The passage of the amendments will then hinge on political debate. In any case, these principles are extremely important. If these principles are compromised or they are compromised because of temporal divergence in political views, it will be detrimental to the long-term governance of the SAR Government.

Chairman, I understand that some Members have to state their positions. However, I hope that they will not go overboard or compromise this system when stating their positions because we, whether we are standing on the side of the establishment or so-called opposition, must jointly uphold the order of the constitutional system and these fundamental principles. If someone pushes too hard, the SAR Government will be pushed to the verge of seeing the rites and music of decorum in tatters, and this is detrimental to democratization. Some democrats might feel that this system is fundamentally detrimental to democratization, and so this system must be torn down. There are some people who might think in this way. However, at least I believe pro-establishment Members will not think in this way. From this angle, I am actually pro-establishment, because I believe that there is a need for us to uphold these established systems. Therefore, I will definitely not make sarcastic remarks against Mr Ronny TONG because very often, if I cannot deliver my speeches

fluently, Ronny TONG can still express his thoughts in a very natural and forceful manner.

Chairman, actually the Government has already been driven to the verge of seeing the rites and music of decorum in tatters under the enormous pressure exerted by pro-establishment Members. In this respect, we have seen some signs. There is no need for me to elaborate on this, because Ms Audrey EU has talked about this numerous times. For instance, regarding the by-elections, the Government has already taken such measures as refraining from launching publicity, voting and tearing down street panels to accommodate the political position of those pro-establishment Members, so to speak. I think it is very unfortunate for the Government to have acted in this way. I hope the SAR can be careful about this, because its behaviour today concerns not only matters to be dealt with today but also those to be dealt with in the long run.

Chairman, today we are debating on one item of expenditure in the Budget. I want to point out that, it is actually very worthwhile to spend the \$15 million, because we can see from the debate conducted over the past days that politics and that is, democracy and people's livelihood are closely related. Why do our economic policies fail to address the problems? This is precisely because our political system is fragmented and sick. Therefore, the most important task before us is how to improve this political system, or constitutional system. However, at the same time, we have also pointed out in the debate that we cannot possibly resolve these problems in this Council. Secretary Stephen LAM has already told us in high-sounding words that we must persuade FC Members to give up their seats. Unfortunately, only Margaret NG is willing to do so, am I right? I hope to see more people join us so that I will not be walking alone. However, according to the Secretary, it is simply impossible to get enough votes in this Council, and so we are in a deadlock. If, however, people in Hong Kong can clearly indicate by "one person, one vote" that they want to abolish FCs, then the SAR Government will be able to send a forceful and important message to the Central Authorities. Moreover, it can produce some evidence to take forward the constitutional reform in order to break the deadlock. Should a large number of people really turn out to vote, I am talking about one million or hundreds of thousands of people, the evidence can be very powerful too. Should we be able to break this deadlock to enable our constitutional system to really step forward — the present constitutional reform package is actually marking time with no progress, and is even worse than making no progress, though I will not discuss

this again here — if we can break this deadlock, the \$150 million will be worth spending. Even if we look at the matter from a simpler perspective, we can make each and every person in Hong Kong understand that constitutional reform does not mean we have to plead with others, and our goal cannot be achieved merely by pleading. We must take action and participate before the goal of constitutional reform can be achieved. Even if we can merely achieve this goal, the \$150 million will still be worth spending. We must not regard the matter as settled by just allowing 60 Members in this Council discuss it behind closed doors and disallowing members of the public from indicating their positions and expressing their stances by "one person, one vote". Therefore, I consider the \$150 million worth spending.

At the same time, however, Chairman, I also have the feeling that the SAR Government might not get its money's worth for the \$150 million. Why can we not see so many things, given that the Government is going to spend \$150 million? During the debates conducted over the past several days, why have we not seen any publicity on the part of the Government, I cannot see anything on the streets that can notify the public clearly? Why has the Government failed to, as usual, encourage the public to fulfil their civil responsibility to cast their ballots? We have been unable to see any of these. Therefore, Chairman, I have no idea in what areas the \$150 million will be spent. Hence, we Members responsible for monitoring the Government must clearly examine whether this sum of money will really be spent to achieve our goal of promoting the by-elections, or the Government will actually be spending this allocated sum of money indiscriminately without achieving the desired results. It is worthwhile for us to monitor this.

Chairman, I think that Members should be allowed to propose these amendments, and we can also express our attitude on the basis of our positions. However, when it comes to the basic constitutional level of the establishment, I think everyone of us is duty-bound to preserve it. Actually, I should not be the one to say such words; the SAR Government should say such words. I think Secretary Stephen LAM of the SAR Government will probably speak about this. However, as these are all fundamental issues, I think it is imperative for me to express my personal opinions in this Council. Thank you, Chairman.

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

MR WONG TING-KWONG (in Cantonese): Chairman, I have to speak out after hearing some of the speeches. First of all, regarding this allocation of funds, I personally am very much against it. However, I also understand the difficulties of the Government. Just now, a Member mentioned a caricature by Zunzi ("尊子"). In the caricature, a couple, one of them being a Member, are watching television. When a robber appears in the TV programme, the Member shouts thief. Does this analogy mean to say that the so-called resignation *en masse* of Members returned from five geographical constituencies amounts simply to putting up a show? I think this is a very good analogy and quite an apt example. Some people are really putting up a show, putting up a show in a TV programme. This election is rather paradoxical. Having resigned on the one hand, some people have come back to run in the election on the other. But, after all, some people say that this is to make use of public opinion to express the wish of these resigning Members and even to express the common stance of other political parties (that is, their fellow party members) who remain in the legislature. However, while they are expressing their wishes, it is also up to us, as members of the public, to decide whether we will or will not vote. Must we come out to cast a vote? I have the freedom to decide whether or not to exercise my civil rights. Does it mean that while I am one of the people, you have the say and I must do what you say? I think democracy is accommodating and it allows everyone to do things in his own way.

Insofar as this instance is concerned, just as some Members put it earlier on, there is no alternative. I also think that there is no alternative if they want to cut the pay of the Secretaries. Therefore, Mr WONG Kwok-hing has no alternative but to propose this amendment. It seems that to some people, it is all right if they say that they have no alternative, but others cannot say the same. What does democracy mean? I think the public's view on the by-elections on 16 May is that — notwithstanding the fact that they are by-elections, I still think they are meaningless. However, some people think that this election has another level of meaning, that it is a referendum. This is the point that we have to address. I have no alternative but to see what the result of this referendum is.

Therefore, this time, I support the motion moved by Mr WONG Kwok-hing. Thank you, Chairman.

MS CYD HO (in Cantonese): Chairman, I object to this amendment. First of all, I wish to reiterate the real meaning of the by-election and the *de facto* referendum triggered by the resignation. Indeed, we have to amend our legislation. We should enact legislation on referendum, so as to give it a legal framework and a legal status. No matter it is a top-to-bottom subject proposed by Government for public consultation, or a bottom-to-top subject put forth by the public to express their views, we do need a legal procedure for holding a referendum. For this reason, LEUNG Kwok-hung has proposed to enact legislation on referendum. But of course this cannot be done under Article 74 of the Basic Law, and probably, it will not be endorsed by the Standing Committee of the People's National Congress.

Precisely because we do not have such a legal procedure, several Honourable Members have to resign. Although some human factors are involved, the subject is very clear. Prior to the release of the proposal on constitutional reform, the subject is to abolish functional constituencies. But after the release of the proposal, the by-election to be held on 16 May can, in effect, be regarded as a referendum on the proposal on constitutional reform put forth by the Government.

The Government attaches much importance to public opinions, as well as to figures. When delivering his speech in the Legislative Council last Wednesday, Chief Secretary Henry TANG mentioned that more than 40 000 submissions and 1.6 million signatures were received, which were all opinions expressed by the public on the Government's proposal. Given that the Government has quoted figures and public opinions to support its proposal on constitutional reform, why can we not honestly adopt the most scientific and accurate method to assess public opinions?

I have once pointed out in this Council the difference between a referendum and a telephone survey. There is a great difference in terms of their accuracy. With the communications nowadays, it is really hard to interview a considerable number of people through telephone surveys. For example, for opinion polls currently conducted, calls will only be made to fixed line telephones, but not to mobile phones. Moreover, calls will only be made during

a specified period of time. Given that Hong Kong is a modern city, our living styles vary greatly, if polls are conducted through traditional telephone surveys, the truth can hardly be revealed.

The same situation also applies to surveys and collection of signatures. The greatest difference between these practices and voting is that no debate is held, there is no exchange of information, and a process for persuading the public is missing. Members of the public are asked to sign all of a sudden, or they are asked to sign after reading some information, which may be misleading. In this way, a considerable number of signatures are collected. However, all sociologists will tell you that these figures are not accurate. Collection of signatures is not accurate, while telephone surveys can only assess public opinions within one or two days. There is neither discussion nor mutual persuasion at all, for respondents will only indicate their stance after receiving such calls.

However, conducting a referendum is different, which allows us to debate on the subject matter for a period of time. Of course, I understand that the Central Authorities are very sensitive to referendum, as the worst thing is that CHEN Shui-bian has mentioned about referendum and the fight for independence in Taiwan. As a matter of fact, referendum has a more academic name, that is "direct democracy". In this Council, 30 Members are returned by democratic election. But why are we so scared at the mention of "direct democracy"? Why are we so scared to give the public an opportunity to express their collective stance accurately and objectively by means of voting? In fact, the by-election to be held on 16 May is an opportunity to allow the public to voice out their views directly, which is a process of "direct democracy".

Certainly, this legal procedure is not in compliance because at present, we do not have any legislation on referendum. If we can conduct this by-election with the spirit of "direct democracy", there will be no mud-slinging against opponents, nor any possibility of mud-slinging. The true meaning of "direct democracy" is to allow the public to make a rational and responsible decision together. The two main elements involved are the people and the choice to be made at that time. Members who have resigned in order to trigger the by-election and the *de facto* referendum are, in fact, carriers. They do not have any opponents at all. The main elements are the people and the subject of the referendum.

Chairman, this certainly has nothing to do with the Cultural Revolution, for voting is precisely the most peaceful, rational and accurate method to express public opinions. No conflicts or persecution will be involved. Therefore, I hope we can give due consideration to facts and see what actual results will be brought about by this election to our society.

Dr Priscilla LEUNG has just now mentioned quite a number of resignation incidents before 1997. Here, I would like to ask Secretary Stephen LAM as he has been acting as a public officer for a long time. Before 1997, he had taken up a very important post in the Governor's Office in Hong Kong. Therefore, I hope Secretary Stephen LAM can take this opportunity to explain to us and the public what actually happened regarding those resignation incidents before 1997. At that time, some appointed Members resigned. And behind these incidents, there was, of course, the constitutional reform After Chris PATTEN arrived at Hong Kong, he certainly had a lot of objectives and intentions. Some appointed Members went to Beijing after resignation and their roles had changed ever since. One came back, though we had no idea why he could do so. Anyway, he is the only one who can do so. The stories behind should be very interesting. Will Secretary Stephen LAM explain to us the ins and outs of the matter. In particular, he should let Hong Kong people and Members know the background of the resignation at that time, and how the then Government handled it.

Chairman, I know the stance of the Secretary and the existing government cabinet. They all object to the referendum triggered by resignation. Of course, they will object to it. As they can use 1.6 million signatures to support themselves, how will they wish to measure public opinions accurately by means of voting? However, every government, no matter it is returned by universal suffrage or not, should be responsible for conducting a fair and just voting for its people. This responsibility represents its political integrity. Even though it does not like the by-election triggered by the resignation of some Members, or this social campaign initiated with some political meanings, it cannot refuse to allocate resources or impose hindrances during the voting. It simply cannot do so. Each government should have such a responsibility.

I hope Honourable Members in this Council will also support the Government to perform this responsibility. Otherwise, once we have set a very bad precedent this time, the authorities can play many tricks in the by-elections which are conducted in accordance with law, such as discouraging the public to vote in order to lower the voter turnout rate. This will be very dangerous as it can play the same trick during general elections in future. As we have discussed before, during the District Council by-elections, are Members of the Legislative Council required to remove their display boards on the streets, so that candidates of the District Council by-elections can put up theirs? Similarly, during the Legislative Council elections, are members of the District Councils required to remove their display boards as well? In this regard, we should review the views of the Government and the whole community on elections seriously. We should not impose hindrances on various fronts because the Government does not like this by-election, or because the political parties do not like this by-election which essentially has the meaning of a referendum. It is inappropriate to do so.

In fact, regarding the subject of this election, I have time and again stated different views to the Civic Party and the League of Social Democrats openly. No matter the subject of the referendum is to abolish functional constituencies or strive for genuine universal suffrage, once the Government has put forth the proposal on constitutional reform, the public will change the direction of the subject of the referendum. They will think that the voting is an indication of whether or not they accept the Government's proposal. In fact, I agree with the authorities to put forth the proposal on constitutional reform before 16 May this time, for this can precisely give the public an opportunity to debate on it and arouse greater public concern. As such, the public can have discussion more proactively.

Chairman, I have released an open statement. Whether I vote for or against the proposal on constitutional reform will depend on the voting result of the by-election for the Hong Kong Island geographical constituency. It is because, under the existing mechanism, the public has no opportunity to vote on the proposal on constitutional reform in this Council. However, as I am elected by voters of the Hong Kong Island geographical constituency, I will give my vote, that is, the final say on the proposal on constitutional reform, to my voters.

My calculation is very simple, that is, the total number of votes obtained by candidates who support the abolition of functional constituencies in 2012 and those who support the abolition of functional constituencies expeditiously, minus

the total number of votes obtained by candidates who support the functional constituencies or those who support the abolition of functional constituencies only until 2047. Subject to this result, I will make my decision. I hope voters of the Hong Kong Island geographical constituency can understand that it is meaningful to cast their votes on 16 May, as they can, at least, influence my vote. This is the prime principle of "direct democracy".

I have my own stance. I object to this proposal on constitutional reform. I object to the District Council package. I will try my best to tell voters of the Hong Kong Island geographical constituency that this proposal is not desirable, and will persuade them as far as I can. However, the final say of my vote will be given to voters of the Hong Kong Island geographical constituency.

Thank you, Chairman.

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

MR WONG KWOK-KIN (in Cantonese): Chairman, as we all know, one of the responsibilities of Members of the Legislative Council is to reflect public opinions in this Council and monitor the Government's fiscal expenditure.

Today, Mr WONG Kwok-hing proposes this motion for he has some opinions on one expenditure item in the Government's Budget. As such, he proposes this motion, hoping that a debate can be initiated in this Council, so as to give a chance for Honourable Members to reflect public opinions.

According to our consultation held with residents in respect of the Budget, the public opinions are, in fact, very clear. Many residents strongly objected to the Government's expenditure on the by-election this time, thinking that the money was wasted. They had cited a very obvious example. Currently, there is a severe shortfall of places in government residential care homes for the elderly. They have to wait 42 months or even longer for admission. Some have even passed away before being admitted. The Government is so "generous" this time as to provide an additional 1 000 places for the elderly in this

fiscal year. How much does it cost? \$160 million. After striving for such a long time, only \$160 million is allocated to enhance elderly care service. Yet, we have to spend some \$150 million in conducting such a by-election farce. Is it worthwhile for us to do so? I believe the public will have a fair judgment. At least, we have heard strong objection from the public in our district. They think that if this sum of money can be used for If the Government has money, it should spend it for the elderly. Can an additional 1 000 places be provided for them? Can their waiting time be greatly reduced? This is indeed one of the examples, showing that we all consider that there are problems in the Government's expenditure this time.

If it is a normal election where vacancies arise in the Legislative Council due to natural reasons, there is, of course, a need to conduct a by-election. I believe no one will say anything, for it is worthwhile to do so. Moreover, it is a constitutional responsibility to hold a by-election. But now, vacancies arise because of man-made reasons, which is simply a farce under which certain Members resign and then take part in the by-election right away. Worse still, it costs more than \$100 million. How can you ask the public to pay for it willingly? Therefore, under such a situation, WONG Kwok-hing hopes to take this opportunity to initiate a debate in this Council, so that public opinions can be fully reflected. Of course, just like what Mr WONG Ting-kwong has just said, there is indeed no other alternative.

As mentioned by many Honourable Members yesterday, the proposal to deduct remuneration from certain Directors of Bureaux was raised simply for the sake of initiating debates. Just now, I have also heard many Members who object to this motion say that we should not hinder this allocation, for the Government has its constitutional responsibility. In fact, I am very happy to learn that Members from the opposition camp do respect the constitutional system, and they have become the pro-establishment camp, with a great respect to the constitutional responsibility. However, on the contrary, I also wish to ask, since you do respect the constitutional responsibility, why do you not respect the Basic Law? Why do you not respect that the Standing Committee of the People's National Congress (NPCSC) has the right to interpret the Basic Law? And why do you not respect that the NPCSC has the right to decide the constitutional development in Hong Kong? The NPCSC has stated very clearly its decision that in 2007 2017, we may elect the Chief Executive by universal suffrage and subsequently, we may also elect all Legislative Council

Members by universal suffrage. However, some of our Members try to resort to political tactics — this so-called by-election in the five geographical constituencies is a kind of political tactics, exploiting the legal loopholes under the constitutional system. They force the NPCSC to change its decision or even urge it to use the term "must" instead of "may", stating that there must be universal suffrage in 2017. On that day, Mr QIAO Xiaoyang, Deputy Secretary-General, stated very clearly why the term "must" should not be used because the constitutional responsibility of the HKSAR Government has to be respected. In order to amend the electoral method, consent should be obtained by a two-thirds majority of all Members of the Legislative Council. In case we force Beijing to use the term "must", can we by-pass the requirement that consent should be obtained by a two-thirds majority of all Members of the Legislative Council? If this logic is adopted, can the NPCSC make a decision to specify that the two electoral methods must be amended in 2012? Is it acceptable if the consent by a two-thirds majority of all Members of the Legislative Council is not required to negate the veto power of the Council? If that is not acceptable, why do we urge the Central Authorities to specify that there "must" be the so-called genuine universal suffrage in 2017 and commit that all functional constituencies should be abolished in 2020, without having to obtain consent by a two-thirds majority of all Members of the Legislative Council?

Some Members talk about constitutional responsibility and respect for constitutional when they state their reasons. However, if things are not favourable to them, they simply resort to political tactics, with a view to altering and dealing a blow to the constitutional system. This is precisely the problem we are now facing, which is also the reason why Hong Kong has endless arguments. Taking the by-elections for the five geographical constituencies as an example, as mentioned by Mr WONG Kwok-hing just now, they stipulate a method to ensure their victory by moving the goal post. In fact, this is exactly the practice adopted by Members when handling issues and conducting debates in this Council. They can adopt whatever standards they like. By the same token, they can move the goal post of the standards arbitrarily. I believe that we have come across such practice frequently and may find it ridiculous or uncomfortable. If we still insist on adopting such a sophistry, I believe that we can hardly compromise on many issues. I know that many colleagues in this Council come from the legal sector. They should be very good at debating. With their legal expertise, coupled with the professional training they have received, they can turn

white into black and vice versa when defending for others. This is a common practice in their profession. However, we, in this Council, should state the true facts in an objective manner. We should accept common standards, rather than stipulating the standards ourselves. We cannot adopt whatever standards we like. One cannot say that the constitutional system should be safeguarded at one time and resort to political tactics to attack the system at another time.

Chairman, I shall stop here. Thank you.

MR PAUL TSE (in Cantonese): I hope I am not merely defending for "PAK". I have to make it clear. As my life partner has taken part in the by-election this time, I have to declare an interest here.

Chairman, after listening to the speeches delivered by several Honourable Members just now, there is something that makes me very uncomfortable if I do not speak out. First of all, I am sorry that my attire is a little bit different, as I have paid visits to local communities today. This also responds to the hardship mentioned by Mr Ronny TONG just now. I have indeed experienced all these hardship. What I disagree is that many Honourable colleagues Mr WONG Kwok-kin is very right in saying that many Honourable Members adopt different standards under different circumstances. Even for the simplest one, as mentioned by Ms Cyd HO just now, there are very objective standards in this by-election or the so-called referendum. But precisely, all these standards are in a great mess. Even those who are responsible for defining them dare not admit now. They can only say that more votes, more support. What kind of standard is this?

Chairman, I have also heard the mention of "the rites and music of decorum are in tatters". I find this very annoying. Who have disrupted the establishment and order in this Council? Who have flung objects at others? Who have swept away everything on the bench? Who have splashed water at others? Who have showed no respect to our system at all? Originally, we have a very good tradition. But some Members even refuse to stand up to show their respect when the Chief Executive enters the Chamber to attend the Question and Answer Session. Can we say their deliberate smiles of contempt and folded

arms well illustrate the situation that "the rites and music of decorum are in tatters"? Who have started this first?

Without civilization, is there any democracy to speak of? In the course of discussion, they may make lots of wildly extravagant comments. But once the establishment is disrupted, the comment that Mr Ronny TONG likes most to give is: this so-called referendum is an act which ruins the establishment. What establishment are you talking about? Mr Ronny TONG says one thing when he opposes the referendum, yet today he makes a completely different statement. I really have been overawed by them. Chairman, I also come from the legal sector and do know what I should say for someone at certain times. But there should be a bottom line. Chairman, if they act in such an outrageous manner, they will lose all their credibility and even ruin the fame of barristers. Indeed, he is not qualified to be a barrister. Being a barrister, one should at least respect the tradition and the establishment. Such respect is the minimum requirement — but he simply fails to show it!

Chairman, I have done quite a number of things in my life which, I think, may be slightly in breach of the tradition. However, I will bear all the responsibilities. I will never resort to any artful rhetoric to shift my responsibilities by saying that all I have done is right while what have done by others is wrong. If we want to disprove something, we should have the courage to bear responsibility, go ahead and accept the punishment. It is unacceptable for a functional constituency (FC) Member who has been taking up the office for so many years or terms of office to say that he/she becomes a FC Member simply for opposing FCs — if this is really the case, resign then and stand for the direct election! We, the legal sector, do not need Dr Margaret NG. Such behavior of "double benefits" is the most disgraceful and wicked one, putting the legal sector to shame. Many barristers are present here. If they are so rightful, capable and wealthy, why do they rely merely on "Long Hair" to conduct the so-called challenge against unfairness or injustice? Each of them is so outstanding that they can institute a litigation and challenge the system. However, when have they ever tried to take a risk to challenge the establishment with their own fame, time and money? Why should they only assign "Long Hair" to do so? The Civic Party, you preach one thing but act differently, reflect your acts.

We have to pay for civil disobedience. We should not simply engage in

empty talk, nor should we take advantage of it whenever that is possible and then stand on moral high ground, placing ourselves above everything. What kind of justice is it, Chairman?

Chairman, I try to analyse what Mr Ronny TONG has just mentioned from a more rational perspective. According to him, as far as this by-election is concerned, Mr WONG Kwok-hing's amendment has disregarded public opinions. However, the majority of the public, over 60%, oppose this by-election. Mr Ronny TONG has also criticized that this will arouse conflicts. But who has actually aroused conflicts in Hong Kong, Chairman? If they say that they have to indicate their stance nominally, they can follow David DAVIS in the United Kingdom, he stages a show himself and has not wasted other people's money. His political party has not sponsored him, it does not support his action but it thinks he can do so if he insists. Eventually They should not distort the truth, as the case on *habeas corpus* is turned down because of the objection of the House of Lords instead of the voting result made by DAVIS. They should make this point clear. They, being lawyers and barristers, should be clear about the facts and should not distort the truth indiscriminately. If they are in the court, the judge will criticize them for being so outrageous and misleading the court. However, they are so awe-inspiring in this Council, as no one challenges them for misleading us deliberately.

(Mr Ronny TONG raised his hand)

CHAIRMAN (in Cantonese): Mr Ronny TONG, is it a point of order?

MR RONNY TONG (in Cantonese): Yes. If a Member says that another Member has misled the public, is this comment offensive?

MR PAUL TSE (in Cantonese): I have not named names when I make this comment.

MR RONNY TONG (in Cantonese): It is unfair to any Member who is being

subject to such an allegation. I am not defending myself.

CHAIRMAN (in Cantonese): Mr Ronny TONG, if we look up the minutes of meetings, we can find many examples of Members claiming that other Members or political parties have misled the public. In my opinion, it is very common in our debates that a Member claims that the behaviour of some other Members has misled the public, but no insulting or offensive element is involved.

MR PAUL TSE (in Cantonese): Chairman, Mr Ronny TONG criticized Mr WONG Kwok-hing's amendment as being practically ineffectual and queried whether it can pre-empt certain situations. Chairman, just now we have wasted plenty of time debating those impossible amendments which seek to reduce the salaries of Directors of Bureaux, not just a few amendments but many of them. May I ask which amendments will achieve actual results? When they wish to propose amendments, they would say that there is no other alternative but to bring the issue up for discussion, debate on them, solicit support and engage in ideological arguments. Then why can we not allow Mr WONG Kwok-hing to talk about the so-called referendum, which is detested by as many as over 60% of the members of the public? Why not? Why should he be criticized for that? What is meant by lacking in political wisdom? Frankly, I think our Honourable lawyers are remarkable when they talk about law in this Council, but when it comes to politics, their performance is just so so. Being a novice in this Council, I also consider my performance very average. So, stop teaching others the so-called political wisdom. Those with political wisdom should not have started this endeavor at all.

Chairman, Dr Margaret NG said just now that it does not matter and we can sorry, perhaps I should exercise greater prudence in giving remarks because this may not necessarily be her own words. Just now, a Member asked in his/her speech why we could not allow the conduct of a so-called referendum on issues which were not expressly disallowed or prohibited in law. Chairman, all of us know very well that in law, there is what we call *de jure* and *de facto*. If certain things which may not have a legitimate status or may not be recognized by law, but if such things are really put into action or words are said for example, when everyone knows that a certain Member has a wife, yet he goes

around making plenty of girlfriends and telling people that a certain girlfriend is his wife, then, with time, the others would really think that lady is his wife. Therefore, one cannot say certain things lightly. Regarding the issue under discussion, people in the international community may not take the trouble to find out what exactly has happened to the city of Hong Kong and whether legislation on referendum is in place. However, when some people have said and contended so, they may think that a referendum has actually been held in Hong Kong and it is the public's aspiration to achieve this result.

I think any sovereign state or responsible government should point out and proclaim aloud that it has not been held and it is not recognized. Certainly, both the Central Government and the Hong Kong Government are doing so, but because of the loopholes in the existing law, they are compelled to do so, or even, as some Honourable colleagues said, cornered to take this move. If one really respects our institutions, at least one has to act according to his conscience. Even though I agree to Members' wish to fight for democracy, which I also share, I think they should know which approach to take and not to take, instead of assuming it their duty to bring chaos to Hong Kong, which will not do Hong Kong any good.

Every one of our Honourable colleagues has taken an oath when they assume office. I do not know how many of them genuinely respect the oath that he/she will respect the Basic Law. Some Honourable colleagues keep expressing opposition to "one country, two systems" flagrantly. How do they perceive the oath they have made? Do they really deserve our respect? They have even failed to make the minimal commitment to this Council. Though they have pledged to serve in this Council for four years, they just left at will. Certainly, there are loopholes in the existing law, but it is due to the fact that the local law of Hong Kong is not drawn up in full compliance with the requirements of Article 79 of the Basic Law. Actually, we should plug these loopholes without delay, but I hope Members will stop abusing these loopholes with all boldness and stop making sarcastic remarks on the moral high ground. This is not the right attitude for a responsible Member or even a member of the general public.

Every member of the public has a duty to maintain the prosperity and stability of Hong Kong. As representatives of the public, we should consider each and every issue all the more thoroughly. Even though we have different political ideologies and stances, we should understand that shouting fire in a

crowd may sometimes cause catastrophic consequences. Especially for those of us who are not only Members but also respectable senior counsels, they should be even more careful with their words because the general public would often regard what they say as interpretations by legal authorities. Government officials may not wish to come out to state their positions, probably because it is not appropriate for them to do so or due to certain political reasons. In that case, there will not be anyone who holds different views as that of the senior counsels to counter against this sophistry in this Council, which is most dangerous. Therefore, I hope that this incident is only an experience from which we can learn from mistakes. As representatives of this Council and as senior counsels, we — I am not, but I hope those who are will do so — should treasure the title of SC or QC, which is vitally important. Their act has not only undermined the political system but also harmed the judicial dignity of Hong Kong. Many people, including myself, are greatly disappointed at their behaviour this time. I think there are many ways to campaign for democracy. They are best at rational debates, which are required in all democratic systems. But instead of engaging in rational debates, they just engage in sophistry, preaching one thing but doing another, which has broken the heart of Hong Kong people and hurt them immensely. If the banana throwing incident happens in court one day, will they, as senior counsels, be glad to see it?

Chairman, Ms Cyd HO said one would know exactly what is happening by looking at the results this time. But now, they even dare not say how the results should be assessed. Originally, they said the referendum would be on one subject and one issue, but now the same Members are standing for the by-election, and they dare not change even one candidate. And now, they are beginning to talk about livelihood issues because the situation does not appear to be very favourable. What kind of a referendum is it? If they want to hold a referendum like the others do, will they please sort out the rules and abide by them. They should admit their failure instead of backing off and making high-sounding remarks when the situation does not seem so right. Is this something a dedicated Member should do?

When it comes to direct democracy, it is even more ridiculous. In that case, we do not need representative politics. When they come out, have they secured the direct support of the public for holding a referendum? Has each of their political parties or electors decided through direct democracy whether this

approach should be adopted?

Chairman, I do not often speak in such a loud voice or in agitation, because this is neither my way nor my training, but the more I listen, the more infuriated I am, and sometimes we really need to speak out to put things right. I hope this is only a minor episode, and I hope we will return to and respect our established civilization. A society without civilization or without a civilized system is not qualified to talk about democracy at all. If we allow such poor quality democracy to exist, the democratic development of Hong Kong will have no prospect. We will only follow the footsteps of some neighbouring countries, in which democracy is just a mess and corruption or mob rioting prevails. This will only gradually push Hong Kong into decline.

Chairman, I hope Members will open up their eyes wide to see clearly for themselves. Thank you, Chairman.

MR RONNY TONG (in Cantonese): Chairman, I have to clarify two points. First, I did not say that the *de facto* referendum in five geographical constituencies is a disruption to the constitutional order. I did not say so. Second, I believe Mr Paul TSE has misunderstood the key points of constitutionalism that I talked about in my speech. Actually, his remark just now has precisely shown the erroneous perception of many people in this respect. Just now, he said Margaret NG is "gaining double benefits". I think this is very unfair to Margaret NG. What I wish to say is that in a representative political system, everyone has the power and the need to fight for democracy in the legislature under the constitutional order. Margaret NG entered this Council through an unfair election system in order to fight for a fair system. This is allowed under the constitutional order, and I do not see anything which would cause people to take any negative view on this approach or on her, let alone "gaining double benefits".

CHAIRMAN (in Cantonese): Mr Ronny TONG's remark has gone beyond a clarification. However, Members may speak more than once during the Committee stage.

MS AUDREY EU (in Cantonese): Chairman, Paul TSE normally does not speak

so loudly. I believe he just wanted to infuriate me, but I can tell him that I will not be infuriated. Chairman, right at the beginning of his speech, Paul TSE apologized to you that his outfit today was somehow different from his usual attire because he has been working very hard recently, busy canvassing for votes in the streets as a person whom he addressed as "my dear" is standing for the by-election.

Chairman, he criticized the others for "gaining double benefits", but just now Ronny TONG has already explained that Margaret NG has definitely won the support of the legal sector. She has won so many terms of elections, and she has not "gained double benefits". Her purpose is very clear, which is that she hopes to abolish an unjust system. However, Chairman, I do not know whether he should be regarded as "gaining double benefits" or schizophrenic when he participates in electioneering activities to support his "dear" to stand for the by-election on one hand and oppose the funding proposal for the by-election on the other.

Chairman, I do not intend to engage in a personal argument with Paul TSE today, and I do not consider it necessary to do so. Actually, just like WONG Kwok-hing, I treat this subject today in a serious and solemn manner. Chairman, according to a letter from WONG Kwok-hing to us, he opposes the funding proposal because he considers it unconstitutional and illegal since some people called it a "*de facto* referendum". It is interesting that he regards it unconstitutional and illegal on the ground that some people call it a "*de facto* referendum". Chairman, originally I intend to talk about this subject, but as Mr Albert HO, Mr Ronny TONG and Dr Margaret NG have already done so, I do not wish to repeat. Besides, I have talked about it before.

Chairman, I think Mr Albert HO has put it most lucidly by saying that if the by-election is illegal and unconstitutional, even with the courage given by Heaven above, Secretary Stephen LAM would not have proceeded with it, right? As he has actually attended a meeting of this Council to put forward a funding request and even said in a confident and high-sounding manner in his response to Priscilla LEUNG the last time that the Government has been acting in accordance with the rule of law, all of us should have a clear idea about it. Besides, up to this moment, neither the Hong Kong and Macau Affairs Office of the State Council nor the Liaison Office of the Central People's Government in the Hong Kong Special Administration Region (the Liaison Office) or even any legal

academic has pointed out which legislation has been breached. Therefore, I think I do not need to spend further time responding to this point.

Nevertheless, I find it rather unusual that instead of explaining why it is unconstitutional, Mr WONG Kwok-hing quoted SZETO Wah, that is, "Uncle Wah", right from the beginning of his speech. He said "Uncle Wah" put it very well and he was grateful to him for letting the cat out of the bag, revealing that this was closed-door politics of the gang of four. On the contrary, Chairman, Priscilla LEUNG has shown that she has a rather clear picture in mind because she said in her remark that "Long Hair" has actually been talking about conducting a referendum for over a decade, and so this *de facto* referendum was definitely not a result of the so-called closed-door politics. I believe WONG Kwok-hing has not done enough research. Members may refer back to the programme on NOW television in which "Uncle Wah" appeared. Being one of the guests, he said over the phone that a referendum in the five geographical constituencies should be pursued because it would certainly achieve a victory. This was what he said back then. Besides, he also mentioned during an interview with the programme *Open Line Open View* — he talked for a long time, and the interview lasted almost 10 minutes — that the five geographical constituencies and all political parties should make more effective and expeditious effort in co-operation. He also named Alan LEONG of our party and suggested that he stand for the by-election of the Kowloon East constituency. Therefore, I think WONG Kwok-hing has not gone through the entire remark of "Uncle Wah" in detail.

Actually, Chairman, why do we have to champion the *de facto* referendum? We are absolutely acting in compliance with Articles 45 and 68 of the Basic Law, which stipulates that the aim of universal suffrage has to be achieved in the light of, among other things, the actual situation of Hong Kong. It is a civic referendum to enable the people of Hong Kong to, through this — absolutely unprecedented and probably unrepeatable — *de facto* referendum, express their demand for the abolition of functional constituencies (FCs) and achieving the aim of universal suffrage.

Chairman, I have expressed it before, but for record purpose, I would like to repeat it today. Actually, it is mentioned in the second draft of the Basic Law that there would be referendums in the Region, which are practically the voting of

all citizens. This proves that referendums are not any kind of ogre. The Resolution of the Standing Committee of the National People's Congress on the Publication of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China (Draft) passed by a two-thirds majority in 1989 mentioned that any changes to either Annex 1 or 2 or the methods for selecting the Chief Executive and for forming the Legislative Council shall be decided through a referendum in the Region. Besides, Chairman, the official voting rate decided then was 30%. So, these can proceed with a supporting vote of only 30% of the public.

Certainly, I know the Secretary will definitely say in his response later that this was only a draft, and a referendum was not included in the final version. This is certainly true, but why was it not included in the end? Because of the 4 June incident, the Hong Kong Basic Law drafters thought dual universal suffrage should be implemented expeditiously. Therefore, the relevant provision was amended to enable the implementation of dual universal suffrage in 2007 and 2008. This is a historical record. I give an account of this today to prove that a referendum is actually not a kind of ogre, and it is also an actualization of returning political power to the people.

Chairman, regarding Members' standing for the by-election after resigning from office, it is not only mentioned during the drafting of the Basic Law but has also happened in overseas countries. The person involved was David DAVIS, as mentioned by Paul TSE in his speech just now. He was the Shadow Home Secretary in the shadow cabinet of the Conservative Party in 2008. Back then, he opposed an amendment to the legislation on anti-terrorism proposed by the ruling Labour Party, under which the imprisonment of a suspected terrorist is permitted for up to 42 days without trial. Back then, this amendment though very controversial, was already passed by the Parliament. David DAVIS strongly opposed this provision, and so he resigned from his office and stood for the by-election in order to give members of the public an opportunity to express their positions again on this controversial issue — which he considered to be an important issue of the human right legislation. Subsequently, he won the support of 70% of the public and succeeded in returning to the Parliament, and the House of Lords actually did not accept this amendment in the end.

Chairman, such examples abound, and a more well-known example is the incident involving Lionel de ROTHSCHILD in 1848. From his name, we know that he was very rich. He was elected as a Member, but because of his Jewish faith, he refused to swear-in following the traditional Christian way. The then Prime Minister of the United Kingdom RUSSELL advised him to resign from his seat and stand for the by-election. RUSSELL actually took his advice and his return to the Parliament was greatly supported by many members of the public. Actually, he won in three rounds of by-election, and he ultimately established religious freedom in the Parliament and was allowed to decide his own oath.

Chairman, these examples show us that the reason why some Members resigned from office and stand for the by-election is to counter an unjust legislature. When this Council is overwhelmed by the majority and the minority is unable to rectify this injustice, the only solution is for them to put it before the public and return to this Council by way of public support in order to change this system. Therefore, this approach is well supported by historical examples and well justified.

Today, we can see that the pro-establishment faction is gainsaying what it advocated in the past. Chairman, I find Mr CHIM Pui-chung most ridiculous. He rebuked the Government emotionally and opposed this funding proposal. Chairman, after listening to his entire speech of 15 minutes, I found that he did not mention, not even once, that he has repeatedly indicated in this Council that if the five Members resigned, he would be the sixth one and would definitely stand for the by-election. Sometimes he said he would stand for the by-election of the Kowloon West constituency, while at other times he said he would stand for the by-election of the Kowloon East constituency or the Hong Kong Island constituency. Although he spoke with so much excitement back then, he simply stopped saying anything when the others actually file their resignation. Today, he severely criticized the resignation in his speech on the ground that when the Central Government had expressed its position and formed a view of it, they should not have pursued. Therefore, this is already very clear.

Mr TAM Yiu-chung said I misquoted his remark the other day. However, I have gone through the records and found that the 28 November 2009 issue of *Ta Kung Pao* actually quoted his remark that there will be a constitutional crisis if the funding proposal is not approved by the Legislative Council, and that is a situation he does not want to see. However, the Government may obtain

provisions through various other means, for example, by earmarking the relevant provisions in the next Budget. IP Kwok-him, the spokesman of your party, has also said that not supporting the funding proposal is different from not supporting a referendum, and so one may support the other party. In that case, I believe you were definitely among those who supported competing in the by-election at that time because according to press reports back then, the pro-establishment faction would not vote against the funding proposal for the by-election. The press reports on 13 January 2010 also quoted that you would support the funding proposal. Why did I say this is very unusual? This is because on 15 January, as Members may recall, the Central Authorities voiced out. After the Central Authorities had expressed grave concern through the Hong Kong and Macau Affairs Office of the State Council, we witnessed the change in attitude of the pro-establishment faction. From this, we can see that the pro-establishment faction has gainsaid what it advocated in the past.

As for the Liberal Party, Miriam LAU expressed support for this funding proposal in her speech today, but she said she opposes this referendum or by-election because it is an attempt to overthrow the Government by violence. I believe the people of Hong Kong will find this remark ridiculous — how can the appeal for electors to cast their votes on 16 May be regarded as an attempt to overthrow the Government by violence? Therefore, even though she denied that the slogan of uprising

MS MIRIAM LAU (in Cantonese): Chairman, Ms Audrey EU has a misunderstanding. She missed my word "gives people an impression" that

CHAIRMAN (in Cantonese): Ms Miriam LAU, if you wish to make a clarification on your remark just now, please do so after Ms Audrey EU has finished her speech.

MS MIRIAM LAU (in Cantonese): Yes, I understand.

MS AUDREY EU (in Cantonese): Chairman, I heard Ms Miriam LAU's remark just now. She clarified that she said, it gives people an impression that it is an

attempt to overthrow the Government by violence. However, I still find this remark rather ridiculous because, as all of us know, it is only an appeal to electors to cast their votes on 16 May. How can it be a move to overthrow the Government by violence?

Secretary Stephen LAM said this approach is not supported by the public and is thus futile. Chairman, I would like to refer Members to the relevant report made in last Sunday's issue of the *South China Morning Post*, which reads, in English, "Public backing for reform not so clear cut". This means the Government tends to use public opinion poll statistics to prove that it has secured support, but these figures, upon analysis, have been found to be unreliable. Chairman, in some surveys conducted by the *Hong Kong Economic Journal* — as the Government claimed that its proposal has received support by quoting these public opinion polls — it is pointed out that 90% of the submissions were identical. As shown in the annex, among the 47 200 submissions, 42 700 of them were identical in content, as if they were photocopies, and their layout was also identical. Actually, we have seen such identical submissions in the press before. The staff of some Chinese-funded organizations, who were forced to sign these submissions, showed us these copies, which include the option of agreeing to retaining FCs. Now, the Government is using these identical submissions as prove of support for the constitutional reform package.

Some people asked why we consider this by-election necessary and why they should cast their votes on 16 May. The answer is actually very clear, particularly after we have seen the constitutional reform package proposed by the Government recently, which is a blatant regression. With regard to the selection of the Chief Executive, it is even worse than the 2005 package. As we are unable to obtain a just system and secure the support of two-thirds of Members in this Council, we have to make use of this mechanism, like Members in overseas countries who resigned from office and stood for by-elections, to allow members of the public to express their positions and make it clear to the Government that FCs must be abolished.

I would now respond to the question of whether or not it is worthwhile raised by some Members. It is indeed worth the expense of \$20 per person. Dr PAN Pey-chyou said it would amount to \$70 per family, and the expense is better spent on buying barbecue pork. I find this comparison most unbecoming.

Once the barbecue pork is consumed, there is nothing left, but what we are talking about now is injustice. Should we condone its existence when we even do not know whether FCs will be abolished in 2020? The public can hardly have this opportunity to express their positions. Dr PAN Pey-chyou also said it is like a waiter requesting the boss not to recover the payment from someone who has dined and dashed. Quite the contrary, I think FCs have been enjoying free lunches for years, probably since the transition in 1985 till now, which has been over two decades. It would have been 35 years by 2020. Chairman, regarding this dine-and-dash scene, members of the public really have to express their positions by casting their votes on 16 May.

Yesterday, I also said I was really worried that if we do not make use of this opportunity to fight for our course and make it clear to the Central Government that FCs are inconsistent with the principles of universal suffrage, then the next time actually the Standing Committee of the National People's Congress (NPCSC) may interpret the Basic Law in six weeks' time and tell Hong Kong that universal suffrage with Chinese characteristics may allow for FCs. Therefore, Chairman, it is necessary and worthwhile, and we cannot see any other way to allow members of the public to participate directly in this debate on constitutional reform which is so significant historically and crucial.

Thank you, Chairman.

CHAIRMAN (in Cantonese): Mr Paul TSE, speaking for the second time.

MR PAUL TSE (in Cantonese): First of all, I would like to clarify the comment made by me regarding "gaining double benefits". Insofar as this incident is concerned, I accept the remark made by Ms Audrey EU that one can, to a certain extent, interpret the expression in this way. However, I speak now because I think that the Government has failed to commit itself with courage; it has merely acted evasively. As a result, the present situation becomes very embarrassing as regards whether or not we are to proceed further.

As regards the amendment proposed by Mr WONG Kwok-hing, as a Member responsible for vetting the relevant funds, I support the idea that Members should be allowed to indicate their positions and conduct debates on this subject at an appropriate time. They should not act evasively by mixing things up, just the way the Government is doing now. Of course, that approach can avoid disputes, minimize troubles and do less work, but insofar as the principle is concerned, this will deprive Members from various sides, and even the public at large, of the opportunities to indicate their stances on this farce of referendum. Hence, I support this amendment. I think that we should bring this issue up with courage and separate the two issues, so that Members can decide whether they should go for it or go against it, what are the justifications, whether money will be wasted or worth spending.

When it comes to whether it is worth spending the money, Chairman, I am afraid we will not just be spending \$159 million, the whole society of Hong Kong will have to pay a very high price. This is an act which is highly polarizing and provoking, and seriously undermining the harmony originally enjoyed by the people of Hong Kong. Moreover, the hidden costs simply cannot be recovered. Although \$100 million is just a small sum, a lot of things have been ruined. While this Council has definitely been disrupted, what does a high sense of duty mean? They have definitely disrupted the respect we should have for the constitutional system. Hong Kong is not an independent entity. Very often, I will help some disadvantaged people who are subject to persecution. Before I joined this Council as a Member, I was known for being willing to help people. I would give members of the public legal advice for free. Have the barristers sitting here ever served the public for free? They will not even accept being paid less. Audrey, do not laugh. You can give me an example.

MS AUDREY EU (in Cantonese): Chairman, as he has made such a comment, may I clarify? Should I tell Mr Paul TSE that he just does not know that I provide a lot of free legal advice? I think that he should not discuss this issue with me on this occasion, and yet I cannot keep silent. Chairman, he seems to suggest that I have never done anything like this, but actually, I am doing this every day.

CHAIRMAN (in Cantonese): Mr TSE, please speak on the amendment.

MR PAUL TSE (in Cantonese): Perhaps I should make this point more clearly. I am not referring to what she is forced to do after she becomes a directly elected Member, but how much time she had spent on providing free services to the public when she worked as a Senior Counsel, before she became a Legislative Council Member. Of course, if she has done such work, I would like her to tell us. But, that is not a problem. Chairman, what disgusts me most is that we have really been trained, and it is easy for us to help our clients no matter whether they are right or wrong. This is undeniable but we should have a sense of propriety and proper limits, and we cannot go too far. This is a requirement that I have set and hope that I can meet. This time, I support "my dear" in standing for election because she has her own ideals. She also supports direct election and the abolition of functional constituencies (FCs).

Let us now consider the so-called standard as Honourable colleagues just mentioned. Many candidates who stand for this election have expressed support for the abolition of FCs, for democracy and universal suffrage. Have Honourable colleagues regarded them as fellow members? Ms Cyd HO said that she wanted to place an advertisement and make a statement. I would like to tell her, it can be regarded as a mandate if the votes for the issue exceed the votes against it that is only subject to their counting method. How do they count the votes? If they think the votes are for them, then they are counted as their votes, if they think otherwise, the votes are not counted as their votes. However, have they considered the ideologies of those people? How can this be regarded as reasonable? How can we say that it is reliable? How can we say that it is objective? What are they talking about? They can say anything at will, what kind of referendum is this? This is even worse than an ordinary opinion poll. An opinion poll has a reasonable sample, it has certain criteria and an academic base, what about the referendum they are talking about?

Chairman, I must stress that, if public opinion is not strongly clarified, we may sometimes suffer losses. In an article entitled "the Soliloquy of Two Most Capable Officials in Hong Kong" written by the highly respected columnist CHAN Wan and published on 20 April 2010, the fourth paragraph reads, "After WONG Yuk-man had thrown a bunch of bananas at Donald TSANG on 25 October 2008, Donald TSANG yielded to public opinion and shelved the

means tests for the fruit grants". This is one of the biggest swindles. You can ask the Chief Executive why he changed the policy. It was not because of the banana throwing incident. It was because the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) also raised objections. After Mr TAM Yiu-chung gave his remarks, I saw a sudden change in the Chief Executive's facial expression. Things were not too encouraging. Nevertheless, since the banana throwing incident happened at that time, it was then interpreted that banana throwing was forceful. Yet, this was very misleading. Chairman, for this reason, many people think that they can only strive for what they want by throwing bananas and resorting to political violence. This is the biggest lie. It is time to wake up. If things continue this way, more people will be encouraged to clash with the Government. It is indicated in an opinion poll that 25% of the respondents consider that approach correct, why? It is because nobody raises objections or makes clarifications and corrections at an appropriate time

CHAIRMAN (in Cantonese): Mr TSE, please speak on the subject matter.

MR PAUL TSE (in Cantonese): What I just said is definitely related to this funding application, Chairman, because I am discussing whether the funding should be approved. The incident should never have happened, even though I have just given the example of David DAVIS. As Ms Audrey EU just said that because of that incident, the House of Lords raised objection and the matter ended up with nothing definite. I would like to tell Ms EU that it was not the actual sequence. The act of David DAVIS did not lead to a change in the Government's position. The Government was put under the control of the House of Lords, and was forced to make changes. Of course, when you mention civil disobedience I admit that I also find that acceptable and I have taken such actions. I have acted to resist an unjust system and oppression, but I understand that there should be limits. You can select one person or one district for such action, so that the loss will be limited. But why get five geographical constituencies involved? Why should so much money be wasted? Why do you continuously mislead the public? The potential harms as I just said will be detrimental to society as a whole. As "one country, two systems" is built upon the foundations of mutual respect, consideration, co-operation and understanding between the two parties, the game cannot continue without understanding,

comprehension and co-operation. You pledged to respect the Basic Law when you sworn in, is that what "one country, two systems" is really about?

Chairman, as a small region, Hong Kong can hardly be comparable to the whole country in many aspects. We can do nothing about it. However, the situation is actually not like that because there are issues and approaches that we can discuss and get things done on the basis of respect and mutual trust. On the contrary, intending to take other people's lives or deal fatal blows to others at every turn is not a means to achieve the goal. I did similar things before, I had learnt my lesson and had paid the price. Yet, there are proper limits, at least I will not do similar things in court.

I have just touched upon my personal experience, and we really become wiser with experience in certain respects. Honourable colleagues can express their views, they can depart from the established practices and rebel against orthodoxy, but they should know their limits. If things have gone too far, not only do we have to bear the consequences, Hong Kong people, our society, our economy and other compatriots will be affected. Other places including Taiwan which draw on our experience, will also adopt the same approach. We have to rejuvenate the Chinese culture, this is actually the responsibility of each and every Chinese. We may have a lot of criticisms against this political regime, and we may also have a lot of dissatisfaction about the present circumstances in China, thinking that there is a lack of righteousness in many areas. The situation does not only apply to China which is a developing country with a huge population. Even for the largest superpower, many civil rights once enjoyed by the people have undergone changes after the September 11 incident.

If Honourable colleagues have the opportunities to visit the United States, they will know that the inspections and arrests there we all know Guantanamo; even the United Kingdom has to counter terrorism, and has to tighten up and make suitable changes to many measures that are originally intended to uphold democracy and freedom. Each place will have its own ideas and practices after experiencing certain events. China also has gone through some bitter pasts and as a result our practices and ideas have changed to a certain extent. Even for some ancient civilized countries which suffered from numerous disasters, their ideas of democracy and freedom may be different from that of the emerging countries or countries without disasters. This is understandable.

Nonetheless, we should not adopt a hostile attitude at every turn; we should be more accommodating and we should consider why others think differently. Do they have any difficulties? If we can help, we should try our best to offer help. We should raise objections when we have to do so, but we should not intend to take other people's lives and put them to shame at every turn. If I have done anything, I am ready to apologize to the Civic Party or to the Honourable Members concerned. I only do so out of infuriation to a just cause, as I think we should not "gain double benefits". They appear to be unconquerable when they speak, standing on moral highland, however, it is a different story in times of action.

According to Mr Ronny TONG, he has not talked about upsetting the established system. He has not said so today, but, this has actually been reported in several newspapers I also heard him use the same or similar words in this Council before. If he thinks that I have said anything wrong today, I will make an apology. It does not matter, after all his behaviour has already made it clear that he does not approve a referendum, which even reflects that, so long as our political parties lack mature development and systems, I am afraid many people will be doubtful of the so-called universal suffrage system.

As a matter of fact, a political party has a very important responsibility of leading Hong Kong to move towards democracy. If the political party does not have a party line, unlike the case of other advanced democratic parties in the West, if there are two voices in the party in constant antagonism, what kind of political party is it? How is it qualified to lead Hong Kong to move towards democracy? If a person opposes his own political party, he should be asked to resign. We should not allow two camps expressing differing views, and let other free to choose

CHAIRMAN (in Cantonese): Mr TSE, your remarks have deviated from the subject matter.

MR PAUL TSE (in Cantonese): Thank you for reminding me. I restate that I support Mr WONG Kwok-hing's amendment which gives us the opportunities to express our views on this subject matter. As the Government cannot explicitly tell us its position, Honourable Members from different parties and groupings

have the chance to state their stand, and make their choice, so I support this amendment.

In any case, the fact that we have this opportunity to express our views on this issue also reflects the expectation of the public on us. Very often, our actions do not get immediate results, and if there are opportunities just like the Honourable Members sitting on my right, they frequently take certain actions though they are well aware that there will not be any results and they should not do so. I am also the kind of person who will do something like that. But, do not stand on a moral highland when you take actions and do not criticize others when they take actions. What kind of democracy is that? This time, I hope that we will once again have the opportunity to reflect the opposing views of many people outside this Chamber. Thank you, Chairman.

CHAIRMAN (in Cantonese): Mr CHIM Pui-chung, speaking for the second time.

MR CHIM PUI-CHUNG (in Cantonese): Chairman, I seek a clarification. Ms Audrey EU has just said that I am the sixth person to resign. As I have already explained this point in detail in this Council, I do not want to repeat myself.

CHAIRMAN (in Cantonese): Does any other Member wish to speak? Before I invite Dr Priscilla LEUNG to speak for the third time, I would like to remind Members that your remarks should not deviate from the subject matter of the debate, and you should avoid repeating the views already expressed. Dr Priscilla LEUNG, speaking for the third time.

DR PRISCILLA LEUNG (in Cantonese): Chairman, I am speaking for the third time because I have just heard some Honourable colleagues say that we propose to amend the Legislative Council Ordinance, but it seems that proposing a discussion on amending the Ordinance is against the constitution and the law, and it is not right to make such a proposal. I would like to discuss that.

Mr Ronny TONG has just talked about the constitutional system, and I agree strongly with him. Ms Audrey EU has again touched upon historical records and universal suffrage, and I also agree with her strongly. Dr Margaret NG has just talked about "propriety" and I agree all the more with her. She mentioned that we should take political wisdom into consideration, I totally agree with her. I would like to pinpoint these few points.

The newspaper in my hand is page A20 of the latest issue of the *Ming Pao*. Regarding the referendum that we are now referring to, we Although I have cited in one of my articles some precedents in the United Kingdom about resignation, but as far as the mode and culture are concerned, I have an impression that some Honourable colleagues prefer very much the Taiwanese approach to a referendum. Let us take a look at page A20 again. It is reported today that there was a serious conflict in the Legislative Yuan in Taiwan yesterday, causing the injuries of a few female members who were all sent to hospital

(Mr Abraham SHEK raised his hand to indicate his intention to speak)

CHAIRMAN (in Cantonese): Mr Abraham SHEK, what is your question?

MR ABRAHAM SHEK (in Cantonese): Chairman, I would like to raise a question. Chairman, what the Honourable Member is now saying has deviated completely from the subject matter; we should discuss the expenditure of \$150 million.

Chairman, we have already been discussing for two hours today

CHAIRMAN (in Cantonese): Mr Abraham SHEK, do you think Dr Priscilla LEUNG's remarks have deviated from the subject matter?

MR ABRAHAM SHEK (in Cantonese): I think many Honourable Members, not only Dr Priscilla LEUNG, have talked about other issues. They

do not need to dwell on such issues, they should discuss the expenditure of \$150 million instead. They have deviated from the subject matter, Chairman

CHAIRMAN (in Cantonese): Will you please sit down, Mr Abraham SHEK? I have already reminded Members again that they should not deviate from the subject matter of the debate when they speak. Dr Priscilla LEUNG, please continue.

DR PRISCILLA LEUNG (in Cantonese): Yes. I believe I have not deviated from the subject matter, Chairman, because I am discussing whether an amendment should be made to the Legislative Council Ordinance. If the Secretary would give a clear answer later, we can consider again the funding application for this by-election. Therefore, it is a very important point. From what I gather from the discussion, the Ordinance should not be amended and the question of compliance with the constitutional system is raised. However, I do not want to pinpoint individuals.

Concerning the constitutional system, we should not only mention the system of Hong Kong. The system of "one country, two systems" is stipulated in the Basic Law and even in its Preamble. Under "one country, two systems", there is a larger constitutional system, and we should comply with Article 31 of the Constitution of the People's Republic of China in implementing "one country, two systems" and adopting continuously the capitalistic system. That system is different from the Mainland system. Hong Kong people all supported this arrangement. Therefore, insofar as the constitutional system is concerned, we cannot just talk about a tree but omit the forest. When we want more extensive discussion on this issue, you say that no discussion is allowed. I trust this is one of the ways to discuss whether an amendment should be made to the Legislative Council Ordinance.

The second point is about historical records. During the drafting process of the Basic Law, the referendum issue was very explicitly raised and discussed. Since there is no mechanism for a referendum under the Basic Law, the matter is basically not in compliance with the Basic Law. For this reason, there are very

clear historical records. We have not estimated or fabricated the whole thing out of thin air. This is not proposed by the Chinese side and this mechanism is not intended to be provided in the course of discussions on the Basic Law. Thus, this is the original legislative intent during the drafting process of the Basic Law, which is very explicit and not just about tacit understanding.

Third, have we reached the lowest level or the limit of propriety? If an amendment is not made to the Legislative Council Ordinance, incidents of resignation and by-election will recur again and again as they are in accordance with law and permitted under the Legislative Council Ordinance. In our discussions today, many Honourable Members including Mr Paul TSE have touched upon this issue and I will not repeat what they have already said. I only like to talk about the Legislative Council Ordinance. In fact, Honourable Members with views different from mine have also raised their points. We hope that the Legislative Council will observe propriety and etiquette in future. Regarding constitutional system, we do not want to see the failure of "one country, two systems" and the resultant "one country, one system". All of us do not want that to happen.

Chairman, I so submit.

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

MR TAM YIU-CHUNG (in Cantonese): Chairman, I really do not intend to speak because Mr IP Kwok-him has already spoken on our behalf, and Mr WONG Ting-kwong has added a few words. However, I have just heard Ms Audrey EU say that we have gone back on our words, and she has cited my remarks as reported in *Ta Kung Pao* and has described it as a significant discovery. A colleague unexpectedly faxed me a document soon afterwards, which was about a more significant discovery though she may have forgotten about it. That was an article extracted from the *Apple Daily* (a friendly newspaper for her party) in August 2009, entitled "Audrey EU's doubts and worries about five-district resignation". It was stated in that article that Ms Audrey EU, the Civic Party leader, responded yesterday for the first time to the

pan-democratic camp's proposal for five-district resignation and *de facto* referendum, and stated that the party adopted a prudent attitude towards the proposal. If the proposal was adopted by the pan-democratic camp, they must first stipulate the reasons and objectives of the resignation that were acceptable by the public; otherwise, they would just be trying to outsmart themselves, which might not be conducive to striving for universal suffrage. Ms EU also warned that it was very important for the Government to let people discuss the universal suffrage roadmap and produce an ultimate proposal. She considered that the more conservative the political reform package, the stronger the community's response. If they just discussed the 2012 transitional package, they would be heading towards a blind alley. I am not going to waste time on other parts.

Looking back, we found that they initially had much reservation about the referendum and by-election, and they have already expressed these views in some articles. However, changes have later been made for unknown reasons, and they have gone back on their words. According to the closed-door politics and the so-called Gang of Four as mentioned by Mr WONG Kwok-hing this morning

Mr WONG Kwok-hing mentioned closed-door policies, and of course, Ms Audrey EU denied and said that there was no closed-door policy. But for a referendum, the League of Social Democrats (LSD) has actually discussed the issue for a long time, almost 10 years, and it is nothing new. That is what she meant to say. Actually, we are very surprised. We are not surprised that the LSD initiates a referendum because its former Chairman, Mr WONG Yuk-man, has always held Taiwanese politics in esteem. He thinks highly of the things done by Mr CHEN Shuibien in Taiwan. Mr CHEN Shuibien organized the so-called "referenda on joining the United Nations" at frequent intervals and for many times. The act of throwing things, the wrangling in courts they have initiated a referendum long ago. Certainly, we are not surprised that the LSD initiates a referendum, but we wonder why the Civic Party joins hands with the LSD. Besides, the barristers are so senior and they know the law so well. Everyone consider that a referendum is against the constitution and law, yet their response was, if you said it was against the constitution and law, then tell me which law has been violated. Since the law has not clearly stated that this cannot be conducted, then it can be done. Although we do not have much legal

knowledge, we know a little about the law, after all, some Honourable colleagues are members of the Basic Law drafting committee, right? We should have some knowledge about certain procedures, do not fool us. However, Ms EU has made a very impressive remark, that is, the referendum does not have a legal basis or legal backing. This is beyond doubt, right? This is a fact.

Now, some people have resigned and there are vacancies to be filled by way of a by-election. The Government has the constitutional responsibility in this respect. We all understand that and we have never said it is not right for the Government to hold a by-election. Nevertheless, why does Mr WONG Kwok-hing insist so much that members should vote on this item separately? As Chairman of the Panel on Constitutional Affairs, I have been observing him and I know that he is really infuriated. I believe he is furious because, being an elected Legislative Council Member, he has done a very good job in collecting people's views and opinions in the districts. From what he has learnt, the general public considers the by-election a waste of public money. Certainly, he is not the only one who has heard this comment, all of us have heard about it and we all fail to understand why the by-election has to be conducted. Public money amounting to some \$100 million will be wasted. We can make good use of it, we can do more charity work with that some \$100 million. Tomorrow, we are going to allocate some \$100 million to the Yushu County in Qinghai Province. If that amount of money can be allocated to the Yushu County, more buildings, hospitals, schools and so on can be constructed, and better help can be offered.

Yet, we can do nothing about this situation. Since there are vacancies, by-elections have to be conducted and money has to be spent. We also consider that the money will really be wasted and it is not worthwhile to do so indeed. Thus, to reflect people's views, and after considering the amendment proposed by Mr WONG Kwok-hing, the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) agrees and support Mr WONG Kwok-hing's amendment, so as to express the public's discontent. Public money will really be wasted but we have not affected other people or stopped others from doing certain things. Furthermore, we have not dragged on with the Government or insist our views, after all, the Government has its responsibilities.

Ms Audrey EU has just referred to my comments in *Ta Kung Pao*, which was actually an analysis I made before we made the final decision. When we later found that they have staged a farce, we consider that we should not participate or run for the election, we will not participate in the electioneering activities and we will not vote. We also think that the money is not spent for a worthy cause. Therefore, our attitudes are very consistent.

Ms EU has said that many people frequently go back on their words. What they say today may be different from what they said yesterday, examples of this abound. She has just cited the remark of Mr SZETO Wah. Actually, there are significant changes in the remarks given by Mr SZETO Wah on this issue. I know that and we all understand when his name is specifically mentioned. As for the Civic Party, they do have their problems and are always chopping and changing, hence they should not criticize another person because that is also their problem. As regards quoting my words, it is really no big deal to me.

Recently, we notice that a referendum has not gained recognition in society because of the lack of a legal basis, and that it is against the constitution and the law. For this reason, people generally do not identify with it. According to my recent observations, they have talked less about a referendum, but more on issues such as abolition of functional constituencies (FCs). It is because the issue of abolishing FCs is easier to understand. Anyway, they have put all the blame on FCs, all undesirable problems are attributed to FCs. As a result, many FC Members in this Council feel aggrieved, unjustly treated and dissatisfied. Not long ago, I had an opportunity to attend a programme with Ms Audrey EU and I also made this point at that time. She said that I was forcing the comment on her. She also said that they have suggesting the abolition of FCs for a long time and such remarks are not raised until recently.

However, regarding the comments on FCs, I think we should not base our comments on individual incidents or the performance of individual Members. Comparing FC Members as "dine and dash" has gone too far. If such be the case, is Dr Margaret NG sitting next to you also "dine and dash"? What is the difference? She is also a FC member. Mr Paul TSE has said that she is

"gaining double benefits" and you say that he is not right to say so and the analogy is inappropriate. As a matter of fact, she has been a Legislative Council Member for so many terms of office and she has been taking up the same post; perhaps she will say that "It is not the case; I have been chosen by the voters, and I do not want to be a FC member". She can stand for direct election, am I right? She can also participate in this by-election so long as she has resigned from the legal profession functional constituency seat. There will surely be candidates from the legal profession who will take part in the by-election, and the seat will not be left vacant. Hence, I think that we should not go too far sometimes, and we should not be overly absolute and give remarks that are very unpleasant to hear or blacken the names of Honourable colleagues. As Mr Ronny TONG often says, if Honourable colleagues can maintain their integrity, their names will not be blackened in any way. Nonetheless, when he overly criticizes another person, that person will be unconvinced and he will find fault with him, and there will be endless arguments between them. In fact, I do not want such things to happen and I always dislike getting into endless arguments about these issues. Will it be meaningful to do so? It will just be a waste of time. I may not use up 15 minutes but I usually stop when my points have been made

CHAIRMAN (in Cantonese): Please speak on the amendment.

MR TAM YIU-CHUNG (in Cantonese): All right. As regards how the \$150 million expenditure should be used, I have just heard Dr Margaret NG criticize Secretary Stephen LAM, saying that she does not know how \$150 million is used and that he has not carried out the publicity work well. Actually, the biggest problem is that she has not read the paper at all, right? There is a breakdown in the paper illustrating how the money will be utilized. A considerable amount of money is not be used on publicity work, not on inviting singers to perform but on staff employment. Some 10 000 civil servants will be employed on part-time basis to spend 20 to some 30 hours on the voting day performing duties related to polling stations and vote counting. Most of the expenses are actually used in this area. Thus, this question will not be raised if the paper has been read carefully.

Chairman, you are concerned about my deviation from the subject matter. I would like to give all my comments on this issue and I do not want to cause too much argument again. We understand that, in the morning on 17 May, Ms Audrey EU may stand up and say that she has conducted a referendum very successfully because she has added all the votes for teams A, B and C. Tens of thousands of voters have voted and they support a referendum this time, and they also think that this referendum can drive our political development. Yet, I fail to see how this approach can drive our political development. I really fail to see that.

I hope that we will move forward step by step in respect of political development. Each step is very important, mutual trust will be enhanced after taking one step and another step can be taken, which will enhance our experience in universal suffrage and lay a stronger foundation. I think it will be more helpful. If we continue to get entangled and raise objections under all circumstances, I think we are just creating more obstacles to our progress towards universal suffrage in the future. Thank you, Chairman.

CHAIRMAN (in Cantonese): Dr Margaret NG, speaking for the second time.

DR MARGARET NG (in Cantonese): Chairman, it is really unnecessary to quarrel with other Honourable Members in this Chamber, and we have already had such a long debate. I simply want to briefly respond to three points.

First, Mr TAM Yiu-chung has just said that the Civic Party has gone back on its words; it initially opposed a referendum as proposed by the LSD but it supported it later. The situation is actually very clear, and we have already got an answer from what Mr TAM Yiu-chung has read out from that script. The LSD initially asked for a referendum and sought support for dual universal suffrage in 2012. We thought that a referendum did not need to be conducted because so many of us were elected in 2008, which already gave the clearest message and reflected that everybody supported dual universal suffrage in 2012. Thus, we found it unnecessary to conduct a referendum in this connection.

So, why have we subsequently supported a referendum? It is because we are not asking for dual universal suffrage in 2012. Chairman, we have not made

a radical appeal; instead, it is a moderate appeal about whether we are marking time if dual universal suffrage cannot be implemented in 2012. If people think that we should not be marking time, how can we find room for discussion under certain principles? Therefore, we would like to get support from the public; if we have a universal suffrage roadmap and can achieve genuine universal suffrage, we can have negotiation about a 2012 transitional package. Hence, this

(Mr Abraham SHEK raised his hand to indicate his intention to speak)

CHAIRMAN (in Cantonese): Mr Abraham SHEK, do you have a point of order?

MR ABRAHAM SHEK (in Cantonese): A point of order. Chairman, we are now discussing the issue on the \$147 million but not dual elections by universal suffrage, nor the platform of the Civic Party. Chairman, this is not an issue related to universal suffrage. I earnestly hope that you will stop Members from taking advantage of this opportunity to achieve their own purposes.

CHAIRMAN (in Cantonese): Mr Abraham SHEK, I will make the final decision on whether the speeches of the Members have violated the Rules of Procedure. If you consider the speech by any Member is in violation of the Rules of Procedure, you only need to state which of the rules the Member concerned has violated. I think Dr Margaret NG has not violated the Rules of Procedures in her present speech. Dr Margaret NG, please continue.

DR MARGARET NG (in Cantonese): Thank you, Chairman. I fully understand the views of Mr Abraham SHEK. Why do I respond to this point? The main reason is that whether the \$150 million should be spent depends on whether the referendum is a meaningful event. Hence, I will by all means give a brief response. The Civic Party participates in this referendum mainly because

(Mr Abraham SHEK raised his hand again)

CHAIRMAN (in Cantonese): Mr Abraham SHEK, do you wish to raise a point of order?

MR ABRAHAM SHEK (in Cantonese): Chairman, I have a point of order. Chairman, the \$140 million is related to the by-election but not the referendum, for there is no referendum at all.

CHAIRMAN (in Cantonese): Mr Abraham SHEK, I think the issue you put forth is not purely a point of order. If you want to express your views about the relationship between a referendum and universal suffrage, you may wait for your turn to speak.

DR MARGARET NG (in Cantonese): Thank you, Chairman, I will try to keep it short.

Chairman, the Civic Party thus brings up this subject: How can we achieve genuine advancement in democracy in a moderate and reasonable manner? We propose that if an ultimate roadmap for universal suffrage is provided, we may have negotiation on the interim proposal in 2012. What is so crucial about the roadmap for universal suffrage? It is related to the abolition or otherwise of functional constituencies (FCs). For this reason, we propose "the early implementation of genuine universal suffrage and the abolition of functional constituencies", which is an extremely moderate and extremely rational approach. Regarding the approach used to achieve this aim, the by-election of the five geographic constituencies or the *de facto* referendum are in compliance with the law. Hence, Chairman, I consider it absolutely reasonable and constitutional to spend this \$150 million.

Chairman, the second point I would like to clarify is about the comments made by Mr Paul TSE on my speech earlier. Unfortunately, I was attending to certain important issues at the Ante Chamber at the time and could not stay in this Chamber to listen to him. I know that Mr Ronny TONG has already given his responses and I need not go into detailed explanation here. Mr Paul TSE

suggests that I am "gaining double benefits". Chairman, as far as I understand, he queries why I stand for election in FCs even though I oppose FCs. This argument is not unique to Mr Paul TSE, some other people also share this view. The argument well illustrates that the viewpoint of Secretary Stephen LAM is completely correct. At present, people have come up with a peculiar thought that FC Members should not support the abolition of FCs. For this reason, some people query why I take such a queer stance.

Actually, Chairman, it is stipulated in the Basic Law that the Legislative Council should be composed of 30 Members from functional constituencies and 30 Members returned by geographical constituencies through direct elections. If we have to transit to the abolition of FCs, some Members occupying the 30 seats of FCs must be willing to support the abolition of FCs. This carries a true meaning in the constitutional context. Now, it becomes more and more difficult to find FC Members in support of overthrowing the FC system. That is why the FC system is taking strong root. When FCs were first introduced, its objective was to let Members from FCs serve society by offering their professional advice. However, after several rounds of election, Members almost presume that Members from FCs are to fight for the interest of their constituencies. This has deviated from the original intention. How can we break this deadlock? Chairman, we think that the only solution is to carry out the by-election of the five geographical constituencies or the *de facto* referendum.

Chairman, the third point I would like to respond is the issue on potential loss, that is the by-election of the five geographical constituencies or the *de facto* referendum will bring about substantial potential loss, in excess of the \$150 million. Chairman, may I ask one question? Why are we so determined to resort to resignation to promote the participation of all members of the public? Mr TAM Yiu-chung has perhaps forgotten that before the Members resigned, the other side was full of fighting spirit, claiming that once those Members resigned, they would contest for the seats vacated. In other words, on 27 January, the Members resigned were facing the possibility of losing their seats and failing to return to the legislature. This is one of the reasons other comrades in the pan-democratic camp, including Mr Ronny TONG, do not support the referendum. Chairman, the spirit of democracy is verified in the case of Mr Ronny TONG. Under a democratic system, though we do not agree with the

views of Mr Ronny TONG, and Mr Ronny TONG does not agree with us, we respect each other.

Chairman, back to the resignation of the Members on 27 January, the potential cost we were to bear was great. But why do we still resort to resignation to promote universal suffrage? It is because the existing system will inflict enormous potential loss on the public. Under this unfair system, it is impossible to formulate fair policies, and our unfair society cannot be turned to become fairer. The problems we mentioned in the past few days, such as the problem of disparity between the rich and the poor, are indeed generated by this system, and I will not repeat. However, when it comes to potential loss, since democracy, people's livelihood, as well as the overall competitiveness of Hong Kong are greatly affected, we cannot but take this road of no return to try to change the system.

Chairman, I only want to respond to these three points. Thank you.

MR RONNY TONG (in Cantonese): I have a point of order. I just want to clarify one point. Dr Margaret NG said just now that I held different views for I feared losing my seat, but this is not my reason or not the only reason I hold different views.

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

DR LAM TAI-FAI (in Cantonese): I think the remarks from Mr Paul TSE may fuel the fire of the debate, causing the two major parties to open fire. The Democratic Party is smart to hide away. They do it the crafty way. They are not in the Chamber now, perhaps they are very busy. As an independent Member, I just want say a few words for three reasons. First, I would like to soften the atmosphere, hoping that the colleagues will stop launching attacks against each other. Second, I would like to bring to light the *raison d'être* of independent Members, so that people will not think we have neither room nor time to speak. Third, I would like to take this opportunity to urge Members who have already spoken not to speak again, while those who do not want to speak

should not yield to the temptation to do so as I do. I cannot help myself from rising to speak. Since Members have been discussing the issue for some time, it is now the time to put the issue to the crucial vote. These are the reasons I want to speak.

I have heard Mr Paul TSE's speech. He has been so sentimental and tears welled up in his eyes. As I watched outside, I feared he might actually cry. Does it worth a cry for the \$150 million provision? I would like to share with Members some personal feelings. I think I am a sympathetic and righteous person. The last time I cried was when my father passed away. Hence, we have to see whether it is worthy to shed tears. It is unworthy to be filled with tears on discussion about the \$150 million. I may praise him for being sentimental, however his behaviour will only give people the impression that Members from functional constituencies are really weak and burst into tears easily. But this should not be the case, tears should not be shed

CHAIRMAN (in Cantonese): Dr LAM Tai-fai, please speak on the subject matter.

DR LAM TAI-FAI (in Cantonese): Earlier on, I have heard a lot of views expressed by Members on \$150 million. I just want to state one point. Though we as colleagues may dine together, we care about our own business and express our own views. We should focus on the discussion of the \$150 million. The Chairman is right to say that we should refrain from launching attacks against each other, for attacks among Members are useless, which can do no good to the overall situation nor have any bearing on the outcome. Through earlier discussion on the \$150 million provision, I see the facets of life. Some Members criticize other Members for "gaining double benefits". I represent the Industrial Sector functional constituency. I want to tell Members that I will by all means avoid the stance of "gaining double benefits" to prevent from any further rebuke. Members may notice the inconsistency of their thoughts and acts. They are not speaking from their heart. To put it crudely, this is hypocrisy. In euphemism, life is a play. People act like a lamb when they are in lambskin, and they act like a wolf when they are in the hide of a wolf. Such behaviour is meaningless to the approval of the \$150 million provision. Hence,

I think Members should stop launching harsh criticisms against each other. Chairman, please be in control as soon as possible and proceed to vote.

But yet I have to say a few words about this issue. *(Laughter)* Why a debate on this issue is sparked off? The Government should be blamed for this. The Government has said repeatedly that the election is unnatural and unnecessary. If that is the case, it should boldly refuse to make provision for the by-election. If so, Mr WONG Kwok-hing will not have to resort to this tricky method, and he will not have the opportunity to take the centre stage. As for Mr Paul TSE, he should have the political sense that it is the prevailing trend to stay aloof from the by-election, but he instead supports "his dear" to stand for the election. On the one hand, he says he opposes the by-election, but on the other hand, he visits various districts to do election engineering for her. This is another illustration of inconsistency in acts and thoughts. This situation has been baffling me. Surely, today, I dare not criticize the Civic Party for "gaining double benefits", for I fear they may launch an attack against me. I dare not offend them. Hence, let's continue to work hard.

Lastly, during the earlier debate, Members quoted the reports from newspapers, some Members quoted from *Ta Kung Pao*, while some quoted from a newspaper named after a certain kind of fruit. I thus propose that Members may as well stop speaking in debates in future and leave it to the chief editors of major press to do so. What is the point of having we Members here? Our allowance should all be given to the editors of major press.

I have repeated this point a number of times. I do not think I must use up all 15 minutes, for it is unnecessary. I implore Members already spoken not to speak again. Will you? For they will only give a litany of issues which have been already been said. As for Members who have not yet spoken, please think carefully whether it is necessary before you speak.

Chairman, I hope you can consider the views from Mr Abraham SHEK. He just left the Chamber in anger. He is right, for many Members have wandered off the subject when they spoke. If Members have to speak, they should focus on whether the \$150 million provision should be approved. Chairman, I so submit.

CHAIRMAN (in Cantonese): Dr LAM Tai-fai, you urge Members who have spoken not to speak again, but it seems that the remarks you made just now intend to provoke them to speak again.*(Laughter)*

MR PAUL TSE (in Cantonese): First of all, I must clarify that I absolutely have not sent "my dear" to run for the election. The word "sent" is absolutely inappropriate, because we all are independent individuals who have independent thinking. There is no question of sending or not sending somebody to run for election. But since someone who is close to me is running for the election, I will certainly do my utmost to help, all the more so as I consider that the position which she holds and the beliefs for which she fights are absolutely worthy of my support and also in consistent with the wish of many Hong Kong people.

Chairman, perhaps Dr LAM Tai-fai did not quite catch what I said. The tears that I have just shed at that rather sentimental moment actually have no direct relationship with the appropriation on which we are now debating. They are purely a reaction that I made on account of what I have gone through personally. So, I hope that when he criticized me, he would first understand the situation in context.

But even if I did shed tears because of this matter, I would think that my tears are still worth it, not because of this sum of \$159 million but because I think there are far too many divisions in the community of Hong Kong and everyone is forced to attack each other by raking up each other's past. With regard to many issues, we should not resort to making high-level attacks on others. But due to this campaign for a so-called referendum, we are forced to suffer the so-called "irreparable damage" as referred to in law, which means apart from the \$159 million, irreparable damage has also been done to the community of Hong Kong as a whole, to both Mainland and Hong Kong, to the political parties themselves and even to the opposition camp internally. Is it worth the while? Let Members make their own judgment!

Dr Margaret NG has made a remark earlier which I think is very good. She said that she took part in functional constituencies (FCs) because FCs would develop to become more and more deep-rooted. This is exactly why the Central Government has been so agitated, losing no time to put off even a tiny spark. What is this so-called referendum all about? If a referendum is truly conducted,

the entire constitutional system will be at stake and this will lead to many comments and opinions in the international community and jeopardize international relations. This is precisely why it has to so strongly opposed. So, please do not say one thing but do another. You people have also said so.

In principle or in conceptual, I actually do not oppose some Members "holding a red flag aloft but cursing the red flag at the same time". They take part in the election of FCs even though they said that they oppose FCs. This is fine, but they must not only pay lip service to this. They must translate their opposition against FCs into actions. Why do they not resign and try to run for direct elections? For all issues involving the legal profession, so long as they are favourable to the legal profession, you would exert yourself to work on them and ignore the public issues. Even if you can do this, you should not have done this for so many years and taken so many free lunches. Chairman, I agree with the view of LAM Tai-fai that if this sum of money can be taken out, Members would have more opportunities to discuss this issue. But it is precisely because of this incident Mr Abraham SHEK said that we might as well take a vote quickly to settle the matter. Over the years, the public do not even have a chance to hear a fair debate between the two sides or some balanced views. This is precisely because many Members in the pro-establishment camp only cast a vote but dare not speak. They should make use of the opportunity to speak out the minds of the people. The remarks of the 23 pan-democratic Members published on newspaper do not represent the views of the public. Many members of the public are very upset. Why do we not speak up for them? If what we said is not to their liking, they can vote us down and even take us to task. Let us not be afraid to speak sensibly. We should not decline to speak only to have the matter settled as quickly as possible. We should not just cast a vote. This is not the attitude expected of Members, and this will even give cause for attacks on Members of the pro-establishment camp. If Members only cast a vote but dare not speak and refuse to make commitments, how can they be qualified as Members?

CHAIRMAN (in Cantonese): Mr TSE, please speak on the subject matter.

MR PAUL TSE (in Cantonese): The point is that we must state our position on this issue. If there are Members who think that we should not make use of our

time here to speak, they should cease to serve as Members. Thank you, Chairman.

CHAIRMAN (in Cantonese): Members, as you all know, we are now in the Committee stage and Members can speak more than once. Certainly, this rule is made with good reasons but it is not unreasonable for some Members to have comments on the debate that we have had just now. Members express their opinions on the subject which they hold different positions. After a Member has expressed his view, other Members may express different views. Of course, he may disagree and his speech may not be agreed to by all other Members. If a Member thinks that he has to respond every time he is in disagreement with other Members and if he often repeats the views that he has just expressed in his response, the debate will be unnecessarily prolonged. Members' freedom of speech must be safeguarded but Members should make wise use of their speaking time. They need not necessarily refute whenever they hear views to which they disagree. I hope Members will make good use of the time for debate. Now, Mr CHAN Kin-por has requested to speak.

MR CHAN KIN-POR (in Cantonese): I rise to speak in support of the speech of Mr Paul TSE. I am very much moved by what Mr Paul TSE has said. I feel that he genuinely wishes to do good to Hong Kong. Most of what he said in his speech is from the bottom of his heart, and he genuinely wishes to do good to Hong Kong. I very much hope that there will be more people like him in future who have the courage to express their true feelings and who would never say one thing and do another. It is indeed extremely disappointing that people say one thing in this Council but do a totally different thing outside this Council. Chairman, I do not wish to waste your time, nor do I wish to deviate from the topic of our discussion. But I really have to express my support for the speech made by Mr Paul TSE just now.

On this topic of our discussion today, I think the Government is caught in a dilemma. It is because under the laws of Hong Kong, the Government must make provisions for the conduct of a by-election. Why? After the resignation of these five people, there is no guarantee that they will definitely return to this Council. There may be other people contesting the election, and these five people may not necessarily take part in the by-election. So the Government

cannot decline to hold a by-election on the ground that these five people will run the election. So long as a vacancy arises in this Council, a by-election must be held. Even if these five people will contest the election, there may still be other people contesting the election too. So, I do not see any reason for not making these financial provisions.

I, therefore, support the Government acting in accordance with law. I will oppose the amendment of Mr WONG Kwok-hing and support the Government to hold a by-election in accordance with law.

MR IP WAI-MING (in Cantonese): Having listened to what Paul and the Chairman have said, while I do not intend to speak at first because insofar as this issue is concerned, my three colleagues have already spoken a lot, I do feel that I must get this off my chest now. Why do we have this debate? As Members have said very clearly, it is because some people said that they want to conduct a so-called referendum through resignation and by-election, in doing so, the Government is forced to make provision for such purpose. Why do WONG Kwok-hing and us take exception to this approach? Regarding the reasons why we propose to take out this funding, WONG Kwok-hing has already explained them at length.

We all know that the chance is slim for the amendment on this funding to obtain Members' support, and it will most likely be voted down. But we wish to express the views of the residents and the public in this respect, and we are, to some extent, dissatisfied with the Government's approach of bundling up the financial provisions with the Budget.

Second, many colleagues have mentioned functional constituencies (FCs). Chairman, I am a FC Member — the Hong Kong Federation of Trade Unions (FTU) have Members returned by FCs and also Members returned by direct elections in geographical constituencies. As regards whether FC seats should be abolished or whether the electoral method will be changed in other ways to make it universal and equal, I think it is open to discussion, and it is also worthy of Members' discussion. As the political development of Hong Kong is involved, it is also a very important issue in the future development of society.

However, being a FC Member, I sometimes feel quite upset, because in the process, Members' discussion is not about whether FCs should be retained or abolished, or about ways to deal with the problem, but more often than not, it turns out to be personal attacks. Being a FC Member, I cannot say that I have done my job very well, for this should be judged by members of the public. But honestly, I have worked with all my heart. I have engaged in the work of the labour sector for more than two decades and honestly, I have made a lot of contributions for labour

CHAIRMAN (in Cantonese): Mr IP, please speak on the subject matter.

MR IP WAI-MING (in Cantonese): I am speaking on the subject matter and that is related to this funding proposal. Chairman, it involves the funding, as we are discussing such issues as referendum and by-election.

Chairman, I hope you can give me some time. Since other colleagues have spoken a lot, I do not wish that you would stop me from speaking on the ground that I have deviated from the subject matter.

CHAIRMAN (in Cantonese): It is my duty to remind any Member whose speech has deviated from the subject matter.

MR IP WAI-MING (in Cantonese): Thank you, Chairman. I would

CHAIRMAN (in Cantonese): Mr IP, let me remind you that the issue under discussion now is not about the performance of FC Members; nor is it about whether FCs should be retained or abolished. We are debating the amendment proposed by Mr WONG Kwok-hing.

MR IP WAI-MING (in Cantonese): Because this funding proposal involves the so-called by-election, and many issues are related to this topic.

Chairman, why do I say that? It is because we are often demonized, and we are subject to personal attacks. Being a FC Member representing the labour sector, I consider this unacceptable. I hope that other people I very much wish to express my own views. While the questions of whether FCs should continue to exist or not and whether changes can be made to the electoral method in FCs are worthy of discussion, I hope that Members will not make personal attacks on others.

Chairman, I originally have no intention to speak but having listened to the debate for the whole morning and in view of what has happened before, I hope that other people can treat FC Members more fairly and cease to make personal attacks. In some cases, I think what has been done constitutes not only personal attacks, but even insult to a person's integrity. I must get this off my chest, and I think that there is a need for me to speak up.

The FTU fully supports Mr WONG Kwok-hing's amendment. Thank you, Chairman.

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

(No Member indicated a wish to speak)

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): Chairman, this debate today that lasted some four hours is yet another proof that with all its tradition of freedom, openness and democracy, the Legislative Council of Hong Kong is indeed unique.

The political spectrum in Hong Kong is indeed very wide. There are at least two schools of opinions in the pan-democratic camp, and not only this, even within the pro-establishment camp and among independent Members, divergent views likewise exist. However, I think that debates will always bring out the truth. That is why Mr CHIM Pui-chung needs not worry. And, I also respect the amendment put forward by Mr WONG Kwok-hing today. He intends to reflect the views of the community and the public, trying to show that the general

public does not support the conduct of this by-election as a means of bringing forth a "referendum". Mr WONG Kwok-hing, I am well aware of this view.

Mr WONG Kwok-hing's amendment proposes that head 163 (that is, the operating expenses of the Registration and Electoral Office) be reduced by \$147 million. His aim is to stop this by-election for the five Legislative Council geographical constituencies in 2010.

The Government of the Special Administrative Region (SAR) has always held the view that the "*resignation en masse*" and the resultant by-election are both unnecessary, and can otherwise be avoided. And, the five former Members should also have avoided their resignation. The reason is that in September 2008, when all the registered electors on Hong Kong Island and in Kowloon and the New Territories elected the 60 Members, they expected them to serve Hong Kong for four years. During their four-year tenure, Members must handle many issues and topics, including the constitutional reform package for 2012, and also the social, economic and livelihood issues associated with the Budget under debate today. Since Members all took an oath to serve the Hong Kong SAR in accordance with the Basic Law, they must respect the Basic Law in what they do. The SAR Government has made it very clear that under the Basic Law, there is no mechanism for a referendum. Therefore, the outcome of the by-election, or what they refer to as a referendum, will not have any legal effect. And, the SAR Government will not give it any recognition.

Besides, the SAR Government, including the Electoral Affairs Commission must act according to the law and conduct this by-election. But Members will realize that it is not the intention of the SAR Government to yield to the Civic Party and the League of Social Democrats. Our greatest concern is that under the Basic Law, there must be 60 Members in the legislature to represent and serve all the seven million Hong Kong people and the 3.3 million or so registered electors. This is the very significance and basis of applying for the present appropriation.

Members have repeatedly said that we must act in accordance with law. Section 36 of the Legislative Council Ordinance provides that the Electoral Affairs Commission must arrange for a by-election to be held on the making of a declaration by the Clerk to the Legislative Council as to the existence of a

vacancy in the membership of the Legislative Council. Section 12 of the Electoral Affairs Commission Ordinance also provides that all expenses properly incurred by the Commission, a member of the Commission or the Chief Electoral Officer in the performance of any function under this Ordinance or any other Ordinance should be payable out of the general revenue. On the part of the SAR Government, it must discharge this statutory duty, and in accordance with the established practice, we have incorporated this sum of \$147 million for the Registration and Electoral Office under the relevant expenditure head in the 2010-2011 financial year.

The total expenditure on the Legislative Council by-election in 2010 will be roughly \$159 million, and \$12 million of this sum was already paid for in the 2009-2010 Budget. Therefore, in 2010-2011, we only need to pay \$147 million. However, following the discussion today, Members here all agree that we must act in accordance with law. But why is the situation so strange? Everybody agrees that we must act in accordance with law. So, why do the Civic Party and the League of Social Democrats still instigate this unnecessary and awkward by-election?

Ms Audrey EU has repeatedly stated that they have no alternatives. This is not the case in reality. They do have alternatives. She has chosen to remain in this legislature to air her views on our constitutional reform package for 2012. So, why does she claim that the by-election on 16 May is the only option? Ms Audrey EU has also remarked that our constitutional reform package for 2012 is a regressive one. She has even made it a point to say that the increase of the membership of the Chief Executive Election Committee to 1 200 is less favourable than the increase to 1 600 proposed in 2005. All these are sweeping criticisms.

In 2005, a timetable for implementing universal suffrage was not yet formulated. But one has already been drawn up by now. We now know that in the Chief Executive Election after the next one, that is, in 2017, universal suffrage may be implemented for the election of the Chief Executive. According to the Decision of the Standing Committee of the National People's Congress on the Methods for Selecting the Chief Executive and Forming the Legislative Council of the Hong Kong Special Administrative Region in 2012 and Issues on Universal Suffrage, the Chief Executive to be returned by universal suffrage shall be elected from among a certain number of candidates nominated by the nominating

committee, and the nominating committee may be modeled after the Election Committee. Since all qualified electors will be able to elect the Chief Executive by "one person, one vote" in 2017, the nominating mechanism must take account of balanced participation and comprise the four major sectors. Therefore, the situation today is different from that in 2005. If we look at the proposal of having a 1 200-strong Election Committee in the light of the timetable for implementing universal suffrage, that is, the implementation of universal suffrage for electing the Chief Executive in 2017, we will see that they actually form a comprehensive and integrated package. Therefore, people must not believe the Civic Party's distortion of the constitutional reality.

Second, Ms Audrey EU remarked yesterday that the increase of the Legislative Council membership to 70 as proposed in the constitutional reform package for 2012 is a "poison". Lawyers are usually very "clever". Senior Counsels are even "cleverer" in their words. They can always turn "black" into "white" and twist things around in their arguments. Their eloquence is indeed marvelous.

Many members of the Civic Party or the pan-democratic camp have run in various elections, including District Council Elections. The total electorate of District Councils is some 3.3 million, which is the same as that of the directly elected Members here. Therefore, one must not deny the democratic basis of District Councils. Every week, Members argue in this very Chamber for the cause of democracy, saying that they have been fighting for that for 25 years since 1985. That being the case, why do they belittle and smear District Councils, which are founded on the most democratic basis. Members may say that our proposal on the electoral system for 2012 is not democratic enough (They may well say so). But they must not distort the fact.

Ms Audrey EU has also mentioned that in the election in September 2008, 60% of the electors voted for pan-democratic candidates. She therefore argued that pan-democratic members actually came first in direct elections. This is of course a fact. I also believe that the public do want to elect more such candidates to monitor the Government. The Government also welcomes the legislature's monitoring. But we must not only look at one side of the story.

Chairman, via you, I wish to tell Ms Audrey EU and other Members one thing. I wish to quote an opinion poll conducted by The Chinese University of Hong Kong (See Footnote 119 to paragraph 5.11 of the Package of Proposals for the Methods for Selecting the Chief Executive and for Forming the Legislative Council in 2012). It reads, "According to the poll conducted by Hong Kong Institute of Asia-Pacific Studies of the Chinese University between 28 January and 4 February 2010: (a) about 64% of the respondents accept/strongly accept the NPCSC decision which makes clear that the Chief Executive may be implemented by universal suffrage in 2017 and that following that (that is, 2020) all the Members of the Legislative Council may be elected by universal suffrage " (End of quote) Therefore, I wish tell Ms Audrey EU and Members that public opinions are made up of several layers. We naturally respect, accept and uphold the outcome of the Legislative Council Election in September 2008. But we must still flowing public opinions closely in our handling of the constitutional reform package for 2012, reminding ourselves that more than 60% of the public accept the timetable of implementing universal suffrage in 2017 and 2020.

Ms Audrey EU has also repeated that in the draft Basic Law passed in February 1989, a referendum mechanism was mentioned, and that in the Basic Law passed in March or April 1989, that is, in the Basic Law released in March and passed in April, a referendum was not mentioned. Well, since there is no mentioning, there should be no such mechanism. The only thing we can now do is to abide by the provisions of the Basic Law, including Annex 1 and Annex 2, in our handling of constitutional reform. Therefore, in reply to Ms Cyd HO, I must once again state my position that the SAR Government will not introduce and accept "referendum law" in Hong Kong.

Several Members, such as Ms Cyd HO, asked the Government how it would use the sum of \$159 million or \$147 million. As rightly pointed out by Mr TAM Yiu-chung and other Members, we must employ 14 600 people and make arrangements for 520 polling stations to be used for polling and vote-counting purposes. A bulk of the \$147 million will be used for such purposes. However, the SAR Government is always guided by principles. As usual, it will arrange for the conduct of by-elections and general elections and do things in accordance with law. Therefore, in the by-election for Hong Kong Island held in December 2007, the Government spent \$700,000 on publicity and public relations activities. This time around, we will likewise use \$3 million for

the public relations and promotion work relating to the "resignation en masse" and the resultant by-election.

Ms Cyd HO asked at the Panel on Constitutional Affairs meeting a couple of days ago when the Government would launch publicity in the electronic media. I would like to take this opportunity to report to Members that in 2007, publicity in the electronic media was launched on 20 November, 13 days before the election day on 2 December. This time around, the by-election will be held on 16 May 2012. The Government will launch publicity in the electronic media 21 days before the election day. The Government will start giving relevant information through the electronic media on 26 April.

Chairman, in the following part of my speech, I wish to give further replies to Members' opinions. There are four aspects.

First, as I have mentioned, I understand and very much respect the views of local communities as reflected by Mr WONG Kwok-hing. While paying heed to public opinions, the Government must still abide by the law and as in the past, incorporate the funding for the by-election into the Budget. I also accept that the legislature must scrutinize the appropriation request. This explains why this amendment is proposed today, through which different political parties and groupings, including independent Members, can make a decision after fully expressing their views. This is the positive side of the matter, and I do recognize its importance.

However, Members can see that the public have in fact very clear views concerning the spending of the \$150 million. Therefore, I must tell the Civic Party and the League of Social Democrats that although there are no clear provisions on this in the Basic Law, it does not mean that they can do whatever they like. What is lawful is not necessarily reasonable. The public are discerning and they can remember things well. You will have to pay a price later.

Dr Priscilla LEUNG has specially reminded me that some others might follow suit. In other words, the show has only just begun. I believe the Civic Party and the League of Social Democrats are clearly aware that they are actually capitalizing on a lacuna in the law. The public know this lacuna very well, and they understand why \$150 million from the public coffers must be spent.

Should more political parties and Members choose to resign in the future and abuse the resignation mechanism, they will be condemned by the public.

Let me now respond to Dr Priscilla LEUNG's remarks. This is the fourth point. According to her, the Government should explore how to amend the Legislative Council Ordinance. I wish to point out that under Article 26 of the Basic Law, Hong Kong residents shall have the right to vote and the right to stand for election. No matter how we amend the Ordinance, we must still abide by the Basic Law. This is the first principle. The second principle is that if we are to impose any restrictions, such as the restriction that a Member who has resigned shall not run for elections for a certain period, that is, a Member should be barred from rejoining the legislature through an election, we must carefully assess whether such restrictions are reasonable and in compliance with the Basic Law. The third point we must think about is whether such restrictions are at all practicable and able to successfully prevent people from exploiting this lacuna in the law again.

A couple of days ago, I explained to Members that such resignation arrangements are specified in the election legislation both before and after 1997. Therefore, we must consider the matter holistically. The position of the SAR Government is very clear. We really need to seriously explore whether the local legislation can be amended effectively, so as to plug the loophole and answer the expectation of the public in this regard.

Lastly, I wish to draw a conclusion.

Chairman, I know that we are discussing the appropriation request relating to the \$147 million. However, many political parties and groupings and Members have associate this topic with political participation, running in elections, the prospects of functional constituencies and how we are to implement universal suffrage. Therefore, in my conclusion, I must point out that as far as I can observe, in this "resignation exercise" and by-elections, the Civic Party and the League of Social Democrats will not succeed because the public in general do not support their move. And, public opinions are also very clear.

Therefore, second, I advise the Civic Party and the League of Social Democrats not to go against public opinions. They already did so once in 2005.

At that time, 60% of the people hoped that the package for 2007 and 2008 can be passed. But they acted against public opinions and voted down the reform package, and the political system of Hong Kong had to mark time as a result. Today, they have acted against public opinions again, and despite opposition, they have taken this step of bringing forth a by-election and the so-called "referendum". I hope they can think twice before they take the next step. They must not go against public opinions again. They must make it possible for us to take a step forward in respect of the two electoral methods for 2012. That way, Hong Kong can take a step forward in democracy and pave the way for universal suffrage. That way, we will not need to mark time again. We must create better conditions for the implementation of universal suffrage in 2017 and 2020.

With these remarks, Chairman, I urge Members not to support the amendment.

MR WONG KWOK-HING (in Cantonese): Chairman, there is an interval of more than four and a half hours between the speech that I made at nine o'clock this morning and this second speech of mine now. A total of 18 Members have spoken and many of them have spoken repeatedly, while some have spoken twice, thrice or for four times. This does not include exchanges seeking for elucidation or interruptions, for I have counted only the number of times that Members officially raised their hands requesting to speak.

I wish to take this opportunity to thank the 18 Members who have spoken. I think their views are all beneficial, disregarding what their views are, the merits and demerits of their views, and how heated the verbal debate is. Chairman, from this debate spanning four and a half hours, it can be seen that it is entirely necessary for me to propose this amendment today and I have no other alternative but to do so. If this item of expenditure in the Budget is not raised for discussion, how can Members have a chance to express their views? Here, I wish to thank the 18 Members again for speaking enthusiastically on the motion and crossing swords in this battle of words.

Chairman, before I give my response, I must first respond to Mr Ronny TONG because he had specifically named me in his speech, saying that proposing this amendment shows a lack of political wisdom on my part. I would like to

briefly respond to him first. Mr Ronny TONG's allegation truly indicates his lack of political wisdom. Chairman, the debate today is an eye-opener and has broadened our perspectives, for it enables us to see what it means by double standard and how a person makes inconsistent remarks at different times. When Members debate on an issue with a true heart, they will easily "let the cat out of the bag", not being able to hide anything but revealing their true feelings. So, we can see what it is all about. Mr Ronny TONG said that this amendment shows my lack of political wisdom. He said that I still insisted on proposing this amendment even though I knew too well that it cannot thwart the passage of this provision in the budget. That these remarks were made by an elected Member of the Civic Party and an elected Member with a barrister background is, I think, a bit regrettable and unfortunate indeed. I seldom chat with Mr Ronny TONG but we are friends. But Mr TONG, I really feel sorry for you. Does it show any political wisdom on your part when you made these remarks? The community will make its judgment fairly, and I do not wish to further spend my time responding to this point.

Chairman, this debate spanning more than four and a half hours today indicates that the funding for the forthcoming by-election is controversial. It also indicates that the forthcoming by-election in the five geographical constituencies, which is not going to be held annually, is not a recurrent expenditure. Our courteous and scholarly Dr PAN Pey-chyou, who is not in the Chamber now, has explained the very plain principle that this is not a recurrent, regular expenditure that arises every year. Since it is not this type of expenditure, it should be taken out for discussion and voted by Members.

Chairman, before this debate today, I wrote to all Members in black and white, calling on them again to support my amendment. I would like Members to pay attention to my letter again. In the second paragraph, it reads — why should I have to read it out? Because Ms Audrey EU has cited my letter and asked Members not to cause the Government break the law. This is why I need to explain the contents of my letter. Let me now read out the second paragraph: "An important duty of the Legislative Council is to examine and approve public expenditure. The reason why the Government needs to hold a by-election in five geographical constituencies is that some people have been pushing for a *de facto* referendum, so to speak, but under the Basic Law of Hong Kong, there is no system for referendum. There is no legal basis for a referendum; and it is

neither legal nor constitutional. Besides, the by-elections to be held in five geographical constituencies involve a huge amount of expenditure and with this same amount of money, various expenditures relating to the people's livelihood can be met." This is the second paragraph of the letter. In the third paragraph, there is just this line, "To monitor the use of resources by the Government and to ensure that the resources are put to proper use, I propose to take out this funding from the Budget to facilitate the exercising of the right of Members to monitor government expenditure." This is what I mean. I urge the Government to take out this funding from the Budget, so that the Government can treat it as an independent item which may be reintroduced to the Finance Committee of the Legislative Council for approval. Members can then express their views, and a vote can be conducted fairly and openly in which Members can vote for or against it, or to cast an abstention vote. This is to exercise our right to monitor the Government as Members of the Legislative Council. What reason is there to agree to the Government's bundling up of this funding and allow it to be passed without going through a debate, even knowing that it is a non-recurrent expenditure?

In fact, with regard to the Budget, many of us would like to support it whereas many others would oppose it, and we all have our own reasons. But the views are not so clear with the bundling of this item. We hope that the Government can take this funding out from the Budget not with the intention of obstructing the by-election to be held on 16 May. The Government can reintroduce it, and I think we will provide support and take part in meetings to discuss this, so that a vote can be taken in accordance with the statutory procedures. Why can we not do this? For example, in relation to the Government's proposal made days ago to provide disaster relief to Qinghai in the wake of the earthquake, we were given an urgent notice by the Government that it would submit a new funding proposal the next day to seek approval for the provision of some \$100 million, and nobody would object this. So, I would like to clarify this to the Government through the Chairman. Some people are concerned about a breach of law by the Government. This is simply out of question. This is confusing the concept and a substitution of concept. The objective of this substitution of concept is to make Members oppose my amendment. This is what it means.

Chairman, to political parties and groupings fighting for democracy, to Members who fight for democracy, and to Members who categorically say that

they have a role to monitor the Government, the principle involved here actually cannot be plainer and simpler, this is the right that we are entitled to. I would consider it strange if I do not do this. Dr LAM Tai-fai, if it is not handled in this way, that would really be "unconventional". We should discharge our duties but we are refrained from doing so. Is this not strange? What I am trying to say is that since we have to discharge our duties, we should urge the Government to take out this item and put it to a vote by us independently. This will absolutely not obstruct the holding of the by-election on 16 May.

With regard to the meaning of conducting this campaign for "referendum in five geographical constituencies", Members have expressed many views, and I am not going to waste any more time on this. But when we can monitor the Government in such a way, why do we refrain from doing so? I am really baffled. I am baffled because while we claim to be democratic and while we claim to have the role to monitor the Government, we are at the same time castrating our own functions and we are castrating our own rights by refusing to exercise them. To put it more bluntly — in many Chinese classical literatures we often find this term and I wonder if I am using it correctly in this context — this is like "self-castration of the genital organ", which, in this context, means emasculating our own functions and castrating the rights that we should have. What reason is there to do this?

Albert HO, Chairman of the Democratic Party, made certain remarks sternly and solemnly in all righteousness yesterday. Sitting just beside him I was moved by his words, and he was precisely talking about the need to monitor the Government. What did he say? What he meant was roughly that — Mr HO, I do not remember everything that you had said. He said that for issues not justified by a need, for issues without accountability, and for issues that did not provide the details, we would fail in our duty if we did not monitor the Government over these issues. This is roughly what he meant. He made a good point and I greatly commended him for saying this. Since he had said that, I now urge Chairman Albert HO to lead the Democratic Party to give effect to the declaration he made yesterday. He must not say one thing but do another. He must not make a fine start but end up with a poor finish. As I said earlier, this motion debate today is really spectacular. Such a spectacular debate rarely comes by in a lifetime, as we can see it with our own eyes what it means by double standard, what it means by a person making inconsistent, contradictory

remarks at different times, and also what it means by saying one thing but doing another. All these are shown clearly before our eyes.

The amendment that we propose now seeks to take out this item of expenditure for discussion separately. Is there anything wrong by asking the Government to reintroduce it to the Legislative Council? This is all in line with the procedures. The Government can reintroduce the proposal to the Legislative Council shortly. Why can this not be done? I urge them to give me a time for reintroduction and a reason to explain why this cannot be done! They have not done so. So, I propose to take out this item of expenditure today, and I make an appeal to Members who claim that they are working for the goal of democracy and who claim that monitoring the Government is their intrinsic duty. When they cast a sacred vote on this amendment later on, I urge them to vote in a way not to express support to me, but to be answerable to themselves, as they do not have to support me.

Chairman, as I said at the outset, I am solemn and serious in proposing this amendment today. I think this is a duty expected of Members. Some people said that in doing so, I would make things difficult for the Government, but this is far from true. Mr CHAN, we do not mean to put the Government in a dilemma. We are just discharging our duty. As I said just now, if this item can be successfully taken out from the Budget today, the Government will reintroduce it to the Legislative Council for funding approval shortly. So, Members' concern is unwarranted and let us not be misled by the Government. Friends from the Liberal Party have long stated that they would oppose this amendment, and this is what I have long expected. I have no strong views on this, as I all along understand their position. But there is one point which I think is intriguing. That is, the Democratic Party and the Liberal Party are "wearing the same pair of trousers" today. This is interesting for they hold the same position today. This is why I think this motion debate today is indeed very meaningful. Chairman, here, let me make an appeal to Members again. I urge them to cast their sacred vote in accordance with their scruples, conscience and senses.

Members, the pan-democratic camp proposed a host of amendments yesterday but all were negated. They sought to reduce the remuneration of certain Directors of Bureau but in vain. Such being the case, they may as well think about supporting my amendment, for they could then achieve their objective.*(Laughter)* Chairman, it is utterly regrettable that this item of

expenditure which should have been discussed separately is bundled up with the Budget. But since things have developed to such a state, there is just no other alternative.

Let me state it explicitly here that if my amendment is not passed, the several Members of us from the Hong Kong Federation of Trade Unions will support the Third reading of the Budget, because the Government has responded to many items that we have been fighting for. Besides, in the debate sessions of the Finance Committee, the Government had positively made an undertaking or response to a dozen items, many of which are measures relating to the people's livelihood. So how can I vote against it?*(The buzzer sounded)* Therefore, I can only hope that Members will support

CHAIRMAN (in Cantonese): Mr WONG Kwok-hing, your speaking time is up.

MR WONG KWOK-HING (in Cantonese): my amendment. Thank you, Chairman.

CHAIRMAN (in Cantonese): I now put the question to you and that is: That the amendment moved by Mr WONG Kwok-hing be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Mr WONG Kwok-hing rose to claim a division.

CHAIRMAN (in Cantonese): Mr WONG Kwok-hing has claimed a division. The division bell will ring for one minute.

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

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

Functional Constituencies:

Mr WONG Yung-kan, Mr WONG Ting-kwong, Mr IP Wai-ming, Mr IP Kwok-him, Dr PAN Pey-chyou and Mr Paul TSE voted for the amendment.

Dr Raymond HO, Dr David LI, Dr Margaret NG, Mr CHEUNG Man-kwong, Mrs Sophie LEUNG, Dr Philip WONG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Timothy FOK, Mr Abraham SHEK, Ms LI Fung-ying, Mr Tommy CHEUNG, Mr Vincent FANG, Dr Joseph LEE, Mr Jeffrey LAM, Mr Andrew LEUNG, Prof Patrick LAU, Dr LAM Tai-fai, Mr Paul CHAN, Mr CHAN Kin-por, Dr LEUNG Ka-lau, Mr CHEUNG Kwok-che and Dr Samson TAM voted against the amendment.

Geographical Constituencies:

Mr CHAN Kam-lam, Mr TAM Yiu-chung, Mr WONG Kwok-hing, Mr CHEUNG Hok-ming, Ms Starry LEE, Mr CHAN Hak-kan, Dr Priscilla LEUNG and Mr WONG Kwok-kin voted for the amendment.

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr LEUNG Yiu-chung, Mr LAU Kong-wah, Ms Emily LAU, Mr Andrew CHENG, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd HO and Mr WONG Sing-chi voted against the amendment.

THE CHAIRMAN, Mr Jasper TSANG, did not cast any vote.

THE CHAIRMAN announced that among the Members returned by functional constituencies, 29 were present, six were in favour of the amendment and 23 against it; while among the Members returned by geographical constituencies through direct elections, 23 were present, eight 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, he therefore declared that the amendment was negatived.

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the sum for head 163 stand part of the schedule.

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

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): I now put the question to you and that is: That the sum for head 163 stand part of the schedule. 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): I now put the question to you and that is: That the schedule stand part of the Bill. According to Rule 68(4) of the Rules of Procedure, this question is neither amendable nor debatable.

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

(Members raised their hands)

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

(No hands raised)

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

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

CLERK (in Cantonese): Clauses 1 and 2.

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

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): I now put the question to you and that is: That clauses 1 and 2 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.

CHAIRMAN (in Cantonese): Council now resumes.

Council then resumed.

Third Reading of Bills

PRESIDENT (in Cantonese): Bill: Third Reading.

APPROPRIATION BILL 2010

FINANCIAL SECRETARY (in Cantonese): President, the

Appropriation Bill 2010

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

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Appropriation Bill 2010 be read the Third time and do pass.

According to Rule 70 of the Rules of Procedure, this question shall be voted on without amendment or debate.

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 WONG Kwok-hing rose to claim a division.

PRESIDENT (in Cantonese): Mr WONG Kwok-hing has claimed a division. The division bell will ring for three minutes, after which the division shall start.

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

PRESIDENT (in Cantonese): Mr WONG Kwok-hing, you have not cast your vote.

(Mr WONG Kwok-hing pressed the button 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.

Dr Raymond HO, Dr David LI, Mr CHAN Kam-lam, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr LAU Kong-wah, Mr LAU Wong-fat, Ms Miriam LAU, Mr Timothy FOK, Mr TAM Yiu-chung, Mr Abraham SHEK, Ms LI Fung-ying, Mr Tommy CHEUNG, Mr Vincent FANG, Mr WONG Kwok-hing, Dr Joseph LEE, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr CHEUNG Hok-ming, Mr WONG Ting-kwong, Prof Patrick LAU, Ms Starry LEE, Dr LAM Tai-fai, Mr CHAN Hak-kan, Mr Paul CHAN, Mr CHAN Kin-por,

Dr Priscilla LEUNG, Dr LEUNG Ka-lau, Mr WONG Kwok-kin, Mr IP Wai-ming, Mr IP Kwok-him, Dr PAN Pey-chyou, Mr Paul TSE and Dr Samson TAM voted for the motion.

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Dr Margaret NG, Mr CHEUNG Man-kwong, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr Andrew CHENG, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd HO, Mr CHEUNG Kwok-che and Mr WONG Sing-chi voted against the motion.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that there were 52 Members present, 35 were in favour of the motion and 16 against it. Since the question was agreed by a majority of the Members present, he therefore declared that the motion was passed.

CLERK (in Cantonese): Appropriation Bill 2010.

MEMBERS' MOTIONS

PRESIDENT (in Cantonese): Members' motion. Ms Miriam LAU will move a motion under Rule 49E(2) of the Rules of Procedure to take note of Report No. 8/09-10 of the House Committee laid on the Table of the Council today in relation to the Designation of Libraries Order 2010.

PRESIDENT (in Cantonese): According to the relevant debate procedure, I will first call upon the mover of the motion to speak and move the motion, and then call upon the Chairman of the Subcommittee formed to scrutinize the subsidiary legislation concerned to speak, to be followed by other Members. Each Member may only speak once and may speak for up to 15 minutes. Finally, I will call

upon the designated public officer to speak. The debate will come to a close after the public officer has spoken. The motion will not be put to vote.

PRESIDENT (in Cantonese): Members who wish to speak will please press the "Request to speak" button.

I now call upon Ms Miriam LAU to speak and move her motion.

MOTION UNDER RULE 49E(2) OF THE RULES OF PROCEDURE

MS MIRIAM LAU (in Cantonese): President, in my capacity as Chairman of the House Committee and in accordance with Rule 49E(2) of the Rules of Procedure, I now move the motion as printed on the Agenda to enable Members to debate the Designation of Libraries Order 2010 contained in Report No. 8/09-10 of the House Committee on Consideration of Subsidiary Legislation and Other Instruments.

Thank you, President.

Ms Miriam LAU moved the following motion:

"That this Council takes note of Report No. 8/09-10 of the House Committee laid on the Table of the Council on 21 April 2010 in relation to the subsidiary legislation and instrument(s) as listed below:

<u>Item Number</u>	<u>Title of Subsidiary Legislation or Instrument</u>
(1)	Designation of Libraries Order 2010 (L.N. 22/2010)."

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

MR LEUNG YIU-CHUNG (in Cantonese): President, in the capacity of the Chairman of the Subcommittee on Designation of Libraries Order 2010 (the Subcommittee), I report the deliberation of the Subcommittee to this Council.

The Subcommittee is supportive of the opening of the Students' Study Room, which is part of the Tung Chung Public Library (TCPL) to be opened in future, by virtue of the Order with effect from 1 March 2010, to cater for the needs of students. Members do not oppose the proposal of the Administration in commissioning the TCPL in mid 2010, but has expressed reservation on the Administration's plan to cease the operation of the existing library at Yat Tung Estate (YTEL) upon the opening of the new library.

The Subcommittee has noted that, to many residents in Yat Tung Estate, in particular the large population of young children, the YTEL is the most convenient and cost-effective means to meet their learning and information needs. Moreover, YTEL has also become the focal point of the local community where many basic recreation and social facilities are either lacking or underprovided. Members consider that the Administration should take heed of the special circumstances of the Yat Tung Estate community, and address the residents' demand for library facilities in a more caring and flexible manner.

In response to the concerns raised by Members, the Administration has advised that it will not be feasible for the Leisure and Cultural Services Department (LCSD) to operate YTEL and TCPL concurrently, in view of resource constraints and that the existing arrangement is already in compliance with the planning requirements for public libraries as described in the Hong Kong Planning Standards and Guidelines (HKPSG). To address the needs of Yat Tung Estate residents, the Administration is making alternative arrangement by enlisting the partnership of a non-governmental organization (NGO) to operate a community library at the YTEL premise for the continued provision of library services in the Yat Tung Estate community.

With regard to the role and operational arrangement of community libraries, the Administration has explained that to bring library services to the community, the Government has worked in partnership with NGOs/local organizations in setting up community libraries under the Libraries@neighbourhood — Community Libraries Partnership Scheme. By

virtue of this partnership arrangement, the NGOs will play a leading role in the provision of library services, as well as community/social services in relation to the mission of the respective organizations, while the Government will mainly provide block loan of books and professional advice on library management to accommodate their services. As for the operational expenses, including rent, of the community library concerned, the operator of the community library will be responsible for those expenses.

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

Members in general have no objection to the arrangement, but have urged the authorities to undertake that:

- (a) during the interface, the library services provided to residents of Yat Tung Estate should not be interrupted; and
- (b) in the event that the first operator cannot proceed with the plan for the proposed library for whatever reasons, another NGO would be put in place to take charge of the community library.

Members have urged the Administration to ensure that the scope and level of services of the community library should be on par with those currently provided by the YTEL.

The authorities have assured Members that in the conversion of YTEL into a community library, it will endeavour to arrange with the NGO concerned on measures to ensure a short transitional period and uninterrupted library service. Should the organization in co-operation is unable to continue to carry out the plan for whatever reasons, the authorities will identify another NGO to establish the community library, so as to ensure that the provision of library services at Yat Tung Estate will not be disrupted. Moreover, the Administration undertakes to convey Members' views on the services of the proposed community library to the future operator of the library.

Deputy President, these are the unanimous views of members of the Subcommittee. I will now give my personal opinions.

Deputy President, as I mentioned earlier, the main reason we have to scrutinize the present arrangement is that the LCSD is subject to the requirements under the HKPSG in the provision of library services to the community. According to the HKPSG, no two libraries should be established concurrently within a community in principle. Hence, the authorities will not invest additional resource for the continual operation of the temporary library. I consider it worthy for us to urge the Government to review such an approach, which has been adopted for years. Though it has been a long-established approach, it may not necessarily cater for the development need of communities. Take the case in Tung Chung as an example. The community development of the district is peculiar in many aspects. First, in respect of population, the population composition of Tung Chung is very special and different from other communities in that the elderly, the middle-aged and the youth co-exist. There is thus a strong demand for services. To cater for the diversified needs of the population on library services, the services provided by a community library alone is far from adequate and another library will be needed. But, regrettably, the authorities now say that two libraries cannot co-exist and one must cease operation. This is an unfair arrangement which fails to meet the aspirations of the community.

Second, the geographic environment of Tung Chung is also very special. Members will understand if they have been to Tung Chung. At present, if residents of Yat Tung Estate like to visit the newly built public library, they will have to take an extremely long journey. I once walked with the officials concerned and the librarian from Yat Tung Estate to the new public library. Do you know how long it took? Deputy President, we carried no heavy load but just light pack. We chatted casually as we walked. But it eventually took us more than 40 minutes to get there. It is a 40-minute walk or longer, can you imagine that We have to pass extremely quiet road sections and cross footbridges, and so on. At night, the illumination may be poor. It is by all accounts impossible for children to go there alone, they must be accompanied by parents. How can it be possible? It is just impracticable to ask students to study there, for they have to spend 40 minutes to go there and another 40 minutes on return, which means more than an hour in total. How can it be possible?

Certainly, you may say that they can go there by public transport instead of walking. But, Deputy President, it is really inconvenient, for only one bus route is available in the area. It costs three odd dollars, some \$3.6 \$3.1 for each trip. It means one has to paid six-odd dollars for a round trip. Will members of the public find it affordable to travel to and fro frequently in this manner everyday? The arrangement is inappropriate. The geographical constraints have made the arrangement impracticable.

The second point is that we should not adopt a fossilized approach in considering community development. The rule that one library for each district is inappropriate. As we all know, we are right in saying that Hong Kong is gearing towards the direction of developing a knowledge-based economy. Knowledge is thus of utmost importance. Local residents are familiar with the services provided by the existing library which is to be closed down. They are used to visiting that library and using the service frequently. The utilization rate of that library is extremely high, not only students, the elderly, residents at work and job seekers also use the services there. Why? They visit the library because they want to save money for buying newspapers, or because they cannot access to internet services at home. If the library is closed down, it will cause much inconvenience to this group of people. However, their practical needs have never been taken into consideration. The authorities just say that, since a public library with a large space and better facilities has been provided, it can adequately cope with the demand. I consider it inappropriate for the authorities to turn down the request of the residents on this principle.

Fortunately, under the concerted efforts of residents and colleagues, the LCSD is incessantly forced to make extra efforts, and eventually, it has identified a voluntary organization to continue operating the library. The organization should be commended. Why? For the organization will receive no subsidy on the operation, and has to bear the rental, staff salaries, electricity tariff and other sundries expenses all by itself. What assistance will the Government provide? The Government will only subsidize some of the books, and that is all. Another precious offer proposed by the Government is that existing furniture and facilities will not be removed, so that the organization may use them and save the expenses on renovation. Apart from that, the organization will receive no subsidy for the recurrent expenditures incurred in future. No assistance will be provided, and the organization has to work it out by itself. When the organization really runs

out of resource, it may have to cease the operation. If the operation is ceased, the authorities will have to identify another organization to take over. Since library services may be ceased frequently due to the lack of money of the operating organization, it is not a desirable arrangement to the residents. Actually, residents have queried why the Government cannot invest some more resources on the library, so that its operation may continue. In fact, when the library is run by another organization, the organization may not designate all the area of the premise for library services. Instead, it may use part of the area for the provision of its own services, which may result in the reduction of library space. Hence, this is not a good arrangement.

On the other hand, the Government told us that the continued operation of the library will only cost a monthly recurrent expenditure of \$200,000 to \$300,000, which is not a substantial amount. We are just talking about \$200,000 to \$300,000. I believe the LCSD may easily solve the problem by spending some three million dollars per annum. But why the Government is not willing to make such an investment to continue providing the service to the community? Actually, a lot of people are using the service every day, and the library is not left vacant. Library is the gateway to acquiring knowledge and broadening horizons. Why do we have to be tight-fisted about several million dollars? I truly consider the arrangement extremely inappropriate. However, the authorities state that due the two reasons mentioned above, they cannot accept that proposal. I have already mentioned the first reason, which is the requirement stated in the HKPSG that no two libraries can co-exist. Besides, the resource constraint cannot support the operation of two libraries.. Hence, the situation of today arises.

Deputy President, we are indeed lucky this time, for a voluntary organization is willing to take over the operation of the library. But what if no organization is willing to do so? We will loss a library. Like I just said, residents will have to walk 40 minutes or spend \$3.1 for a trip to the library. As children have to be accompanied by parents, a total of \$6.2 has to be spent every time, \$3.1 for the child and \$3.1 for the parent, which mean \$12.4 in total for a return journey of two. How many people can really afford the transport expenses incurred? If they use library service frequently and visit the library almost every day, this will become a recurrent expense to them. If they cannot

afford the expense, who will eventually suffer? Moreover, for the elderly who would like to have a place where they can read newspaper and magazines, are we asking the elderly to spend money to acquire knowledge?

Why can we not adopt a flexible approach in handling this issue? Today, I indeed want to point out that a flexible approach, instead of a fossilized approach, should be adopted in handling community issues, which will be beneficial to the entire community. As I mentioned earlier, during my visit to the district with my colleagues, we notice that that the library which is going to cease operation has in the past been a focal point of the residents. More often than not, residents use the various services provided there, such as library services, computer facilities, newspapers and magazines, and they may simply do some reading there. It provides very good community services. Why do the authorities insist on closing it down? We are lucky to have such a good voluntary organization to take over the operation of the library; otherwise, there will be many troubles. Hence, today, I urge the Government to review this policy again, so that more community services of this nature can be provided in the communities and the public may have more opportunities to use these services. Deputy President, I so submit.

MR WONG KWOK-HING (in Cantonese): Deputy President, it was me who proposed the scrutiny of the Designation of Libraries Order 2010 in the House Committee.

Deputy President, the provision of a new library should not cause so much fuss, but the problem is that with the commissioning of the new library, the Government will cease the operation of the temporary library in Yat Tung Estate (YTE). As a result, residents will suffer a great loss and will be seriously affected due to the imbalanced government planning. Therefore, the residents of YTE lobbied for the retaining the temporary library service in YTE. This is the background of this incident.

Deputy President, more than a decade ago, the Government decided to develop new towns in some remote areas. Why did I say that this issue is the result of an imbalanced planning? In developing the new towns, the Government thought that some places could be turned from stones into gems. However, due to subsequent changes in circumstances and failure to keep up the

efforts in planning, these new towns have become cities of sadness one after another.

Families that move into the remote new towns are mainly young families with low-income or on Comprehensive Social Security Assistance (CSSA). Since government planning is inadequate and complementary transport facilities are limited, many residents are forced to bear high transport expenses, which adds burden to their lives. In order to save money, they avoid cross-district activities and will restrict their activities within the district where they live as far as possible. Even if they want to take part in certain activities, they have to consider whether or not they can afford the transport expenses. YTE is the remotest new town in Tung Chung and it is like an isolated island. During the early planning stage, the Government said that a MTR station would be located there. Later, when the residents asked why no station was built, the Government went so far as to say that according to the original planning, the station was located at the site where it was now the sea. The residents said that the Government should not have urged them to move there by saying that transport was convenient. It turned out to be an empty promise. At present, residents have to pay \$3.1 for a trip from YTE to the MTR station and a return trip costs \$6.2. Apart from paying expensive railway fares, they also have to bear the fares for feeder services. To the 40 000 residents in YTE, this is really a heavy burden.

Deputy President, there are 40 000 residents in that district, and more than a quarter of the families are on CSSA, so it can be imagined what a miserable place it is. There are no economic activities. All they have is a shopping mall managed by the Link REIT. Since there are no other community facilities in that district, the original temporary library in YTE has become the only community facility. As Mr LEUNG Yiu-chung has said, where else can they go to? They can only go to this place. Not only is it a place for learning and studying, it has also become the only place for people in the local community to get together. If they do not go there, they can only go onto the streets. That is the situation. Among a population of 40 000 in the district, over 10 000 are children aged under 15 years. How they long to read books and access the Internet. For this reason, the temporary library is like a life-line to them and it is their only psychological support. Unfortunately, after the commissioning of a

new library in Tung Chung, the Government plans to close down this temporary library in the middle of this year. How pathetic! Without this place, their lives and study would undoubtedly be affected. They can go nowhere, and cannot afford to go elsewhere. Deputy President, what makes people most resentful is that at about the same time, despite strong opposition from residents, the Government approved the Hong Kong Jockey Club (HKJC) to open a betting centre, located one floor below the three kindergartens in YTE. This is most unreasonable.

Residents point out that while the temporary library is going to be closed down, a betting centre will be set up, so what adverse influence will this have on the development of children in that district? Why does the Government not think about this? Why has the Government overlooked such a situation? They feel very miserable, as though they were orphans forgotten by the Government in the development of new towns. This is how they describe themselves, thinking that the Government no longer cares about them.

Deputy President, in YTE, a District Council member, Mr Bill TANG, has conducted a questionnaire survey to reflect the demands of the residents. The results of the survey show that 19% of the residents say that they use the library once daily, 45% use the library one to three times a week, 20% once a week and 13% once a month. This reflects the relationship of the library with residents there and how much residents in YTE need this library. Even according to the figures of the Leisure and Cultural Services Department (LCSD), in 2008, the attendance of the YTE library was as many as 464 226 people, that is, an average of almost 1 500 people use it each day it opens. This library is serving an extremely important function and is an essential facility in the residents' lives.

The questionnaire survey also finds that apart from borrowing books from the library, residents also use computers, read newspapers, study, and so on, in the library. To this isolated community, it serves a very important community function. Regarding the establishment of a newer and bigger district library in Tung Chung, residents of YTE have no objection and of course, they also welcome it. However, what they want the most is that this only community facility provided by the Government will not cease operation. If it ceases operation, this will have a great impact on them. Just as they put it, does the

Government want more people to become marginal youths? Does the Government want to see more people take drugs, abuse drugs, break the law and go to jail? Why does it scrap this only channel for acquiring knowledge? On this issue, the above-mentioned District Council member has conducted a questionnaire survey and organized a signature campaign in which over 10 000 signatures were collected from residents opposing the closure. They also paid the transport fares out of their own pockets to go to the Government Secretariat to stage a petition and lodge a complaint with the Complaints Division of the Legislative Council. Several Members, including me, handled this matter through the Complaints Division of the Legislative Council. After many discussions, the Government has finally heard their voice and has undertaken to identify some groups or voluntary organizations to continue the provision of this service. The Administration is finally willing to take on board public opinion as a remedial measure. For this, I am particularly grateful to the officials concerned in the LCSD and the Home Affairs Department who have, upon our request, walked from the library at YTE to the library in Tung Chung, in order to gain some first-hand experience. They made site visits to understand the difficulties of the residents. I would like to thank these officials for their active responses. The departments concerned also gave me a written reply, saying that they would make efforts to find voluntary organizations to provide the service, so that the service would not be discontinued. They also assure me that in case the voluntary organization is unable to provide the service, another voluntary organization would take over. I welcome such an assurance.

Deputy President, I wish to take this opportunity to raise one point with the Government, so that it will be put on record. I hope that after identifying a voluntary organization to provide the library service at YTE, the Administration will introduce a monitoring period of at least three years and ensure that the following three conditions are met: First, the floor area of the library (that is, 700 sq m) cannot be reduced; second, the existing stock of 70 000 items has to be maintained and should not be reduced; and third, the opening hours of 56 hours per week should not be shortened. I hope the Government can accept these three expectations voiced by residents.

Deputy President, the Government has just announced the allocation of more than \$100 million to subsidize the operation of six outlying island ferry routes, on the ground that outlying island residents have no alternative means of

transport, so the operation of the ferry routes cannot be discontinued. In fact, in the case of residents in Tung Chung and YTE, given that they cannot afford such high transport fares, do they really have a choice?

Deputy President, as the saying goes, "Nobody with a head of hair will want to look bald". If residents can afford the transport expenses, they would not have to lobby so hard. Therefore, I hope sincerely that Secretary TSANG can step up his efforts and provide assistance in following up the matters relating to the library at YTE, so that the provision of the original services will continue after the taking over by the organization concerned. That would really be a benevolent measure. In this way, it will be possible to maintain an important mental and cultural support for residents in YTE after all. I so submit. Thank you.

MR LEE WING-TAT (in Cantonese): Deputy President, before the gazettal of the Designation of Libraries Order 2010, two groups of residents of Yat Tung Estate (YTE) had already come to the Legislative Council to lodge complaints. At that time, I was one of the duty roster Members who met them, together with Mr LEUNG Yiu-chung and Mr WONG Kwok-hing. Among the people in these two groups, one of them was a District Council member and another was a resident who came here to lodge a complaint on behalf of his fellow residents. After holding a case conference to listen to the views, we made a visit to the local community. Generally speaking, I agree with the views of the other two Honourable colleagues that the library is well utilized.

I once told Mr LEE, the then Assistant Director, what made us, people involved in politics, most happy is that the Government only needs to use a small amount of money to buy some books, and can attract so many people to borrow them. What else can be more gratifying? In fact, the Secretary also knows that the global trend is that fewer people read books now. One of the reasons is that books are very expensive. Recently, I bought a hardcover book about the Secretary of the Treasury of the United States in the financial turmoil last year, it costs over \$300. In fact, I did not really want to buy it because it was a hardcover edition. I asked the shop assistant if there was any paperback edition

costing \$100 or so. He replied that the paperback edition would be available only half a year later. So, I had to pay the high price and buy the book.

In fact, many families spend quite a lot of money on buying books. On one occasion, I visited a family in a housing estate. This family has bought some hardcover pictorial books for its children at a cost of \$30 or \$40 each. Each story book contains only one children's story, for example, the story of Snow White. The book is thin, with only a few pages and not many words, but it cost \$30 or \$40 each. I found that there are many such books in some better-off families. I ask these families how much they have totally spent on these books. Several dozens of these books probably cost over \$1,000. I think families in general may not be able to spend so much money on books.

(THE PRESIDENT resumed the Chair)

Two Honourable colleagues have just said that it is very important for the library in YTE to continue the provision of service, and the present arrangement can also tie in with the future situation. I hope the Secretary and the Home Affairs Department in fact, the Home Affairs Department and the Leisure and Cultural Services Department (LCSD) are both under the purview of the Secretary, so I hope these two departments can co-operate with one another and continue to do a good job in co-ordination. I have confidence in them in this regard.

However, in this incident, there are two points that I do not quite understand. First, I hope that the Secretary will consider the proposal of conducting a review of the policy on libraries. As I have just said, the global trend is that fewer people read books now. Although I do not have any children, I find that the children of my elder brothers, sisters or relatives all spend more time on playing video games than reading books. They also surf the Internet often and I do not know if they are reading articles or playing games. Therefore, indeed, the global trend is that fewer and fewer people read books. For this reason, the Secretary has to examine if a review is required for the existing planning standards. The existing planning standards may specify the construction of a district library for an area with 200 000 people and the

construction of a large library for a population of hundreds of thousands of people. Of course, we know that it would be a very difficult task for the Secretary because resources are limited and all parties are competing for them. However, if changes in the planning standards for the construction of libraries are raised for discussion, I believe many people will support the Secretary, I will also support him. As I have just said, if the Government allocates some money to buy books, parents and children will take the initiative to go to the library near to their homes or to the library a few blocks or some blocks away from home to borrow books to read them at home. What else can be more gratifying than this? It does not matter whether the books borrowed are children's books, comics or books with serious contents, reading a book is always better than indulging in video games or Internet games. Therefore, the first point is that I hope the Secretary will consider conducting a review in this regard.

The second point that I hope the Secretary will take into consideration is that, the existing policy is standardized and formulated with reference to the experience over the years. With the successive development of the new towns, I think it is necessary to implement the policy with flexibility. In the past, the transport facilities of the new towns would very often only be in place after the residents had moved in. Now, the situation is better and generally speaking, the transport infrastructure is better than those two decades ago. In the past, I had to travel to Tuen Mun to teach there and that was really miserable. The school was surrounded by fields and it took 45 minutes to take a bus from Tsuen Wan to Tuen Mun, and the roads were rugged. But now, the conditions are much better. The railway network is now well-developed. I think what the Government needs to do now is to ensure that community facilities in the new towns are available when residents move in. Obviously, the development of Tung Chung will be different from the past. Now, it is catching up fast. There is now a library and a sports stadium in the district. A swimming pool is now under construction, and it seems that the problems in Tung Chung are alleviating. I believe that this approach should be adopted in future community development because in the future, the development of several small communities with only some 100 000 people will be carried out at such places as Kwu Tung and Hung Shui Kiu. The Government should also consider the simultaneous completion of transport facilities and community and recreational facilities, instead of building them only after residents have moved in.

Regarding the third point, I know that very often, the planning standards are a cause of headache. President, the Government provides various types of services according to the proportion of the population and I do not mean to say that this is entirely wrong. For example, if the population in a certain district is less than 200 000, the Government would not build any swimming pool. If the population is less than 200 000 people, no library will be provided either. However, residents in these districts without community facilities are annoyed. For example, what can residents living in a district with a population of 130 000 do? They have to go to a neighbouring district or housing estate. It does not matter if the distance is not far. For example, there is no library in Tai Wo Hau Estate, so residents have to go to Tsuen Wan for library services. It only takes five minutes to go to a MTR station. In closely connected communities, this is acceptable. However, I think the Secretary has to discuss with his colleagues, other Secretaries or those responsible for planning about the need to exercise flexibility in the application of standards for a remote community.

For example, at the early stage of the development of Tin Shui Wai, it took residents over 20 minutes to go to Yuen Long by public transport, it takes much longer time to go there on foot, even jogging there takes an hour. If the Government applies the planning standards, for example, no library will be built in districts with only 130 000 people, I think this is too rigid and not people-oriented even though the Government has its grounds. For example, the population in Tung Chung has not yet reached 200 000, no matter how one calculates, and it would not reach such a number even a decade later. According to the planning standards, the construction of the aforesaid facilities is not permitted. However, the Government, being considerate, finally agrees to provide such facilities. If the same situation occurs in other communities or new towns in future, that is, at the early stage of planning, the population is not enough to meet certain planning standards, the Government will have to consider: can residents of those districts where certain services are unavailable, access the services provided in a neighbouring district by walking an acceptable distance or making short trips by public transport? If this is not possible, the Government should not apply the standards rigidly. I think this approach is rather rigid and the Government should have some new thinking in this regard.

President, I have a strange feeling on this issue. In this case concerning the library, I believe the Home Affairs Bureau has to ask whether or not the Home Affairs Department has consulted the District Council (DC) concerned. The Democratic Party does not have any DC member in that district but the FTU and the DAB do. I do not know if the DC members in that district have discussed this issue. Has the District Office in that district actively consult the DC on the closure of the temporary library and the establishment of a betting centre of the HKJC? The location of the betting centre is very close to residents' homes and it is actually located one floor below the kindergartens. You can see it from the small central plaza. I remember that the Home Affairs Department once issued a guideline, saying that while it is not possible to bar the establishment of HKJC betting centres, they should be located on the second or third floor of stand-alone shopping centres, so that they can be kept apart from residential buildings and education organizations. I think this guideline has been well followed. However, in this matter relating to YTE, I am really puzzled. Has the DC overlooked it or has the DC not been consulted? I do not know if Honourable colleagues of the FTU and the DAB have raised the proposal with the DC and voiced their opposition. It is indeed regrettable that if the closure of the library and the establishment of the HKJC betting centre happen at the same time.

Secretary, I also wish to raise one more point. Occasionally, I go to libraries to borrow books and I think that libraries are really good places for members of the public to get together. In the United Kingdom, pubs used to be the meeting places for the people, I think pubs are not necessarily undesirable places. In the United Kingdom, pubs are also places for social gatherings; people go there for a drink after work and chat.

I agree that to many members of the public in the lower stratum, libraries are places where they can get together. They go there to read newspapers, books and meet friends. A couple of years ago, I received some amusing complaints asking the LCSD not to be too stingy and should buy more newspapers. That was because some people had quarrels over reading newspapers. As they did not want to pay \$6 to buy a newspaper, they waited for their turn to read one. However, a man read a newspaper for about 45 minutes, and other people waiting for their turn got angry and thus a quarrel broke out. The situation is better now

and I know that libraries are making various improvements. Once, I went to the library in YTE and found that there were about 15 to 20 newspapers. The situation is quite satisfactory.

However, I also hope that the Secretary can think about this and make visits occasionally. Sometimes, a little effort of work can bring great benefits to the grassroots. Think about this: A newspaper only costs \$6. President, you and I would not give much thought to buying a newspaper with \$6 but to those who have to wait for more than half an hour in the library before they can read a newspaper, they may not feel happy. For this reason, when it comes to minor things, it costs the Government little to get a good job done. In fact, this will bring great benefits to local communities or society. Sometimes, it is not necessary to spend billions of dollars or tens of billions of dollars to be people-oriented. If a good job can be done in minor or day-to-day matters, the public would support the Government silently and approve the performance of the Government. Thank you, President.

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

MR TAM YIU-CHUNG (in Cantonese): President, at first I thought I must press the "Request to speak" button before speaking. When you asked whether any Members wished to speak, you might actually find it strange. Why is it that only Members of the New Territories West constituency wish to speak? This is because this problem happens in Tung Chung. The Secretary is smiling now. Actually, this problem has persisted for months, and I believe all of us are aware of the sequence of events. However, I think the ultimate solution now is a very good one.

The Government has indicated that policy-wise, there should not be two libraries in the same district. However, the location of the temporary library is more desirable for the public, especially for residents in Yat Tung Estate because they actually need to travel quite a distance to the new library and have to pay the transport fees if they go there by public transport. With the solution worked out by the Secretary now, the temporary library can be retained, and all parties are satisfied. I hope the temporary library can be retained without having to face

any uncertainties again within one year or so. By that time, the residents may have to fight for it again.

This incident illustrates that insofar as policy is concerned, sometimes certain disputes can be resolved by adopting less restrictive and more flexible approaches. For residents in public housing estates, a library is very important. This is especially so for residents in Tung Chung because the transport fees to urban areas are very high. Many residents in Tung Chung usually stay in the public housing estates. However, these public housing estates do not have many facilities, and some facilities will only be completed some time later. Therefore, I think retaining the library facilities is very important for them at this stage. Regarding this problem, the government representative has, in his speech, indicated that the authorities have given consideration and responded to public sentiment and opinion. I consider it a very desirable solution.

I so submit. Thank you, President.

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

(No Member indicated a wish to speak)

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, I am thankful to Members for supporting the Designation of Libraries Order 2010 (the Order) and their concern about public library services.

The allocation of public libraries in Hong Kong is drawn up on the basis of the Hong Kong Planning Standards and Guidelines. There is one district library for a population of 200 000, and there is at least one district library in every district. District Libraries are all of a substantial scale. There is now a population of some 80 000 in Tung Chung new town, and the Government has already drawn up a plan of constructing a district library there. In the interim to the completion of this district library, the Leisure and Cultural Services Department (LCSD) operates a small temporary library at a rented shop in the shopping centre of Yat Tung Estate. Since the inception of the temporary library, it has been made very clear that it is meant only for a temporary purpose.

With the commissioning of the Tung Chung District Library, the temporary library in Yat Tung Estate will be replaced as scheduled.

The Order, which is supported by Members, allows the operation of the student study room ahead of the commissioning of the new Tung Chung Library, thus making it possible to cater for students' needs at an earlier time. Later, with the commissioning of the new library, the library services in Tung Chung will be significantly upgraded. The new library has a total floor area of 2 700 sq m, four times that of the present temporary library. The basic collections of the new library will be much larger, totalling 140 000 items. A variety of facilities will be provided, including an adult lending library and a children's library, a multi-media library, a newspapers and periodicals reading room, a computer and information centre, an extension activities room and a cafeteria. The new library will be open for 71 hours seven days a week. Its opening hours will be longer than that of the temporary library, which is open for only 56 hours six days a week. The commissioning of the new library will markedly improve the public library services in Tung Chung.

Our limited public resources must be reasonably utilized. After the commissioning of the district library provided in accordance with planning standards and guidelines, there will be no justifications for using any public money to maintain the temporary library. However, we do realize that the temporary library has gradually become a popular public area frequented by Yat Tung Estate residents, especially children, youngsters and the elderly. We are very delighted to learn that a non-profit making organization dedicated to community services is willing to rent the venue presently occupied by the temporary library to provide community services, including partial library services. The LCSD has decided to co-operate with this non-profit making organization under the Libraries@neighbour — Community Libraries Partnership Scheme, with a view to providing Yat Tung Estate residents with library lending services, newspapers and periodicals reading services and Internet services. As in the case of other community libraries operated in co-operation with the LCSD, the organization concerned will make its own arrangements for the venue, manpower and various resources necessary the operation of the community library. The LCSD will provide books, professional advice and technical

support. Upon its commissioning, this community library will become one of the 150 community libraries in Hong Kong.

I must express my heartfelt thanks to the non-profit making organization which operates the community library and various community services in Yat Tung Estate. I also wish to thank those members of the public who have offered subsidy to this non-profit making organization. In the interim to the commissioning of the new Tung Chung library, we will make arrangements for training up student voluntary workers and enhance connections with the local community. We believe that through all such arrangements, Tung Chung residents will be provided with much better library services.

As for Members' suggestion on reviewing library services and the standards and guidelines governing their provision, initial discussions were already held at the meeting of the Panel on Home Affairs on 9 April. We will actively improve library services and facilities in different areas by, for example, adopting information technologies as a means of developing library without walls, so that members of the public can access library services without time and spatial constraints. In this way, the services and efficiency of library can be upgraded.

President, I so submit.

PRESIDENT (in Cantonese): Under Rule 49E(9) of the Rules of Procedure, I shall not put any question on the motion.

NEXT MEETING

PRESIDENT (in Cantonese): I now adjourn the Council until 11.00 am on Wednesday, 28 April 2010.

Adjourned accordingly at seventeen minutes to Three o'clock.