

1 HONG KONG LEGISLATIVE COUNCIL -- 1 June 1989

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OFFICIAL REPORT OF PROCEEDINGS

Wednesday, 1 June 1989

The Council met at half-past Two o'clock

PRESENT

HIS EXCELLENCY THE GOVERNOR (PRESIDENT)
SIR DAVID CLIVE WILSON, K.C.M.G.

THE CHIEF SECRETARY
THE HONOURABLE PIERS JACOBS, O.B.E., J.P.

THE FINANCIAL SECRETARY
THE HONOURABLE DAVID ALAN CHALLONER NENDICK, J.P.

THE ATTORNEY GENERAL
THE HONOURABLE JEREMY FELL MATHEWS, C.M.G., J.P.

THE HONOURABLE ALLEN LEE PENG-FEI, C.B.E., J.P.

THE HONOURABLE STEPHEN CHEONG KAM-CHUEN, O.B.E., J.P.

THE HONOURABLE CHEUNG YAN-LUNG, O.B.E., J.P.

THE HONOURABLE MARIA TAM WAI-CHU, C.B.E., J.P.

DR. THE HONOURABLE HENRIETTA IP MAN-HING, O.B.E., J.P.

THE HONOURABLE CHAN YING-LUN, J.P.

THE HONOURABLE CHENG HON-KWAN, J.P.

THE HONOURABLE CHUNG PUI-LAM, J.P.

THE HONOURABLE HO SAI-CHU, M.B.E., J.P.

THE HONOURABLE HUI YIN-FAT, O.B.E., J.P.

THE HONOURABLE NGAI SHIU-KIT, O.B.E., J.P.

THE HONOURABLE PANG CHUN-HOI, M.B.E.

THE HONOURABLE POON CHI-FAI, J.P.

THE HONOURABLE SZETO WAH

THE HONOURABLE MRS. ROSANNA TAM WONG YICK-MING, J.P.

THE HONOURABLE TAM YIU-CHUNG

DR. THE HONOURABLE DANIEL TSE, O.B.E., J.P.

THE HONOURABLE ANDREW WONG WANG-FAT, J.P.

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

THE HONOURABLE RONALD GEORGE BLACKER BRIDGE, O.B.E., J.P.

SECRETARY FOR EDUCATION AND MANPOWER

THE HONOURABLE MICHAEL LEUNG MAN-KIN, J.P.

SECRETARY FOR TRANSPORT

THE HONOURABLE EDWARD HO SING-TIN, J.P.

THE HONOURABLE PETER TSAO KWANG-YUNG, C.P.M., J.P.

SECRETARY FOR ADMINISTRATIVE SERVICES AND INFORMATION

THE HONOURABLE CHAU TAK-HAY, J.P.
SECRETARY FOR HEALTH AND WELFARE

THE HONOURABLE RONALD JOSEPH ARCULLI, J.P.

THE HONOURABLE MARTIN GILBERT BARROW, O.B.E.

THE HONOURABLE PAUL CHENG MING-FUN

THE HONOURABLE MICHAEL CHENG TAK-KIN, J.P.

THE HONOURABLE DAVID CHEUNG CHI-KONG, J.P.

THE HONOURABLE RONALD CHOW MEI-TAK

THE HONOURABLE MRS. NELLIE FONG WONG KUT-MAN, J.P.

THE HONOURABLE MRS. PEGGY LAM, M.B.E., J.P.

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

THE HONOURABLE MRS. MIRIAM LAU KIN-YEE

THE HONOURABLE LAU WAH-SUM, J.P.

DR. THE HONOURABLE LEONG CHE-HUNG

THE HONOURABLE LEUNG WAI-TUNG, J.P.

THE HONOURABLE JAMES DAVID McGREGOR, O.B.E., I.S.O., J.P.

THE HONOURABLE KINGSLEY SIT HO-YIN

THE HONOURABLE MRS. SO CHAU YIM-PING, J.P.

THE HONOURABLE JAMES TIEN PEI-CHUN, J.P.

THE HONOURABLE MRS. ELSIE TU, C.B.E.

THE HONOURABLE PETER WONG HONG-YUEN, J.P.

THE HONOURABLE ALISTAIR PETER ASPREY, O.B.E., A.E., J.P.
SECRETARY FOR SECURITY

THE HONOURABLE KENNETH KWOK WAI-KAI, O.B.E., J.P.
SECRETARY FOR LANDS AND WORKS

THE HONOURABLE ADOLF HSU HSUNG, J.P.
SECRETARY FOR DISTRICT ADMINISTRATION

ABSENT

THE HONOURABLE MRS. SELINA CHOW LIANG SHUK-YEE, O.B.E., J.P.

THE HONOURABLE MRS. RITA FAN HSU LAI-TAI, O.B.E., J.P.

THE HONOURABLE PETER POON WING-CHEUNG, O.B.E., J.P.

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

THE HONOURABLE DAVID LI KWOK-PO, J.P.

PROF. THE HONOURABLE POON CHUNG-KWONG, J.P.

THE HONOURABLE TAI CHIN-WAH, J.P.

IN ATTENDANCE

THE CLERK TO THE LEGISLATIVE COUNCIL
MR. LAW KAM-SANG

Member's Motion

THE BASIC LAW OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION OF THE PEOPLE'S REPUBLIC OF CHINA (DRAFT)

Resumption of debate on motion which was moved on 31 May 1989

MR. ARCULLI: Sir, the timing of this debate could not have been better in the light of the events of the last few weeks both in China and in Hong Kong. At the risk of being repetitive I would like to emphatically say that these events have driven home the importance of those famous words "one country, two systems". Speaking as a Hong Kong person the clear differences between China and Hong Kong today are sadly only too obvious. But we must not lose sight of Hong Kong's position and the fact that it is by maintaining our unique position that we are able to play our role in the modernization of China. It is our duty to secure for Hong Kong a Basic Law that is broadly acceptable to the majority of the Hong Kong people. It is right and proper that we support reform, whether economic or political, in China particularly that which means an open and more responsive government. However, we must not let the clear lines of demarcation get so blurred that we unwittingly find ourselves caught up in China's affairs so that we become part of one country one system, at least not until the one system have all the freedoms and values we treasure. I should like to make a few observations with the view of arousing the interest of the people of Hong Kong in the draft Basic Law.

Sir, it is useful to remind ourselves that the framework for the Basic Law is provided by the Joint Declaration. Under the second paragraph of section I in Annex I of the Joint Declaration it is stated that:

"The Hong Kong Special Administrative Region shall be directly under the authority of the Central People's Government of the People's Republic of China and shall enjoy a high degree of autonomy."

It is in fact the third paragraph of section I that has provided us with the opportunity of lively debate. This paragraph provides, and I quote:

"The government and legislature of the Hong Kong Special Administrative Region shall be composed of local inhabitants. The chief executive of the Hong Kong Special Administrative Region shall be selected by election or through consultations held locally and be appointed by the Central People's Government. Principal officials (equivalent to Secretaries) shall be nominated by the chief executive of the Hong Kong Special Administrative Region and appointed by the Central People's Government. The legislature of the Hong Kong Special Administrative Region shall be constituted by elections. The executive authorities shall abide by the law and shall be accountable to the legislature."

Three critical issues received no mention in this paragraph: first, there is no timetable; second, the fact that the Chief Executive may be selected by election or through consultations; and third, election is not defined. Today we ought not concern ourselves with the rights or wrongs of such an approach. Our task is to get all sectors of Hong Kong to speak out. Article 45 of the draft Basic Law provides a local point for discussion. The principles seem clear: it says that the selection of the Chief Executive should be gradual and orderly with the ultimate aim of the Chief Executive being selected by general election. On the face of it this seems quite acceptable conceptually. On examination it is too vague and when one looks at Annex I of the draft Basic Law it becomes evident that this progress is clearly too gradual and too orderly. The best way Members of this Council can stimulate expression of opinion is obviously to arrive at a consensus or at least a majority view. If we are to ask Hong Kong to speak with one voice should not Members of the Executive and Legislative Councils speak with one voice? I would therefore appeal to other leaders of our community and ask them: is there a better time for us to reconcile all our different views and come to a consensus?

Sir, there are many points in the draft Basic Law that may be regarded as not being entirely satisfactory. One such point may be found in the third paragraph of article 56 which simply says:

"If the Chief Executive does not adopt a majority opinion of the Executive Council, he/she shall put his/her specific reasons on record."

It looks pretty harmless and therefore acceptable but is it? Clearly it permits

the Chief Executive to act contrary to the majority opinion of the Executive Council. Some might even say it encourages him to do so. I believe that the present position is that if the Governor were to act contrary to the majority opinion of the Executive Council he would have to inform the Foreign Secretary but that as a matter of convention the Governor does not act contrary to such majority opinion. It therefore seems to me that although theoretically the Governor could but constitutionally the Governor never acts contrary to the majority opinion of the Executive Council. I believe that the relevant changes to this paragraph I have referred to ought to reflect this. Another point which has been raised by my colleague the Honourable Selina CHOW is article 64 which states that the Government of the Hong Kong SAR shall be accountable to the Legislative Council in the following respects:

- (1) implementing laws passed by the Council and already in force;
- (2) presenting regular reports on its work to the Council;
- (3) answering questions raised by Members of the Council; and
- (4) obtaining the approval from the Council for taxation and public expenditure.

The Joint Declaration does not restrict this accountability to these four areas and it therefore seems to be a departure. The accountability of the Government of the Hong Kong SAR is crucial and changes to article 64 should be made.

Sir, in conclusion I would like to touch briefly on the pace of constitutional development. Some of my colleagues have made clear and emphatic observations on such development post-1997 and I do not propose to dwell on this any more. What I believe we must do is to review the pace of political development before 1997 and to re-evaluate our position. It may be unrealistic to hold on to the position that only 10 be returned to this Council by direct election in 1991. We must start our thinking process now and examine what options are open to us so that a decision can be taken at the appropriate time.

Sir, with these remarks, I support the motion.

MR. BARROW: Sir, at the beginning of last week I was amongst those who thought that we should postpone this debate, but on reflection I believe it is right that we should

press ahead; we owe it to the community to show leadership and maintain our timetable.

The objective of this debate is to stimulate the community's interest in the Basic Law. It has been disappointing that the second draft has met with general apathy, and that the community's attention has been diverted from this issue so central to our long-term future, by short-term problems.

I assume that the end of July deadline may now be postponed to allow more time for Hong Kong people to reach a considered view. This debate and the unanimous OMELCO positions should help unite the community although there may be a need for another debate in the early autumn.

It has been suggested by some that it could be necessary to go back to the drawing board and start the drafting all over again. I consider that is both unrealistic and unnecessary, as the current draft provides a good framework on which further improvements must be built.

The draft already contains many major improvements; one of the most important of these may be the mirror imaging or "Lo Wu" concept for the legislature on which the drafters and others worked so hard to come up with a satisfactory solution. Uncertainty over the continuity of institutions and personalities could have been particularly damaging to confidence.

I have no doubt that China is sincere in its announced policy of "one country two systems" and in its desire to make the consultation process a meaningful dialogue. If the people of Hong Kong are to be reassured that the Basic Law will be adhered to there are three essential elements which must be present in the final draft:

First, the checks and balances on executive power that exist in our present system, with the rule of law administered by an independent judiciary;

Second, the checks and balances that flow from an effective form of representative government; and

Third, the fundamental policies laid down in the Joint Declaration.

I do not believe that it would be right to use the current situation as an opportunity to nitpick on each and every clause. Having said that, the Hong Kong drafters should look again at those key clauses which relate to the rights and freedoms

of Hong Kong people and ensure that there are no ambiguities.

Key issues

I would like to comment briefly on four key areas:

Firstly, I welcome the unanimous position taken by OMELCO in proposing a directly elected legislature by 2003, or 14 years from now, and also that the Chief Executive should be directly elected by 2003. These are sensible proposals on which I hope there will be united support from the community of Hong Kong.

Second, the relationship between the Chief Executive and the legislature has been well covered by the Honourable Allen LEE and I endorse his proposals. Whilst article 64 states that the Chief Executive "shall be accountable to the legislature", there are currently inadequate checks and balances, although in proposing changes we must avoid going too far and ending up with a hamstrung Chief Executive unable to operate effectively.

Third, a particularly important article is 158, the power of amendment. Whilst recognizing the overall authority of the National People's Congress, we need to seek a modification to the effect that all amendments proposed should require the agreement of a majority of the Legislative Council.

Fourth, some fine-tuning to article 157, although already much improved, is needed to make it 100% clear that the SAR courts exclusively will interpret all clauses, except for those related to foreign affairs and defence -- both of which need defining in the Basic Law.

Hong Kong as an international centre

If Hong Kong is to remain prosperous not only for the benefit of the people of Hong Kong, but also for the benefit of China, an important objective is to ensure that it remains an open and international city in every respect.

The new draft contains improvements particularly relevant to Hong Kong as an international centre:

English will be an official language;

It is indicated that there will be an authentic English text of the Basic Law; and

The number of posts in Government open only to Chinese nationals have been reduced.

It is also encouraging that, under article 26, all permanent residents of the SAR shall have the right to vote and the right to stand for election regardless of their race. Such an arrangement goes beyond the rights generally enjoyed by non-nationals around the world, and is symbolic of the need to keep Hong Kong as international as possible.

An area which needs review, in keeping with this key objective, is the rights of non-Chinese nationals as covered in Chapter 3. For example, it needs to be made absolutely clear that anyone who has been in Hong Kong for seven years can automatically take Hong Kong as his or her place of permanent residence and continue in his or her chosen profession or vocation without any special procedures or requirements.

A final point in this area which needs to be addressed is the position of people of Chinese race returning to Hong Kong with foreign passports. Although not specifically covered in the draft, assurances have been given that such people will be treated as foreign national just like any other foreigner in Hong Kong and so will be entitled to consular protection. This should be clearly spelt out. They would, of course, be ineligible for the top posts in the Government under the exclusion list.

The international community in Hong Kong, and especially the various chambers of commerce, will no doubt pay particular attention to the Basic Law from the standpoint of Hong Kong as an international centre and they should submit views to the drafters.

Finally, in considering these improvements, we should also acknowledge the essential support of the United Kingdom Government, whose role remains to ensure that the Basic Law does not contravene the letter or the spirit of the Joint Declaration. We will need their resolute support in the coming years.

Conclusion

Whilst it may be some time before the outcome of events in Beijing becomes clear, we should keep up the "business as usual" sign in our Hong Kong shop. It must be hoped that the Basic Law Consultative Committee can restart its work soon and that the drafters will be back together again in the not too distant future.

In parallel with the development of the Basic Law we must maintain the momentum in our economy through initiatives and endeavours, consistent with the vision of the Hong Kong's role in the development of southern China. This economic interdependence should remain largely immune from a more austere period which might emerge for China as a whole. Our entrepreneurs should not turn their back on the opportunities emerging from this relationship with southern China, which is likely to be of even more importance than we might have thought a few weeks ago.

The remarkable unity that has been displayed in the past two weeks must be harnessed, through good judgement and common sense, in our vital work on the Basic Law and in ensuring that the principle of "one country two systems" can be adhered to in practice.

The people here today must play a role in ensuring that this unity is sustained and that the momentum is maintained. Let us go out amongst all sectors: the business community, the professions, the trade unions, the people of Hong Kong as a whole and achieve the unity which is clearly the wish of the community as a whole.

With these words, Sir, I support the motion.

MR. PAUL CHENG: Sir, let me first say that I fully support the spirit of the Sino-British Joint Declaration and its aim to maintain Hong Kong's prosperity and stability. I applaud the "one country, two systems" concept and the continuance of Hong Kong's capitalistic system for 50 years after 1997.

As an international businessman, I believe the success of Hong Kong has been based largely on its hardworking people and the Government's free and fair trade policies. The independence of the judiciary and legal system is obviously a major contributing factor.

In the past two decades, Hong Kong has become the undisputed international

financial and business centre in Asia. Many multinational companies have set up regional headquarters and made substantial investment in Hong Kong. Hong Kong's future very much depends on its ability to continue to play this vital role and to attract foreign investment.

My honourable colleague, Mr. Allen LEE, has already covered our united view on the political structure of the future Hong Kong Special Administrative Region. I would merely say that I fully endorse those recommendations for consideration by the drafting committee.

Other sections of the draft Basic Law has included many measures to ensure that favourable conditions for trade and foreign investment will remain after 1997. I welcome the commitment to give the HKSAR considerable degree of autonomy. The ability to carry out this commitment is the key to maintaining both local and foreign confidence.

As with all draft documents, there are obviously areas which require further clarification and/or revisions. I would like to focus on the areas relating to international commerce and on the economy. Some of the points were raised after the first draft by various organizations. But as far as I can see they have not been incorporated into the present draft. I am, therefore, reiterating these as well as making other recommendations to the drafting committee for further consideration.

On freedoms and human rights

We all know that sufficient guarantees of freedoms and human rights will result in greater confidence in the future of Hong Kong. Emigration is directly related to feelings of confidence. The recent events in China will set us back a bit. Let us hope the authorities in China can be rational in finding ways to resolve their differences. Any high-handedness or bloodshed will have a serious impact on how Hong Kong people will view the future prospects of the HKSAR. An increase in brain drain will not only affect existing operations of businesses in Hong Kong, but it will also cause local and foreign companies alike to have second thoughts on their future expansion plans as there would be not enough qualified people to fill the jobs.

China must make arrangements, or at least on behalf of the HKSAR, to be a signatory to the International Covenant on Civil and Political Rights and the International

Covenant on Economic, Social and Cultural Rights.

On legal and judicial systems

The business community relies heavily on an independent judiciary and legal system to facilitate commercial transactions and in cases of disputes.

The independence and stature of judges must be preserved after 1997. There must be an adequate number of competent judges. They must not be restricted by nationality and should be properly compensated and carefully selected so as to ensure the calibre of their skill and integrity. The power of interpretation must rest with the Hong Kong courts. The application of the Chinese constitution in the future SAR needs further clarification and elaboration.

On immigration

If Hong Kong is to remain an international business centre, its immigration policy must continue to be open.

The Basic Law should stipulate that the HKSAR would practise an open immigration policy. Procedures for obtaining resident visa, work permit and permanent resident status should be kept simple to facilitate the movements of international business professionals and investors.

The reason I am bringing this point up is although the Basic Law allows the HKSAR executive, legislative and independent judicial power, it is unclear as to whether the SAR will have power to determine its immigration policy.

On public finance and taxation

The future SAR government must be given the power to set its own budget and decide on its own tax policies.

I do not believe it is either necessary or wise to impose restrictions such as those appearing under article 106. The SAR government should be given a free hand to determine its budget in accordance with the needs of the times.

Whilst the Basic Law recognizes the importance of the HKSAR's status as an

independent customs territory and allows it to negotiate various international agreements on its own but the draft does not appear to have included tax treaties. The Basic Law should provide for the HKSAR to negotiate tax treaties on its own.

It is also not clear whether tax treaties signed by the People's Republic of China with third countries will apply to the HKSAR. The Basic Law should state such treaties will not be applicable to the future HKSAR.

On intellectual property

Article 150 makes provisions for the SAR to participate in international trade agreements, but no specific mention was made of international copyright conventions. Hong Kong's continued membership in the International Convention, the Berne Convention on Copyright and Universal Copyright Convention should be specified. This can be achieved by adding the words "industrial and intellectual property" to the list of fields in article 150.

Article 115 should also be amended to guarantee the SAR's continued participation in international intellectual property agreements.

Article 138 stipulates that the HKSAR shall protect, by law, achievements in scientific and technological research, patents, discoveries and inventions. This, however, does not provide sufficient guarantee that Hong Kong will continue to adhere to the international copyright agreements. This article should be amplified to include specific references to designs, copyrights and trade marks.

On Civil Service

In line with maintaining Hong Kong as a truly international centre in the region, I find the restrictions placed on filling some of the senior posts in the Civil Service with only Chinese citizens unnecessary. The Government should be given the flexibility to employ the best people without regard to their nationality or ethnic origin.

In conclusion, I would like to say that I hope the events in the past few weeks will help set the foundation for a free and democratic society in Hong Kong for the years to come. I also hope that Hong Kong people would not be so preoccupied with the politics of change that they fail to focus on the economic realities of Hong Kong's

emerging role as the financial and service centre of southern China.

With these remarks, Sir, I support the motion.

MR. MICHAEL CHENG (in Cantonese): Sir, the Sino-British Joint Declaration is an international agreement. The making of the Basic Law of the Hong Kong Special Administrative Region is to give effect to the spirit of this Joint Declaration on basis of principle of "one country, two systems" while taking into account the actual situation in Hong Kong. The Basic Law will provide for a constitution upon which Hong Kong's prosperity and stability will be maintained and a high degree of autonomy will be ensured for Hong Kong. Hence, no matter what changes have taken place in China, the drafting of the Basic Law must continue to be guided by the circumstantial situation in Hong Kong and should in no way be affected by the political scene in China.

Since the eruption of the recent student movement in Mainland China, the attention of Hong Kong has been arrested by the development of events in China for the past month. It is understandable that the consultation exercise of the draft Basic Law has met with difficulties under such circumstances. Therefore, it is my proposal that the consultation period be extended so as to enable the people of Hong Kong to express their views more adequately.

In Hong Kong, a number of parades, rallies, signature collection and fund-raising campaigns have recently been organized in support of the patriotic movement of the Beijing students. The spontaneous and enthusiastic participation of the Hong Kong people in these activities has not only given abundant expression to their solidarity but also reflected that the people of Hong Kong have now become more mature in their political awareness for democracy and glasnost. This is obviously an about-turn of their habitual political apathy. Hence, I agree that the pace of democratic development in Hong Kong should be accelerated. At the same time, proper arrangements should also be made to ensure that there is sufficient check and balance between the future executive and legislative organs. However, in the course of developing our democratic and liberal system, we must also not forget to make an effort to maintain social and economic stability in Hong Kong.

As regards the area of economy, Hong Kong owes its success to the efforts of its people and a free and open policy adopted by the Government. Hong Kong has many

advantages which cannot be found in many other countries, such as low tax rates, a simple taxation system, public spending within the limits of revenue, a balanced budget, the absence of foreign exchange control, a free policy in industries and commerce, a stable currency and the practice of free trade. All these are primary factors contributing towards an economically prosperous Hong Kong. They must therefore be preserved in future to ensure that Hong Kong will enjoy continuous prosperity and advancement under a suitable economic policy and proper legal protection.

Human resources are the key driving force in maintaining economic stability of the community. The main objective of education is to produce properly trained manpower. However, there is a lack of specific directions on education in the draft Basic Law. I think the merits of the present educational system, such as Hong Kong people have the fundamental right of receiving education, should be preserved. In addition, the status, conditions of service and pay and qualification requirements of the education workers should also be retained and given unmistakably assured protection in order to keep up the good quality of education.

Lastly, proper guiding principles for matters concerning labour are also required to maintain social stability. An overall study of the draft Basic Law reveals that the provisions concerning protection for labour are not comprehensive enough to take good care of the rights and welfare of the labour sector.

The student movement in China has prompted the Hong Kong people to unite as one. I hope that the people of Hong Kong will uphold this spirit and strength to express their views on the draft Basic Law at this crucial moment to help speed up the process of developing a democratic and open government; may I also urge that the opinions of Hong Kong people should be taken into full consideration before the promulgation of the Basic Law.

Sir, with these remarks, I support the motion.

MR. CHOW (in Cantonese): Sir, when we saw the extremely unreasonable way the Chinese Government handled the student movement over the past few weeks, we thought that in the face of such a government, some people might consider that to debate the Basic Law is just a waste of breath and as futile as "asking the bald for combs". But I am finally of the view that since the people of Hong Kong and the patriotic students

in Beijing are of one mind, we should also "take the offensive initiative" and be united to strive for what we cherish most -- prosperity and stability.

Recently, OMELCO Members have been able to reach some consensus on the political part of the Basic Law, that is, a consensus for the need of a liberal and democratic political structure. But what worries me most is whether such a concept of accelerated democracy will be acceptable to the Basic Law Drafting Committee (BLDC), especially those conservative drafters from the commercial cum industrial sectors of Hong Kong. I do not believe they are unmoved by the Beijing students who are prepared to sacrifice their lives in the fight for democracy and freedom, nor do I believe they do not detest from the bottom of their hearts the "rule by the elderly" which impedes the development of democracy in China. But do those drafters realize that the fate of Hong Kong is now in their hands? If they do not change their conservative attitude, they may simply become the culprits in the history of democratization in Hong Kong!

I would like to dwell briefly on the enlightenment shed by the pro-democracy movement in China on the Basic Law:

(1) Recognition of the government. The people's recognition of the current regime in China started from the recognition of its reform story and open-door policy. The economic reforms introduced since 1979 has brought about improvements to people's livelihood, and the government has been practically recognized by its people. But the economic difficulties in recent years have led to spiralling commodity prices and the prevalence of corruption in the public sector. As a result, the people have begun to lose faith in the government. Its authoritativeness is undermined, followed by a recognition crisis. It is against such a background that the student movement emerges. Turning back to the Hong Kong scene, are the 5 million-odd people really content with British rule? In case the economy of Hong Kong fluctuates violently, a government without a democratic base will inevitably face a recognition crisis. If the post-1997 political system of Hong Kong is not a democratic one, the stability of the government will totter should there be any economic fluctuation. Massive parades will then come as no surprise. By that time, social stability cannot be ensured, not to mention prosperity. In the final analysis, it is better to establish a democratic political system and a government with credibility. As far as a Chief Executive selected by a grand electoral college is concerned, no matter how subjectively we hope he can uphold fairness and attempt to eliminate the disparity between different strata of society, when a crisis emerges, objectively, he can only

be a symbol of political privilege which stimulates class contradictions. As evidenced by the student movement, it is very important to have a democratic and liberal political system to start with. Some argue that achieving a sound economy before embarking on any political reform is putting the cart before the horse. Who can guarantee that corruption, speculation and profiteering in the public sector will not emerge in Hong Kong after 1997? With a liberal and democratic government as the basis, we do not have to worry about such a situation. Economic prosperity and social stability will naturally continue to prevail. So long as the Chief Executive is selected by a grand electoral college, the time bomb that will blow up our stability and prosperity is still there. The 13th Party Congress of the Communist Party of China took as its main target theme the acceleration of political reforms in pace with economic reforms. Yet should the two be found out of phase with each other or either of them being lacking, it just would not work.

(2) The change in attitude of the Hong Kong people. In the past, we very rarely had a rally attended by several hundred people, and one with an attendance of over a thousand is considered to be of a very large scale. Nevertheless, during these days, it is quite common to see rallies staged by tens of thousands of people in support of patriotic and democratic movement and there have been even two massive processions with more than a million participants! Undoubtedly, the general public's desire for democracy and the spirit of involvement have already been aroused. It can be seen that the 1.5 million-strong rally held last Sunday out-numbered the one in the previous week, which was attended by a million. More importantly, when the second rally was staged, the situation in Beijing has obviously become less tense. The people took to the street not just to show their sympathy for the Beijing students or to manifest a low-cost patriotism. Rather, they have come to realize that "the absence of democracy in China is tantamount to no hope for Hong Kong". They go further by demanding "the rewriting of the Basic Law and attaining genuine democracy". In the past, the importance of democracy and the ugliness of autocracy were just publicity items in textbooks. Now, Hong Kong people have learnt a great lesson from the pro-democracy movement in China. We can see vividly the forms and faces representing autocracy; we can feel the immense strength of the people; we can appreciate the truth and importance of democracy. Whoever defers the democratization of Hong Kong will become the public enemy and the target of public criticism. The findings of an opinion survey released in the press two days ago indicated that half of the respondents deemed it necessary to speed up the introduction of direct elections in Hong Kong in the wake of the recent student movement.

(3) China is undergoing changes. Although at present it seems that the tense situation in Beijing has temporarily eased, yet the pro-democracy movement in China has not stopped! The immense public strength as demonstrated during the past month is not to be under-estimated. In the medium and long terms, China will become more democratic and liberal. A lot of changes will occur over a period of 10 years. By the time the Basic Law is implemented in Hong Kong, it is hard to tell how liberal Mainland China will have become with the end of the rule by the elderly! Do we intend to ask the people in Mainland China to support the pro-democracy movement in Hong Kong by that time? Right from the beginning, I support the democratic political system proposed by the liberal camp of 190. The above-mentioned thinking reinforces my conviction that it is not only appropriate but also necessary to have no less than half of the Legislative Councillors and the Chief Executive to be selected by universal suffrage by 1997.

(4) The exercise of checks and balances by the legislature over the executive authorities. From the recent student movement in Beijing, it can be seen that the legislature must be given effective power to exercise checks and balances over the executive authorities. Although article 72(9) of the Basic Law draft gives the future Legislative Council the power to impeach the Chief Executive, inadequacy is still found in two areas, that is, the legislature can impeach only the Chief Executive but not the principal officials, and only when he has seriously contravened the law or when he is found to be derelict of duty. In other words, the legislature cannot exercise the right of impeachment when it disagrees with the policies or the policy initiatives of the Chief Executive. Some may think that the American model should be followed since there is a need for the future government to have separation of three powers, as well as mutual checks and balances. With such a model, since the Chief Executive's powers originate not from the legislature, he can thus be impeached only when he has breached the law or has been derelict in his duty. The Chief Executive or the principal officials cannot be forced to step down by a vote of no-confidence. However, the future government system as described in the draft Basic Law is not purely a presidential system. It is because with the three powers segregated to maintain checks and balances, the legislature cannot recall the Chief Executive, and neither is the Chief Executive in the capacity to dissolve the legislature. Nevertheless, article 50 of the draft as it stands vests the Chief Executive with the power to do so. Thus, to vest in the Legislative Council the power to cast a vote of no-confidence against the Chief Executive and the leading officials, and then report to the central government to have him recalled, may be a means of

checks and balances for both sides. One more point I have to mention is that, in many western countries, when the legislature has cast a vote of no-confidence against the chief executive, he would, as a general rule, resign together with his cabinet, or the head of state will proclaim dissolution of the legislature and a general election to be held to determine the fate of the chief executive. Coming back to the Basic Law, some people may consider that the legislature will be too powerful if it has the right to cast a vote of no-confidence to force the Chief Executive to step down. Nevertheless, since we do not have a figure head in Hong Kong, the only way out is for the legislature to dissolve automatically when a no-confidence vote has been cast. Such an approach is not meaningless in that we all hope the position of the Chief Executive could be relatively stable. But in case he has done something which causes widespread indignation and discontent, the legislature would exercise its power of recall through a no-confidence vote. The legislature will then dissolve pending the re-election of councillors by the people. In this way, check and balance over the Chief Executive is provided and balance of power is maintained. When the Chief Executive is extremely unpopular among people, he can still be recalled through legislative channels, and no violent action has to be resorted to. All in all, I support the approach of no-confidence vote resulting in the Chief Executive being recalled by the central government and the automatic dissolution of the legislature.

(5) The imposition of martial law. The Basic Law has not expressly provided in the terms of reference of the Chief Executive whether he can impose martial law, under what circumstances should an order for martial law be made, and how this power can be checked by the Legislative Council. All these details must be clearly stipulated in the Basic Law. On the other hand, article 18 provides that in case the Standing Committee of the National People's Congress (SCNPC) decides to declare a state of war or, by reason of turmoil within the HKSAR which is beyond the control of the region, decides that the region is in a state of emergency, the Central People's Government may decree the application of the relevant national laws in the region. However, judging from the recent imposition of martial law in Beijing, the people of Hong Kong cannot help worrying that as far as the SCNPC is concerned, the term "turmoil" may carry a meaning different from Hong Kong people's concept. Would the SCNPC interpret "beyond the control" differently? Would a mere strike in Hong Kong lead to the proclamation by the SCNPC that Hong Kong is now in a state of uncontrollable turmoil? Obviously, in the provision governing the imposition of martial law, the HKSAR should be permitted to seek help from the central government when the Region cannot exercise control from within. But the stipulation must be specific, and the Legislative Council must be able to check against the power of the Chief Executive. On the other

hand, the Mainland BLDC members have expressed their worries that uncontrollable turmoil in HKSAR may become so serious that it is impossible even to seek help. For instance, the Chief Executive may be assassinated, and Legislative Councillors may be held in custody. If article 18 is meant to handle such serious cases, the existing wording is obviously not clear and specific enough, and must be rewritten in more concrete terms to safeguard confidence of the people of Hong Kong.

Sir, all in all, I think that the recent patriotic and democratic movement in China has immensely enlightened the Hong Kong people, and accordingly the Basic Law needs to be rewritten. Firstly, the pace of democratization of the government system in Hong Kong must be stepped up. It would not be going too far even to have by 1997 half of the seats of the legislature to be returned by direct elections and the Chief Executive to be returned by direct elections as well. Secondly, the Legislative Council must have the power to cast a vote of no-confidence against the Chief Executive, and to report to the central government to have him recalled. In that case, the Legislative Council should also be dissolved, pending the re-election of Councillors by the people. Thirdly, it must be specifically provided in the Basic Law as to what is meant by "uncontrollable turmoil". Besides, the steps and conditions to be observed when martial law is proclaimed and the checks and balances to be exercised by the Legislative Council must also be specifically stipulated.

And now, a few words for those pragmatic and conservative persons: Chinese compatriots have waken after a drowsy sleep of a hundred years! What the Beijing people encounter today, we will encounter some other days.

Sir, with these remarks, I support the motion.

MRS. FONG: Sir, at the best of times the Basic Law is a sensitive issue to talk about. It is a particularly difficult subject at present. The student movement that occurred in China in recent weeks surprised the world and touched the hearts of Chinese people everywhere. It is a very emotional time. Never before have the Hong Kong people rallied so peacefully and in such large numbers behind a single cause. There is no doubt a political awakening took place here last week. As a consequence of it, some people now sympathize with the view that Hong Kong is ready for a faster pace for direct elections.

While I am greatly encouraged by the interest of our people in these current events,

it is my view that Hong Kong is not yet ready for a faster pace for direct elections. I continue to believe that Hong Kong's best interests would be served if we preserve the current system and with it preserve stability and foster prosperity. Political change in Hong Kong must take place in a way that reassures investors and the general public that stability and prosperity will maintain.

The social unrest and political turbulence in China has demonstrated that:

(1) It is more important than ever for the Joint Declaration to be recognized and endorsed internationally.

(2) The "one country, two systems" concept depends on the Joint Declaration and the Basic Law which results from it. It is therefore vital for Britain to emphasize to China the importance of preserving Hong Kong's current system and that there should be no interference from the Mainland. China must offer such an assurance in order for the Hong Kong people to maintain their confidence.

(3) We, the Hong Kong people are fortunate in that we already have many of the things that the people of China want or need. We should be committed to the goal of maintaining our stable and prosperous society. No matter what social or political movements occur in China and no matter what individuals in Hong Kong might wish to do to support or object to the movement, we must put the preservation of Hong Kong's economic activities at the forefront. Although Hong Kong people are free to express their opinions, they should not strangle our economic activities.

(4) Hong Kong has a reputation to maintain in the international arena. What we have achieved to date is due to the diligence of our people. We do not have a record of strikes and demonstrations. Our international reputation and our attractiveness to foreign investors depends on the continuation of this. Any movement that is going to impair our international reputation would be extremely detrimental to our economy and thus to our quality of life.

(5) We may be affected economically by events in China but the development of our political structure must be decided by the Hong Kong people. Our goal is to maintain the current system and to maintain a stable Hong Kong. Our political development should take its own course irrespective of developments in China.

Having said this, I would like to emphasize my stand that Hong Kong needs to have

a democratic legislature that truly represents its people and their interests. I also wish to emphasize my view that for Hong Kong to have a democratic legislature, the people of Hong Kong must have a voice in it and that, for this voice to be meaningful, it must come from a good cross section of the community. We must therefore have an election process that enables the necessary cross section of the population to be represented. This will not necessarily be achieved through direct elections. In my opinion, the method through which this aim of a truly representative legislature could be achieved is through the use of functional constituencies. I do not oppose direct elections in principle, but I am convinced that it would not produce a fair and true representation of the opinions and the interests of Hong Kong at our present stage of development. Without true representation, neither the interests of Hong Kong nor the existing system and quality of life can be preserved.

I say that direct elections would not produce true representation after having made a careful analysis of the results of our last municipal council and district board elections, both of which contain elements of direct elections. As we are probably aware, a disproportionately high percentage (between 50 and 80%) of the successfully directly elected candidates come from three backgrounds: lawyers, academics and social workers. While I have nothing against these three professions, I do not consider that a legislature composed mainly of these professionals is adequately representative of Hong Kong's interest.

Now to the case of the Chief Executive. In my view the selection of this person is of vital importance to Hong Kong. I continue to believe that direct elections cannot be easily introduced for the selection of the Chief Executive. The Chief Executive is just one single individual. We simply cannot afford to choose the wrong candidate. It is pointless to say that if we allow the public to elect the Chief Executive and they elect an unsuitable candidate, then they should suffer, as it was their choice. This I cannot accept. We must have the best candidate for Chief Executive. Hence, I support the use of a democratically elected election committee to select the Chief Executive. The use of the election committee would maximize the chances of the most suitable candidate being selected because it would permit a better evaluation of the candidates' qualities.

I submit that any of us can be wrong. If my views, which are identified as conservative, prevail, the effect is that direct elections come later, but good representation in the Legislative Council is assured and there is a high probability of getting the most qualified candidate for the post of Chief Executive. However,

if the fast pace of moving to direct elections prevails, there is no safe way back and there are risks that the representatives of the people and the Chief Executive will not have the qualities necessary to maintain confidence much beyond election day. If I am right in my prediction, the damage would be severe and could be fatal. The risks involved in having a legislature made up of lawyers, academics and social workers and a chief executive who only has mass appeal are very great. If I sit back and let Hong Kong march down the road to this chaotic arena, then I am being irresponsible.

Caving in to pressure for direct elections is the easiest way to gain recognition as being democratic. But it is shallow recognition. If the system does not work, it should not be identified as an accident. The adequacy of the system and its real qualification to be identified as the truly superior system must be thrown in to question. If the election results in a legislature that does not adequately represent the interests of Hong Kong, then the process has failed. In this case, the legislature would have been directly elected and the process would be said to be democratic, but the answer would not be truly democratic in the representative sense of the word. People who support the move that could result in such an outcome, just because it may gain more acceptance, are doing a great disservice to Hong Kong.

I do not view the proposals set out in the body of the draft of the Basic Law as too conservative. I think that the Annexes I and II formulae are attempts to please all the parties concerned. I am not undemocratic. I am however a strong proponent of substance over form. This makes me insist that the use of direct elections should not be over emphasized at the expense of ending up with a legislature that is not truly representative, and a Chief Executive who is not up to the task.

I have no doubt that the pace towards direct elections will increase and I am content that we should have them when we are ready and when the situation permits. Having functional constituency seats for the legislature in the interim years, and selecting the Chief Executive by means of an election committee are steps towards that goal. My view is that we should go step by step. We are not playing a game. We are participating in a process which will have a dramatic effect on our lives and those of our children. I advocate a slow but steady advance, that may not look as attractive in its form, but that has the inbuilt safeguards that will ensure the resulting substance is what will be best for all concerned. We should not take our great leaps forward without thoroughly testing out the ground on which we may fail.

These are difficult days. These are days for facing realities rather than looking for acceptance. I am willing to forego the acceptance today as I believe my choice is for a much better future for all of us. Our future is too precious to put at risk for the simple wish to gain early praise from people. Let's make sure we guide our future to where we should go, rather than just launching it from a pad that people say is ideal for us based on experience in other lands.

Sir, with these remarks, I support the motion.

MRS. LAU: Sir, any discussion on the Basic Law will only be meaningful if those participating in it genuinely believe that by doing so, they are contributing towards the moulding of the single and most vital piece of legislation upon which lies the destiny of Hong Kong and its six million people. Until the recent happenings in China and the reaction of the people of Hong Kong to such happenings, I believe there is justification for saying that, by and large, Hong Kong people are apathetic to politics. This allegation is to a substantial extent now refuted by the zealous demonstrations of solidarity staged by the people of Hong Kong in support of the pro-democracy movement in China. Their enthusiasm and unanimity clearly shows that Hong Kong people are not without wishes and aspirations and that they are not insensitive to political development. In what they have done, the people of Hong Kong have also clearly shown that they are very much concerned about their own predicament and the future of Hong Kong. This political awakening is great. Never in the past have the people of Hong Kong reacted so fervently, so earnestly, so passionately and so unitedly for a cause and, what is more important, with such order, self restraint and sense of responsibility. Whilst in my opinion it may still be a bit early to say that the people of Hong Kong are politically mature, they certainly have shown that they have the potentials for such maturity and are heading in the right direction.

After the signing of the Sino-British Joint Declaration, the return of Hong Kong to China in 1997 is inevitable. All that the people of Hong Kong can hope for now is the implementation of the promises given to them by the Chinese Government in the Joint Declaration that there will be "one country, two systems", that the socialist system will not be enforced in Hong Kong, that Hong Kong's capitalist system and lifestyle will remain unchanged for 50 years and that Hong Kong will enjoy a high degree of autonomy. Most of the people of Hong Kong do not doubt China's sincerity and desire to maintain Hong Kong's stability and prosperity, for Hong Kong is indeed too important to China, in particular in relation to its open door policy and

modernization programme. However many cynics harbour strong reservations as to whether China will honour her agreement under the Joint Declaration and whether the "one country, two systems" model will work.

The Basic Law which is to be the mini constitution to run Hong Kong post 1997 purports to set in concrete the promises given by China to Hong Kong and to re-assure the people of Hong Kong that China is bona fide. In looking at the Basic Law, the people of Hong Kong legitimately expect to find a constitutional system which will enable Hong Kong to enjoy self administration without interference from China except in the area of foreign affairs and defence. Indeed the whole scheme of "one country, two systems" can only work if China is restrained from wielding power in Hong Kong or intermeddling with its domestic affairs both in the legal sense and the practical sense.

Since the Joint Declaration was signed, Hong Kong's emigration rate has risen year after year and our brain drain problem has exacerbated. All these factors indicate that the optimism which came with the Joint Declaration has substantially subsided and public confidence in the territory's future is declining. People seem to accept that political fate is beyond their control. Franklin ROOSEVELT once said: "When there is no vision, the people perish." In my opinion, Hong Kong lacks a vision at the moment. Of course, even without a vision the people of Hong Kong will not perish, though some may disappear; however, Hong Kong will if and when China sees fit to unify the "two systems" into "one". The recent political awakening of the Hong Kong people has therefore come at a most timely moment. The Basic Law has not yet been promulgated so that there is still the chance for the people of Hong Kong to take their fate in their own hands by insisting on a constitution that will provide them with a vision for 1997 and beyond.

Whatever may be the outcome of the student movement in Beijing, whoever may emerge as the winner of the political struggle in China, Hong Kong must still go on. When emotions subside, when demonstration and rallies are no longer looked forward to as the Sunday ritual, people in Hong Kong must return to normal. But we must not relax. We must think positively, constructively and realistically as to what we can do and should do for Hong Kong. In my opinion, the call for democracy alone, however honourable that cause may be, will not insulate Hong Kong from China after 1997. What we need to have in place post 1997 is a sound political system that will effectively keep China out of Hong Kong's domestic affairs, a sound political system that will give confidence to the people of Hong Kong so that the continued prosperity of the territory can be maintained. Provided the SAR Government is stable and the economy

of the territory continues to thrive, I believe whoever may be in power in China will have no desire whatsoever to kill the hen that lays the golden eggs. For these reasons, discussion and vocal expressions on the draft Basic Law assume great importance because in this legislation lies the political structure of our future society, therein lies the legal shield with which Hong Kong people may hope to be ensured of their present rights and freedom and a proper rule of law after 1997.

Just as the people in Hong Kong cannot afford to remain silent in their support of the pro-democracy movement, similarly the people in Hong Kong cannot afford to remain silent on the Basic Law. Hong Kong people are renowned for being industrious, resilient and versatile. To this list of adjectives, I can now add one more: "united", and I hope that I will soon be able to add another word: "vocal". It is clear that Hong Kong people can be united for a cause and Hong Kong people should be united and vocal on issues which directly affect themselves after 1997.

In the past, there has been considerable controversy over the political structure of the future SAR. The divergence of views has only resulted in utter confusion both to the Basic Law drafters as well as the people of Hong Kong. With everybody trying to get the most at the best according to their own standards, we will probably end up with a political system that satisfies nobody. This is not a time for personal preferences, personal interests or idealism. This is a time for the people of Hong Kong to come together to resolve their differences realistically and in one voice to demand for a political structure upon which to build a sound and stable SAR government which will work and command confidence. I am sure that if we all speak loudly enough with one voice, we will be heard.

I do not believe that anyone in Hong Kong is opposed to democracy. It is on the pace of democratic development upon which people hold different views. However much we would like our political system to be democratic, however anxious we are to have the democratic process implemented in Hong Kong as soon as possible, we must not allow our hearts to rule our heads. We must not forget the realities surrounding the territory. It is only in the interest of the people of Hong Kong that Hong Kong should remain stable under an efficient SAR government, particularly in the early years of its formation. Only then will it remain a worthwhile proposition to China. Our ultimate objective is of course direct elections by universal suffrage which will serve to guarantee a truly democratic government. We must now tactfully and realistically consider how and when to attain this objective in such a manner that will not jeopardize the stability and prosperity of Hong Kong. In my view, evolution

of the political system must take pace gradually and orderly. Only by setting it at this pace will there be least disruption to society. Only by setting it in this mode will China find it palatable. On the other hand, in the light of the strong demand for democracy by the Hong Kong people, which has recently come through loud and strong, it is unrealistic to postpone direct elections by universal suffrage for too long a time and the pace for implementing a fully democratic process of government in Hong Kong must be accelerated. Our honourable Senior Member, Mr. Allen LEE, has clearly expounded the consensus view reached by Members of the Executive and Legislative Councils in regard to the future political structure of the SAR, the formation and composition of the legislature and the selection of the Chief Executive. I shall not repeat the consensus view in detail. Suffice it for me to say that the consensus view reached is, in my view, not only sensible but also practical and realistic and I strongly commend it for consideration by the people of Hong Kong. Nevertheless I would wish to add a few comments by way of emphasis:

(1) There is no dispute that the future SAR Government should be built on a structure that is broadly and democratically based. For election of the Chief Executive, the ideal of course is to have direct elections by universal suffrage but in my opinion the election committee proposal may not be entirely unacceptable provided the election committee is itself democratically elected and broadly based. In regard to the legislature, functional constituencies have served Hong Kong well for some time and indirect election to the legislature through them should continue for at least a short period after 1997 in order to effectively maintain balance, continuity and stability in the Hong Kong SAR.

(2) In regard to the relationship between the executive and legislature, it is undeniable that under the Basic Law, the Chief Executive will have wide executive powers. Being the Chief Executive, he probably needs such powers but we must not leave such powers unfettered. We certainly do not wish the Chief Executive to be an organ grinder's monkey of the Chinese Government. We shall try to see to it that he is not, but just in case he turns out to be one, we must have in place the legal mechanism to prevent him from wielding his many powers to the detriment of Hong Kong's interest. It is important to have in place a proper system of checks and balances but on the other hand, the system of checks and balances must not be so rigid as to paralyse the efficient functioning of the Government. I am sure that in our future discussions on the Basic Law, we will be able to tighten the screws and provide the necessary nuts and bolts to achieve this objective.

(3) On the question of accountability, under the Sino-British Joint Declaration, the executive authorities shall be accountable to the legislature. The Joint Declaration did not state that the executive authorities are only accountable to the legislature in certain respects, and the only interpretation that can be attached is full responsibility and accountability. We must therefore consider amending article 64 of the Basic Law to reflect the true spirit and intent of the Joint Declaration.

(4) In our deliberations of the political structure of Hong Kong, we must always bear in mind that whatever we propose must be conducive to political stability and local confidence. This is of paramount importance. Without political stability and local confidence, we cannot expect to have economic stability and prosperity. Without stability and prosperity, we stand the chance of losing "one country, two systems".

Apart from the political system, one area in the Basic Law demands our close attention and that is the function of the judiciary within the whole political system. Under the Joint declaration, the Chinese Government has promised that the courts of the Hong Kong SAR shall exercise judicial power independently and free from any interference. These words are repeated in article 84 of the draft Basic Law but other articles attempt to circumscribe the judicial power. In this regard, article 157 of the present draft has given rise to grave concern. Under this article, if the SAR courts need to interpret the provisions of the Basic Law concerning affairs which are the responsibility of the Central People's Government or the relationship between the central authorities and the region, the SAR courts will have to abdicate and power is reserved to the Standing Committee of the National People's Congress (NPC) for interpretation of the relevant provisions. Exactly what affairs will fall within the responsibility of the Central People's Government are not defined and are by no means clear. Bearing in mind that this phrase falls within the powers of interpretation to be exercised by the Standing Committee of the NPC, we have reason to be concerned. Furthermore, how would expressions such as "state of emergency", "turmoil", "laws outside the limits of the autonomy of the region", be interpreted? How would the word "accountable" under article 43 be interpreted in the context of the Chief Executive's accountability to the Central People's Government? The people of Hong Kong certainly do not wish to have to guess whether the standing committee's interpretation will be in the best interest of Hong Kong or that of China's. They wish to be sure that it will only be in the best interest of Hong Kong. In order that citizens of any country may be adequately protected from possible abuses by an

arbitrary government, the judicial organs within the constitutional structure of that country must not only be truly independent but must also be able to function effectively. As such, it is my view that any restriction on the jurisdiction of the courts must be approached with the greatest of caution.

In my view, the draft Basic Law is still full of flaws and loopholes. In an attempt to allay the fears and concern of the Hong Kong people, it is proposed that a committee for the Basic Law be established to assist the Standing Committee of the NPC in deciding whether SAR legislation conforms with the Basic Law, in giving an interpretation of the Basic Law, in deciding what national laws should apply to the Hong Kong SAR and in regard to amendment of the Basic Law. All these areas involve potential conflict of interest and opinion between the SAR and the Chinese Government. However the committee for the Basic Law is only advisory in nature and the only obligation of the Standing Committee of the NPC is to consult the committee. It need not necessarily follow the advice given and the ultimate power lies with China. Neither can Hong Kong even be sure that the majority view of the committee will be in the best interest of Hong Kong since the members from Hong Kong only constitute 50% of that committee.

Sir, the Basic Law is a vital piece of legislation which the people of Hong Kong will have to live with after 1997 for 50 years or more. In the light of recent happenings, the draft Basic Law, with all its loopholes and flaws, will have to be scrutinized even more carefully than before and appropriate amendments thereto proposed and insisted upon. My honourable colleague Mr. Andrew WONG has identified at least six important areas in the draft Basic Law which require serious consideration and redrafting. I fully support his views and those of the OMELCO Panel. Sir, I share the feelings and emotions aroused by recent happenings. I also understand why some people have become disheartened and feel that further discussion on the Basic Law is a futile exercise. But unity and not despair is what Hong Kong needs at this crucial point in time. In my view, Hong Kong is playing a game with China, and in this game, Hong Kong must remain cool-headed and united. We can have no doubt that China has the power and ability, if she wishes, to realize sovereignty over Hong Kong by physically taking over. Why had China come up with this "one country, two systems" formula? Why had China offered autonomy to Hong Kong? We must appreciate that these concessions were unprecedented at the time they were given. We all know that China has given them because Hong Kong, with its magnificent achievements, its status on the international scene, its stability and prosperity, is of immense value to China. Hong Kong must maintain all these in order to remain

worthwhile to China. That, in my opinion, is our trump card. China wants and in fact needs a stable and prosperous Hong Kong, not a depressed and half forsaken Hong Kong. We must not do anything unwitting or rash that may give reason for China to renege on her promises. I verily believe that with unity of will and strategic planning, Hong Kong may yet emerge as the winner of this game.

Sir, that the "one country, two systems" model will work is a dream for many Hong Kong people, a dream that may never come true. Only with China's co-operation can this dream materialize for the mutual benefit of both China and Hong Kong. China must show confidence in the people of Hong Kong to practise the high degree of autonomy which she has promised to give. China must demonstrate willingness to listen and respond to the reasonable demands of the Hong Kong people. For our part we must bring across our message loud and clear that the future SAR Government will not operate as a mere puppet of China and that we do not need her maternalistic close supervision and direction. We must also insist that the Basic Law be a credible document and not only a piece of parchment containing empty promises. The "one country, two systems" model is China's vision. Only by adopting it as a true vision for Hong Kong, by believing in its workability, by seeing to its workability through the Basic Law will the people of Hong Kong see a future for the Territory.

Sir, with these remarks, I support the motion.

DR. LEONG: Sir, the recent events in China have produced a myriad of mental disillusionments in the people of Hong Kong. The students, with pessimism, are falling deeper and deeper into the well of depression, culminating into a feeling of helplessness and hopelessness. It is easy to see that, although article 35 of the Chinese Constitution states that Chinese citizens are granted freedom of speech, of association, of procession and of demonstration, and article 41 stipulates that Chinese people enjoy the right to criticize and make suggestions regarding any state organ, yet what Hong Kong people see across the border is a completely different reality. The people of Hong Kong have already seen imprisonment of dissidents who dared to exercise their right to criticize; they have seen harassment of intellectuals who were bold enough to speak out; they have seen confiscation of the signatures by over 20 000 people in Hong Kong by Chinese customs authorities on the pretext that these signatures were "propaganda"; and more.

At the height, they see condemnation of the students' patriotic and peaceful

movement by the use of martial law, the mobilization of armies and tanks to crush what is said to be riots and rebellions. In other words, the people can pledge one thing, but the Chinese Government will do the other even if it means violating the constitution.

It is not difficult to see that what happens in China today could well be mirrored into Hong Kong when the Hong Kong Special Administrative Region (HKSAR) comes into being after China resumes its sovereignty over Hong Kong. It is understandable, therefore, that at the crest of the wave of depression there were those of us who would boycott the Basic Law; those who would call for the resignation of all Hong Kong people who serve on the Basic Law Drafting Committee and the Basic Law Consultative Committee; and there will be members who, in frustration, resign from these bodies.

Alas, the fate of the six million Hong Kong people is sealed at the signing of the Joint Declaration! What can we do? Most of us are fortunately or unfortunately born Chinese; most of us are unfortunate that we have no means of leaving Hong Kong; and more actually are unwilling to leave Hong Kong. For those of us who were unfortunately born British, we are not even allowed into the home of our foster parent.

Ironically, Sir, therefore, it is in the hands of that Basic Law that we have so little confidence; in that we will have to place our future and our destiny. Let us hope that it will not be a Basic Law that China dictates; not a Basic Law that pro-China bodies are trying to propagate. Rather, it must be a Basic Law that clearly enshrines that the people of Hong Kong will be governed by a true, fully democratic system -- lest there will be no guarantee for freedom and basic human rights.

Sir, let us call upon the people of Hong Kong to forgo their pessimism and to gather together to press for a Basic Law that our future can behold! Let us call upon the Basic Law Drafting Committee and the Basic Law Consultative Committee to speed up their work, for it is the constitution of Hong Kong they are working on, irrespective of the political changes in China. Turning to the contents of the Basic Law, Sir, we obviously see a lot of flaws which would need to be addressed.

Political structure

Time however would not allow me to dwell on all the problems of the Basic Law draft -- nor do I intend to repeat the deliberations of my learned colleagues. Yet

I would not be doing this Council justice if I do not pay tribute to the honourable Members of the Executive and Legislative Councils for so amicably coming to a consensus on the timetable for the election of the future Legislative Council.

A lot of give-and-take has been exercised by many of us with one thing in mind, that is, to produce a consensus to lead a unified direction for the population of Hong Kong to consider and to follow.

I would like to turn, Sir, to the selection of the future Chief Executive and to say a few words to reflect the feelings of both the medical and dental professions that I represent. Both professions, some of them are actually academics unbeknown to most, have come out strongly with the proposal that the future Chief Executive, to be accountable to the people should be elected by universal suffrage as soon as possible, preferably by 1997, quite different from the feeling that my honourable colleague Mrs. FONG has just mentioned. A consensus however should be sought if at all possible.

One point however stands out and would need further deliberation, and that concerns the relationship between the Legislative and Executive Councils. For whilst one is responsible and accountable to the people of Hong Kong if he is elected into the Legislative Council through universal suffrage, he would be serving two "masters" should he be appointed into the Executive Council by our future Chief Executive unless that Chief Executive is also elected through a democratic process.

Human rights

I would like to say a few words on the inadequacy of the Basic Law in relation to the provision of human rights.

Article 18 has been addressed in detail by many of my honourable colleagues. Their views are all that I would subscribe to. In particular, I would like to note that this article gives the Standing Committee of the NPC the right to apply "the relevant national laws" to the HKSAR when the Standing Committee of the NPC decides that a state of emergency exists. It is important therefore that clarifications must be sought as to which of these Chinese laws would be applied under such circumstances.

Article 23 indicates that the HKSAR shall have the power to enact laws on its own to prohibit any act of treason, secession, sedition or theft of state secrets.

These offences, however, are ambiguous and it would be easy for the Government to accuse, but difficult for a defendant to defend that his words and deeds are not what the charges are meant to be.

Article 39 states that the provisions of the two international covenants on human rights as applied to Hong Kong shall remain in force and shall be implemented through the laws of the Hong Kong Special Administrative Region. Yet it remains unclear why the Basic Law drafting authorities had turned down an amended proposal to incorporate into the Basic Law these two international covenants in their entirety.

At the end of the day, Sir, it would be essential that some form of a Bill of Rights be enacted in Hong Kong, and for China to show her sincerity by becoming a signatory to the two international covenants on human rights.

Accreditation of professional qualifications

I would like, Sir, to say a few words on the accreditation of professional qualification. As the representative of two professional bodies, it would never be enough for me to stress that autonomy must be granted to professional bodies in determining professional qualifications and practising qualifications. It is imperative therefore that in article 141, paragraph 1, the word "Government" should be deleted because such would preclude the participation of non-government organizations. The present method of assessing and accrediting qualifications for professional practice differs from profession to profession as determined by the professional organizations and it only involves the Government when such is necessary and for the purpose of ensuring such matters as public safety, health and others, all of which are specifically provided for in different legislations, such as the Buildings Ordinance and the Medical Registration Ordinance.

But to our disappointment, the restrictions on complete autonomy of the professionals in professional affairs have yet to be removed from the present Basic Law draft.

Conclusion

Sir, in conclusion, let us come back to reality and look at the years before 1997.

The recent events in China have produced a momentum which cannot be pulled back.

The non-official Members of the Executive Council and this Council have agreed unanimously to hasten the pace of democratic government by having 50% of the Legislative Council elected by universal suffrage by 1997 and 100% by 2003. The die-hard conservatives have realized and agreed that the writing of democratic needs is clearly on the wall. Furthermore the people of Hong Kong have stated their wish in no uncertain terms in the referendum on the last two Sundays. The slim excuse that Hong Kong people are not politically mature has been shattered by the peaceful and orderly demonstrations on the two Sundays and in other movements.

It is obvious, Sir, that the blueprint for 10 directly elected seats for the Legislative Council by 1991 must be intelligently reviewed and altered to meet the roaring waves of political development.

Sir, I put it to you and this Council that it is Her Majesty's Government and the Hong Kong Government rather than the Chinese Government that are responsible for the administration of Hong Kong up to June 1997.

Sir, Her Majesty's Government and the Hong Kong Government have an obligation to fulfil and to ensure that a deeply rooted representative government be laid down before Hong Kong is handed over to China.

With these remarks, Sir, I support the motion.

MISS LEUNG (in Cantonese): Sir, in the light of the continual pledge of support both vocally and in actions from all sectors in Hong Kong for the pro-democracy movement initiated by the university students in Beijing, the motion debate scheduled today has definitely been infused with a new meaning.

I firmly believe that this movement has given a new dimension to the Basic Law issue, and in particular the issue concerning the political structure of Hong Kong in the minds of many people, including some of my colleagues in this Council, who are concerned about the formulation of the Basic Law of the Hong Kong Special Administrative Region and the further development of the government system. It has also been found necessary to re-assess the political awareness of the Hong Kong people. For similar reasons, Members of the Executive and Legislative Councils have finally agreed on an option for faster democratic reforms. This was explained in great detail to this Council by our Senior Member, the Honourable Allen LEE yesterday.

Sir, on this motion debate, we cannot help mentioning again the democratic movement of the university students in Beijing. Since this movement was first launched in mid-April, all Chinese communities throughout the world, surely including Hong Kong, have unhesitatingly pledged to give vigorous support both vocally and in actions.

The response from all sectors in Hong Kong to this democratic movement is indeed enthusiastic and passionate. The widespread and strong reaction from the impassioned majority is expressed in various ways. They give vocal and financial support for this movement. Among the most impressive activities are the million-strong processions for democracy held on the last two consecutive Sundays and the fund raising "Concert for Democracy in China" on last Saturday which has successfully collected more than \$10 million. The size of these activities, the number of participants and the funds thus amassed have far exceeded everybody's expectation. The good order and discipline displayed by these participants are unprecedented. I believe that the wishes and strength of the people reflected by the size of these activities, the number of their participants and the money they have collected must have made the Chinese Government, the Hong Kong Government and even the British Government sit up.

Sir, the passionate response from all quarters in Hong Kong that has found expression in various forms of support for the democratic movement of the Beijing university students is understandable. The university students in Beijing who have been striving undauntedly for democracy in defiance of their own safety have deeply touched the hearts of the Chinese all over the world. As Hong Kong is soon to be returned to China, the feelings of the local residents are particularly strong. Apparently, participants of these activities have shown their sense of commitment in supporting the movement for democracy. They have all been convinced of the value and significance of such activities. Each and every participant feels that he is fighting an honourable cause with the encouragement, respect and applause from others in the community.

The extensive and vigorous participation of the Hong Kong residents in various forms of support for the democratic movement in China has vividly reflected a fact, which even the slowest learners can understand, that the people of Hong Kong have a strong desire for democracy and are in no way politically apathetic. When the conditions and time are ripe and when legitimate political rights are not ignored,

the general public will be able to put their political potential into full play and live a richer political life. Hence, a truly democratic system of government is absolutely practicable in Hong Kong.

Sir, I would not oppose the agreement already reached by Members of the Executive and Legislative Councils on the part of the Basic Law concerning the political structure of the future SAR. For fear that a more conservative option might emerge, I cannot but accept the consensus reached by my colleagues.

Sir, it has always been my view that what Hong Kong wants most for its future is a truly democratic system of government in which the Chief Executive and Members of the Legislative Council are to be elected by universal suffrage and that each and every vote should carry equal weight. And I wish these could be achieved in 1997. It has all along been my firm belief that it is most undemocratic to have the Chief Executive and Members of legislature elected by election committees and functional constituencies.

With regard to the method for the formation of the legislature, the draft Basic Law proposes that more than half of the seats in the Legislative Council should be still filled by members elected by functional constituencies till at least 2011. Of these functional constituencies, the industrial, commercial and financial sectors are given the greatest share of influence while the professional sector is also given an edge over the other specified sectors. This implies that disparity exists even among these functional constituencies. Obviously, such arrangements are a long way from fulfilling the desire for a democratic system of government, particularly so when the so-called non-specified functional constituencies and the ordinary members of the public are categorically deprived of their functional rights. The essence of a truly democratic system is the bestowal of equal rights upon all to elect as their representatives those whom they trust.

The mentioning of functional constituencies calls up my memory of a wonderful allusion of George Orwell's novel "Animal Farm". As described in that novel, the animal farm was a republic of the animals in which all kinds of animals lived together. One of their commandments originally read, "All are equal." Later, the pigs which gradually rose to power wanted to confirm their prerogative by adding a clause to it. Since then it was amended to read, "All are equal but some animals are more equal than others."

Sir, some critics maintain that since the local residents are still politically immature, the option favouring the holding of regional general elections by one-person-one-vote for all seats in the legislature is not appropriate. However, they consider it acceptable if only some of the seats in the Legislative Council are to be returned by universal suffrage. It is easy to see that this specious argument is totally illogical.

In fact, the people of Hong Kong had their first experience in general election by one-person-one-vote as early as 1982. With their many experiences in the Urban Council and district board elections in the past years, they must have acquired certain knowledge of how to exercise their right in electing their own representatives. Hence, the idea of holding regional general elections by one-person-one-vote for all seats in the Legislative Council is absolutely practicable. Only in this way, can we truly put democratic election into practice.

Sir, the first part of the motion for this debate appeals to the local residents to give their views on the draft Basic Law. I think the relevant authorities should actively consider undertaking a referendum or a territory-wide scientific opinion survey to collect the views of the Hong Kong people in a precise and systematic way. Though individual submissions have their own value, they can only represent the views of individual bodies or persons. These submissions can never serve to represent the views of the entire community and therefore should not be seen as the general views of the Hong Kong people.

Sir, the way in which the consultation exercise for the Draft Basic Law for Solicitation of Opinions conducted last year was clearly not realistic. Despite its absurdity, the so-called "quality outweighs quantity" concept was upheld in the consultation exercise. This is, I believe, one of the major discouragements that put people off from voicing their views on the draft Basic Law. However, I still want to reiterate the second part of the motion for this debate, which is to urge the authorities concerned to give full consideration to the views of the Hong Kong people before the promulgation of the Basic Law. The recent grand processions and massive gatherings for democracy have spelled out loud and clear the outcry of Hong Kong people for true democracy, freedom, equality, human rights and the rule of law. These are the up-to-date public opinions.

Sir, with these remarks, I support the motion.

MR. MCGREGOR: Sir, despite the recent turmoil in China and the continuing uncertainty about the outcome, especially in the longer term, I do not think that anyone can seriously question the continuing importance of Hong Kong to the Chinese economy. No matter which political faction is in control, I do not doubt that China's open door economic policy will continue. Indeed, given the turmoil and the international attention focused upon it for many weeks, it seems likely that the Chinese Government, as soon as it possibly can, will seek, by all means at its disposal, to reassure investors and those dealing with China, that the open door economic policy will not be affected.

This will not necessarily re-establish confidence in China's ability to deal with its substantial economic and social problems now compounded by political dissent and upheavals. Sadly, the present political unrest again highlights the fragile nature of Chinese political and economic development during the last several decades. Investors are always wary of political instability and of the consequent possibility of shifts in policy direction. I therefore deeply hope that the Chinese Government will not take any action against the students who have taken part in patriotic demonstrations, motivated by love for their country and a desire for greater democracy. Instead, the Chinese Government might recognize that the enormous and unprecedented outpouring of the feeling of Chinese people, in China and around the world, is genuine and needs detailed study in a spirit of compromise and concern. A harsh crack-down on the students will exacerbate feeling in China and elsewhere and will surely lead to further severe problems in future. This kind of scenario will have adverse long-term effects in Hong Kong and in the attitude of those countries where support for the students has been most marked. The students have shown the parameters of a massive problem which China cannot hide and cannot wish away. As a democrat by instinct, background and experience, I must state my belief that the Chinese Government has only one road to take, the road towards greater democracy and more open government.

I do not accept the argument that Hong Kong people should not comment on the affairs of China. China is already preparing for the formal return of sovereignty over Hong Kong and our future is therefore totally bound up with that of China. If we are to seek the best possible arrangement for the people of Hong Kong, we must take account of events in China and react accordingly. We are in a position to have some influence on the attitudes of the Chinese Government because of our great importance to their economic objectives and because so much further potential for

lucrative co-operation exists.

May I also, in passing, point to the very substantial changes that have already taken place in the political systems of virtually every communist regime in the world. These are fundamental in nature and are already resulting in a strong swing towards more democratic and representative government in these countries. China is not an exception. I believe, therefore, that the pressure for democratic reform in China will continue and that this will be a very good thing for Hong Kong in the longer term. A more democratic China, even the prospect of a more democratic China, will provide the sort of assurance to Hong Kong people that a thousand Basic Laws cannot.

The perception of China and the policies of the Chinese Government held by Hong Kong people clearly determines the level of confidence in Hong Kong as to our future. Here, up to now, we have had a puzzling dichotomy. In the midst of an economic boom which has lasted for several years already, we are losing very large numbers of high quality Hong Kong people emigrating to other countries. The loss which they represent to our economy and society is very damaging and cannot be denied. There is also no sign that the pace of emigration will slacken. Even if it does, it may not represent an improved perception of our future by Hong Kong people but rather a reduction in quotas by reception countries.

How strange that the corporate view of Hong Kong is so bullish whilst the personal view is so nervous and hesitant. Perhaps the reason is that the corporate view is based on figures and logical boardroom assessments whilst the personal view is based on emotion and family considerations. A man may risk his business but he will not risk his family.

It is, therefore, perception which motivates people, not promises and legal assurances. Nevertheless, it is still vitally important, both in the corporate and personal senses, that there should be a Basic Law for Hong Kong and that it should contain all the legal provisions for the maintenance and further development of our successful economic and social systems. These must operate within a political framework that will allow Hong Kong people to rule Hong Kong effectively and democratically, without interference, intervention or undue influence being applied by China and therefore with a high degree of autonomy. The Basic Law must ensure that the provisions of the Joint Declaration are fully met and that the wide range of human rights enjoyed by Hong Kong people continue to be applied. The Basic Law must also provide for an orderly development of democratic government in Hong Kong

in order to meet the aspirations of the Hong Kong people and to ensure that they participate fully and legitimately in the process of government. The pace of democratic reform in Hong Kong must be as rapid as possible but it must not outpace the ability of Hong Kong people to take up their new responsibilities. It must also seek to maintain business confidence which is very vital to our continued success.

Here I must state my belief that businessmen are not nearly as resistant to the democratic process as has often been alleged. Businessmen are pragmatic, sensible and just as committed to the community as any other citizen. It is unfortunate that the media, and quite probably China as well, have tended to listen to the views of a relatively small number of conservative businessmen and assume that their opinions are representative of business as a whole. An impression has thus been created over several years that businessmen and business groups are arch-conservative in the political sense, opposing democratic reform and resisting all efforts at compromise.

This is very far from the truth. As I have pointed out many times, a survey carried out in 1987 by the Hong Kong General Chamber of Commerce to ascertain the views of the membership on the proposals in the Government Green Paper on Representative Government provided a clear impression that local and foreign businessmen are strongly in favour of democratic reform, also that they are not afraid of a reasonable pace of reform. Eighty per cent of those who responded were in favour of universal suffrage and half of those wanted to begin the process in 1988. We had a good percentage response also to the poll.

I was deeply impressed personally with many of the accompanying letters from Chinese and Westerners who wrote strongly in favour of reform. That in my view was the true voice of business people.

This positive and constructive attitude by businessmen reflects the general view, as far as I can determine it, of most Hong Kong people. It is very sad therefore that the Hong Kong Government has not felt itself able to seek the views of Hong Kong people on the essential aspects of the second draft of the Basic Law and in particular on the proposed political model, by means of a poll conducted on the basis of the electoral roll in the government computer. A questionnaire on the important points could easily have been drafted and published for comment before being finalized and issued to all those on the electoral roll. Manipulation would have been very difficult indeed if this system had been used. We would not have experienced the disgraceful record of fraudulent responses which we saw with an earlier government

survey.

If, as many have suggested, the consultation period on the Basic Law draft is extended, there will still be time for this Council or OMELCO to seek a public response to the political model which OMELCO itself is now finalizing. An essential element of any such survey would be government support in allowing the use of the computerized electoral roll. I believe that a survey on the proposed political model will establish the genuine feeling of the people of Hong Kong on the most important element of the Basic Law, its political structure. The results of such a survey could not be denied or denigrated here or in China, particularly if the survey is conducted by OMELCO or by the Legislative Council with full government support. This Council cannot speak for the people of Hong Kong. A properly conducted OMELCO survey could. In any event, the recent events in China and in Hong Kong have certainly confirmed my long held personal view that Hong Kong people must be given what they clearly seek, a democratically elected government answerable and accountable to the people through their elected representatives. Anything less would be a denial of justice.

As to the Basic Law draft, my colleagues have spoken at length on the important sectors, the changes which have been made to the first draft and the further changes which are being proposed. I have been happy to take part in the sometimes heated discussions in the Legislative Council and OMELCO in-house meetings in our efforts to find common ground on the key provisions. I have been even happier to note how many liberals we have on the Council. Some of them old. Some of them quite new. These bode well for Hong Kong.

The Chinese Government has consistently shown its willingness to accede to the Hong Kong view on almost all the sections and chapters of the Basic Law. Only in regard to the political model has China indicated reluctance and sought to reduce the pace of democratic reform by one stratagem or another. It is in this area however that the concept of "one country, two systems" will stand or fall. If the political model will allow Hong Kong people to rule Hong Kong without serious interference from China, Hong Kong could have a most successful existence as an SAR whose excellent performance would encourage China to catch up. How on earth would China know how to manage an economy such as ours? Only Hong Kong people can hope to do so successfully.

So if OMELCO can reach an agreed, unanimous view on the political model, this would be a giant step forward. An OMELCO survey on the political model might well make the proposals irresistible. I believe in that case China would then be under

very very strong pressure to accept it. I am therefore very pleased that OMELCO has been able to reach a large measure of agreement on the pace of democratic reform and that this envisages a fully elected legislature by 2003. The Chief Executive will also be elected by the people by that time. A system of checks and balances will be proposed to ensure that on the one hand the Chief Executive shall have the authority needed to carry out his heavy duties and on the other, that he and his executive shall be properly accountable to the legislature.

A rather liberal OMELCO is now showing the way and I believe that the OMELCO proposals will be strongly supported by the people of Hong Kong. The Basic Law drafters have consistently stated their willingness to accept proposals which clearly have the support of the majority of the people of Hong Kong. Let us see if the OMELCO proposals qualify.

The system of consultation which China has conducted into the provisions of the Basic Law has been extensive and detailed. Public opinion has been sought in a wide variety of ways over a long period of time. It must be assumed therefore that the Chinese Government is doing its best to provide the sort of Basic Law which will protect and promote the Hong Kong system as opposed to the Chinese system. How well this works out depends just as much on Hong Kong as on China. We must all therefore do everything possible to make the system, and the Basic Law, work.

I should like to finish by quoting from a recent letter from a Miss Teresa K.L. LO and published in the South China Morning Post. I quote "We need a democratic process to ensure that the voices of the people be duly heard and that the rule of law be properly administered. Democracy is not an empty aspiration. It is the long-term solution for durable stability and human progress." Who will disagree with her? We are supposed to be leaders in the community. It is the duty of this Council therefore to promote the democracy that she and all the rest of the people of Hong Kong seek and deserve.

Sir, I support the motion.

4.25 pm

HIS EXCELLENCY THE PRESIDENT: Members might like to take a short break at this point.

4.47 pm

HIS EXCELLENCY THE PRESIDENT: Council will resume.

MRS. SO (in Cantonese): Sir, politically speaking, a depression is affecting Hong Kong. The entire community is overcast with an extraordinarily grave atmosphere. Under the circumstances, Members of this Council have earlier held a discussion on the desirability of deferring today's motion debate until such time when the development of current events has taken on a clear direction and when we are in a better position to sum up the implications of the recent sequence of sudden changes.

However, I believe it is high time now to reach for a breakthrough in the drafting of the Basic Law which has been in progress for the last three years. There is also hope that the worrying stalemate situation of the second round of consultation will find its way out. I shall only make a short speech on today's motion because there are obvious signs that the local community has reached a certain degree of consensus on the future democratic system of government in Hong Kong. I consider it desirable for all of us to cut down unnecessary words and concentrate on making amendment proposals to individual sections of the draft Basic Law in accordance with the consensus reached in order to put us on a better foothold in striving for democratic advances in Hong Kong.

Being a local resident whose fate is closely related to the future of Hong Kong, I do not think we should worry too much about the chance of success in the implementation of the Basic law because its implementation is bound to be affected by many circumstantial factors which are beyond our control. On the contrary, I think this is the time when the people of Hong Kong should be more ardent than before in showing their support to the Sino-British Joint Declaration and their respect of the law. Paragraph 19 of the Introduction to the Joint Declaration states explicitly that "The whole Joint Declaration makes up a formal international agreement, legally binding in all its parts. An international agreement of this kind is the highest form of commitment between the sovereign states." The people of Hong Kong should continue to discuss the Basic Law because we must make it expressively known that we respect the law.

In supporting the motion, I would like to call upon the public to express their views on the draft Basic Law. The active participation of the public in the various

massive, spontaneous and sensible political activities that have taken place recently is indeed most encouraging. In the course of development towards a mature form of political participation in Hong Kong, the massive involvement in the recent rallies bears a significant meaning. However, when local political participation moves into its next phase of development, it will require the permanent and sustained back-up of civic education and publicity, as well as the availability of opportunities for public participation in politics rather than the launching of one or two massive rallies. Therefore, regarding the second part of the motion, I think it is high time for us to give serious consideration to the technical problems that may come into light in the collection of public opinion on the Basic Law. We cannot afford to dwell on vague principles any longer. Besides, there is a need to confirm to what extent the views thus collected would be binding.

Judging from the present overwhelmingly unified opinions being shared by the public, it is not impracticable to hold a referendum on the draft Basic Law. Furthermore, it is only through such political involvement that we can hope to incite the people of Hong Kong into developing a sense of belonging and showing their support to the Basic Law. Therefore I would like to urge both the Chinese and the Hong Kong Governments to hold a referendum and use the result of the referendum as basis for assessing local opinions on the draft Basic Law before the promulgation of the Basic Law.

The recent social events occurring in Hong Kong are of historical significance. The strong sentiments in political affairs that have been incited among the people of Hong Kong will not only activate discussions on the Basic Law but will also have an impact on the political reforms to be introduced in the transitional period. I hope that the general public will not hesitate to avail themselves of the opportunity to air their views on various relevant issues.

Finally, I give my full support to the broad agreement reached by OMELCO Members on major issues concerning political structure in the draft Basic Law as reported to this Council yesterday by our honourable Senior Member. Due responses and open comments from the public are also anticipated.

Sir, with these remarks, I support the motion.

MR. TIEN: The complicated events of the past few weeks both here and in China have

demonstrated the truth of the saying of the great scientist Albert EINSTEIN: "Politics is more difficult than physics". Trying to interpret these political events is extremely difficult indeed. Politics appears finally to have arrived in Hong Kong.

However, despite all the activities in the streets, I see there are still some fixed points, some certainties, to be decided.

Firstly, there must be a basic law. This requirement stems from the Sino-British Joint Declaration of 1984. We must therefore proceed with drafting the Basic Law. The Joint Declaration calls the Basic Law a constitutional instrument and it is vital to continue. Now is the time for the people of Hong Kong, radicals, liberals, moderates and conservatives to pull together, to reach a consensus and to make the Basic Law a success.

In consequence, I very much regret the resignations of certain prominent Hong Kong drafters on what might be seen as emotional reactions made on the spur of the moment to events in Beijing. I regard resignations on this score as showing an apparent failure to act as responsibly as the situation demands.

I appeal to all other drafters to hold firm and not desert the ship of state at this anxious moment in the histories of both China and Hong Kong.

My second point relates to the certainty that both change and continuity face us now. In searching for the best form of change we must also remember the need for continuity.

The recent dramatic events in China may help to impress upon Hong Kong people the need for greater urgency in promulgating the Basic Law. Moreover, it is imperative that the true wishes and feelings of the people of Hong Kong on this important matter should be communicated to the Basic Law drafters.

Change is in the air. The outcome of these events cannot easily be interpreted as yet. Things are very fluid and even at this late stage, the indications are that the drafters will have to go back to the drawing board.

But change must also be accompanied with continuity. Both are equally important. My remarks here this afternoon will try to stress both change and continuity. While I welcome change I do not welcome it for its own sake -- without purpose or direction.

We must draw upon the capital of experience, so that we do not go too quickly into the future without regard to reality. so I advocate change and continuity.

Political structure: specific points

Both continuity and change are required in devising our future political structure. Thus, if we ignore continuity, we can rapidly flounder in untried and unchartered waters. Too rapid a move towards universal suffrage can be counter-productive. As so often experienced in hastily developed new democracies around the world nowadays, certainly the people of Hong Kong would not want to end up through one man one vote with a chief executive in the likes of ex-President Marcos of Philippines.

While I agree that we are eventually destined to embrace a one-man-one-vote political system, I believe that we must progress towards this goal in an orderly fashion. In the meantime, we should preserve all those elements in our present system which are working well. After all, it is only by 1985 -- some four years ago in our history that we started to introduce the present mixed system of appointed and indirectly elected members to this Council.

So, with a little perspective, we can see how what was a substantial change in 1985, is now part of our system.

I envisage a gradual, but not unduly protracted move, such as a referendum or trigger point, towards greater representative government in Hong Kong. But the need for change cannot justify a rush into the unknown. We must have a sense of direction -- a concern for continuity before and after 1997.

OMELCO Members have recently unanimously agreed on an OMELCO position. Based upon a spirit of compromise and consensus, I reluctantly support the line of thinking which sees the year 2003 as the earliest acceptable year for the election of the Chief Executive and all our legislature by universal suffrage. Hopefully, by that time, we shall be able to build upon some continuity.

The legislature

The 1991 Council will mark another important stage in our development which sees 10 members, equal to 22% of our members, directly elected. This is the beginning

of the road which leads on to 100% directly elected members by 2003, a period of some 12 years.

By 1995, we may assume that all the Members currently sitting on the basis of appointment will go. Also by 1995, we may assume that some 50% of this Council would be directly elected. At the same time the remaining 50% of Members would be elected via functional constituencies.

So why should we have such a proportion of functional constituencies serving on this Council? The answer must surely be that such members bring an unrivalled expertise to our deliberations -- the legislature's own specialist -- our own impartial, balanced think tank.

Our functional constituency Members are able to offer continual advice and consultation on a wide variety of issues: there are after all, some 14 Members already serving on this Council in this capacity. Unlike particular employed lobbyists our functional constituency Members can use particular expertise, but, for the general good of Hong Kong.

Another point in this context is also worth noting. The role of the functional constituency Members is that they can act, in the best possible way, as a counter weight to the bureaucratic might of the Civil Service, in areas of specialization and expertise.

Let us remember the recently passed Securities and Futures Commission Ordinance. In the course of the debate some 200 amendments were necessary. Our accountants, lawyers, industrialists and bankers saw the essential flaws in the Bill. This proves the great public value of the concept of the functional constituency.

The relationship between functional constituency and directly elected Members

As more directly elected members come into the Council, we are likely in the final years of British administration to witness many interesting, but complex developments.

Members elected by their functional constituencies will be phased out, some 30 altogether in the year 2003. But, those currently serving Members, can hopefully

transfer by election to the ranks of the directly elected.

After all, they will have had by then some eight years to show their mettle. They will be familiar with the daily business of the Council. As incumbent Members, they will be well-known to the public. Surely, the future electorate will see the point of retaining their expertise?

Surely, it will be sensible for them to move from one category to another? It must be for the good of this Council and for Hong Kong, that the electorate should see the good sense of returning tried, tested and successful incumbents.

Sir, at this point I would like to direct the attention to a somewhat different set of ideas -- how to remove our future officers in certain extreme circumstances. So far, all attention has been focussed upon the best method of recruiting the Chief Executive, and of course the legislature itself. But once these offices have been filled, what then? Suppose, having placed the Chief Executive in office, we find the person not up to the job. Deposing a deficient, erratic, corrupt or otherwise obnoxious First Man or First Lady is conceivably as important -- perhaps more important -- than putting that person there in the first place. Power, after all corrupts; absolute power corrupts absolutely as recent events in Beijing have shown.

Legislators too, are sometimes less than perfect, and the same structures can apply to them also. I wish that the Basic Law said a good deal more about the methods of accountability. Not enough is said about the important idea of how to remove tomorrow's rulers.

What the draft Basic Law says is that after serious and prolonged disagreement between the Chief Executive and the legislature, it is ultimately just possible that the Chief Executive could be removed from office. Articles 52 and 72(a) cover the conditions under which the Chief Executive should resign and under which he may be impeached. As I read the second draft of the Basic Law, the suggested procedure for removing Chief Executive is very clumsy. This Council would have to have a truly catastrophic conflict with the Chief Executive before being able to do no more than recommend his removal. In the meantime, we could be paralysed by inaction and uncertainty.

I would now like to turn to the problem of the economy as described in the second draft of the Basic Law. I do not think that article 118 is at all clear, and could

cause grave concern to people in the field of business. My reading of this article suggests a worrying role for Government. If we could see government here as a passive force, vis-a-vis business, the implication is that prosperity is highly likely. On the other hand, an active government is very likely to disturb or even destroy the work of business.

Here, once again are the key ideas of continuity and change. We surely should not abandon the economic philosophy which has contributed to making Hong Kong the economic success which it is today.

Conclusion

Sir, in order to throw light upon a broader issue which faces us today, I commend honourable members to a re-reading of the first paragraph of the Joint Declaration. This speaks of the "maintenance of the prosperity and stability of Hong Kong". For again, whatever shape the Basic Law takes, in the final analysis, it is the economy which is Hong Kong's salvation. If the economy is not efficient, producing the prosperity which we all desire, the chances of Hong Kong's honouring the principle of "one country, two systems" are very remote indeed.

The "laws" as it were, of "prosperity" and the "laws" of "stability", go hand in hand. But in a very real sense, "prosperity" is prior to stability. Without prosperity, there will be no stability. We must realistically create wealth in Hong Kong in order to enjoy stability. This is imperative.

It is not just any simple political idea -- like a one-man-one-vote elected Chief Executive, or a one-man-one-vote elected legislature that can guarantee a hands-off policy towards us on the part of China. It is our continuing economic success which is our best guarantee of survival.

The balancing off of prosperity and stability, as with change and continuity, have to go on, constantly challenging our best efforts towards and past 1997.

Sir, with these comments, I support the motion.

MRS. TU: Sir, after hearing so many colleagues, in particular the moving speech on democracy yesterday by Mr. SZETO Wah, I feel that there is little left for me to add,

so my words will be few.

Two days ago, some young people who had taken part in the sit-in in Wan Chai came to see me. They voiced the thoughts that I believe must be in many of our minds since the unprecedented calls for democracy of the past few weeks.

The question on the minds of this group of young people was: "Where do we go from here?" They were afraid that opportunities might be lost and the situation might deteriorate. They suggested that when the slogan-shouting is over, we need to follow up with education for our young people in the meaning of democracy. I would therefore like to put forward a few simple proposals on the way we now need to go.

First, I think we need to teach in the simplest possible language and in all secondary schools, the contents of the Joint Declaration, so that every person in Hong Kong will be fully aware of its commitments, and understand the need for the Basic Law to fulfil those commitments.

Second, I think we should waste no time in introducing into Hong Kong all the human rights set out in the international covenants. All students should learn from their earliest days the full meaning of human rights for themselves and for others.

Third, I think we should impress upon our young people the greatness of their Chinese heritage, and encourage them to follow the example of people like Mr. SZETO Wah, who is not only determined to remain in Hong Kong and face whatever comes, but, as he said yesterday, is willing to die for what he believes. I should like to join him in that pledge, and encourage others to take a stand in Hong Kong and not run away from difficulties.

In recent years the cry has been for stability and prosperity. Yes, we all want that. But I think we should change that cry to "Stability and Prosperity in a Democratic Society", because without democracy there can be no lasting stability or prosperity. I trust that the community will unite behind the progress towards democracy in the amendments to the Basic Law as pinpointed in this debate and Sir, with these few words, I support the motion.

MR. PETER WONG: Sir, the motion before us behoves us to call on the Hong Kong people to express their views on the draft Basic Law and urge the authorities to take those

views fully into account before promulgating the Basic Law.

Those of us in the consultative committee, specially the ones nominated by the representative organizations, have been trying to do our very best to carry out our appointed duties. This has been an uphill, frustrating but interesting task.

Uphill task

As the representative of the accountants in the consultative committee, it was natural that I should be most concerned with the economy of Hong Kong.

Our sub-group came up with 10 essential features of the existing Hong Kong economy that we deemed worthy of retention and with one exception they have been put into the draft Basic Law. The omission was the limitation of expansion of the public sector to prevent it from overshadowing the private sector.

It was far from my intention that these desirable policies would be spelt out in the draft so that they become justiciable. It never occurred to me that the drafters would want to embody esoteric concepts such as balanced budgets and low tax policies into a law upon which aggrieved or mischievous parties can litigate.

We now have the uphill task of somehow putting the policies into the Basic Law without turning it into a strait-jacket which will throttle the governing ability of any future administration.

Frustrating experience

It has been a thoroughly frustrating task. The consultative committee's remit has never been crystal clear and for some time at the beginning, we were neither consulted nor were our views taken into account by the drafters. Only after reiterating our views through the press and at formal committee meetings, did we secure a dialogue with the drafters.

It was after much work by our Economy Sub-Group that we arrived at a consensus solution of the non-justiciable policy provisions in Chapter V. Therefore it was a shock to learn that the drafting members were ignorant of those proposals. I have no need to point my finger again at those drafters, who must make it a point to do their homework thoroughly.

It was also frustrating from the viewpoint (or lack of viewpoints expressed) of the accountancy functional constituents consulted. Although the working group of the Hong Kong Society of Accountants continuously welcomed any member to take part in its deliberations, we always ended up with the core group of about a dozen or so. We just could not get the general society membership interested and to speak up. I understand that this experience is not uncommon.

Interesting developments

The recent events in China have brought about some very interesting developments so far as this silent majority is concerned. I decided to do my own opinion survey of the membership on the political aspects. The accountants cannot be dismissed as ignorant; they must have some other excuse.

Out of 4 262 questionnaires sent out, I received 251 replies representing 5.88% of those polled. This was before the happenings in Beijing and I considered this response better than expected.

Although the views varied as to the exact timing of the direct elections of the Chief Executive and the legislature, there was a clear inclination to advance that franchise which accords with the consensus view of this Council. Furthermore, there was unanimity in restricting the powers of the Chief Executive and increasing the powers of interpretation of the Basic Law within the SAR.

On May 12, I polled a systematic sample of our members to try and find out why they had not replied. Of the 40 contacted by telephone, 4 said they had sent back the questionnaire which approximated the percentage of responses.

The main reason given for non-response was "too busy".

I suggest that the real reason was that they could not be bothered and were content to remain the silent majority.

Last week, following the 21 May march in Hong Kong, I followed up on the 36 non-respondents and 32 were successfully contacted by phone. All except two pledged full support to the Beijing students. Obviously this struck a sympathetic chord for Hong Kong people and the reasons given were pro-democracy and concern for Hong Kong's

future. I was pleasantly surprised at the new readiness with which most respondents made suggestions on the immediate tasks in hand in the drafting of the Basic Law. This change in attitude is a very significant factor that those in charge of the drafting process have to take into account when deciding whether the drafting and consultation process should be extended.

It is tempting to read too much from this "back of the envelope" assessment of the current situation. It provides corroboration that the Beijing students has stirred the normally apathetic rump of Hong Kong to action.

Executive override

The rallying of Hong Kong behind a united voice of reason is in itself good for Hong Kong. However, democracy alone cannot be an effective bulwark against dictatorship and totalitarianism. We have to remember that we are still very green in the game of politics. If anyone suggests that a united Hong Kong can confront China successfully, then that will be against the spirit of the Joint Declaration. Hong Kong and China will be inexorably linked. Unilateral declaration of independence will not be tolerated by either the Chinese or the British signatories of the Joint Declaration. We shall have a high degree of autonomy but not independence.

I am not saying that we should not deal with China on a united front. That will give us moral strength. What I am saying is that we should unite for reason and not for confrontation to the point of show-down.

Unfortunately, little appear to have changed in China. The same old guard is still in charge and is showing every sign of consolidating its power. The students' hopes of a new democratic China appear to be dashed. I would like to have one matter cleared up. The Beijing students were clearly in support of the PRC Government and the Chinese Communist Party. Were the Hong Kong demonstrators all supporting the same causes?

China still has to resolve the dilemma of how to achieve economic liberalization without progressive political reform and deal effectively with corruption which is like a cancer threatening to poison every healthy body cell. It should learn from Hong Kong how we dealt with corruption and then adopt methods which are appropriate for itself.

Immediate task

I am pleased that despite our personal preferences OMELCO has arrived at the other consensus on certain fundamental concepts. I will be doing my best to rally the support of Hong Kong's accountants for this proposal.

We have an immediate task to get right the economic provisions of the Basic Law. In substance, it is more important than the political aspects because unless we keep delivering the economic miracles that seems to be an everyday occurrence, what incentive is there for China to keep its side of the bargain? Continued success in economic terms is the key to our well-being.

The respondents in my survey showed positive attitudes to get on with the job of thrashing out the Basic Law and put that behind us.

Please remember that we are not and we will never be an independent sovereign nation. Safeguards in the Basic Law or democracy within Hong Kong by themselves will not protect us from an executive override in Beijing. It is a fallacy to postulate that 5.5 million united Hong Kong voices will deter a determined Beijing from retaining control over the entire Chinese political machine. If anything, the recent events in China highlight the vital importance of "one country, two systems". We may have the same objective; the methods of getting there are worlds apart. If we demand autonomy in our affairs, it is only right that we return the compliment.

Hong Kong drafters could and should be more diligent in listening to the voice of Hong Kong manifested through the consultative committee members and clearly demonstrate that they have heard and understood the views and the reasons behind them. The drafters must clearly explain how the hopes and fears of Hong Kong people have been addressed in the Basic Law for it to be generally accepted. I must add here that I concur with the remarks of my honourable colleague Dr. LEONG Che-hung concerning article 141 of the Basic Law draft relating to professional qualifications and practice. The government of the SAR must work jointly with the professionals to determine what is appropriate.

Sir, I fully support the motion but in addition urge that we do it in a constructive and positive manner. Our economy is basically sound and Hong Kong people have every intention of continuing our economic miracle -- I have no reason to doubt that we will remain a highly desirable factor in China's economy so that we can continue in our distinct system and lifestyle even beyond the 50 years after 1997. The Basic Law will give that economic status its legal standing. We must not give up that struggle now.

Sir, with these remarks, I support the motion.

DR. IP: Sir, I am proud to be Chinese. What is more, I am proud to be a Hong Kong Chinese.

What makes me more proud is to see how Chinese all over the world unite in their call for freedom and democracy in China. Furthermore I was so proud to belong to Hong Kong when one million of us, young and old, men and women, from all walks of life stood up recently in support of the Beijing students in such a sensible and orderly manner.

Over the course of the last few years, I have seen a slow but sure progress towards political maturation in Hong Kong, but the recent events in China has unfolded the real potentials of political awareness among our community. From what has happened, I am now confident that people in Hong Kong, even the man on the street, will be wise in their choice of rulers. In this respect, I consider that it is now ripe to introduce and to speed up universal suffrage and that such a development programme is written clearly in the Basic Law. I therefore agree with the OMELCO stance as presented by our Senior Member.

Yes, it is sad for what has happened in China but in many respects, I am glad. I am glad it happened and that it has happened now. It has given those of us, like myself, born after the war, so used to freedom and educated and worked only with reasonable people, to have a real taste of unreasonableness and lack of democracy. I am glad it has happened now, while we still have a chance to propose amendments to the Basic Law so that we can have written in it all contingencies to protect ourselves against all eventualities such as what has happened in China recently. In balancing the dangers that direct election may bring free lunch to a larger less well-off fraction of our community there by tipping our economy and the

dangers that indirect elections can be manipulated to create oppression, suppression to benefit a few, it is now clear to me that the former is a far smaller risk.

The people in Hong Kong have shown how they can put aside their sectoral interest when a truly important issue arises. And when it does they respond in solidarity.

Although OMELCO have reached consensus on some important issues under the guidance of Dame Lydia, we have still some way to go. The Constitutional Development Panel under the able leadership of Mr. Andrew WONG has yet to complete their discussion on the Basic Law draft and OMELCO to discuss and then to reach consensus on other equally important issues. They are the interpretation of and the amendments to the Basic Law, martial law and its institution, the possibility of news blackout; dissolution of the Legislative Council, and many others.

I hope that all the people of Hong Kong are behind us OMELCO Members when we make such proposals to the drafters. We the people of Hong Kong can then speak with one voice and have one unified demand on the final version of the Basic Law.

It would be vitally necessary for there to be an extension to the consultative process such that a complete version of an OMELCO unified demand with the support of the people behind us, can be presented to the Basic Law drafters.

My concept of the Joint Declaration which introduces "one country, two systems" and which gives Hong Kong a high degree of autonomy, is no different from two economically and administratively independent communities, one bigger and one smaller, which because of their linkage by race and by proximity are in alliance regarding foreign affair and where Hong Kong being the smaller of the two, adopts the Chinese national flag. The Basic Law should therefore spell out such high degree of autonomy. We should demand for nothing less!

If through OMELCO, Hong Kong people speak with one voice, with one demand for such autonomy, we stand closer to getting it.

I hope the Chinese leaders have been kept informed of the recent reaction of the Hong Kong people. They too can have a real taste of how we in Hong Kong will react, regardless of the final version of the Basic Law, if the future government governs contrary to the wishes of the people. It will not be one million people out in the streets, there will be all six million of us out there in silent and united protest

while the Hong Kong community comes to a complete standstill.

I conclude with a question. If the people in Hong Kong unite and speak with one voice in their demands on the Basic Law, if China turns it down, if the final version of the Basic Law promulgated is contrary to the united demands of the Hong Kong people and if the United Kingdom still refuses us the right of abode in the United Kingdom, how then can the United Kingdom face up to the world in its obligation to the Hong Kong people?

Sir, with these words, I support the motion before Council.

MR. POON CHI-FAI (in Cantonese): Sir, for the past few weeks, the people of Hong Kong had their minds on the situation of Beijing. We watched closely day and night the development of the Beijing student movement and the rapidly changing situation in China. The Beijing student movement for democratic reforms, anti-corruption and promotion of integrity has rallied the support of Chinese all over the world because of the righteous and patriotic sentiments that the student movement embodies. The rationality, calmness and restrained attitude of the Beijing students have also won the sympathy of the whole world. Although these students may retreat from Beijing's Tiananmen Square completely in the near future, the student movement has already promoted the democratic awareness of the Chinese people and given rise to the concept of freedom to all the Chinese people.

Developments in China are closely related to the future of Hong Kong. All along we have pinned high hope on and have given respect and support to the reforms and opening-up in China during the last decade or more. However, undeniably, the recent student movement in China has made a lot of Hong Kong people feel perplexed about their future. They are much worried and do not know where to turn to. The issue has also dealt a heavy blow to the confidence of the Hong Kong people towards the Basic Law. But cries of desperation and groans of disappointment cannot help. At this historic moment of rapid changes, the people of Hong Kong should take a more positive attitude by participating in the formulation of the Basic Law and strive for more chances to express their views on improvements to the Basic Law which will have significant influences on the future of Hong Kong. In fact, will the Beijing of today be the Hong Kong of tomorrow? To a very large extent, a bright future or otherwise for Hong Kong is in our own hands. Hong Kong people should be firmly united in their goal and actively take part in the formulation of a perfect Basic Law before

Hong Kong can have a better tomorrow. Of course, Hong Kong people should also remain cool-headed because we will not be able to make accurate analysis unless we remain cool-headed and correct judgement can only be made when we remain calm. The enthusiasm of the Hong Kong people towards the Beijing student movement has demonstrated that our patriotic feeling is on the rise. The good discipline in the marches and rallies participated by over a million people has also shown the responsible attitude of the Hong Kong people towards the community. Having said this, it is still disputable whether a faster pace in our political development should depend entirely on the enthusiastic response of the Hong Kong people towards the patriotic movement of the Beijing students or we should deliberate further and study the issue carefully and calmly to see if the enthusiastic participation of our population can sustain more permanently. As the saying goes: "One will repent if one acts in haste".

Our honourable colleague Mr. Stephen CHEONG said in this Council yesterday that "after the overheated emotional actions, rational analysis should be made." I fully support what he said. In conclusion, as the Basic Law has far-reaching implications on Hong Kong, it will only be to the benefit of the Hong Kong people if they are given more opportunity to discuss in depth and express their views.

Sir, with these remarks, I support the motion.

MR. SIT (in Cantonese): Sir, I am grateful to you for giving me the chance to be today's last non-government speaker.

On 1 July 1997, Sir, the five-star red flag symbolizing the sovereignty of socialist China will be flown in Hong Kong. One will, I believe, fly atop the Legislative Council Building.

In order to maintain the stability and prosperity of Hong Kong, China has, in deference to the majority view of the Hong Kong people, agreed to establish a special administrative region upon resumption of sovereignty over the territory in 1997 and to put into effect the grand design of "one country, two systems." This will enable the territory to revert to China in accord with Hong Kong people's sentiment of national identity, preserve the western capitalist system and existing lifestyles, including horse racing and dancing, and reinforce the hope that, under the auspices of a consensus on "one country, two systems" and also of an international pact, Hong

Kong will remain unchanged for 50 years after 1997. By 2047, most of us here, including myself, will probably have "returneth to dust" or, as the Honourable Andrew WONG had put it, turned into butterflies or whatever.

It is against this historical background that the Basic Law, the subject of today's debate, has been drafted. Whether it will be a success and fulfil the general wish of the people of Hong Kong will not only depend on its contents but will also, more importantly, depend on Hong Kong people's confidence in the territory's future. The Basic Law, after all, is just a document. It is the practical implementation of it that will count above everything else! Of course, if we fail even to get it properly organized and spelt out on paper, what more can we expect?

The patriotic student movement in China has great impact on Hong Kong. It has triggered a procession of the largest scale ever witnessed in the territory. Overnight, democratic consciousness surged, arguments for democracy proliferated and the ranks of democratic activists swelled. Never before on this market of freedom and democracy which is Hong Kong has there been such a profusion of activities. It is indeed spectacular and amazing.

With the development of the capitalist system in Hong Kong, the mode of operation of its constituent parts, freedom and democracy included, and their forward momentum could not be deflected by bringing our subjective will to bear. However, freedom and democracy can have different interpretations under different systems and cultural backgrounds. This is particularly so in the case of what democratic government really means. The drafting of Basic Law and its subsequent implementation should therefore be conceived only in the context of democratic models associated with the capitalist system. We should recognize that Hong Kong and China are having entirely different systems. The differentiation is so important that it must not be forsaken or forgotten in a surge of nationalistic feelings when drafting the Basic Law. In my opinion, whether China today will be a reflection of Hong Kong tomorrow is not so important. What matters most is that we will have, as a song has it, "a better tomorrow." We all hope that Hong Kong will continue to prosper under the present capitalist system and economic model. We must pool our efforts to express our views on the draft Basic Law in order to get the best deal. Recently, the OMELCO Members have arrived at a consensus on a number of issues under the Basic Law. This is a good start to which I give my full support. Yet on certain provisions of the draft, members of the two district boards in south Kowloon have the following proposals.

(1) The second paragraph of article 43 should be amended to read:

"The Chief Executive of the Hong Kong Special Administrative Region shall be accountable to the Central People's Government, the Hong Kong Special Administrative Region and the Legislative Council in accordance with the provisions of this Law."

(2) Item 11 of article 48 which states that the Chief Executive shall exercise the power and function "to decide, in the light of security and vital public interests, whether government officials or other personnel in charge of government affairs should testify or give evidence before the Legislative Council or its committees" should be deleted.

This is to avoid empowering the Chief Executive to repeatedly prevent government personnel from testifying before the Council.

On the question of election of the Chief Executive most of the members have agreed that it should be done through a general election to be introduced from 1997.

Sir, I must say that the way the Basic Law Consultative Committee (BLCC) collect opinions on the draft constitution has been rather disappointing. On many occasions, spokesmen for the BLCC attacked opinions and ideas which they considered were against their view. Their use of officialese in presenting their views and arguments on certain issues and their purported assumption of paramount authority in the present consultation exercise clearly demonstrate their bigoted and patriarchal attitude and reluctance to accept counter proposals. They have forgotten that their role is not to reshape but reflect opinion, be it for or against their own position, to the Basic Law Drafting Committee. The lukewarm response to the consultation exercise has revealed the need for the BLCC members to review their approach to consultation. Members of the BLCC are appointed or nominated to sit on the committee. The advantage of this system, if there is any, can be seen through the performance of the BLCC in the consultation exercise. So it is indeed worrying if our future Chief Executive is to be selected through the proposed method of election by an election committee.

Sir, with these remarks, I support the motion.

HIS EXCELLENCY THE PRESIDENT: Mr. SIT, I am afraid you are not actually the last

non-government Member to speak. One more Member also wishes to speak.

MRS. TAM (in Cantonese): I am grateful to you, Sir, for granting me this opportunity to speak because it had not been my original intention to do so today. I fully support the speech of the Honourable Allen LEE, in particular, his reference to consensus within OMELCO. Within OMELCO I am all along for a consensus to be arrived at in our discussion of the Basic Law, for an unreserved effort to achieve consensus to let the Hong Kong people know that we are unmistakably a united voice, a voice of unanimity. We might not reach full consensus today, yet I will press on to this end. Meanwhile I should like to say here that I support the remarks made by my honourable colleague Mr. Andrew WONG yesterday and that we share similar viewpoints. In the course of discussion of the draft Basic Law in OMELCO I cannot but admire the devotion of Mr. WONG in terms of personal effort and time spent. I might also add that his dedicated service on the OMELCO Standing Panel on Constitutional Development, of which I am also a member, deserves special tribute from me. Apart from this, it is pertinent for me to make a few remarks now on the youth problem raised by Mrs. TU one moment ago. I fully agree with what she said about the predicament of our young people today; I am touched, in particular, by our young people's craving for democracy. I feel that the future of Hong Kong lies in their hands. The current student movement has brought home to me this point. Even more so, it has brought home to me the power and strength that young people can muster. Therefore it is a pity that in discussions pertinent to the Basic Law our young people should be playing an apathetic or at best a lukewarm role. They show no interest to participate. I feel obliged here to call upon the young people of Hong Kong to avail themselves of the opportunity to show their concern for the Basic Law and, through the inspiration the student movement has given them, to build up and implement this concern. What issues of Basic Law we or OMELCO debate here today do indeed have a tremendous impact on today's young people; much greater, I would say, on young people in the next decade. With this in mind, I would call on our young people to build up and implement their concern for the Basic Law for the future well-being of Hong Kong, while supporting the processions here and the students in Beijing. They must grab every opportunity that comes along for more active and positive discussion and participation in the formulation of Basic Law.

Sir, with these remarks, I support the motion.

CHIEF SECRETARY: Sir, the motion before this Council is simple in its terms. But it is timely and of vital importance to our future. Because of its importance let me repeat the motion, which is:

"That this Council calls on the people to express their views on "The Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China (Draft)" and urges the authorities concerned to take such views fully into account before the promulgation of the Basic Law."

The motion is a clear invitation to the community of Hong Kong to express their views on the draft Basic Law of the Hong Kong Special Administrative Region. Why is it so timely? Inevitably, recent events in China have prompted intense interest and concern among the people of Hong Kong. Those events have caused some people to question the value of the Basic Law and the extent to which it will genuinely govern Hong Kong's way of life in future. But, at the same time, those events have led to a recognition on the part of many, including Members of this Council, that the Basic Law is, if anything, of greater than ever significance to Hong Kong's future. As you yourself have said, Sir, we must look beyond immediate events. The Basic Law will provide the framework for Hong Kong for 50 years after 1997, long after the recent events have taken their place in the history books. And so, it is right that this Council should encourage the whole community to express their views on its terms. If they do not, the Basic Law may not in its final form truly reflect their aspirations.

Sir, the Basic Law is important for two reasons:

(a) it is the legal expression by the People's Republic of China of the terms of the international agreement which China accepted in the Joint Declaration; and

(b) it provides the constitutional foundation for the maintenance of our unique social, economic and political systems beyond 1997.

And it is important because, as stated in articles 28 and 29 of the present draft, it will preserve those freedoms, which we currently enjoy and value so highly, against any arbitrary exercise of power, so that members of our community can continue to live their lives within the rule of law as we know it.

The drafting of the Basic Law is, of course, a matter for the Chinese Government. But, as has been emphasized on many previous occasions, the British Government, as

a co-signatory to the Joint Declaration, has the right and obligation to satisfy itself the provisions of the Basic Law fully and faithfully reflect the terms of the Joint Declaration. The British and Hong Kong Governments have therefore been following the drafting process closely and have paid close attention to the views expressed by Hong Kong people. As a result we have been able both to reflect such views to the Chinese Government through appropriate channels and to contribute to the very useful discussions which have taken place. In their turn, the Chinese authorities have shown themselves receptive to the many views that have been expressed.

Sir, I believe there has been general agreement both in Hong Kong and elsewhere that the second draft Basic Law, published in February this year, represents a considerable improvement on the first draft. In particular, changes made to the second draft have, indeed, gone a considerable way towards ensuring that the HKSAR will, in practice, enjoy the high degree of autonomy provided for in the Joint Declaration, so as to give expression to the concept of "one country, two systems" enshrined in the Joint Declaration.

Much has been achieved as a result of the first consultation exercise. Consultation on the second draft provides an opportunity to continue the process of remedying those areas on which there may still be doubts, or on which it has not yet proved possible to achieve consensus.

Sir, many have expressed concern that recent events in China have raised questions regarding the consultation process in Hong Kong. The fact remains that it is in the interest of all concerned, including China, that the final version of the Basic Law should win the full confidence of people here in Hong Kong, and foreign investors. It is through that confidence that the long-term prosperity and stability of Hong Kong will be ensured. The thoughtful and forward-looking speeches made during this debate exemplify the commitment of Members of this Council, and I have no doubt reflect the wishes of the community at large to attain the best possible Basic Law for Hong Kong.

The present draft Basic Law is the product of considerable discussion and very hard work on the part of the drafters. We have seen, in the changes adopted in the second draft, the value of consensus in the community. The measure of consensus which has already been achieved is of great credit to all concerned. When the second draft was published, drafters specifically drew attention to the need to focus on the

political structure of the future HKSAR where there were divergent views in Hong Kong. It is natural that this aspect should be controversial and I would like to say a little more about this subject.

Differing views on constitutional development still remain within the community and, not surprisingly, it has been a major theme of the speeches during this debate. In this regard let me pay tribute to the efforts of Members of this Council in hammering out a blueprint for what they see as the development of the political structure of the HKSAR beyond 1997. Their willingness to subordinate their personal wishes to the wider goal of achieving a common view which may be conveyed to the Basic Law drafters demonstrates, I believe, a clear recognition of Members' responsibilities to this community and a deep sense of commitment to its future.

The second part of the motion, the terms of which I repeated at the outset, "urges the authorities concerned to take such views fully into account before the promulgation of the Basic Law". That is a fair and proper expectation. For its part, the Administration will certainly ensure that the views that have been expressed so eloquently by Members yesterday and today are fully reflected to the Chinese authorities.

Sir, with these remarks I support the motion.

Question on the motion put and agreed to.

Adjournment and next sitting

HIS EXCELLENCY THE PRESIDENT: In accordance with Standing Orders I now adjourn the Council until 2.30 pm on Wednesday, 21 June, 1989.

Adjourned accordingly at thirteen minutes to Six o' clock.

Note: The short titles of the Bills/motions listed in the Hansard have been translated into Chinese for information and guidance only; they do not have authoritative effect in Chinese.

