

1 HONG KONG LEGISLATIVE COUNCIL -- 16 July 1992

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OFFICIAL RECORD OF PROCEEDINGS

Thursday, 16 July 1992

The Council met at half-past Two o'clock

PRESENT

THE DEPUTY PRESIDENT

THE HONOURABLE JOHN JOSEPH SWAINE, C.B.E., Q.C., J.P.

THE CHIEF SECRETARY

THE HONOURABLE SIR DAVID ROBERT FORD, K.B.E., L.V.O., J.P.

THE FINANCIAL SECRETARY

THE HONOURABLE NATHANIEL WILLIAM HAMISH MACLEOD, C.B.E., 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, C.B.E., J.P.

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

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

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

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

THE HONOURABLE DAVID LI KWOK-PO, 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 SZETO WAH

THE HONOURABLE TAM YIU-CHUNG

THE HONOURABLE ANDREW WONG WANG-FAT, O.B.E., J.P.

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

THE HONOURABLE EDWARD HO SING-TIN, O.B.E., J.P.

THE HONOURABLE RONALD JOSEPH ARCULLI, J.P.

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

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

THE HONOURABLE MRS MIRIAM LAU KIN-YEE, O.B.E., J.P.

THE HONOURABLE LAU WAH-SUM, O.B.E., J.P.

DR THE HONOURABLE LEONG CHE-HUNG, O.B.E.

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

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

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

THE HONOURABLE ALBERT CHAN WAI-YIP

PROF THE HONOURABLE EDWARD CHEN KWAN-YIU

THE HONOURABLE VINCENT CHENG HOI-CHUEN

THE HONOURABLE MOSES CHENG MO-CHI

THE HONOURABLE MARVIN CHEUNG KIN-TUNG, J.P.

THE HONOURABLE CHEUNG MAN-KWONG

THE HONOURABLE CHIM PUI-CHUNG

REV THE HONOURABLE FUNG CHI-WOOD

THE HONOURABLE FREDERICK FUNG KIN-KEE

THE HONOURABLE TIMOTHY HA WING-HO, M.B.E., J.P.

THE HONOURABLE MICHAEL HO MUN-KA

DR THE HONOURABLE HUANG CHEN-YA

DR THE HONOURABLE LAM KUI-CHUN

DR THE HONOURABLE CONRAD LAM KUI-SHING

THE HONOURABLE LAU CHIN-SHEK

THE HONOURABLE MISS EMILY LAU WAI-HING

THE HONOURABLE LEE WING-TAT

THE HONOURABLE GILBERT LEUNG KAM-HO

THE HONOURABLE ERIC LI KA-CHEUNG, J.P.

THE HONOURABLE FRED LI WAH-MING

PROF THE HONOURABLE FELICE LIEH MAK, O.B.E., J.P.

THE HONOURABLE MAN SAI-CHEONG

THE HONOURABLE STEVEN POON KWOK-LIM

THE HONOURABLE HENRY TANG YING-YEN, J.P.

THE HONOURABLE TIK CHI-YUEN

THE HONOURABLE JAMES TO KUN-SUN

DR THE HONOURABLE SAMUEL WONG PING-WAI, M.B.E., J.P.

DR THE HONOURABLE PHILIP WONG YU-HONG

DR THE HONOURABLE YEUNG SUM

THE HONOURABLE HOWARD YOUNG, J.P.

THE HONOURABLE ZACHARY WONG WAI-YIN

ABSENT

THE HONOURABLE SIMON IP SIK-ON, J.P.

IN ATTENDANCE

MR JOHN CHAN CHO-CHAK, L.V.O., O.B.E., J.P.
SECRETARY FOR EDUCATION AND MANPOWER

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

MR MICHAEL SZE CHO-CHEUNG, I.S.O., J.P.
SECRETARY FOR CONSTITUTIONAL AFFAIRS

THE CLERK TO THE LEGISLATIVE COUNCIL
MR LAW KAM-SANG

Member's motions

Select Committee on Legislative Council Elections

Resumption of debate on Member's motion which was moved on 15 July 1992

DEPUTY PRESIDENT: Council will now resume and continue with the debate on Mr Ronald ARCULLI's motion as amended by Mr Jimmy McGREGOR. Mr K K FUNG, as Mr Jimmy McGREGOR's amendment has been agreed, your amendment, as a matter of language, cannot be linked to the amended motion. Would you like to seek leave to alter the terms of your amendment to overcome this technical difficulty?

MR FREDERICK FUNG (in Cantonese): Mr Deputy President, with your leave, I wish to revise the wording of my amendment motion, that is, by adding the same amendment wording after "Legislative Council elections in 1995" in Mr Jimmy McGREGOR's amendment motion and not after "Select Committee Report". With this revision, the wording of this amendment motion will be the same as that of my original amendment motion.

DEPUTY PRESIDENT: You have my leave, Mr FUNG.

Mr Frederick FUNG moved an amendment to Mr Ronald ARCULLI's motion as amended by Mr Jimmy McGREGOR's amendment:

To add the following after "Legislative Council elections in 1995":

"and requests that the following proposals be included in Chapter 4 of the Report for the consideration of the Government in its examination of the arrangements for the 1995 Legislative Council elections: in view of the existing practices in functional constituency elections which give rise to unfairness and possible violation of the Bill of Rights, as members of the electorate in such elections are

allowed the extra opportunity of voting once or more than once in addition to voting in direct elections at their geographical constituencies, this Council therefore urges the Government to establish an independent committee comprising members of the legal sector and the public to study and enhance the fairness of functional constituency elections and to examine whether there is any inconsistency with the Bill of Rights"

MR FREDERICK FUNG (in Cantonese): Mr Deputy President, I intend to amend this motion today. But before I go on to the proper of my speech, I must clarify two points.....

MR RONALD ARCULLI: Point of order, Mr Deputy President.

DEPUTY PRESIDENT: Yes, Mr ARCULLI. Would you please sit down, Mr FUNG?

MR RONALD ARCULLI: Mr Deputy President, I wonder whether Mr FUNG would be kind enough to clarify the wording of his motion. From what I understand, I think the English could be slightly misleading to Members because it refers to a select committee when I believe the Chinese version actually refers to a special working group or some such language.

DEPUTY PRESIDENT: Is this in reference to the substantial wording or is it in reference to the technical change, Mr ARCULLI?

MR RONALD ARCULLI: It is with reference to the substantial wording, not the technical change, Mr Deputy President.

DEPUTY PRESIDENT: I see. And is it the wording in Chinese or in English that concerns you?

MR RONALD ARCULLI: Mr Deputy President, I believe that it is the wording in English that does not reflect correctly what I suspect Mr FUNG means in Chinese because I cannot image that he is talking about an independent select committee of this Council

comprising lawyers and members of the public. In Chinese, I think the wording is and that has been interpreted as select committee in English which, I believe, is not what Mr FUNG might mean. Perhaps, Mr FUNG might like to clarify it.

DEPUTY PRESIDENT: I think in the version in English, which appears in the Order Paper, the portion in question reads -- if I have got the right one -- "This Council urges the Government to establish an independent committee comprising members etc....."

MR RONALD ARCULLI: I do apologize, Mr Deputy President, because the version I have has the word "select".

DEPUTY PRESIDENT: I am looking at the Order Paper which contains the text of the amendment, Mr ARCULLI.

MR RONALD ARCULLI: I was actually looking at Appendix A which was, I think, given to us from the OMELCO Secretariat on 14 July.

DEPUTY PRESIDENT: And that is not the official version; it has been amended since. The version which appears on the Order Paper, which is the official version, refers to "independent committee".

MR RONALD ARCULLI: Mr Deputy President, in which case I think that should be all right. Thank you.

MR FREDERICK FUNG (in Cantonese): Mr Deputy President, before I make my speech, I would like to clarify two points. Firstly, my purpose in moving the amendment will very probably be misunderstood by people outside this Council, even by some colleagues in this Council. They will think that I am trying to do away with the functional constituency elections (FCEs). I wish to emphasize that I have no such intention. As the wording of my amendment motion already makes it clear, what I would like to have is an independent committee that will ameliorate the existing practices with regard to the FCEs. Secondly, before taking part in today's motion debate, I had

discussed the matter with some functional constituency colleagues. I received three kinds of responses from them. The first kind was: "If you attack me, I will not support you." The second kind of response received from colleagues was: "Frederick FUNG, the matter that you are moving would have serious implications. A group of my constituents have come to see me. They say that you are violating the Basic Law and that I should vote against the amendment motion." The third kind of response, received from a close personal friend of mine, was: "Freddie, I am sorry. Despite our friendship, I cannot support you because I am accountable to my constituents." All three kinds of responses appear to be negative, but I do not take them too seriously. It is because, basically, they are expected, in the sense that when we start to lay down an election system, we already know what purpose it will serve and how it will work. And of course, the FCEs are established to look after the rights, interests and needs of the respective functional constituents. In this regard, I fully understand the responses of my three friends. Their responses are not based on personal choice but on the choice of the system as it was designed. Such being the nature of the responses, I feel that we probably should stand on higher grounds and see farther ahead. Firstly, is the existing modus operandi of the FCEs really so perfect that it requires no further improvement? Secondly, if we do have problems with the FCEs, can we leave the solution solely to the initiatives of the Legislative Council or the Government? Thirdly, if the FCEs are improved, will they then return better representatives who have more popular support? Though my three friends have already told me why they do not agree with my grounds for moving the amendment motion, still, I hope that, after listening to my speech today, they will look at my points again. In the speech that I am about to make, I will not highlight the squabbles and mutual recriminations but some of the hard facts that we actually note in the 1991 elections. From such a review, we will see whether there actually are problems with the FCEs and, if so, whether there is any genuine need to set up an independent body to recommend how things may be ameliorated. The text of my speech follows:

Mr Deputy President, the Select Committee on Legislative Council Elections in its report presented to this Council gives its analyses and recommendations on the subject of the FCEs but Hong Kong Association for Democracy and People's Livelihood (HKADPL) and I find them disappointing and feel enraged. The report is disappointing because it leaves out matters. These are: (1) the FCEs being in conflict with the Bill of Rights Ordinance; (2) manipulation and "planting" of corporate votes, a matter that raises questions about the credentials of functional constituents; and (3) public concern over the problem of the double voting right, which is contrary to the principle of equality. What enrages us is that the report, while purportedly

based on mainstream public opinion, does not consider as mainstream public opinion those comments that were offered to the Select Committee concerning the FCEs and does not even refer to them in the recommendations. As a result, a system that we found to be somewhat unfair and undemocratic in the 1991 elections may continue to exist intact.

In the following, I will discuss from four aspects about the establishment of an independent committee comprising members of the legal sector and the public to study and enhance the fairness of the FCEs and to examine whether the system contravenes the Bill of Rights Ordinance. (I emphasize here again that the independent committee is to examine whether it contravenes the ordinance, not presuming that there must be any contravention.)

First of all, I will point out the problems with our latest FCEs, that is the ones held in 1991. Article 21 of the Hong Kong Bill of Rights Ordinance of 1991 provides that "The election right shall be universal and equal." Article 22 further provides that "All persons are equal before the law.....without any discrimination.....; the law shall prohibit any discrimination,protection against discrimination on any ground such as.....social origin, property.....or other status." However, under the present FCE system, individual functional constituents have a double voting right. They can cast one vote each in their respective functional constituencies and have one additional vote each in their respective geographical constituencies. That is to say, some people can vote twice while the majority of the electorate can vote only once for the election of the same Legislative Council. It is an axiom that one is not equal to two. Therefore, the mechanism of the FCEs is clearly inconsistent with the principle of equality stipulated in the Bill of Rights.

Apart from creating a double voting right, the FCEs, as a system, have other loopholes that permit voting rights to be abused or controlled. The corporate voter system is a case in point. Just imagine what would happen when an election system is designed but no standardized rules regarding the credentials of constituents are laid down correspondingly. For some functional constituencies, such as, Industrial, Commercial, Social Services and Architectural, Surveying and Planning, corporate members of trade associations are eligible to register as functional constituents. For other functional constituencies, such as, Medical and Legal, individual members of these two professions are eligible to register as functional constituents. The former functional constituencies lend themselves the more readily to election abuse.

This is because the law does not specify the credentials of the functional constituents besides their being "corporate members" of approved trade associations. Neither does the law specify the credentials of the individuals who can represent the corporate entities -- functional constituents -- in the voting, nor is it clearly stipulated the relationship between these individuals and the corporate entities. It was thus possible for corrupt practices like "vote planting" and vote manipulation to find their way to the 1991 FCEs, as was repeatedly exposed by the press. (See LAU Chun-to's article, Hong Kong Economic Journal, 15 June 1991)

Meanwhile, people become constituents for the FCEs via three different channels. Lawyers and doctors are eligible to register as constituents in individual capacity. In other functional constituencies, for example, Labour, a trade union is eligible to register as a constituent if it is registered as a trade union under law. For the third channel, there is no need to register before becoming eligible for voting as a constituent under law, like, a member of the Federation of Hong Kong Industries (FHKI) or the General Chamber of Commerce (GCC), so that a company may become a functional constituent as soon as it is accepted as a member of the FHKI or the GCC. Among the three kinds of functional constituents mentioned above, the greatest problem is with the company that becomes a constituent by registering as a member with the FHKI or the GCC or a member of the Hong Kong Council of Social Services (HKCSS). The board of directors of the HKCSS, the FHKI or the GCC, if they wish to control, influence or restrict a specific type of constituents at any time, can do so by changing the membership recruiting rules.

Also, in constituencies where members are allowed to vote as corporate constituents, it brings into question the accountability of such representatives under such a system. To whom are they responsible? Take the social services as an example. At present, members of the HKCSS are incorporated associations and they are the corporate constituents. However, the law does not specify if the voter should be a director of the incorporated association or a front-line social worker who knows the best what the interests of the functional constituency are. As a result, the representative of Social Services has to be answerable both to the board of directors of the incorporated association and the field social workers. As they have different social roles to play, directors and executives in an incorporated association may have different or even contradictory views on policy matters. Consequently, a Legislative Council Member elected by a functional constituency often has to tackle the problem of representing different, or even contradictory, interests. It explains why the constituents of some functional constituencies are now criticizing

their representatives in the Legislative Council for failing to represent their true interests and asking them to resign.

Mr Deputy President, Honourable Members, I believe that we all agree on, and will do our best to support, the development of a democratic and open society in Hong Kong. But the various problems that we are having with the FCEs are a big obstacle to the democratization of Hong Kong's political system. The FCEs also buck social trends, which are in the direction of democracy, openness and respect for human rights. Many leading members of Hong Kong's legal sector have pointed out time and again that the FCEs may be in conflict with the Bill of Rights. For instance, Dr Nihal JAYAWICKRAMA, the well-known legal scholar of the University of Hong Kong, Mr Benny TAI Yiu-ting, lecturer of the Department of Law of the same university, as well as the Justice, which is composed of law students, practicing lawyers and law scholars and which pays special attention to the rule of law and to the protection of human rights, have all sent written submissions to the Select Committee on Legislative Council Elections, pointing out that the FCEs are "discriminatory" and may be in clear violation of the principles of equality stipulated in Articles 1 and 22 of the Bill of Rights Ordinance.

Another point is that some people, by being able to vote both in a geographical constituency and in a functional constituency, enjoy a double voting right that is not available to the remaining majority of the people of Hong Kong. Article 21 (b) of the Bill of Rights Ordinance provides that the election right shall be "universal and equal". But given that the right to vote in the FCEs is not enjoyed by all eligible voters, it is self-evident whether the system can pass the litmus test of universality and equality. Officials of the Constitutional Affairs Branch have cited section 13 under the Savings of the Bill of Rights Ordinance (which refers to Article 22 of the Bill of Rights Ordinance providing that it does not require the establishment of an elected Executive Council or Legislative Council in Hong Kong) to justify the waiver of Article 21 (b) for the FCEs. So the Government thinks that the FCEs are not in conflict with the Bill of Rights Ordinance. In this connection, I have consulted some judicial experts, asking them if the Government's answer is correct. These experts think otherwise. Undoubtedly, section 13 under the Savings allows a colonial governor to set up the Executive Council and Legislative Council on an appointment basis. Still, since elected elements have already been introduced into the Legislative Council, Article 21 (b) should be applicable to all of the Legislative Council's elected Members, be they returned by direct elections or by FCEs or by the Electoral College as some will be in the future.

But this time the Select Committee on Legislative Council Elections has failed to study and explore in depth this important issue that will have a bearing on Hong Kong's constitutional development. Merely relying on government officials' verbal assurance, it has chosen to treat the issue as having been resolved and to shelve it without giving proper notice of the legal and judicial advice. Such a decision is a great disappointment to me. All those who have offered comments to the Select Committee feel slighted. What is even more infuriating is that the Select Committee has made impractical recommendations to the Government concerning the FCEs. An example is its impractical recommendation about how to plug the loopholes with regard to corporate constituents. Also, the Select Committee has made no recommendation at all to the Government concerning how, having regarded the confining realities, the FCEs may yet be improved and made more fair and more consistent with the principles of equality stipulated by the Bill of Rights Ordinance. The Select Committee's report focuses on defending the credentials of corporate constituents and the representativeness of their votes but shies away from one more important problem, that is, big holding companies can influence their subsidiary small companies in exercising their voting rights and thus manipulate the outcome of FCEs.

Another thing is that, in dealing with the issue of the double voting right, which is available only to some voters, the Select Committee's report applies double standards. The report says on one hand that any prohibition of the double voting right -- the right to vote both in the FCEs and in direct elections in the geographical constituencies -- is against the principle of universal suffrage (Chapter 4, Section 6, Paragraph 4.18). But then, on the other hand, it recommends a multi-seat, single-vote system for the direct elections in the geographical constituencies, thus unreasonably depriving voters of some of their voting right. Will this not be in violation of the principle of universal suffrage? Also, the HKADPL and some other civic groups have proposed to the Select Committee that the voters be allowed to choose freely to vote either in a functional constituency or in a geographical constituency. We did not propose forcing a choice on the voters. The thrust of my proposal is to ensure a totally universal and equal voting right. It does not have to be in the form that we favour. What we oppose is the fact that a small handful of people in society have the privilege of "casting two votes" while the majority of the people of Hong Kong do not have it. I suggest that, for achieving a fairer and more equal election system, the Government should immediately introduce legislation to require that a functional constituent chooses either to vote in his respective functional constituency or to vote in a geographical constituency but not both. This is unfair for a functional constituent to have voting right in both kinds of elections.

Regarding the credentials of a corporate representative voting in an FCE, I support the Justice's suggestion, which is that the Government should introduce legislation to define the credentials of the "voting representative" and not vaguely leave it to the functional constituents themselves.

In view of the above, I move that the Government should establish an independent committee comprising members of the legal sector and the public, particularly the independents, to study the fairness of FCEs and to examine whether there is any inconsistency with the Bill of Rights Ordinance. The committee will explore the matter at length and in depth and submit a report to the Attorney General containing recommendations of the changes to be made in election practices. The report and recommendations will then be submitted to the Legislative Council for discussion or passage in plenary sitting. I do not agree that the existence of FCEs will serve a long-term useful purpose. But I believe that, after 1997 and before the functional constituencies are abolished, the establishment of a committee comprising members of the legal sector and the public will give Hong Kong a system of FCEs that will be more consistent with the principles of fairness and in line with the Bill of Rights Ordinance. This will be an extremely important step in the future development and reform of Hong Kong's democratic political system. Therefore, I sincerely ask Members of the Legislative Council to support my amendment motion.

Finally, I would like to note that the FCEs apparently will not be abolished in the near future. Still, I think that, as a system, they need many changes. As I said at the outset, I have put the questions to some Councillors returned by FCEs. Basically, their initial response was that they were opposed to any suggestion to change the present law concerning the FCEs. As for the Government, it does not think that the FCEs are in violation of the Bill of Rights Ordinance. For this reason, if we leave the review to them, they will not identify any violation. This is why I feel that the review should be best conducted by a third party. Finally, I wish to stress one point. I hope that you will all appreciate that, in moving the amendment motion, my purpose is to improve the law governing FCEs, to make it more consistent with the principles of equality and democracy. I hope that you will not misunderstand my amendment motion. Thank you, Mr Deputy President.

Question on Mr Frederick FUNG's amendment proposed.

DEPUTY PRESIDENT: Before I call on Members, I would just like to remind Members of

the need to complete this part of the debate with reasonable expedition in view of the remaining items of business on the Order Paper and the engagement which Members have for this evening. I believe that the target is to finish this part of the debate by about 4 pm and to that end Members should try to limit their speeches to five minutes each.

MR CHEUNG MAN-KWONG (in Cantonese): Mr Deputy President, the long-standing position of the Hong Kong Professional Teachers' Union (HKPTU), which I represent, is that all Legislative Council Members should be returned by direct elections. We fully agree that the functional constituency elections (FCEs) are essentially an unfair system designed to safeguard Legislative Council representation for certain social strata and occupational groups. But to converge with the Basic Law, the number of Legislative Council seats to be returned by functional constituencies will be raised from 21 to 30, or half of all the seats available. As a result, the vast majority of the people will be able to vote only once, fortunately thanks to the fact that the Legislative Council has rejected the multi-seat, single-vote system, thereby greatly lowering the chances of a further devaluation of their single vote. In contrast, some functional constituents will have more than one vote or even more than two votes. Will this be in conflict with Articles 1 and 21 of the Bill of Rights Ordinance? I think that, for this reason, we must conduct a review of the FCEs.

Before we conduct such a review, we must democratize the arrangements of the FCEs. In fact, in some functional constituencies, it has never been necessary to hold any proper election. Nominees for Legislative Council seats are discussed, agreed upon and then returned. In some other functional constituencies, elections have been held on a "one-group, one-vote" basis within small circles. The representatives thus returned do not have to be accountable to the vast majority of the functional constituents. As a result of such unhealthy phenomena, the public have lost their faith in the FCEs.

The most thorough-going way to change all of this is to revise the Basic Law. Until this is done, we should substitute "one-man, one-vote" for "one-group, one-vote" as the voting system for FCEs. We should substitute voting for consultation. For now, the Government must make sure that the nine additional functional constituency seats for 1995 must not be returned in the same way as before, that is, not in a way that will further promote election by consultation and election in small circles, not in a way that will set democracy back.

Therefore, the HKPTU propose that the nine additional functional constituency seats should be returned on a "one-man, one-vote" basis and that, in choosing these functional constituencies, consideration should be given to the wishes of the general public. We suggest that at least five out of the nine new seats should be given to functional constituencies representing employees' interests. And the representative concerned should be returned through district-based direct elections. Of course, to qualify as a candidate for one of those seats, one must be a full-time employee and must not have any employer capacity. This will make available the privilege of voting in an FCE to every eligible voter. Such a practice will also be in convergence with the Basic Law. Its only flaw is that the number of constituents will not be the same in all functional constituencies. Some constituencies will be bigger; some will be smaller. This is a different kind of unfairness. Still, the proposal will at least allow more people to enjoy such a privilege and participate in the FCEs. The universalization of a privilege is also a form of progress.

Mr Deputy President, the teaching profession forms the largest functional constituency and this constituency holds its elections the most democratically. Still, we will not miss the FCEs, if they are abolished. We absolutely welcome true democracy, that is, the advent of across-the-board direct elections. As teachers, we hold that democracy and justice are very important educational principles. We will not give up these principles in favour of small share of a privilege. We will not give up our sacred duty as educational workers.

Mr Deputy President, with these remarks, I support Mr Frederick FUNG's amendment motion.

REV FUNG CHI-WOOD (in Cantonese): Mr Deputy President, half of the seats of the 1995 Legislative Council will be returned by functional constituency elections (FCEs). This percentage will then be maintained until the year 2003. As everybody knows, the FCEs are not quite fair elections, the reason being that only some citizens can vote in them. In Hong Kong, the functional constituencies mainly represent the interests of the business community and the professional groups but they disregard the interests of the general public. In the smallest functional constituency, there are only several dozen constituents. The largest has several tens of thousands. This is a 1 000-time difference. It is strange. Therefore, no democratic country has the FCE. In Hong Kong, however, democracy is to advance at a slow pace and we have no choice but to accept FCEs.

During the transition period, before FCEs are abolished, I hope that some principles will be laid down for the functional constituencies and the FCEs.

Firstly, as far as possible, all functional constituencies should have more or less equal numbers of constituents. In other words, each constituency should have similar numbers of constituents and be able to represent the interests of similar numbers of citizens. We cannot say that a particular functional constituency makes a greater contribution, or is more important, to society. Politically, everybody has an equal right and an equal influence.

Secondly, I hope that, as far as possible, FCEs will return representatives on a "one-man, one-vote" basis or at least on a basis of indirect election. In other words, the representative of a corporate constituent should be elected by the members of the corporation on a "one-man, one-vote" basis. The representatives of all corporate constituents will then elect the Legislative Council representative of the functional constituency. This is not necessarily the case now with the FCEs, where the system of corporate constituents is used.

Thirdly, I hope that, as far as possible, all citizens will have the right to participate in voting in FCEs. I know that this will be difficult. Still, under the principle of fairness, there is no reason why many citizens are denied participation in voting in FCEs. Some citizens may not appear useful to society, but in fact they are very useful. Examples are housewives. There are hundreds of thousands of housewives in Hong Kong, but no functional constituency represents their interests. The same is true of retirees.

As I said a moment ago, different functional constituencies have different problems. We will have nine new seats for functional constituencies in 1995. Mr Deputy President, the controversy over the FCEs has become a major one. Which functional constituencies are to get the additional seats? Once a functional constituency is given an additional seat, it will be difficult to take it away. I hope that the nine new seats for 1995 will not be given to functional constituencies but to the geographical constituencies that hold direct elections. Of course, this will require a revision of the Basic Law. I hope that the Chinese National People's Congress will move such a revision.

Mr Deputy President, with these remarks, I support the Honourable Frederick FUNG's motion for amendment.

MISS EMILY LAU: Mr Deputy President, it is of the utmost importance that the Select Committee's recommendations on functional constituencies do not get overlooked. Article 21(1) of our Bill of Rights essentially provides that every Hong Kong permanent resident shall have the right to vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors. That right is to be enjoyed without any distinction of any kind such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

The functional constituency system we have enshrined in our laws is therefore in breach of that provision and is thoroughly undemocratic. It allows a small segment of the general electorate to have not only representation in their geographical constituencies but additional representation in functional constituencies. It is organized in such a way that one man can have in addition to his vote in a geographical constituency one or more votes in one or more functional constituencies through the system of having corporate voters or voters who are not natural persons. This is a total perversion of "one man, one vote". So unlike Mr FUNG Kin-kee, I support the abolition of the functional constituency system as soon as possible.

However, Mr Deputy President, if we are compelled by external circumstances to retain this fundamentally unfair and undemocratic system, we shall for the foreseeable future have a legislature with 30 members returned by functional constituencies. It is understandable that the vast majority of the electorate who only have votes in the geographical constituencies should express no interest in how the voting system in functional constituencies is organized. However, I urge the whole community to examine the system and to express a view for if the system is rotten, Mr Deputy President, it affects everyone of us.

As presently organized, the system is fundamentally unfair, open to abuse and manipulation. The ground rules are or are supposed to be that:

(1) no person, natural or artificial, can register as an elector in more than one functional constituency.

(2) an elector in a functional constituency who is a natural person must be at least 21 years of age and either a permanent resident of Hong Kong or have been ordinarily resident in Hong Kong for the seven years immediately preceding his application to register as an elector. Mr Deputy President, all of these restrictions can be by-passed by setting up a company.

In some functional constituencies, the entitlement to vote has been left by the Administration in the hands of the designated body.

You may judge for yourselves whether the following examples are consistent with the principle and spirit of "one man, one vote".

Mr Deputy President, take the Real Estate and Construction functional constituency whose representative was returned unopposed. He is of course, Mr Ronald ARCULLI, the chairman of the Select Committee. In that constituency, certain individuals are registered as electors by virtue of membership of the Real Estate Developers Association of Hong Kong. Those individuals also have control of companies which are separately registered as electors by virtue of membership of that association or of other associations making up the constituency. In one case, one individual, Mr LEE Shau-kee, is himself registered as an elector and is the chairman and managing director of a company, Henderson Land Development Limited, which is also registered as an elector. The company has some 19 subsidiaries all of which are also registered as electors. Different companies associated with Mr LEE, Henderson Development Limited and Henderson International Finance Limited are registered as electors in respectively the Hong Kong General Chamber of Commerce functional constituency and the Finance functional constituency. So Mr Deputy President, how many votes does he have or control?

Lawyers and accountants each have their own functional constituency but the firms or companies which they direct are often registered as electors in the Hong Kong General Chamber of Commerce functional constituency. Members of the Federation of Hong Kong Industries can elect a representative in their own functional constituency. However, the Federation itself is also a member and a registered elector in the Hong Kong General Chamber of Commerce functional constituency.

On the last occasion, Mr Deputy President, 12 functional representatives were returned unopposed. In some functional constituencies like in the banks, in the

trade unions, no election has ever taken place. What does that tell you about the system, Mr Deputy President?

The community should decide as a whole whether such a system is fair and equitable, whether it commands credibility, whether it secures a legislature which is representative and which expresses the voice of the community. In my view, Mr Deputy President, it is not and does not.

Not a single one of the recommendations made by the Select Committee addresses these problems. Proposals for reforms should be directed towards ensuring that no individual or group of individuals can indirectly have or control more than one vote in a single functional constituency or in different functional constituencies. Entitlement to vote should be prescribed by law, not by the internal rules of any association or body, still less by the executive governing body of such association. If the only way of eradicating the potential for abuse and manipulation is by abolishing voting by artificial persons, then let that be done and let the principle of "one man, one vote" truly prevail.

Mr Deputy President, the system in each functional constituency needs to be examined. I support the amendment to the motion proposed by Mr FUNG Kin-kee.

MR FRED LI (in Cantonese): Mr Deputy President, the Government in 1984 published a Green Paper on Hong Kong's political development, mentioning functional constituency elections (FCEs). At that time, we already expressed our basic views. These views have not changed to this day.

The FCEs are basically an elitist system replacing the appointment system. The system divides the people of different social strata into classes and functional constituencies. Then some indirect elections are held to return functional constituency representatives to the Legislative Council. These representatives gradually replace the Council's appointed Members. The system is a slight improvement on the appointment system. But the basic problems remain. The biggest problem with the FCEs now is that more than 40 organizations will have to vie for the nine new seats that are to be added. The competing organizations know that, if they do not get a Legislative Council seat now, their chance will be gone, because the Basic Law sets the upper limit at 30 seats. As many colleagues, including colleagues of the Co-operative Resources Centre, have noted, if we are to have

geographical constituencies only, then we can see 60 directly elected seats. I am very glad to hear such words. Everybody knows, and it is the consensus, that all 60 Legislative Council seats should be returned by direct elections. The FCEs should be abolished in course of time.

Therefore, the FCEs are in transition. The question is: Will the transition period last for 50 years? 70 years? Or will it end very soon. We do not know the answer. But the biggest question with the FCEs is: Who decides how many seats a functional constituency should have? Who decides that a particular functional constituency should have a Legislative Council seat at all? This decision power is totally in the hands of the Government, in the hands of our officials. They will decide which profession, which trade or which functional constituency should have a seat here in this Council. Do they have objective rules to follow? Do they have rules that we all approve? No. I believe that the representatives returned in 1985 are very different from those returned in 1991. Judging from the result of yesterday's vote, judging from the performance of this Council as a whole this year, I think that the functional constituency representatives who were returned in 1985 faced different challenges inside and outside this Council from the challenges faced by those whose term began in 1991. Therefore, the functional constituency Councillors must not concern themselves only with the interests of their particular constituencies, the interests of the constituents of their particular constituencies. This is because this Council now has directly elected Members, who oversee government policies and finance in many ways. The representatives returned by FCEs inevitably will be more politicized and must have a broader horizon.

Even so, the flaws of the functional constituencies will not change. For example, the smallest functional constituency is that of the Regional Council. It has fewer than 40 constituents but it still can return one representative to the Legislative Council. The functional constituency for teachers, to which my Association belongs, has several tens of thousands of teacher-constituents. But it, too, can return only one representative to the Legislative Council. If this means taking "one-man, one-vote" as its fair face value, I will have nothing to say. Fewer than 40 people can return one representative to the Legislative Council. Tens of thousands of people similarly can return only one representative to the Council. It is totally impossible for these two representatives to be equally representative of, or to reflect the equal voting right of, their constituents. For the direct elections, we propose that the geographical constituencies should differ by no more than 25% in population size. We lay down a lot of rules for the direct elections. We want

these rules to be as fair as possible. But how can we say that we are being fair about the FCEs?

The Government says that the FCEs are not in violation of the Bill of Rights. I have seen a newspaper report in which Mr LEUNG Chin-man cited this example: There already are direct elections for the geographical constituencies; these elections already meet the principle of universality and equality under Article 21 of the Bill of Rights Ordinance. He told only half of the story. This half of the story had nothing to do with the matter that he was trying to justify. Whether the FCEs are in violation of the Bill of Rights has nothing to do with the direct elections. We are now talking about FCEs, which have nothing to do with the direct elections. We are not saying that the direct elections are in violation of the Bill of Rights. But he said that, because the direct elections already met the requirement of the Bill of Rights, the FCEs would not be in violation of the Bill of Rights. I find such a counter-argument to be laughable. I hope that the Secretary for Constitutional Affairs will come up with a better argument to show that the FCEs are not in violation of the citizens' basic rights. As the Honourable Emily LAU stated very clearly a moment ago, a small number of people have many votes each but many citizens have only one vote each. Now, a proposal has been made about a "multi-seat, single-vote" system that will further curtail the power of this single vote. Therefore, the principle of fairness and equality for voters will not be met. The FCEs enable some people to enjoy a greater voting right. Such a situation cannot be explained away. FCEs are rare in the world. When I went to attend meetings in foreign countries, law-makers there expressed surprise at our FCEs. Why are there such elections as FCEs? They are probably due to Hong Kong's special characteristics. I hope that the transition period (supposing that the Basic Law is not revised) will be very short and that the FCEs will quickly be replaced by direct elections.

There is no remedy for the inherent weaknesses and flaws of the FCEs. Therefore, I think that the Honourable Frederick FUNG's amendment motion is worth supporting. However, I believe that his amendment will not be carried and that, even if it is carried, the Government will not set up a committee as proposed. The FCEs are basically a mainstream kind of election at the moment. It therefore must not be changed in any way. It must not be diminished, abolished or substantively altered. I only hope that the Government will give some really careful thought to the distribution of the nine new seats and that it will properly handle the problems of unfairness, "vote planting," arbitrariness and corruption in the functional constituencies.

Mr Deputy President, the three Councillors of the Meeting Point will support the amendment motion.

MR CHIM PUI-CHUNG (in Cantonese): I object. I object to the corruption mentioned by Mr LI Ming-wah.....

DEPUTY PRESIDENT: Is that a point of order or elucidation, Mr CHIM.

MR CHIM PUI-CHUNG (in Cantonese): He should give evidence to substantiate his allegations about corruption, lest he should apologize face to face to all Members of this Council returned by functional constituency elections.

DEPUTY PRESIDENT: That is not a point of order, Mr CHIM.

MR FRED LI (in Cantonese): Mr Deputy President, my name should be "LI Wah-ming". Mr CHIM had got it wrong.

DEPUTY PRESIDENT: Mr LI, you have finished anyway, I suppose?

DR YEUNG SUM (in Cantonese): Mr Deputy President, speaking in terms of principles and technicality, there are many problems with the functional constituency elections (FCEs). The United Democrats of Hong Kong (UDHK) think that, over the long term, the functional constituencies should be abolished.

Firstly, speaking in terms of human rights, the FCEs are in violation of the principles of human rights. Seen from the angle of the Bill of Rights Ordinance of Hong Kong and the International Covenant on Human Rights, elections should be universal, direct and equal. Very obviously, the FCEs are open only to a minority of people. They are neither universal nor equal. Therefore, they are in violation of human rights in certain respects.

Technically speaking, there are problems as well. Firstly, it is very difficult to define clearly the types of organizations that are eligible to vote. The number of representative seats is limited. A situation in which many groups vie for a few seats would easily predominate. Secondly, the functional constituencies tend to represent sectoral interests. Their representatives in the Legislative Council are apt to stand for sectoral interests. Relatively speaking, these representatives would often disregard the overall interests of Hong Kong. The reason for this is that they are under the background influence of the functional constituencies that they represent. Thirdly, concerning who are qualified to vote, there is some confusion. Some vote as individuals and others vote as organizations. For instance, the functional constituency for social services uses the group voting method while the functional constituencies for lawyers, doctors and nurses use the individual voting method. Fourthly, the voting methods used in the FCEs can easily be abused with results of "under-the-table deals" and "buying and selling of votes."

Mr Deputy President, the UDHK think that, over the long term, all Legislative Council seats should be returned by direct elections. Realistically, however, the functional constituencies will continue to exist for a long time. Therefore, the UDHK request that democratic methods be used for returning the Legislative Council representatives from functional constituencies.

Mr Deputy President, the Councillors of the UDHK will support the Honourable Frederick FUNG's amendment motion.

MR NGAI SHIU-KIT (in Cantonese): Mr Deputy President, I would like to reiterate that the Councillors from the functional constituencies have made undeniable contributions to the Legislative Council and to society as a whole. Mr Frederick FUNG's attitude directed against, and hostile to, the functional constituency elections (FCEs) shows a disregard for the historical background of the Government's decision to introduce FCEs. The FCEs, whose value is proven, were meant to be an interim measure in the democratization of the Legislative Council over a course that would lead from the full appointment system of the past to the universal suffrage system of the future. As Hong Kong's political system developed and ripened, the FCEs, their mission completed, would then be retired. Therefore, now that the report of the Select Committee on Legislative Council Elections has already put forth measures for improving the FCEs, it is improper and irresponsible to move amendment motions that attack and find fault with such elections. It must be realized that FCEs, too,

have fair and reasonable procedural rules; FCEs are different from the direct elections only in the definition of constituents. To attack the FCEs as unfair is indirectly to deny the credentials of the Councillors who were returned to this Council via such a channel. This is the invisible hand of divisiveness. It drives a wedge between the Councillors who were returned by direct elections and those who were returned by FCEs. It damages this Council's credibility and integrity. It creates a factor of instability in the overall political environment of Hong Kong. I believe that people inside and outside this Council do not want to see such a divisive effect.

I recall that, before the Government introduced the FCEs, it had gone through many consultation processes and examined many alternatives. I was then the president of an industrial organization. My comments were solicited many times. As a system, therefore, the FCEs were introduced because they had to be introduced. As a system, they were to replace the old appointment system and make the Legislative Council more broadly based. The Government indeed took a big leap forward in meeting the principles of fairness. So-called "fairness" is a relative term, not an absolute term. As a system, the FCEs are fairer than the appointment system and, as they continue to be held in the years to come, they will be further developed and improved. I wonder about the motive of those who take the FCEs out of their historical context and attack them as unfair. They hardly have a case.

Mr Deputy President, look at the evidence in Paragraph 4.5 of the report of the Select Committee: "The Administration has assured us that the functional constituency system (now listen carefully) is not in violation of the Bill of Rights Ordinance." I think that Mr Frederick FUNG's proposal is really "superfluous"; it is "doing somebody else's work instead of minding one's own business." The proposal is "superfluous" because I do not think Mr Frederick FUNG and his partners will accept the final verdict of the "independent select committee" proposed by him unless this final verdict is that the FCEs are inconsistent with the Bill of Rights. They will then go on to question the independence of this independent select committee, question the credentials of its members and so on and so forth.

DEPUTY PRESIDENT: Is that a point of order or elucidation, Mr FUNG?

MR NGAI SHIU-KIT: Mr Deputy President, please let me continue.

DEPUTY PRESIDENT: No, Mr NGAI. If Mr FUNG has got a point of order, he has got to be heard.

MR NGAI SHIU-KIT: Yes, Mr Deputy President.

DEPUTY PRESIDENT: Mr FUNG, is that a point of order or elucidation?

MR FREDERICK FUNG: Point of clarification, Mr Deputy President.

DEPUTY PRESIDENT: Do you wish to give way, Mr NGAI?

MR NGAI SHIU-KIT: No, Mr Deputy President, I am going to continue. Mr FUNG and I can talk about it outside this Chamber for as long as he likes. (Laughter)

DEPUTY PRESIDENT: I would urge you to refrain from these observations, Mr NGAI. Please continue with your speech.

MR NGAI SHIU-KIT (in Cantonese): They will try to escalate their actions, ad infinitum. Mr Deputy President, the proposal is "doing somebody else's work instead of minding one's own business" because this Council is Hong Kong's supreme legislature and it has been given assurances by the Administration (in the words that I have just read out) as to whether or not the FCEs are in violation of the Bill of Rights. This being so, any further question about the issue should be left to the court to decide. It cannot be decided by a mere independent select committee. Nor do I think that, by simply establishing an "independent committee," we will be able to hear a fuller range of views. On the contrary, such a committee will very probably become a white elephant, "looking impressive but having no substance." Therefore, it is not necessary to establish such a committee.

Another point is that the report of the Select Committee already contains detailed recommendations on how to improve the FCEs, such as tightening the voting eligibility of corporate constituents and laying down more strict rules concerning how corporate constituents should appoint their voting representatives. These recommendations can indeed improve election practices. As to long-term objectives, the report states that the voting system for the FCEs should be made as democratic as possible. The spirit of these recommendations is to improve the FCEs gradually along principles of democracy and fairness, is it not? The report already is taking care of the various needs; it also states that an independent committee on elections will be set up to take charge of election matters. Why then must a separate select committee be set up superfluously to duplicate the work of review?

Mr Deputy President, the report of the Select Committee, in Section 6, Chapter 4, already discusses the question of "double voting." I believe that what I am going to say may answer some of the questions colleagues raised a moment ago. In fact, a functional constituent who votes inside and outside the functional constituency is giving a meaning to two kinds of elections and is making his choice from two different angles. His vote, which he uses to represent his highest ideal, is cast on two separate occasions. On both occasions, the vote gives effect and meaning to his highest ideal. This has a positive effect for promoting democratization at the present time. Society as a whole is the ultimate beneficiary. I think that the issue of fairness and the issue of human rights are not involved.

With these remarks, I oppose the amendment motion.

MR MARTIN LEE (in Cantonese): Mr Deputy President, after the heated debate last night and early this morning, the attempt of the Co-operative Resources Centre (CRC) to change the rules of game, which is opposed by the majority of the members of this Council, has been foiled. Now, a similarly important issue is awaiting our decision, that is, whether the functional constituency elections (FCEs) should be kept indefinitely. FCEs as a system are undemocratic and elitist, easily lend themselves to abuse and go against the Bill of Rights Ordinance. Therefore, this Council has a responsibility to urge the Chinese and the British Governments to respect the wishes of the people of Hong Kong and to abolish the FCEs as soon as possible, replacing them with direct elections.

That FCEs are undemocratic is quite clear. The 21 Legislative Council seats

elected by functional constituencies together represent only as many as (or as few as) 69 000 constituents. And 49 000 of them, that is, 70% are in two functional constituencies, namely, Teaching and Nursing. In other words, two of the functional constituency seats on this Council represent 49 000 constituents and the remaining 19, only 20 000 constituents.

The above facts suffice to show that the functional constituency system indeed does not provide broadly based representation. More than half of the functional constituencies have fewer than 1 000 constituents each. I wonder how representative can a Councillor be if he represents just a few dozen or a few hundred constituents? Another indication of unfairness is that the majority of the functional constituency seats in this Council are occupied by representatives of the business and industrial sector, while the grass roots are seriously under-represented. I bid welcome to the business and industrial representatives in this Council. I hope that they will always be represented here. But the fact remains that, under the present system, they have too loud a voice in this Council.

Another problem with FCEs is that they easily lend themselves to abuse. It is very easy for the Government to manipulate the outcome of FCEs by tampering with the design of the system. In the functional constituencies where constituents are small in number, those with power or influence can easily control and exploit the system. We can see this from what actually happened: the majority of the functional constituency seats were returned by default. (Some of the Members have in fact been working in this Council for more than six years, but nobody ever voted them into office as they always were returned uncontested.) In last year's FCEs, for instance, 12 of the 21 seats were returned by default. Since the majority of the functional constituency Councillors won by default, the FCE system simply does not make these Councillors feel that they are responsible to their constituents.

In view of the above flaws, the Society of Justice has expressed some strongly-worded criticism on the system and described it as a clumsy parody of democracy. The Society of Justice has gone on to note that the FCEs are in violation of Article 25 of the Bill of Rights Ordinance. This is because the system fails to give the voters equal voting right. Some can cast only one vote each while others can cast two or even three votes each. This system reminds me the famous writer George ORWELL's words in his well-known work Animal Farm, "All animals are equal, but some are more equal than others." The FCE system is just like that.

Some Legislative Council Members may probably say that, though the FCEs are not flawless, their existence will enable Hong Kong to make smooth transition to a truly democratic system. These words might have made some sense eight years ago but they are now out of date.

Mr Deputy President, at close to midnight on 26 September 1985, shortly after I won the election of the Legal Functional Constituency, a reporter asked me what would be the first thing I wished to do. The first thing I would like to do was to have direct elections introduced in 1988. This was because I intended to run in a direct election in the next round of elections. As I look around me, I see many functional constituency Councillors who have the political asset and the necessary experience to run in direct elections. The people of Hong Kong are well prepared for a fully democratic political system. There is no need to keep the FCE system indefinitely.

I am afraid that FCEs, if they continue to be retained over the next 15 years, will actually not be conducive to the transition to a democratic political system. On the contrary, they will be a stumbling block in Hong Kong's progress towards a democratic political system and an accountable Government.

Also, some colleagues in this Council may think that the FCE system will help maintain Hong Kong's stability during the transition period. I feel that such an argument is untenable. The FCE system takes care of the wishes of only a minority in society but disregards the interests of the majority. Such unfairness, if left uncorrected, will give rise to popular discontent and social disquiet. Such discontent is evident from the recent public outcries to the CRC's attempt to change the arrangements of direct elections by adopting a multi-seat, single-vote system.

I wish to point out that the most stable countries in the world are those practising democracy. The least stable countries are the undemocratic ones and those that adopt a partly democratic system.

We should learn from history. History gives us examples of governments adopting something similar to functional constituency system. The Italian Government under Mussolini bore witness to the fact that functional constituency system only led to social instability. Also, Taiwan and Thailand did not have a fully democratic system and because of this, their people lost confidence in their governments and social unrest ensued.

Therefore, to promote democracy, human rights and social stability, I urge the Chinese and the British Governments to respect the wish of the people of Hong Kong for the early introduction of full direct elections. And this is the only way to ensure the promise of "Hong Kong people ruling Hong Kong" to come true.

Mr Deputy President, with these remarks, I support Mr Frederick FUNG's motion for amendment.

DR CONRAD LAM (in Cantonese): Mr Deputy President, since 1985, the functional constituencies have returned to the Legislative Council many fair-minded, compassionate, smart and competent Members. Many such colleagues are now seated around us. Though I disapprove of functional constituencies, I do not respect these Members any the less. What we are discussing today is what election system will be equitable and truly based on the "one man, one vote, one successful candidate" principle. We are not discussing the election of a top scholar or the election of a model father or a model husband. Now let us look first at Mr LAU Chin-shek sitting by my side and then at Dr Samuel WONG sitting behind him from a scientific and fair perspective. What is the difference between them? I believe that, if we carry out a chemical analysis on their cut-up bodies, we will not find much difference between them. But they are greatly different in their voting right in the Legislative Council elections. Mr LAU Chin-shek can cast only one vote, while Dr Samuel WONG presumably can cast three votes, or is it two? This shows that a person, though not born different from others, can have one additional unsought vote.

It has puzzled me since the inception of the functional constituencies in 1985, if the great number of people ineligible to be constituents of functional constituencies are unable to function or totally useless. Then, my puzzlement turned to anger and disappointment after I read Paragraphs 4.18 and 4.19, Section 6, Chapter 4 of the report of the Select Committee on Legislative Council Elections, on double voting. Surprisingly, the report argues that, if a restriction is put on the constituents of the functional constituencies to vote either in a functional constituency or in a geographical constituency, this will deprive them of their voting right and is in violation of the principle of universal suffrage. Such an argument is so absurd that it will shock heaven and earth and move the spirits and the gods to tears, so to speak. I believe this is a major taint in the history of human civilization if taking away the special privilege of some people can be regarded as

an act of deprivation. To see whether the functional constituencies are in violation of human rights, there is simply no need for us to rely on legal knowledge or legal experts advice. Indeed we should be able to give an affirmative on the basis of common sense alone. Mr Deputy President, I have heard nobody say that he is totally useless. The report says that functional constituencies are a special feature of our political development. But I think it is not something we should be proud of. As Prof Norman MINERS of the University of Hong Kong has noted, functional constituencies are now very rare in any political systems around the world. But here in Hong Kong half of the Legislative Council seats are allocated to functional constituencies, mostly representing wealthy sections of society. No country in the world, neither the developed nor the underdeveloped, has much interest in functional constituencies. I believe this is because functional constituency elections are fast declining among the declining political institutions. Political scientists around the world generally show no interest at all in studying such a system. But the Government here in Hong Kong sees it fit to adopt what other found obsolete at the expense of the human rights which should be given to the general public. This state of things is indeed similar in a way to the "multi-seat, single-vote" system that we voted down yesterday. Under such an election system with Hong Kong's characteristic, which is badly lacking in a popular base, the winning of election by default has very naturally become a common feature. In the functional constituency elections (FCEs) of 1985, 1988 and 1991, 41.7%, 71.4% and 57.1% of all seats respectively were won by default. The average percentage is 56.7%. What is even more shocking, in all of the three rounds of FCEs held over the past seven years, five of the seats were won again and again by default, namely, the one of the second electoral division of the Commercial Functional Constituency, the one of the first electoral division of the Industrial Functional Constituency, the one of Financial Functional Constituency and the two of the Labour Functional Constituency. Evidently, the constituents of functional constituencies suffer from a case of inability to use even their voting privilege.

Some people are very concerned that abolishing the functional constituencies or reducing their representative seats will be in violation of the Basic Law. I would like to reiterate here that the Basic Law does not stand for the absolute truth and is not a sacred cow. If and when there is a reasonable need to revise it, then it should be revised, particularly before it is put into practice or any catastrophic effect comes into play. We can see that the Chinese Government itself has revised the Chinese constitution time and again when need arises.

Mr Deputy President, though I am a doctor and thereby lucky enough to be like

Dr Samuel WONG, as a member of a privileged class, in that I can cast two votes too. But I do not feel that I would like to have this privilege. It is a disgrace to the Hong Kong's political development. I hope that a day will come when my privilege will be revoked. Then I will be like Mr LAU Chin-shek who sits beside me to elect one candidate on a one-man, one-vote basis.

With these remarks, I support Mr Frederick FUNG's amendment motion.

MR MICHAEL HO (in Cantonese): Mr Deputy President, I am from the functional constituency that has the second largest number of constituents. There are more than 10 000 eligible constituents in my constituency. The size of our constituency may be just large enough to have our election called a small-scale direct election. Still, if we compare the number of constituents in my functional constituency to that in a geographical constituency, it is still a privilege for us to be given voting right to return a representative. I think that functional constituencies can never be made fair. We cannot break down a functional constituency into an infinite number of tiny constituent groups. So, ultimately, we still will have great unfairness with regard to the eligibility of becoming a functional constituency among different occupations or different organizations.

Two months ago, when I was taking part in a function organized by the Commonwealth Parliamentary Association (CPA) in the United Kingdom, I explained to the participants Hong Kong's political structure. I mentioned Hong Kong's functional constituency elections (FCEs) as an election system and it turned out to be an eye-opener to fellow-members of the CPA. They apparently could not imagine how such a structure could appear in Hong Kong after one and a half century of British rule.

I agree that ultimately all the Legislative Council seats should be returned through direct elections and that this should come about the sooner the better. Still, the fact remains that we probably will still have FCEs in the near future, or to be exact, in 1995 or 1999. This being so, I will support the idea that the FCEs should be fully reviewed and greatly expanded with a view to allowing more people eligible to vote in functional constituencies. In other words, we should, under the current system, introduce a special functional constituency which has as its constituents all those who are not considered eligible to be constituents in the existing functional constituencies.

Finally, when we are heading in the direction of full direct elections, I will propose that the functional constituencies be all abolished at the same time and not at different times if the system is to be scrapped.

Mr Deputy President, these are my remarks.

MR ANDREW WONG (in Cantonese): Mr Deputy President, what is the most disappointing in the report is its Chapter 4 on functional constituencies. Yesterday, I called on Members to support Mr Frederick FUNG's amendment motion. The amendment motion is long and tediously worded and it calls for the establishment of yet another committee. I do not fully agree with everything it contains. Still, it shows moral courage. So I am still calling on Members to support it.

Many Councillors in their speeches a moment ago pointed out that the functional constituency elections (FCEs) are full of flaws. But it can be said that they failed to propose relatively thorough solutions. Of course, some Councillors think that the functional constituencies not only are flawless but should continue to exist. But I think (repeating what I said yesterday) that, firstly, they are still in violation of Article 21 of the Bill of Rights Ordinance, which is the same as Article 25 of the International Covenant on Civil and Political Rights, providing that elections must meet the principles of universality and equality.

As to thorough solutions, I have mentioned one. But it seems that I have not succeeded in persuading other Members. I mentioned it at the Select Committee on Legislative Council Elections. But it appeared that nobody wanted to discuss it. The liberal Councillors, too, did not wish to discuss it. But they seemed to support me in the end. I am talking about adding a paragraph 4.24A pointing out that the FCE was the mode used for electing the upper house of the Irish Parliament. Then I wanted to add one sentence at the end of that paragraph, a sentence saying, "We think that the above recommendation should not be adopted." But, surprisingly, Mr Jimmy MCGREGOR continued to be opposed to it. He thought that not even this sentence should be added. I do not expect the so-called liberal Councillors to support me. But I do hope that they will spend some more time on considering my proposal.

Of course, the liberal Councillors perhaps think that the complete solution is to abolish all functional constituency seats, that this will solve all the problems. But, until we do abolish them, should we not try to make the FCEs more consistent

with the principles of universality and equality, that is to say, make them more democratic? Those who pay lip service to the abolition of all functional constituencies are not making any attempt to reform them by democratic methods. In fact, there are those who, because functional constituencies still exist, use them as a protective charm, as something that enables them to raise their own importance and to say that only they can represent the wishes of the public. The debate yesterday and the debate today have provided illustrations of precisely this point.

I hope that Members will give me more time and listen to this proposal of mine. There are 43 functional constituency seats in the upper house of the Irish Parliament. The seats are not scattered among a large number of functional groups. There are just five major functional groups. Education has five seats; labour, 11 seats; agriculture and fisheries, 11 seats; industry, commerce and related professions, nine seats; and administrative and social services (probably including health care services), seven seats. The number of seats for each functional constituency is roughly based on the number of people engaged in the relevant occupations. In Hong Kong, there are 30 functional constituency seats. The distribution of our population among the various occupations is probably different from that in Ireland. Still, we can use the same principle in defining our functional constituencies. Distributing the seats in this way will more or less meet the principles of equality.

Members of the upper house of the Irish Parliament are not elected by the people in the functional constituencies or groupings but by the members of various tiers of councils of the Irish Republic who are themselves elected. It is the latter who vote to elect these members of the upper house. The election is not a direct election, but the voters in the election are, in turn, all directly elected. Therefore, it can be called an indirect election. It meets the principles of universality. However, it is not a case of the people's direct exercise of universal suffrage.

The third point is important. As we can see, the system does not let the people in each functional constituency hold the election among themselves; so the elected representative is not beholden to the interests of the functional constituency. He can speak from conscience. Therefore, we should do some careful thinking. What is really our purpose in introducing FCEs? Why? Is it because we want some Legislative Council Members to represent the interests of their functional constituencies, or is it because we wish the Council to have Members from all sectors of society, so that it may be able to conduct its deliberations more fruitfully?

Of course, if we are not happy with this kind of indirect election, we can go

on to consider direct voting. But we still must sort the functional constituencies into different kinds on the basis of the number of people in each functional grouping.

Mr Deputy President, I think that now is the time for a thorough reform of the FCEs. Abolishing them will also be gratifying to me. I support the OMELCO consensus, which envisages the final abolition of all functional constituency seats in the year 2003. However, until they are abolished, should we not think the whole matter through and find out how we can make such seats meet the principles of universality and equality? . I hope that colleagues from different functional constituencies and different parties or sects will give more time and more thought to this question.

Mr Deputy President, with these remarks, I support Mr Frederick FUNG's amendment motion.

MR CHIM PUI-CHUNG (in Cantonese): Mr Deputy President, I originally did not plan to speak today. Yesterday, I gave my support in principle to the "one man, one vote" kind of voting right. In other words, I agreed that the method of holding functional constituency elections (FCEs) should be changed. However, after listening today to the so-called liberal Councillors' rude criticisms and insults, I have to speak.

The representativeness of the functional groups is beyond question. How can the 21 functional constituency Members allow the other 18 Members to insult them here? I challenge Mr Fred LI. He said something about corruption and representativeness. Is he more representative than I am? In what way? Please show evidence!

The FCEs meet a real need in Hong Kong. Everybody knows that there will still be 30 functional constituency seats in the year 2003. This is the fact, not a mere wish. We must respect history; we must respect facts.

I am telling the directly elected representatives once more that, in my functional constituency, the seat was contested among six candidates and I won by defeating my five rivals. I am the most representative among the functional constituency representatives. As for the liberal Councillors directly elected from the geographical constituencies, as we all know, 18 of them were elected out of 54 candidates. In other words, each of them defeated only two rivals. So how representative are they? How can they insult others? Hong Kong is a very pragmatic society. Mr Martin LEE criticized the business community a moment ago. I would like

to ask him where his legal fees come from. Successful as he is today, who brought him up and educated him? Hong Kong is a very special society. It needs co-operation between the working class and the employer class. It needs progress; it needs to be competitive. We all know that, as Legislative Councillors, we represent different people, play different roles and perform different functions. Why is everybody saying all the time that only the directly elected democrats are representative? To tell the truth, if there is no employer, will there be a factory that hires 1 000 workers? If people do not invest, will there be such a result? The result comes from co-operation among all; it makes Hong Kong a competitive metropolis.

I am very suspicious of the so-called liberal Councillors. Do they have an ulterior motive? Why did they spend the whole of yesterday criticizing the government-appointed Councillors? As we all know, there will be no more appointed Councillors in 1995. Then they turned their guns on the functional constituency Councillors. Let me ask you: What is your point? Do you wish to destroy Hong Kong? These people do not deserve the support of the people of Hong Kong! We must remember that the 18 seats -- or 17, not counting Mr Andrew WONG -- that were won in 1991 do not represent the power to rule all of Hong Kong. As we know, there are 3.9 million voters. Those of you who won represent only 400 000 people or so, only about 5% of the people of Hong Kong. How representative is that? You go home and think it over.

Mr Fred LI, I dare not say that you are playing a fake sparring game. You have equal strength. You won with Mr SZETO Wah. I congratulate you. But I, too, won a real contested election. Why do you insult me?

DEPUTY PRESIDENT: Mr CHIM, please address your remarks to the Chair.

MR CHIM PUI-CHUNG (in Cantonese): As we all know, could they have won their victory yesterday if they had not had the support of six functional constituency Councillors, namely, LEONG Che-hung, Jimmy McGREGOR, HUI Yin-fat, PANG Chun-hoi, Samuel WONG and Elsie TU? These gave support yesterday; today they are being given the boot. We must all beware of such treachery. As a Legislative Councillor, I have an obligation to balance the interests that this Council represents, to enable a compromise to be reached among all. The future prosperity of Hong Kong as a whole makes it worthwhile for us to keep things in balance. We are not for you to inveigh against just as you please.

I originally did not intend to speak. Still, if there are things wrong with the functional constituencies, I will be supportive of changes or alterations that are handled dispassionately. This also applies to the other kinds of elections. The Administration is simply snickering to itself as it watches us hurl verbal abuse at one another. But I hope that the people of Hong Kong will not be misled or feel provoked. We should very rationally make an honest effort for Hong Kong's future prosperity and stability. I will repeat. What Hong Kong needs the most now are: one, smooth transition; two, a joint effort by everybody to maintain prosperity in a stable environment; and, three, a joint effort by everybody to bring about further social progress. These should be our objectives.

There used to be 60 of us in this Council. One is gone, leaving 59. Four do not vote. That leaves 55. Will it serve the interests of the public for us to spend the whole day attacking one another? Think this over. Even suppose that one day you will win all 60 seats. But will the people of Hong Kong have confidence in you? All workers and no employers -- what will that be like? Therefore, I hope that, where society is to blame, we should study the problems but must not attack one another in order to accomplish an unmentionable end. The citizens have sharp eyes. We hope that Hong Kong will grow and grow. Hong Kong now ranks 12th in the world in terms of foreign exchange reserve. I hope that it will some day rise to the second place.

Mr Deputy President, I so make my submission. I wish to caution Councillors against attacking one another.

MR LAU CHIN-SHEK (in Cantonese): Mr Deputy President, since the functional constituencies were first introduced in Hong Kong, many social groups have criticized this system for its irrationality, which includes the arbitrary definition of the functional constituencies and the fact that it unfairly allows some people to cast votes twice. But I feel that the problems at the heart of the functional constituencies are not limited to these. If they were, the fairness issue could be resolved by means of technical adjustment. I think that the biggest problem with the functional constituency elections (FCEs) is that the system promotes disunity instead of unity of social forces. It weakens the bond between the public and the Legislative Councillors as a combined force for overseeing the Government's operations. The wishes of the majority of the citizens become, in this Council, the fragmented wishes of different groups each serving its separate interests, with the

result that the Government can continue to disregard the popular will!

The number of functional constituency seats has been increasing steadily in recent years. They account for an increasingly large proportion of the legislature. As a result, I feel even more that the problem is a serious one. Social groups and inter-group organizations vie for recognition as "functional groups". This causes divisiveness. The Government's power to "grant functional group status" becomes its means for controlling social forces as it supports some of these forces while opposing the others. This then weakens the solidarity among the social groups that should work together to win rights from the Government. A Legislative Council led by functional constituency Councillors easily creates a situation where there are numerous fragmented interest groups that are based on special interests instead of the interests of the general public. The Legislative Council should be a mechanism for reflecting the views of the citizenry and for overseeing the Government's operations. But the FCEs turn the Legislative Council into a gathering of mutually independent representatives of special interests. This enables the Government, which is already executive-led, to do more things against the wishes of the majority of the citizenry!

I personally am very appreciative of the expertise, ability and parliamentary experience of my functional constituency colleagues in this Council. However, the FCEs are an improper way of returning members to the Legislative Council. In fact, if the Government wishes to recruit public-spirited members of professions whose knowledge of their particular fields is useful, it can do so by establishing advisory committees. If a professional person wishes to work in the legislature, he can run for office in a direct election and then become a representative given the appropriate mandate by the people. This is the only proper way of development in a democratic society.

In sum, the FCEs not only obstruct the further development of direct elections and diminish the democratic make-up of the Legislative Council. Also, the way the functional constituencies are approved and developed causes divisiveness in the legislature and even in society itself. The true political nature of the functional constituencies lies in dividing the people instead of uniting them to work together for the interests of all. This is not merely a fairness issue. In fact, in the majority of the democratic countries in the world today, there is no legislature which has FCE as its mainstream mode of election. On the contrary, where the representatives of some sectors of society are refused recognition while the

representatives of other sectors are recognized or even recruited into the establishment, it is invariably a country under military or totalitarian rule. Such a thing happened in Nazi Germany.

Mr Deputy President, I so make my submission.

DR LEONG CHE-HUNG: I do share the views of the Honourable CHIM Pui-chung that as there has been no proof that functional constituency is conducive to corruption as implied by the Honourable Fred LI, I do see the need for Mr LI to make this particular point of clarification and that perhaps at the end of the day the Administration can also help to elucidate.

Mr Deputy President, I should first declare my interest as the representative of the medical and dental functional constituency, and therefore to a certain extent "benefited" from the system. Like a number of my functional constituency colleagues here, I have the benefit of working in this Council through its different compositions. That was the Session between 1988 and 1991 when no Member was returned by direct elections, and of course the current Session with directly elected Members. Unlike some fortunate legislators from some functional constituencies, I had the agony of losing one hard-fought election, won a second one and stood uncontested on the third. My experience has therefore given me a better insight into the input and importance of functional constituencies, as well as the loopholes and the defect surrounding functional constituencies.

The 1984 White Paper on political development proposed that the medical functional constituency should be designated for the Hong Kong Medical Association (HKMA), on a corporate basis. However, not all qualified medical practitioners are members of HKMA. Foresight, wisdom and sense of fairness propelled the Council of HKMA to counter-propose that this constituency, which is after all called "medical", be extended to all medical practitioners in Hong Kong, irrespective of membership with the HKMA, and voting right allocated on an individual basis.

There are two very obvious points regarding functional constituencies:

(1) At this point in time, functional constituencies do have an important role. As stated in the Report of the Select Committee, "members returned by functional constituencies have provided, and we believe will continue to provide, useful

knowledge and expertise to the Council." Yet I do feel that functional constituencies should only be considered as a transitional stage, a stage in the metamorphosis of a colonial appointed legislature to a completely elected one by universal suffrage.

(2) The stage of this metamorphosis has been detailed in the Basic Law; in other words, for perhaps the next 15 years, functional constituencies will remain with us.

Given that functional constituency is a transitional stage in the process of democratization, it is obvious that the fallacies now exist should be streamlined to make way for an easier path towards democratization. Yet the role of a functional constituency should in no way be undermined.

Two views therefore have to be considered:

(1) Many functional constituencies have bodies corporate as voters, where manipulation and abuses could easily arise. Would it not be possible to convert corporate electors to individual electors, so that there is uniformity in voters' qualification and uniformity in voting procedures across all functional constituencies?

(2) To address the criticism that functional constituencies is an elitist privilege, having more voting right than the man in the street, is it not possible for functional constituencies to act just as agents in nominating candidates from that profession or occupational group, while leaving these candidates to be elected on a territory wide basis?

Defects in the current functional constituencies elections do occur, with some functional constituencies more than others. It is important that these be studied in detail and corrected so as not to curtail the process of democratic development. A special group set up to study functional constituencies in depth should perhaps be a move in the right direction. Extensive and detailed consultations must, however, be made to existing functional constituencies who will be able to contribute their experience and expertise.

Mr Deputy President, unlike the independent select committee as suggested in the amendment motion of the Honourable FUNG Kin-kee which is only to study whether functional constituency election practice violates the Bill of Rights, I do believe that any group set up to study functional constituencies should take in and look at

all aspects of functional constituencies with a view to streamlining the path of democratization.

Furthermore, I do not agree that there should be as yet another independent select committee comprising the legal profession and the public sector. Instead, I believe that any study of this nature could come under the remit of an independent Election Commission.

I would have to make it clear that this body should be different from the combined Boundary and Election Commission as suggested by the Select Committee Report. The latter will deal with election business on geographical basis only. Obviously, such remit is not wide enough to cover the rest of the seats being returned by functional constituencies and the Electoral Committee.

The Hong Kong Democratic Foundation is strongly in favour of an office of Election Commission being established, reporting to, but not responsible to, an Electoral Board. Members of the Electoral Board should be appointed as individuals by the Legislative Council. The Election Commission is to remove the administration of elections from the Administration itself. It is the practice in most democratic countries to have some form of independent Election Commission.

Mr Deputy President, may I take this opportunity to urge for an early setting up of the Election Commission and the Electoral Board, so that they can provide advice to the Administration during the current electoral reform review exercise, and that they should also be charged with the duty to study and make proposal for functional constituencies reform where necessary, as well as the Electoral Committee which will field 10 candidates in this Council in 1995. This all important Electoral Committee seems somehow to have been forgotten in the Select Committee Report.

Finally, I would like to put on record that the medical functional constituency is supportive of the functional constituencies system at this point in time and that a dental functional constituency be set up as a separate entity.

Mr Deputy President, as the principle behind the setting up of a separate body to study functional constituencies in the amendment motion is different from that of mine and there is inadequate time to consult my own constituents, I have to abstain from voting.

MR STEPHEN CHEONG (in Cantonese): Mr Deputy President, some colleagues may not like what I have to say. But I would like to ask them to listen, for the words are all from the bottom of my heart. Believing me or not is indeed up to them.

During the transition period, we must pay attention to and respect reality and the objective environment. All of us Councillors should show a realistic attitude. We should end mutual suspicion, improve mutual communication and find solutions to the problems faced by our community. Where representativeness is concerned, I absolutely respect the opinion that functional constituency seats are not adequately representative. However, from the point of view of society's actual needs at this time, I think that the functional constituencies have a role to play in the Legislative Council. Members returned through functional constituency elections can fully reflect the opinion and position of different social stratum for the consideration of Councillors representing other constituencies or social strata. The main point is to enable the Government to come up with better policies for the good of society as a whole.

Regrettably, however, listening to colleagues' speeches today, I find that we have overlooked one point, that is, whether the people of Hong Kong like it or not, whether some colleagues in this Council like it or not, we are not an independent country. I believe that, if Hong Kong were an independent country, we could be using different forms and methods for resolving our difficulties and there would not be as much controversy as there is now. The main point is that Hong Kong is now a British colony and will become a Special Administrative Region of China in 1997. Hong Kong is part of China. Any arrangement about the future of Hong Kong must be discussed between China and the United Kingdom. Any motion concerning Hong Kong's political development or the question of transition to 1997, even if carried by this Council by 60 votes to none, must still be discussed between China and the United Kingdom before any final decision can be made. This being so, what should be our first and foremost concern? It is none other than the establishment of channels of communication between the people and the Legislative Council on one side and the Chinese and the British Governments on the other. This is very important. Members of the Co-operative Resources Centre (CRC) have been ridiculed and jeered at for visiting Beijing. We have been accused of "kow-towing," of "going on a pilgrimage" and of "going north." Actually, our visit was mainly aimed at doing something for the people of Hong Kong. If we fail to establish channels of communication with China, it will be impossible for us to exchange views with China. Failing in establishing the communication, can we succeed in getting what we wish to have at the end of the

day? Such then is the main purpose of establishing channels of communication. I can tell Honourable Members frankly that, when we met with Chinese leaders in Beijing, we were not asking them to talk to the CRC alone, but to establish communication with every colleague in this Council. Members perhaps do not believe me. As a matter of fact, we even told them that we could make an introduction so that direct discussions can be held. But some colleagues probably would not accept our assistance. They have the freedom to do so. However, our central purpose is "to serve Hong Kong", by trying realistically to dispel the suspicions between China and the United Kingdom and those harboured by the people of Hong Kong. I believe that it is incumbent on the CRC as well as all other colleagues to do so. I am not as "animated" or as vivid a speaker as Mr CHIM Pui-chung. Nor am I as "agitated". (This is very rare in my case, for it is quite easy for me to become "agitated".) However, I do agree with him that accusations are being made wantonly, and that misleading words are being said in an attempt to make the accusations stick. I think that this is basically uncalled for.

Finally, Mr Deputy President, I wish, for argument's sake, to respond to something said by Mr Martin LEE. He said that the most stable countries in the world are the democracies. I believe that he was referring to, inter alia, the United States, the United Kingdom, Canada, Australia, Germany and France. He suggested that other countries in the world will be stable provided they practise democracy. I hope that he will look up the history books and see what happened over the past 10 years or so, or perhaps the past 20 or 30 years. Many colonies in Africa became independent and they elected their Governments through direct elections. Are these Governments democratic? If so, then please look at how developed or stable they are.

Secondly, some colleagues have accused the FCEs as being very unfair in that many candidates won by default or returned unopposed as a result of consultation. I hope that they will study the matter in depth before jumping to this conclusion. I myself was elected by default. But I can tell you that I worked as hard on my election as the directly elected Councillors did on theirs. I visited every factory concerned to listen to the views of the people there about the implications of government policy on Hong Kong's industrial development and economy. Who else was there to do this kind of work? You think that winning by default is easy, do you not? Mr David LI was also returned unopposed. In the banking sector, he is generally acknowledged to be the most intelligent, diligent and representative banker. If not, I wonder why there was no other candidates in his constituency. Frankly, those who won by default feel very lonely. If there still are FCEs in 1995 and the Federation of

Industries is still designated as a functional constituency, I hope that somebody will register as a candidate and enter the election contest with me. Thank you.

DEPUTY PRESIDENT: Mr Howard YOUNG, I believe you wish to make a short speech.

MR HOWARD YOUNG: Mr Deputy President, I did not intend to speak originally but I notice that some Members have dropped out. So if there is time, then I would like to speak.

DEPUTY PRESIDENT: Yes, Mr YOUNG, you have a right to speak, of course. But please try to limit your speech to the essentials in keeping with the agreement between Members.

MR HOWARD YOUNG: I believe the agreement is five minutes for each speech. I will keep within that, Mr Deputy President.

MR HOWARD YOUNG (in Cantonese): Mr Deputy President, I originally did not plan to speak today. At first, when the Honourable Frederick FUNG presented his motion, I heard him say that he would not use the debate as an occasion for attacking or slandering the functional constituencies. So I felt very reassured. But then, as the debate went on, I felt that the shape of things changed. So I am speaking as an unscheduled speaker. I would like to say some fair words in my capacity as a person who, as a voter, has only one vote; who, as a candidate, had two other contestants in an election where the voter turnout rate was 87%; who, as a Legislative Council Member, was returned after winning a contested election; and who is not an employer.

I feel that, if we were to have the democracy of 100% direct elections, that would be very nice. However, I feel that we should not be influenced by such an ideal, such a romantic ideal, to the extent that we disregard the realities of Hong Kong, the economy or the Basic Law. A moment ago, I heard a Councillor speak. Though he was a participant in the drafting of the Basic Law, I wonder if he noticed that the Basic Law in fact does say that 100% general elections will be the long-term goal. Therefore, I feel that using this occasion today to talk effusively about issues that are not really pertinent is unfair to the functional constituency Councillors who

have done a lot for this Council and for the citizenry.

I would like to point out that a functional constituency Councillor should of course give consideration to his functional constituency, to its actual needs and interests. This is not the same as helping the employers per se. He thinks in terms of the overall interests of his particular trade. I am the representative of the tourism trade. Others in the tourism trade have told me, and I very much believe, that, if there was a greater voice in this Chamber last year (in the last Legislative Council) to represent the tourism trade or to describe the conditions in the tourism trade, then the Hotel and Guesthouse Accommodation Bill, which is impractical for Hong Kong and which has been strongly criticized by hoteliers as a group, would not have been passed.

I feel that, practically speaking, Hong Kong's success of course owes very much to the hard work of the people of Hong Kong and to our geographical position. However, we must not forget that we used to have a stable government. Our accomplishments today do not owe themselves to demonstrations in the streets but to the hard and honest work of many Hong Kong people in the political and economic areas. In the past, under restrictive historical conditions, all Legislative Council Members owed their positions to the appointment system. That was the historical fact. The transition to 100% direct elections, on top of the transition to 1997, is making a big enough wave. What can we do to enable Hong Kong to make the transition more smoothly? I feel that the functional constituencies are necessary at this historical point in the transition. Therefore, I feel that I must make my personal views known concerning the many unfair criticisms that were made of the system a moment ago. Thank you.

MR RONALD ARCULLI: Mr Deputy President, yesterday, I was served with the main course; today, it is the dessert. This has been one feast of a debate. But at least today on the dessert I am not the sole person at the table because Captain MCGREGOR, the leader of the Liberal Football Team, will share my plate with me, I am sure.

My colleague, Mr NGAI, has dealt with some of the points and he referred to paragraphs 4.5 and 4.6 of the report. What he omitted to tell Members was that the Select Committee was in unanimous agreement on those two points. As regards double-voting, again, the Committee decided unanimously not to disenfranchise functional constituency voters from direct elections.

Dr Conrad LAM has asked for an explanation; he says he cannot understand it. Maybe I should plead ignorance as well, because as Chairman I did not vote. Perhaps he should ask his United Democrats colleagues Mr SZETO Wah or Dr YEUNG Sum, or Mr Fred LI -- or perhaps Mr MCGREGOR might oblige.

In so far as functional constituencies comprising of corporate or individual members are concerned, we had a fairly detailed discussion, particularly those involving corporate electors. And I think Mr MCGREGOR, to his credit, put the point fairly strongly, and the Committee decided to support his point of view. He suggested improvements that we all accepted. He put forward the idea that in some functional constituencies it is indeed not possible to avoid corporate electors and we accepted that. So I think I would not want there to be any misunderstanding on that point.

Mr Martin LEE, rather complimentarily, said that some of the functional constituency members like himself have the makings of candidates for direct elections. Well I am quite sure he could not have included me in that description because his colleague, Dr HUANG, said that I would lose my deposit if I stood.

Dr LEONG Che-hung referred to the Select Committee forgetting about the Election Committee returning the 10 candidates, or the legislators, in 1995. That is not entirely correct. As he knows, we did discuss it and it is in paragraph 8.5 of the report. And perhaps he was out of the room perhaps because of the lateness of the hour -- and I would forgive him for that, even if he fell asleep here -- because I did say that that was a matter really for agreement between Britain and China, but that the Select Committee pointed out that we would hope -- and this was again unanimous -- that the formation of that Election Committee would be by way of democratic process.

A number of colleagues from the United Democrats, and indeed other political persuasions, have said that functional constituencies are against the Bill of Rights. I think I really want to ask two questions: If so, why do they encourage a breach of the Bill of Rights by either participating or remaining as members within functional constituencies? Mr Andrew WONG agrees with this and yet he voted in favour of paragraph 4.5. I am beginning not to understand what happened. I am not saying that my colleagues have no principles. I think the point I am really trying to make is this: that today we have a set of rules; the important thing is not whether we win or lose but that we play by the rules. This Council went through a lot of heated debate to arrive at a committee system for our internal workings to help efficiency, transparency and accountability to members of the public. I believe it was a

worthwhile exercise and I am quite sure that given goodwill, we will continue to work hard for the good of Hong Kong.

Mr Deputy President, the Select Committee also stated quite clearly that it viewed functional constituencies as transitional and that we should move, in the long run, to a wholly directly elected legislature as is provided for in the Basic Law. It is indeed an aspiration that is valued by members of the CRC.

Mr Deputy President, we are now asked to urge the Government to appoint a committee to review that which has been dealt with by the Select Committee. For my part, I am afraid I cannot favour such a course of action.

SECRETARY FOR CONSTITUTIONAL AFFAIRS: Mr Deputy President, Mr FUNG's amendment asserts that the existing voting system for functional constituency elections is unfair and possibly violates the Bill of Rights Ordinance. The Administration does not accept these assertions. Our present system of election, both for geographical constituencies and functional constituencies, have fully met the relevant requirements of the Bill of Rights Ordinance. The question of unfairness or violation of the Bill of Rights Ordinance therefore does not arise.

The Administration does, however, recognize that there are certain aspects of the functional constituency system which could be improved. Miss Emily LAU has referred specifically to possibly double or multiple votes controlled by the same individual. Rules to revamp this could indeed be further improved. Other examples include the electoral franchise of some of the functional constituencies, the eligibility of voting, and the qualification of the authorized representatives. But improvements could be made without having to radically overhaul the system. These issues have all been looked into by the Select Committee which has made a number of useful recommendations in its report. We will study with great care these recommendations, as well as views put forth by Members this afternoon, when we put together the electoral arrangements for 1995. Our aim would be to further enhance the representativeness of the system and to provide for greater participation of the public.

Mr FUNG has also suggested the establishment of an independent body to look into aspects of the functional constituency system. I find it difficult to comprehend the rationale for this suggestion at this point in time, given that the Legislative Council Select Committee has just produced a report which, amongst other things, addresses exactly these very same issues.

Mr Deputy President, as explained in my speech in the early hours of today, the Administration will need to carefully consider the Select Committee's report, as well as the views expressed by Members and the public. For this reason, the three ex-officio Members will abstain from voting on either Mr ARCULLI's motion or the amendment motion proposed by Mr FUNG. Thank you.

Question on Mr Frederick FUNG's amendment to Mr Ronald ARCULLI's motion as amended by Mr Jimmy MCGREGOR's amendment put.

Voice votes taken.

DEPUTY PRESIDENT: Council will proceed to a division. The division bell will ring for three minutes and the division will take place immediately afterwards.

DEPUTY PRESIDENT: Would Members now please proceed to vote?

DEPUTY PRESIDENT: Do Members have any queries? If not, the results will be displayed.

Mr HUI Yin-fat, Mr Martin LEE, Mr SZETO Wah, Mr Andrew WONG, Mr Albert CHAN, Mr CHEUNG Man-kwong, Rev FUNG Chi-wood, Mr Frederick FUNG, Mr Michael HO, Dr HUANG Chen-ya, Dr Conrad LAM, Mr LAU Chin-shek, Miss Emily LAU, Mr LEE Wing-tat, Mr Fred LI, Mr MAN Sai-cheong, Mr TIK Chi-yuen, Mr James TO, Dr Samuel WONG, Dr YEUNG Sum and Mr WONG Wai-yin voted for the amendment.

Mr Allen LEE, Mr Stephen CHEONG, Mrs Selina CHOW, Mrs Rita FAN, Mr David LI, Mr NGAI Shiu-kit, Mr TAM Yiu-chung, Mr LAU Wong-fat, Mr Edward HO, Mr Ronald ARCULLI, Mrs Peggy LAM, Mrs Miriam LAU, Mr LAU Wah-sum, Mr Jimmy MCGREGOR, Mr Peter WONG, Mr Vincent CHENG, Mr Moses CHENG, Mr Marvin CHEUNG, Mr CHIM Pui-chung, Dr LAM Kui-chun, Mr Gilbert LEUNG, Mr Eric LI, Prof Felice LIEH MAK, Mr Steven POON, Mr Henry TANG, Dr Philip WONG and Mr Howard YOUNG voted against the amendment.

The Attorney General, the Financial Secretary, Mr PANG Chun-hoi, Dr LEONG Che-hung, Mrs Elsie TU, Prof Edward CHEN and Mr Timothy HA abstained.

THE DEPUTY PRESIDENT announced that there were 21 votes for the amendment and 27 votes against it. He therefore declared that Mr Frederick FUNG's amendment was negatived.

DEPUTY PRESIDENT: Mr Eric LI, you have not spoken before in this debate and I believe you wish to exercise your right to speak before the question is finally put and I understand you wish to make a short speech.

MR ERIC LI: Yes, thank you, Mr Deputy President.

MR ERIC LI (in Cantonese): Mr Deputy President, I can say that the two prolonged rounds of debating and voting are over and emotions are no longer running high. I believe that we have all calmed down and are now more sober than ever. I choose to make my speech now because I believe that we can now focus our attention better than ever as we review the entire course of the carrying of the amended motion and reflect soberly on it.

To me personally, the course of the motion debate has provided three revelations. First, things happened too fast. Less than one week intervened between the appearance of the report and the Legislative Council vote. Legislative Councillors said many things about public opinion. Some said that public opinion was like this. Others said that it was like that. I cannot but wonder if we were not talking about public opinion selectively. True, we saw what looked like the strengths of hurricanes, shaking the mountains and making the oceans boil over. But then I got in touch with some members of the public. They said that some people had asked them for their supportive signatures but that they had not been quite sure whether they should sign or not. Some said that they simply did not know what it was all about. I also asked some District Board members for their comments. They called me on the phone three times within two days, expressing one view and then changing it. What makes me worry is not whether the citizens understand the issue clearly. It is that, as it seems to me, public opinion was being led along by the Legislative Council, whether or not with the public's consent. I also wonder if the mass media, which

should remain neutral about the issue, had sufficient time to digest all the comments. Did they have a chance to analyse the comments objectively? Did they have independent sources of information on what the citizens were thinking? The "single-seat, single-vote" system probably had the support of a broad section of public opinion. Still, I think that this Council's handling of the whole matter has been quite rash and has exposed itself to suggestions that public opinion was exploited, manufactured or, to use a stronger term, distorted. I think that people easily get the impression that the incident was created by politicians who were spoiling for a fight. I think that this is not good but bad for this Council's public image. It has happened. It must not happen again.

Secondly, the amended motion is a compromise. It represents neither the absolute truth nor absolute justice. Very clearly, my liberal colleagues' traditional position was that the "double-seat, two-vote" system should be maintained. It was only recently that they, after consultation with some independent Councillors, revised this position of theirs and supported the "single-seat, single-vote" system instead. Very clearly, this does not represent the absolute truth but is a political choice made under the actual circumstances. I am very glad to see that the independent Councillors played a role in the matter and made a reasonable result possible in the end.

Thirdly, I believe that many citizens do not understand that our vote this time is not a decisive vote about a resolution or about a legislative Bill. It is simply something used by politicians to make themselves look more impressive.

Over this particular issue, the Chinese side has made clear its stand. It hopes that the issue will be further discussed at the level of the Sino-British Joint Liaison Group. I believe that the matter does not end here. The Honourable Stephen CHEONG has made this very clear. At this point, I do not agree that we should take any action that would tie the Government's hands, such as through a Legislative Council motion debate, before discussions begin with the Chinese side. I think that to do so would be extremely unwise.

I will abstain from voting, sharing the Honourable Vincent CHENG's frame of mind and agreeing with the fair tone of the Honourable Martin BARROW's speech. I think that it does not matter to me whether the motion is carried or defeated. What makes me worry is how the citizenry will bear the consequences. I hope that they will remain optimistic and remain steadfast whatever happens and will not think that the matter

is settled. While accepting the "single-seat, single-vote" system now, they should remain open-minded and pragmatic as they consider accepting other alternatives under actual circumstances that continue to change.

From the long-range point of view, I think that serious thought should be given to whether the geographical constituencies would not become too small and whether representation would cease to be balanced should there be 30 or more directly elected seats. Such a review may have to wait until the elections of the year 2007. But I think that such a review will have to be made.

The report contains many good points. Like the other Councillors, I would like to thank Chairman Ronald ARCULLI and the many members of the Select Committee. I fully support the lowering of the minimum voting age to 18. I would also like to thank my close colleague in rehabilitative services, Mr Vincent CHENG who is celebrating his birthday today, for making a speech that was helpful to me and for supporting the recommendation that special consideration be given to the creation of a Disabled Persons functional constituency.

Mr Deputy President, I so make my submission.

DEPUTY PRESIDENT: Mrs Rita FAN, you too have not spoken in the debate and I believe you wish to exercise your right to speak before the question is finally put.

MRS RITA FAN (in Cantonese): Mr Deputy President, thank you for giving me leave to speak. My speech will be very short. Members need not worry that I may take up too much of their time.

The Honourable Eric LI already said a moment ago many of the things that I had been thinking of saying. The Honourable Ronald ARCULLI's motion is neutral. Nobody knows why the motion yesterday suddenly became a debate on the "multi-seat, single-vote" system. That, however, is not important. Since some colleagues thought that that was how it should be, they were of course free to speak their minds. Since we are having a debate here, we should all put forth our views and then discuss them calmly and dispassionately. Therefore, when I heard some Members speak in an acrimonious fashion and with great vehemence, I just wondered if all that was necessary. There will yet be more discussions of political development. Must this

Council hold its discussions in this way? I hope that colleagues will think this over.

In fact, the election system is a complex matter for the average citizen. More time should be spent on explaining things to the citizenry and on listening to their views. In fact, I think a quick decision may not be the best decision. This is why colleagues of the Co-operative Resources Centre (CRC) think that the best thing to do is to listen to other people's views and to continue with other people the discussions on the 1995 elections as a whole and not to focus solely on the directly elected seats.

Mr Deputy President, for the above reason, members of the CRC will vote against the amended motion.

MR RONALD ARCULLI: Mr Deputy President, I shall not take up very much time but all I can say is, having heard Mr Eric LI, I wish he had entered the debate and brought some decorum, calmness and cool-headedness to our deliberations because much of what he has said today makes sense. But perhaps it is not too late, because what we are now asked to do is to vote on my motion, as amended by Mr MCGREGOR's motion.

I simply would like to say to Members that if you vote "yes" there are no options kept open. If you want to keep options open, vote "no". If you are worried that you would be accused of changing your mind, becoming a turncoat, or whatever the right phraseology is, then I would have thought that I have demonstrated quite clearly today that you would not be the only one. So I urge you to consider the position seriously, coolly, calmly, as Mr LI has, and if you want to keep the options open it is still not too late to vote "no".

Lastly, Mr Deputy President, I would like to thank Mr Michael SZE and his colleagues for all the papers that the Administration supplied to the Select Committee. We put them under tremendous pressure to produce their research material for consideration by the Select Committee.

And, Mr Deputy President, I would also wish to thank you for agreeing to have two days as a sitting, so that Members could freely express their views on the Report of the Select Committee without undue time constraint, although I think when I first heard that you had decided to carry on last evening, my heart rather sank. But be

that as it may, we have had a very fruitful, tough year in this Council. I think my colleagues deserve a rest -- I know I do -- and I can only say that I certainly look forward to coming back in October.

Question on Mr Ronald ARCULLI's motion as amended by Mr Jimmy McGREGOR's amendment put.

Voice votes taken.

DEPUTY PRESIDENT: Council will proceed to a division. The division bell will ring for three minutes and the division will taken place immediately afterwards.

DEPUTY PRESIDENT: Would Members please proceed to vote?

DEPUTY PRESIDENT: Do Members have any queries? The results will now be displayed.

Mr HUI Yin-fat, Mr Martin LEE, Mr PANG Chun-hoi, Mr SZETO Wah, Mr Andrew WONG, Dr LEONG Che-hung, Mr Jimmy McGREGOR, Mrs Elsie TU, Mr Albert CHAN, Prof Edward CHEN, Mr Marvin CHEUNG, Mr CHEUNG Man-kwong, Rev FUNG Chi-wood, Mr Frederick FUNG, Mr Michael HO, Dr HUANG Chen-ya, Dr Conrad LAM, Mr LAU Chin-shek, Miss Emily LAU, Mr LEE Wing-tat, Mr Fred LI, Mr MAN Sai-cheong, Mr TIK Chi-yuen, Mr James TO, Dr Samuel WONG, Dr YEUNG Sum and Mr WONG Wai-yin voted for the amended motion.

Mr Allen LEE, Mr Stephen CHEONG, Mrs Selina CHOW, Mrs Rita FAN, Mr NGAI Shiu-kit, Mr TAM Yiu-chung, Mr LAU Wong-fat, Mr Edward HO, Mr Ronald ARCULLI, Mrs Peggy LAM, Mrs Miriam LAU, Mr LAU Wah-sum, Mr Peter WONG, Mr Moses CHENG, Mr CHIM Pui-chung, Dr LAM Kui-chun, Mr Gilbert LEUNG, Prof Felice LIEH MAK, Mr Steven POON, Mr Henry TANG, Dr Philip WONG and Mr Howard YOUNG voted against the amended motion.

The Attorney General, the Financial Secretary, Mr Vincent CHENG, Mr Timothy HA and

Mr Eric LI abstained.

THE DEPUTY PRESIDENT announced that there are 27 votes for the amended motion and 22 votes against it. He therefore declared that Mr Ronald ARCULLI's motion as amended by Mr Jimmy MCGREGOR's amendment was carried.

EDUCATION COMMISSION REPORT NO. 5

MRS SELINA CHOW moved the following motion:

"That this Council urges the Government to allocate appropriate funding for those measures recommended by the Education Commission in its Report No. 5 which receive wide support from the community as demonstrated through the current consultation exercise."

MRS SELINA CHOW: Mr Deputy President, I rise to move the motion standing in my name on the Order Paper. Since the publication of Education Commission Report No. 5 (ECR5) there has been widespread and enthusiastic discussion on it among professionals, as well as in the community at large. As a member of the Education Commission -- and as such I must declare an interest -- I am glad to note that many comments, mostly favourable I might add, which have been voiced on the Report, have been heard.

I hope this debate will serve to generate even more public interest and comment before the close of the consultation period at the end of September, so that policy decisions can be taken with the benefit of the collective wisdom of everyone who has something to contribute to such an important issue that will have far-reaching effect on our future generations.

Very few people would disagree with the aims and objectives of ECR5. Most of us have had personal experience of our school system, as parents, friends of parents, close relatives of parents and children, members or close associates of the education community. We may have many different ideas on how to improve on our school system but almost all of us would agree that teachers are the most important human resource that determine the standard and quality of our school education. It is for this reason that ECR5 has chosen to concentrate its attention on this profession which

requires our immediate attention and support if we are to ensure steady improvement that is much needed in our school education. It is only by doing so, urgently, that we will be able to ensure that our students will be prepared for life and work in the challenging years ahead, given the changes our society is experiencing and the demands made on our young people when they leave school for further education or employment.

ECR5 has identified three main issues which have the most effect on the ability of teachers to deliver a quality service.

The first is the education, training and preparation of teachers. This includes the Education Programme for Pre-service Training, In-service Training for experienced teachers, as well as the opportunity of upgrading and updating for all those in the profession who may wish to take up leadership and management positions.

On the first issue, the main recommendations are to introduce improvements to the Colleges of Education, and Institute of Language and Education, by separating them from the Civil Service, and to upgrade them into a new Institute of Education under its own Governing Council; to enable teachers to upgrade their knowledge and skills throughout their career by offering a new in-service qualification at sub-degree level titled "The Advanced Teacher's Certificate", and to create a new Advisory Committee on Teacher Education and Qualification, to better co-ordinate teacher education programmes in Hong Kong, as well as to tender authoritative advice on teacher qualification.

The second is the status of teachers. In order to offer an attractive career path for our bright young people, it is important to ensure that the grading and ranking structure in our schools is appropriately set to achieve the desired result. On examining the present situation, the Commission considered that something must be done about the fact that all primary teaching posts are in nongraduate ranks. We concluded that a substantial proportion of posts should be upgraded to graduate status, and that 35% of teaching posts in primary schools should be held by graduates within 15 years. Such a move will, on the one hand, enable schools with the knowledge and skills of effective leadership, while on the other hand maintain the attractiveness of a career in primary education which must necessarily compete with other expanding employment opportunities at graduate level. Such a move will mean that within a relatively short time, several thousand primary teachers will need to acquire degrees. The Commission believes the best way to meet this demand is to provide self-funding

part-time degree courses combining distance learning with face to face tuition for serving teachers. This will be coupled with two year full-time courses for holders of Teacher Certificates to pursue immediately after graduation from the new Institute of Education.

The third is the support factors that are essential to assist teachers to provide quality education. These include induction of new teachers, home-school co-operation, school administration and management, school environment and teacher workload. Of these, I would like to give special mention to home-school co-operation which in my view, is vital if we are to realize the full benefit of education in its broadest sense on children. Like many parents, I have had children in the Hong Kong school system and I have been saddened by the relationship, or the lack of it, between us and teachers. While working in preparation for the Report, I have personally talked to school heads who have not exactly adopted a positive approach to establishing partnership with parents. Communication, understanding and co-operation are not actively pursued and improvement can only come about with a basic change in attitudes on both sides.

Looking at the problem positively, there is a huge potential to be tapped through the successful setting up of a healthy partnership. This is urgently needed, particularly when young people have to deal with so much stress and pressure outside of the classroom nowadays.

On teachers' workload I do not intend to go into detail the recommendations regarding the proposed improved staffing ratios. However, what is worth a mention is the recommendation to reduce class size from 40 to 35 for conventional classes and from 35 to 30 for activity approach classes by 1997 for all primary one classes. This is made possible by a projected decline in the school population from 1995 to 2002. When enrolment starts to rise again from 2003, new schools should be built to cater for the maintenance of reduced class size.

ECR5 is rich and complex, and it would be impossible for me to go into every subject it contains, given the time constraint. I am sure other colleagues will have views to offer during this debate. However, before I sit down I would like to say a few words about the resource implications of ECR5. The planned period for full implementation is 15 years, during which an estimated \$23.5 billion at 1992 prices will be required. Some have asked why it takes so long? Considering some 7 500 teachers need to be trained and given that two years are needed to develop the in-service degree course which will take four years to complete, the first batch of

graduates will not materialize until six years after a decision is taken. It is for this reason that the Commission is recommending a review to be conducted 10 years after decision day.

As for the budget, I understand we will only be able to afford it if spending will not be trimmed as a result of declining enrolment. I therefore urge the Government not to adjust the baseline in accordance with the natural drop in student population if it is found at the conclusion of the consultation period that ECR5 has the broad support of Hong Kong.

Mr Deputy President, I so move.

Question on the motion proposed.

DEPUTY PRESIDENT: Before I call on Members to speak, I would just remind Members that if we are to achieve our agreed timetable Members should limit their speeches to not more than five minutes each.

MRS RITA FAN (in Cantonese): Mr Deputy President, the Education Commission has spent 18 months to look deeply into the various issues relating to the teaching profession. It has, after careful consideration, come up with a number of recommendations to address these issues. Although it is going to take up to \$23.5 billion and 15 years to implement these proposals, we are convinced that it is a very worthwhile investment. For the improvement of teaching quality and learning environment will bring direct benefits to education and enable Hong Kong to have an adequate supply of talent to meet the challenges posed by the 21st century and international disputes.

I was cautiously optimistic on the day of publication of the Education Commission Report No. 5 (ECR5). My optimism has increased considerably in the three weeks which have elapsed with most of the views expressed being supportive of the general direction of ECR5. But I am still far from being totally optimistic. We still need the full support of the education sector; we still need the endorsement of parents; and what is more, we still need Members of the Council to put aside their differences, for the cause of education, to support and pass the motion moved by Mrs Selina CHOW.

Some people worry that the ECR5 recommendations may not be implemented given the

huge expenditure which it requires and that the Government may not be able to come up with the funding. I agree that \$23.5 billion is a very large sum of money in terms of the usually meagre funds available for education spending, but the money we are talking about only forms a small fraction of the annual public expenditure. If we look at the extra spending projected by ECR5 for 1995-96, it is but a mere 0.6% of the total expenditure. In the projections of the Financial Budget, education spending for 1995-96 takes up 16.5 % of overall expenditure. Put it simply then, if education spending can be increased to 17.2% of total expenditure, then we will already be in a financial position to implement the ECR5 recommendations. When the issue of primary and secondary education was debated in this Council last time, I already expressed the wish that the Government could move in the direction of devoting 18% of its total expenditure to education. If we are able to achieve this by 2007, then not only will ECR5 be fully implemented, but also we will be able to make improvement in other educational areas, and to implement systematically future recommendations as well. If I was asked "While you want to increase education spending, what spending categories are you prepared to trim for that purpose?" then what I would say in reply is this. First, Government revenue is not a fixed constant; there are many ways of tapping new sources of revenue. If we have a larger pie, then we can give a larger portion of it to education. The problem is whether people identify with the need for funding priority to be given to certain education measures. But I would also like to say at this juncture that I do not support tax increases, nor do I like the idea of having an education tax. Second, Government expenditure is not a fixed constant either. Savings may become possible in the context of the changes happening in our society, and this goes for education spending as well. However, ECR5 already states that teaching staff remuneration accounts for 90% of the expenditure on primary and secondary education. There is not much chance for savings to be made in that regard. Anyway, as Mrs Selina CHOW said just now, if enrolment declines as a result of demographic changes, and if the Government is able to maintain the original level of funding instead of reducing it, then it would be conducive to the implementation of the ECR5 recommendations. All in all, I am quite confident of securing the funding we need if ECR5 secures the strong support of Members of this Council as well as the community as a whole.

It has been said that ECR5 has not suggested a priority order for the implementation of its recommendations. This is quite true. Indeed, the Education Commission decided against such a priority order after careful consideration. Some of our recommendations are such that they should be implemented as soon as possible and some are more suited to phased implementation. In other words, the

recommendations may be for the short term or the long term but in our presentation we have already drawn up a time table. Moreover, some recommendations are inseparable from others. For example, the in-service courses for teachers may not achieve their desired goal unless recommendations on pay scale are also endorsed.

Given the wide scope of ECR5, certain specific details dealt with in the discussions by members of the Education Commission have not been set out in the document. In this connection, queries have been raised by certain concerned parties. I will try to respond to them here. I hope I would be able to answer on other occasions those queries which I cannot adequately deal with given the time constraint.

The graduate posts in primary schools may not necessarily be filled by people who have a degree in primary education. Candidates with a degree and a teaching certificate (or other recognized teacher training background) may also be considered and decision to appoint someone as graduate teachers should be made by the school. It is not necessary for Assistant Masters to have degree qualification. It should be up to the school to make its appointment decision, taking into account factors such as personal ability, experience and academic background. We hope that the teachers at primary schools will be able to enrol in in-service courses. It is for this reason that the Institute of Education will organize "Advanced Teachers' Certificate" courses for teachers. We also hope to give credit to certain courses taken by teachers, through a credit system. This is to enable teachers to make full use of opportunities for further studies in such a way as not to affect their teaching duties. The acquiring of an Advanced Teachers' Certificate will enable the teacher to have a salary increment. This is a way of encouraging all manner of further improvement; it is not just something we do to meet the target of degree qualification for all teachers. If the response to in-service courses is so enthusiastic that primary graduate teachers exceed the number of posts created for them, then a review will be conducted by the Education Commission 10 years after the policy decision is taken and adjustments will then be made in that review. The ranking structures and pay scales relating to graduate teachers of primary schools and graduate masters of secondary schools will then be considered again. However, matters such as ranks and pay scales need to be resolved eventually by the Standing Commission on Civil Service Salaries and Conditions of Service.

On the issue of enabling Mainland and Taiwan university graduates to become graduate masters and non-graduate masters, we have referred the accreditation of degree qualification to a proposed Advisory Committee on Teacher Education and

Qualifications and the accreditation of non-degree qualifications to the Colleges of Education which will organize a three-part test for this purpose. I am not able to give full details because of the time constraint, except to say that the Education Commission has no prejudice whatsoever against university graduates from any country, nor indeed is there any need for us to do so.

There is some scepticism about the fact that the Education Commission has not drawn up a time table concerning the upgrading of the Colleges of Education. But the reason for this is that the speed of improvement of teaching quality and redevelopment of College premises, and the design and validation of courses, are all matters which have to be attended to by the Provisional Governing Council and teaching staff concerned; the Education Commission has no wish to constrain or otherwise control their development. But we have recommended a large vote of money which is 50% more than the current unit cost of full time enrolment. Put in another way, given that the cost per student is more than \$60,000, with the completion of the new Institute, it will rise to well over \$100,000. In the cost estimation, we have used the set-up of other tertiary institutions as reference and we also have been able to benefit from the active participation of the Chairman and Secretary of the Universities and Polytechnics Grants Committee. We believe that this will enable the Institute of Education to have adequate resources, flexibility and autonomy to develop in their own ways and improve their academic standards. I believe that language policy should also be a matter which the Institute should decide for itself.

Whereas there are critics who favour the reduction of class size from 35 to 30, there are also critics who say that the Education Commission is turning a blind eye to the problems of floating class. Actually we have devoted two meetings to the discussion of the alternative between reducing class size and abolishing floating class. While cutting class size will enable the teacher to give more attention to individual students, abolishing floating class will enhance a sense of belonging among students. We have decided in favour of cutting class size. We have also made the decision that the way to cope with a resurgence of population and number of school children would be to build more schools instead of enlarging class size. However, the school has the discretion to either abolish floating class in which case the class size may exceed 35, or maintain floating class and achieve the reduction of class size. We believe that the schools will take their decision after consulting with teachers and parents.

Mr Deputy President, I think I have exceeded the time limit of five minutes and

I apologize to Members for taking such a long time. The Education Commission welcomes views from all parties concerned. Regarding the points which we have not been able to take into consideration, we will certainly give them thorough consideration at the close of the consultation period.

With these remarks, I support the motion.

MR HUI YIN-FAT (in Cantonese): Mr Deputy President, I believe that the recommendations of the Education Commission Report No. 5 will, if public funding is forthcoming for its implementation, result in significant improvement to the quality of both primary and secondary teachers. However, as a Chinese proverb says, "Though the peony is lovely, it needs the support of green leaves", the improvement of teaching quality cannot be achieved by the improvement of teacher training alone. A vital point which we cannot afford to overlook is that the working conditions of teachers should be improved to attract more new blood to go into the teaching profession. In this regard, my position has always been that increasing the supply of social workers and strengthening academic consultation and psychological counselling for problem students can take the pressure off the teachers to a certain extent to enable them to devote more time to the character building of their students.

As a matter of fact, it has always been acknowledged by parents and teachers alike that the school social work service, since its launching in 1979, has made great contribution in terms of student counselling. Recently, a coroner in an inquest into the suicide of a school child has made a point of requesting that the Government strengthen the manpower of counselling service. Indeed, the Government has very early on recognized the role of school social worker in a review report of 1982; it even favoured the reduction of social worker to student ratio from 1:3 000 to 1:2 000. Unfortunately, the Government has subsequently seen it fit to consistently put off the fulfilment of this promise to which the community has long given its blessing.

Three days ago, a representation was made to the OMELCO by a joint body of educators and social workers. I was fortunate enough to be invited to attend and listen to their proposed remedies to the grave crisis confronting our school education. One of their suggestions was that each school should have one school social worker, which is to say that worker to students ratio should be 1:1 000. One can see that not only are the school social workers playing an increasingly important role, but they have actually become the best working partner of the educators in terms of

educating our next generation.

School children related problems have become more serious and complicated in recent years. For example, the public housing estates are plagued with youth gangs. Student suicides have multiplied over the years. Young people need grown-ups' ready help to cope with their emotional problems arising from moral values in respect of behaviour and inter-personal relationship. However, given that teachers already have a very heavy workload, there is no way they can spare the time to attend to problems other than those relating to students' learning problems. Meanwhile, school social workers are unable to help as much as they would have liked, given the great number of students put in their care. How can teachers possibly work with equanimity and devote themselves to the improvement of quality of education, under such enormous working pressure?

I think that manpower and other resources are not a problem at all if the Government is really committed to saving our younger generation by making long-term investment. Given that we have a surplus of \$22 billion in the last financial year, and that the Financial Secretary has even solicited the views of this Council recently regarding the disbursement of funds of up to \$5 billion for the next year, it is clear that the coffers have a given capability of further expanding social service. If we consider also the serious oversupply of social workers this year, we can actually see that, from a practical point of view, the increase of school social workers will achieve three objectives in one go. For one thing, student counselling service will be improved. Secondly, the Government can then project a caring image for itself. Thirdly, the pressure created by the surfeit of social workers will be alleviated. According to my preliminary estimation, the Government needs only to spend an extra \$70 million to fulfil the promise which it made 10 years ago, such that one social worker can be deployed to serve two schools from the beginning of this school year in September. This will bring us closer to the ideal ratio.

Mr Deputy President, I would like to conclude that the increase of school social workers will bring immense benefits to the Government, to the quality of education and to the social workers themselves. It is indeed disappointing if the Government is reluctant even to make that very modest investment. In that case, one would quite legitimately doubt if the Government is sincere at all about improving people's livelihood.

Mr Deputy President, with these remarks, I support the motion.

MR MARTIN LEE (in Cantonese): Mr Deputy President, the United Democrats of Hong Kong (UDHK) are very concerned about the educational development of Hong Kong. In the past, we have done all we could to oppose the measures to increase class size and combine classes at primary and secondary schools. In today's debate on the Education Commission Report No. 5 (ECR5), the UDHK Members will address the various issues which have been raised, while commenting on the improvement of the quality of education as a whole. I will propose a full-scale implementation of whole-day schooling and the abolition of floating class at secondary schools, which I think is the only way to improve basic education fundamentally. Mr SZETO Wah will address the issue of the status of non-Commonwealth graduate teachers. Mr CHAN Wai-yip will speak on the working environment in schools. Mr CHEUNG Man-kwong will speak on the teaching duties and professional development of primary graduate teachers. Mr LEE Wing-tat will concentrate on the role and functions of a General Teaching Council. Mr MAN Sai-cheong will look at the issue of pay for kindergarten teachers and ways of improving the quality of kindergarten education. Finally, Dr YEUNG Sum will speak on the upgrading of the Colleges of Education.

Mr Deputy President, the bisessional system in primary schools has been a fact of life for the past 40 years. In the past, the Government said that it was an interim measure and undertook to abolish it in due course. The promise, however, has not been fulfilled. Primary students have had to put up with the ill effects of the bisessional system. People who went through the bisessional primary schooling are now themselves parents, and grandparents if they had the Chinese good fortune, of marrying and giving birth at a young age, of children who are attending primary schools run on the same bisessional mode which they experienced. It is a completely absurd situation.

The recently released ECR5 declares as one of its primary goals the improvement of school environment and the quality of education. But it has chosen to evade the issue of whole-day schooling in primary education altogether. Does it mean that we have to live with bisessional primary schooling for another 40 years, or is it another case of no change for 50 years, like what the Joint Declaration says?

The Education Commission had actually accepted the proposal of educational organizations that we make the transition from bisessional primary schooling to whole-day schooling over a period of 14 years; it has given its endorsement to the

positive values of whole-day schooling. Unfortunately, the Executive Council has recently taken the decision to postpone the 14-year transition to whole-day schooling, on the grounds of low priority and inadequate resources. It was a very wrong decision which has sacrificed the interests of all of our primary students.

We all know very well that the bisessional system in primary schools is an interim measure which came into being in the context of a rapidly rising number of primary students, inadequate Government financial resources, and school building falling behind demand for school places. It is in itself an extremely unreasonable system. It is particularly so in the context of nine-year free education which has been implemented since 1978. Our primary schools have been faced with various problems in terms of student discipline, slipping standards, broken families, student suicide, youth gangs and triad infiltration, and so on. All of these problems can only be resolved by a good educational system. Whole-day schooling is the right answer to these problems.

We can all imagine how stressful it would be to have to complete a whole day curriculum, including extra-curricular activities in half the time and what little time would be left for teacher-student contact consequently. This is no good for either the teachers or the students involved; it constitutes a big hindrance to the improvement of the quality of primary education. In this connection, for the sake of our students, and for the sake of our educational ideal and principles, it is paramount that whole-day schooling for primary education be introduced without delay.

Mr Deputy President, I would like to move on to the issue of floating class, which also has a bearing on the quality of education.

Presently, floating class is a fact of life in most of our secondary schools. What is a floating class? Put it simply, a secondary school which is designed to run 24 classes and which has facilities designed for the running of this number of classes ends up actually running 30 classes.

Let me describe what the floating class system means in real terms. Students have no classroom of their own, no seats of their own. After attending one class, they pack up and move on to another classroom which may be located on another floor. They become nomads in their own school moving from place to place. Not only is time wasted, but discipline problems have also arisen as a result. Students have no sense of belonging to their school. The only advantage to be gained is that these students

will make very good unlicensed hawkers, thanks to the skills acquired in their school days of packing up and moving on very fast. Mr Deputy President, given the fact that nine-year free education has been implemented for many years, is it a situation which we can allow to continue in which students have no classroom and desks they can use on a more regular basis?

In this regard, I suggest that the Government should consider the abolition of the bisessional system in primary schools and of floating class in secondary schools in order that students will be able to study in a normal and reasonable environment, and that our educational standard will be improved consequently, to keep pace with our economic development.

Mr Deputy President, the greatest victims of the unreasonable measures are our next generation -- our students. I consider it a grave shortcoming of ECR5 that it has failed to address the issues of bisessionalism in primary schools and floating class in secondary schools, for all its proposals to improve the teaching and school environment. In this regard, I request that the Government accept the views of the UDHK, and refrain from delaying reform on the pretext of economic constraint, so that the quality of primary and secondary education can be improved.

Mr Deputy President, the development of our human resources is just as important as the development of our economic infrastructure. It is short-sighted for the Government to engage in the latter to the neglect of the former, for eventually, without the supply of talent, our economy will suffer. In this regard, the UDHK hopes that the Government will allocate more funds from our reserves so that we can develop our manpower properly.

Mr Deputy President, with these remarks, the UDHK support the motion.

MR SZETO WAH (in Cantonese): Mr Deputy President, last September, I switched from the Teaching Functional Constituency which returned me to a six-year term of office in this Council to run in the direct election held in the Kowloon East constituency. In September this year, I will be about to retire from my educational career of 40 years. But having said that, education is and will continue to be the issue in Hong Kong which is closest to my heart.

Nineteen years ago -- that is 1973, an unprecedented territory-wide strike was

staged in all schools in protest against the Government's move to slash the pay of certificated masters. Teachers of St Paul's College unfurled a banner which, written in the form of an elegant Chinese couplet, reads, "Injustices, not at all confined to the education circle, are found everywhere; like a single spark, it can start a prairie fire." I do not know if Mr Timothy HA who is here with us now has recollection of that couplet, as he happened to be the principal of that College at that time. Speaking for myself, I still remember quite clearly. Why? Because such injustices still exist, even now. Today, I will look at the issue of degree holders from non-Commonwealth universities, mainly Taiwan and Mainland universities, who are being discriminated against in terms of pay and status, even if they are allowed to teach in Hong Kong.

For example, the Diploma in Education course run by the School of Education of the Chinese University of Hong Kong has a 10% quota reserved for university graduates of Taiwan and Mainland China each year while 90% of its intake are local university graduates. Both categories of applicants have to take the same admission test and they receive the same kind of professional training and sit for the same examinations while on course. They will receive the same teaching diploma at the end of the day to become qualified teachers. However, when they are actually engaged as teachers in secondary schools, the locals will receive the pay and status of a graduate master while graduates with a Taiwan or China background will be employed only as certificated masters who can hardly compare with the graduate masters in terms of pay and promotion prospects.

The Chinese University of Hong Kong has a recognized academic standing. Teachers who have the same experience of enrolling in, receiving training from, and eventually managing to graduate from the University should receive the same pay package for the same kind of work. However, of the various forms of injustice in the education circle, the most serious one being the long-standing discrimination against Mainland and Taiwan graduate teachers. I consider the failure of ECR5 to address this issue to be deliberate evasion rather than careless oversight.

ECR5 proposes a three-part written test for all graduates from non-Commonwealth countries. Teachers may be able to attain the salary point of a certificated master after they have passed the serial of examinations. This measure is in fact designed to prolong the long-standing policy of not giving recognition to degrees granted by Mainland and Taiwan universities. One of the reasons given is that it is difficult for the Government to assess the academic standing of and qualification acquired from

these universities. I consider that this is in fact a problem, from a technical point of view. However, from the perspective of Hong Kong's demand for teachers, it is technically possible, and a measure worth considering, for us to hire degree holders from non-Commonwealth universities, including Mainland and Taiwan universities, as teachers at secondary schools.

The arbitrary distinction made by the ECR5 proposal relegates all non-Commonwealth graduate teachers, whether or not they are degree holders, as certificated masters. It is unjust and unfair; it disregards the political reality that Hong Kong will cease to be a British colony in five years.

I would like to make a new proposal here. Two different levels of examinations can be administered in Hong Kong, one for graduate teachers and the other for certificated masters. Anyone who has obtained a pass in five subjects at the School Certificate of Education Examination and has a degree or sub-degree qualification obtained at an overseas university, including a university in Taiwan or Mainland China, which is recognized by the respective government concerned, should have the opportunity of sitting for either one of these two examinations. They should be given recognition when they manage to pass the examination(s) as graduate master or certificated master, as the case may be. And it should be left to the discretion of the school whether or not to hire them.

One feature of this proposal is that the teachers in question have all received secondary education in Hong Kong. They are closely related to Hong Kong and most of them are Hong Kong people. Returning to Hong Kong after completing their education in an overseas country (including Taiwan and Mainland China), these people actually have contribution to make to Hong Kong; they will only bring benefits, not harm, to Hong Kong. While their numbers can be regulated, they will only have a minimal impact on the job opportunities of graduates from local universities and Colleges of Education.

Presently, the more pressing problem is that immediate improvement has to be made to the pay and promotion prospects of Taiwan and Mainland graduate teachers who are subject to discrimination at local secondary schools.

I wish I could one day forget the couplet which protests, "Injustices, not at all confined to the education circle, are found everywhere; like a single spark, it can start a prairie fire."

Mr Deputy President, with these remarks, I support the motion.

MR TAM YIU-CHUNG (in Cantonese): Mr Deputy President, it has been more than a month since the Education Commission Report No. 5 (ECR5) was released. The contents of ECR5 have been positively received and praised by various sectors, and by educators in particular. Although difference of opinion is still evident on certain issues, it would appear that the education circle has found ECR5 generally acceptable.

Since its implementation in 1978, nine-year general education has made considerable achievement, but it has certainly its problems as well. One of the notable problems is the declining quality of primary education. Rapid expansion of tertiary and post-secondary education has given rise to a weakly based, top-heavy educational structure. Indeed, the various stages of the educational process have to be well linked and co-ordinated. There is no question of producing good quality students for the tertiary institutions if we do not have a sound basic education. The Chinese like to say that there is no way one can build a tall building without a firm foundation. Similarly, a firm foundation is the most important element in education for otherwise it would be very difficult for the tertiary institutions to produce good quality graduates. And we would achieve very little result even if we double our effort to raise the overall education quality.

As a matter of fact, it is of paramount importance that substantial resources have to be committed to the improvement of our overall education quality. However, even now, spending on education only accounts for 3% of our gross domestic product (GDP); in the eighties, the percentage varied merely between 2.4% and 2.8%. This level of investment is lower than the average of the countries around the world; it is even lower than that in some developing countries. Our limited education spending naturally hampers our education development.

In this regard, I consider that the Government should attach greater importance to our intellectual investment. It should not become reluctant to commit itself to intellectual investment just because intellectual investment tends not to produce instant results. We must bear in mind that education spending is of tremendous significance to Hong Kong in the long term. It is only in a well-educated citizenry that we can have the motivated force for creating great wealth. I hope that the Government will not merely see the funding of education as nothing more than spending

for it should be regarded as an investment as well.

ECR5 stresses, "quality in education depends greatly on educators themselves, in particular classroom teachers" and it is "of strategic importance". It suggests that teachers should be attracted, developed and motivated to give their best in a supportive school environment. These are principles which are worth supporting. However, I think that there are other important issues which we should look at apart from stepping up teacher training and providing trained manpower resources for primary schools.

According to the views which I have received from the Hong Kong Federation of Education Workers, teachers should be allowed to devote themselves to teaching and moral education if they are to be able to perform to the best of their ability. Presently, Hong Kong teachers are burdened with a very heavy workload. The Education Department prescribes that primary schools have 38 periods, and secondary schools 40 periods, on a weekly basis. And the average secondary/primary teacher teaches between 30 and 36 periods each week. They have very few free periods and very little time to attend to extra-curricular matters. What is more, given that most teachers have to double up as class masters and are required to assist in extra-curricular activities, while at the same time engaging in non-teaching duties, such as assisting students in returning applications for public transport subsidy and for public examinations, they have scarcely the time and energy to take care of the needs and problems of individual students. Neither can they instill correct moral value in their students and enable them to have a proper outlook on life. In the context of such adverse conditions, it goes without saying that the morale of teachers has been badly hit and some of them find the situation very frustrating.

In this connection, I suggest that the Government considers ways of reducing the workload of teachers, particularly their non-teaching duties, and also ways of increasing the class to teacher ratio. The present ratio is 1:1.2 for primary schools and 1:1.3 for secondary schools. It is evidently not good enough and calls for improvement. Meanwhile, the roles of a class master should be strengthened and the tripartite relationship between schools, social workers, and parents be fostered as well. This is not only good for giving more moral education to the students but will also enhance the professionalism of teachers and help retain well qualified teachers.

Finally, in addition to giving suitable remuneration to our teachers, the proper way for the Government to raise the morale of teachers is to give whole-hearted support

and encouragement to our teachers, both spiritually and also in terms of fostering a favourable environment for them to work in, and enhancing their social status, such that society as a whole will show respect to the teaching profession.

Mr Deputy President, with these remarks, I support the motion.

MRS PEGGY LAM (in Cantonese): Mr Deputy President, the Education Commission Report No. 5 (ECR5) makes it very clear in its first chapter that "the time has now come to look in detail at teachers" and we should "see education spending as an investment". I entirely agree with this point of view. We need to have academically and professionally qualified teachers before we can provide our children with a sound education. Considering the crucial role played by teachers in the education process in terms of teaching and counselling, one important condition for improving the quality of education is to raise the quality of teacher education. Given the fact that Hong Kong has a scarcity of natural resources, our present economic achievement owes much to the hard efforts and endeavours of Hong Kong people. Human resources are the driving force behind Hong Kong's economic development. Put in another way, the knowledge and expertise of Hong Kong people, their civic sense and sense of responsibility, their enterprise and sense of belonging, have a direct bearing on the social and economic development and future performance of Hong Kong. Looking back on the international scene over the past 10 years, one sees tremendous changes. And science and technology also have forged ahead rapidly. These changes will certainly continue into the nineties and indeed the 21st century will bring with it a new shape of things to come and new challenges. As Hong Kong enters into the latter half of the transition period, it will have to meet with new internal changes at the same time as it faces up to the economic competition from various parts of the world. In this connection, there is a need for Hong Kong to produce more managerial, professional and technical expertise to sustain and provide further impetus to high speed economic development in keeping with the trend towards economic diversification and internationalization. I agree that the Government should make extra investment so as to enable our education system "to meet Hong Kong's needs adequately over the coming decades".

ECR5 has been able to address the various problems involved in its comprehensive and thorough review of the issue of teaching standard. It has done a detailed and systematic analysis of the situation and come up with a number of constructive and far-sighted recommendations. Generally speaking, these recommendations have taken

account of the various views and different needs which have been articulated. They are practicable and in line with the principle of cost effectiveness. I am sure they will have a positive bearing on teacher training, their professionalism, and the provision to schools of suitable manpower resources.

I have the following views on individual recommendations of ECR5.

(1) I think that a systematic induction course for new recruits to the teaching profession will improve efficiency and foster a sense of belonging, and that improved co-operation between parents and schools will enable teachers to have a better understanding of the situation and the mentality of students such that they would be in a better position to offer appropriate counselling to students. Existing defects of school premises should also be rectified as a matter of urgency.

(2) The proposed improved teacher to student ratio is acceptable for the time being insofar as the present situation is concerned, but it is essential that the goal of providing more teachers should be expeditiously achieved within shorter time frame. Although computerization may lessen teachers' administrative workload, I would consider a more effective way is to further improve the teacher to student ratio.

(3) Regarding the issue of class size, I hope that the authorities concerned will bring back the repeater places as soon as possible and give greater autonomy to the schools so as to enable students who cannot attain the required standard to have the chance to do remedial work instead of being arbitrarily promoted. Reduced class size will lessen the workload of teachers and enable them to give more individual attention to students. This will in turn have a positive impact on the academic performance and growth of students. In this regard, I think that, circumstances permitting, and in keeping with the shifts in enrolment numbers, efforts should be made to reduce the class size from 40 to 35 as expeditiously as possible, in order to reach the target class size of 30 eventually.

(4) I very much agree in principle that subsidized school teachers should have similar fringe benefits as government school teachers, particularly insofar as housing benefits are concerned. A proper housing benefits scheme will go a long way towards raising the morale and professionalism of teachers.

(5) The proposal to create graduate master posts in primary schools is most encouraging, in terms of raising the quality of primary education. But I would

consider that 35% is not quite enough and the 15 years required to achieve that percentage target is too long. We should work faster to shorten the time and increase the percentage of graduate masters in primary schools.

(6) In keeping with the principle of raising teaching standard, I consider that all teachers should receive professional training. The Education Commission's proposals of offering different courses to in-service teachers and newly qualified certificated masters, indicate that individual needs of different teachers are taken care of, and that resources may be used cost-effectively to achieve our goals in an expeditious manner. In this regard, the creation of an Advanced Teacher's Certificate is an appropriate interim measure towards the ultimate goal of hiring graduate masters for all teaching posts so that it would enable non-graduate teachers to have more opportunity to further their professional knowledge, expertise and career development. I consider that the pay gap between graduate masters teaching in whole-day primary schools and their counterparts teaching in secondary schools should not be too wide and that teachers with Advanced Teacher's Certificate should receive tangible recognition, in terms of a higher salary point and better promotion prospects.

(7) The setting up of an Institute of Education to improve the quality of teacher training is a natural development. The upgrading of the Colleges of Education and the Institute of Language in Education is both feasible, cost-effective, and in line with the objective of providing the trained teaching personnel for primary and secondary schools.

All in all, I consider the various proposals of ECR5, if implemented, will be of great benefit to the education system of Hong Kong. If the working conditions, pay and promotion prospects of teachers can be improved systematically and properly, coupled with the provision of different kinds of induction and in-service training for teachers, then these will surely have positive effects on encouraging more people to join the teaching profession and helping to retain those already in the profession, and reducing the drain on experienced teachers. Given that raising teaching standard to improve the quality of education generally is a matter of top priority, I hope that the Government would be able to make available the necessary funds so that the recommendations of ECR5 may be implemented as soon as possible.

Mr Deputy President, with these remarks, I support Mrs Selina CHOW's motion.

MR PETER WONG: Mr Deputy President, as the Chairman of the Open Learning Institute, I wish to comment on the proposals of the Education Commission Report No. 5 concerning the initial and in-service training of teachers, and to take this opportunity to explain the concept of distance learning.

The OLI, one of Hong Kong's tertiary institutions, welcomes the opportunity to provide a co-ordinated programme of teacher education and development to meet Hong Kong's growing expectation for quality education in a systematic and cost-effective way. Far from popular belief, distance learning is not education by a correspondence course. Unlike conventional tertiary systems where once you are admitted, with few exception, you are accorded a degree, open learning has very meticulous exit standards that must be met. Our oft criticized failure rates bear witness to our commitment to give degrees only to those that have earned them -- the hard way. Being learner centred rather than institution centred, distance education has been successfully applied in the upgrading of teachers in almost all countries of the world. In emphasizing quality upfront in the planning of curriculum, in the creation of learning materials, in extensive tutor supported feedback systems, and in organized periodic discussions and assessments, distance learning brings out teaching and learning into the open. This makes sense as it allows large numbers to be trained rapidly at an affordable cost, enables participants to continue with their professional commitments and is least disruptive to the educational system.

Teacher training through distance learning offers some advantages over conventional courses. The geographical compactness of Hong Kong makes it easy to combine distance learning with face to face tuition. Teacher educators from all relevant institutions could collaborate in developing and running courses, thus ensuring optimum use of all local expertise. Since distance learning courses for working adults are funded by student fees, this approach should not require any substantial amounts of public funding.

The OLI was set up specifically to offer distance learning degree courses in arts, science and business for some 20 000 people. There are currently over 900 serving teachers enrolled in degree programmes at the OLI. Feedback from them and their performances indicate that the specially designed courses sit comfortably with this group of adults. As such, the OLI is confident that it will not have any difficulties in designing, developing and delivering professional courses specifically for upgrading the quality of educational activities in Hong Kong.

Following a detailed expert study on the tertiary education needs in Hong Kong, the OLI plans to establish its fourth school -- a School of Education which will hopefully enroll its first students in 1993. Fees to be imposed are expected to be well within the range of existing fee scales and the period of study will be short.

Mr Deputy President, given the size of the demand for in-service courses in primary education and the need for an early start, the OLI is well equipped to take up the challenging task of providing adequate and relevant degree courses with the necessary speed. The OLI believes that the Report's plans for teacher upgrading will be best accomplished through the collaboration of all those tertiary institutions competent and interested in teacher education. On its part, the OLI will appoint experienced specialists who, together with other local teacher educators, will form a powerful resource and collaborative enterprise. Preliminary discussions are underway to collaborate in curriculum and programme planning, course creation, tutoring and assessments, practicals and quality control.

The OLI strongly believes that self-funding degree courses for teacher training is a cost effective way to achieve the ultimate objective of improving our quality of education. We support the Report's recommendation for a development grant of \$10 million to be provided during 1993 for this worthy cause.

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

MR ALBERT CHAN (in Cantonese): Mr Deputy President, the long awaited Education Commission Report No. 5 (ECR5) was released last month. It has been quite positively received by the education circle generally, but there are still a great number of shortcomings which we should look at.

I would like to express my personal opinions on Chapter 2 of ECR5 which deals with problems arising from the working environment in schools. On the issue of induction for newly recruited teachers, ECR5 mentions that, in recent years, substantial number of new teachers have left the profession within a short time of joining to look for other jobs. It has also mentioned problems faced by the newly recruited teachers. The various problems raised by ECR5 reflect that the Education Commission is also concerned about the situation. That in itself is an encouraging sign.

Indeed, the salary point for graduate masters is quite attractive to the young fresh graduates. It is for this reason that most of our graduates from the two universities choose to go into teaching every year. However, most of these new teachers have no formal teacher training. They have to face the class alone, in addition to preparing lesson plans and marking homework assignments. They also have to perform other trivial duties such as, among others, helping students with the filling of their applications for public transport subsidy and for resitting the School Certificate of Education Examination. They have to keep order in the classroom and deal with disciplinary problems of students. I do not believe that such problems can be effectively dealt with by a young graduate who has no previous working experience. No wonder new teachers like to sarcastically talk about their being engaged in a fight with trapped beasts.

Presently, there is not much in the way of induction programmes organized for this group of new teachers in secondary schools. Even if these programmes exist at all, they are mainly held at the beginning of the school term. If anything, this kind of induction programmes are seldom organized by schools in the first place. ECR5's recommendation that a systematic induction programme be instituted is very well worth supporting. But ECR5 fails to mention what commitment and arrangement the Government will make towards this end. Neither is there any mention of whether these proposals made by ECR5 will be promoted and carried out only jointly by principals and teachers of some sponsoring bodies, together with teacher training institutions. One cannot see any answer in ECR5 to questions about how many schools have indicated interest in taking part in these programmes, or indeed whether the Education Department will come up with the required assistance and resources. I am not very optimistic, if the present situation is anything to go by. In this regard, I wish to make the point that if new teachers are not given appropriate induction or assistance, they will suffer far greater frustration than they will get job satisfaction. And this will eventually lead to a teacher drain, let alone improving. For this reason, I am earnestly hoping that the Government will be able to give us a clear reply and make concrete commitment to ease the wastage problem.

The second problem relates to the improvement of school premises. ECR5 mentions that many old schools are exposed to noise pollution. And the Government is engaged in a phased programme for mitigating this problem. Presently, 109 schools are equipped with noise abating devices. While this would seem to be an insignificant problem raised by ECR5, I would consider that the noise problem has a grave impact

in students in the affected schools. I have the following views. ECR5 is certainly right to recommend that noise abating devices should be installed in schools which are exposed to a noise level measuring 65 decibels. However, it is unfortunate that no timetable has been set for the installation of noise abating devices at some schools which are exposed to hourly continuous noise pollution from road and rail transport, reaching a noise level as high as 66 to 70 decibels. It is still anybody's guess when the Government will provide noise abating devices to schools which are exposed to a noise level measuring between 65 and 69 decibels. Parents, students and principals in the districts affected by such noise pollution are eagerly awaiting an answer to their problem. Indeed, according to the principals of the schools most affected by the noise pollution coming from adjacent roads, both teachers and students have to struggle through the noisy days, with some teachers resorting to speaking in class through a microphone, and consequently reducing direct contacts with their students. Meanwhile, teachers have to shout in order to get heard and they will ruin their voice if they do it too often. Insofar as students are concerned, they find it hard to concentrate and their learning spirit is seriously affected, given the poor school environment. Despite the large amount of money spent on education each year, I am afraid some of the projected aims will not be achieved due to such problems pertaining to the learning environment. The Government should indeed take stock of the situation. In this regard, I think that the Education and Manpower Branch should work out a timetable as soon as possible to improve the learning environment of these schools plagued by noise pollution.

The third problem I wish to bring up is one of class size, which is also mentioned by ECR5. But the study's findings are that slight changes in class size may not necessarily have substantial effect on student performance. In this regard, I would like to point out that the class size in the primary as well as the secondary sector invariably exceeds the 40 mark. That is no good for teachers and students alike. Given the large class size, it is very difficult for teachers, the class masters in particular, to take care of each student, particularly students who need closer attention. It is very difficult to get to know their learning and emotional problems. I therefore think that the Government should gradually reduce the class size, in an effort to improve teachers' morale and the relationship between teachers and students. And it is only with improved relationship that students will be able to receive better care and attention. Mr Deputy President, given the various problems raised by ECR5, both the Government and the community as a whole should join hands to work for the betterment of our education standards.

I support the motion. Thank you, Mr Deputy President.

MR CHEUNG MAN-KWONG (in Cantonese): Mr Deputy President, I speak for the United Democrats of Hong Kong (UDHK) and the Hong Kong Professional Teachers' Union (HKPTU) on the issue of teacher education. Education is a human enterprise. It is important to have good teachers to give proper education to our younger generation. It is a step in the right direction for the Education Commission Report No.5 (ECR5) to attach great importance to teacher education. It is also an appropriate step forward for emphasis to be laid on primary education and for the proposal to be made for graduate masters to take up 35% of the teaching posts in primary schools in 15 years.

Granted that graduate masters have to be trained for primary schools, we must also make sure that we are able to offer quality training in the first place. Quality training, of course, means that teachers should be able to attain professional expertise as well as a given academic standard. The training of graduate masters as recommended by ECR5 mainly relies on distance learning with a curriculum oriented towards professional expertise. One is rather sceptical of the quality of such a degree. This training method has the apparent advantage of producing a large number of graduate masters for primary schools on a grand scale in relatively short time, to meet ECR5's objectives. In practical terms, however, if speed is achieved at the expense of quality, it would only lead to the degree attained by primary graduate masters being relegated to a second-class degree which is discriminated against in society. It will not help much in the cause of equal pay and status between primary and secondary graduate masters.

As a matter of fact, discrimination has already begun in the sense that a primary graduate master is expected to receive a significantly lower pay than his secondary counterpart. Why is there a pay gap between them, both being degree holders? This problem has to be resolved otherwise it will give rise to future disputes and be detrimental to the efforts of attracting more talents to join the ranks of primary teachers.

Mr Deputy President, there are two other important aspects of teacher training which are not given due consideration in ECR5, namely, non-graduate teachers in secondary schools and kindergarten teachers. There are still about 40% of teachers in secondary schools who are not degree holders. Does the Government perceive the need for the universities and relevant colleges of education to organize courses so

that these teachers will be able to become graduate masters through proper training? Meanwhile, is it possible for the Government to consider generally enlarging the ratio of graduate masters teaching in a secondary school, now only 70%, to encourage more secondary teachers to become graduate masters?

Mr Deputy President, I am greatly disappointed at the kindergarten teacher training. In the past, the Government has not strictly required that the kindergartens follow the pay scale it stipulated to remunerate properly trained teachers. This has resulted in the general reluctance of kindergarten teachers to receive training. There has only been a pitiable 2% increase over two years in the number of trained teachers serving in kindergartens, between 1989 and 1991. Why has kindergarten education been accorded such a low priority in our kindergarten education system? Why do we regard the kindergarten education which is so vital to 99% of our infant population as something which is so inconsequential like an abandoned child?

ECR5 recommends that kindergartens should be encouraged by legislative means to hire properly trained teachers to make up 40% of their staff in 1994. But I consider that we must at the same time make sure that the trained teachers will be able to draw a reasonable pay commensurate with the Government guidelines. We should not allow kindergarten teachers to be treated as no better than modern-day Cinderellas who will quietly slog away without voicing any complaints. And no one seems to care about their wastage rate.

Mr Deputy President, education is a continuous process and so is teacher training. I propose in the present context that teacher training should have three goals: professionalization of kindergarten teachers; graduate masters making up 50% of our primary teachers, and graduate masters making up 100% of our secondary teachers. We should gradually improve the quality of our basic education within a time frame of 10 to 15 years.

Mr Deputy President, teacher training is a vitally important aspect of education, but it does not represent the whole picture. I would regard as equally important, improvement of the mode of education in terms of, as Mr Martin LEE suggested, implementing whole-day primary schooling and the abolition of the floating classes in secondary schools; and also improvement of the teaching conditions in terms of, as Mr Albert CHAN suggested, reducing the class size and increasing the number of teachers. Mr Deputy President, I completely agree with the point made in ECR5 that education is an investment. The manpower investment we make today will yield good

returns for us in future. Education is always a worthwhile investment; it is the project hope of tomorrow.

Mr Deputy President, with these remarks, I support the motion.

MR FREDERICK FUNG (in Cantonese): Mr Deputy President, the Education Commission Report No. 5 (ECR5) mainly addresses the issues of professional development of teachers and manpower resources for primary teaching. It is estimated that over the next 15 years an additional investment of \$23.5 billion will be required to implement the recommendations of ECR5.

ECR5 recommends that 35% of primary teaching posts will be upgraded to graduate status in 15 years in an effort to enhance the quality of education. Moreover, it also recommends a package of teacher education and development programmes to encourage more people intending to pursue a teaching career to continue to develop in the teaching profession.

Teachers play a very important role in the education process as a whole. They are vital in terms of transmitting knowledge to students and providing moral education to them. In addition, they play a key role in school administration. It goes without saying that the improvement of the professionalism and qualifications of teachers will directly help to improve the quality of education. It is in keeping with this principle that most of the recommendations of ECR5 are worthy of support. The problem is whether the Government has the sincerity to allocate funds for the implementation of these recommendations.

Before the discussion of funding, let us look at what has happened since the publication of Education Commission Report No. 4 (ECR4). The recommendations of ECR4 were also widely supported by the community. However, the Executive Council has recently deferred the implementation date of whole-day primary schooling recommended by ECR4 on the pretext of inadequate funds and giving priority to the implementation of the recommendations of ECR5.

Another example concerns the wide discrepancy which exists between the present supply of trained kindergarten teachers and the actual demand for them. Even now, trained kindergarten teachers account for merely 30% to 50% of teachers involved in kindergarten education. We can see from this example that the Government has also

deferred the implementation of some of the recommendations of ECR2 on the pretext of inadequate funds.

The objectives of ECR4 are to address the problems relating to the curriculum and behaviour of students at school. Its recommendations are aimed at students. However, these recommendations have not been implemented according to schedule. The plan for implementing whole-day schooling for all primary students within a time frame of 12 years, starting this year, would require only a modest additional spending of \$2 billion. It has nevertheless been deferred by the Government, again on the pretext of inadequate funds. Given a required investment totalling \$23.5 billion recommended by ECR5 for dealing with the seemingly less immediate problem of teacher training, one is quite justifiably worried that the Government will once again do what it has done to ECR4, that is, disregard its recommendations on the pretext of inadequate resources. If that is the case, then ECR5 will suffer the same fate of making recommendations which will not be implemented even in the remote future.

Apart from urging the Government to reserve sufficient funds for the implementation of the recommendations of ECR5, I would also like to stress that the student-oriented recommendations of ECR4, such as whole-day primary schooling, should be implemented simultaneously with the recommendations of ECR5.

I am convinced that, in keeping with principle of "Positive Discrimination or Equality of Educational Opportunity" (which means we should allocate more resources to students who are in need of assistance so as to help them to catch up with better endowed students), the plan to upgrade primary teaching posts to graduate status should be implemented in schools or for classes which have a proven inferior academic performance.

With these remarks, I support the motion of Mrs Selina CHOW. Thank you, Mr Deputy President.

MR TIMOTHY HA (in Cantonese): Mr Deputy President, the Education Commission Report No. 5 (ECR5) has drawn enthusiastic comments from various sectors of the community since its release. I am most gratified and encouraged by the fact that the comments given have so far been positive and the importance of strengthening teacher education is generally recognized.

Primary education has always been the weakest link in the basic education process. The greatest contribution of ECR5 is the way in which it has broken the taboo that no graduate master posts could be created in primary schools. As all educators know very well, teaching is no way to get rich. What teachers expect is a decent standard of living, and of course, a bit of job satisfaction and a sense of pride. A degree will not make the teacher a rich man, but higher qualification will not only result in improved quality of education but also a revitalized primary education sector. It will receive a shot in the arm and be better poised to achieve better results.

However, there is no perfection in our real world. ECR5 is not a cure-all for every problem relating to education. I heard a lot of criticisms on specific and technical areas of ECR5, both from the press and at the various briefings organized by the Education Commission. In order to allay scepticism and to secure greater public support, I wish to take this opportunity to offer some explanation and respond to the issues raised.

First of all, some critics of ECR5 have made the point that there is too much reliance on distance learning in the training of graduate masters for the primary sector and opined that the conventional way of instruction is better geared towards two-way communication.

I agree with this point. However, the proposed distance learning has three advantages. First, distance learning is the most flexible way of learning and is suited to teachers who wish to further their studies in their leisure time or holidays; it offers them optimum convenience in terms of optional learning time. Second, given the fact that primary schools are scattered all over Hong Kong Island, Kowloon, the New Territories and even the outlying islands, distance learning saves the commuting time of teachers and offers convenience in terms of learning venue. Third, in addition to distance learning courses run by the Open Learning Institute, both Hong Kong University and the Chinese University will also provide relatively conventional training in the form of pre-service degree courses in primary education. In this regard, distance learning is aimed at providing one more channel through which teacher training may be obtained such that teachers will be able to have diversified choices. What is more, ECR5 points out that a suitable proportion of the degree work will be conducted through tutorials. There is no question therefore of participants not being able to benefit from two-way communication.

There is another view that the setting up of a Council on Professional Conduct

in Education will effectively shoot down the proposed teachers' union. Admittedly, the proposed Council may only discuss issues and perform advisory functions; it does not have executive authority. However, given the fact that the education circle has not been able to come to a general consensus on the establishment of a teachers' union, any hasty formation of a teachers' union will only give rise to future disputes. For if the teachers' union has the authority to register teachers, it will effectively become the final arbiter of a teacher's career. Such a union will not enjoy wide recognition unless the teachers themselves are able to first of all form a cohesive force and reach a consensus.

Bearing in mind the complete dismissal of the idea of a teachers' union by ECRI, and comparing it with the cautious but nevertheless open attitude taken by ECR5 towards the same issue, it can be seen that the Education Commission has shifted its position from opposing the teachers' union to being prepared to give it consideration. When the union will become a reality of course depends on the concerted efforts of the teaching profession as a whole. What is more, it is an issue which indeed calls for active involvement of the Government, parents, and even employers of teachers. In this regard, the setting up of a teachers' union is still something which has to be deferred until the time is ripe.

Although ECR5 has been dealt with from different angles by the public, I would still insist that the reading public look at the document in perspective. We should support that ECR5 is going in the right direction and leave the specifics to later fine tuning. This way the Government will not be able to defer the implementation of its recommendations, or leave them on the shelf altogether, on the pretext of strong dissenting voices.

The various recommendations of ECR5 are indeed integral parts of one package. It represents a step forward designed by the Education Commission for the teaching profession. Each step of the way is complementary to each other. The main aim is to find a viable way between the ideal world and the real world. The Government has to make two commitments in terms of the provision of resources. First, it should make sure that the funding base line is maintained despite a declining school age population. Second, while it would seem that the additional allocation of \$23.5 billion within a time frame of 15 years involves a whole lot of money, the extra spending works out to be no more than 7% of the annual spending on education. Education should not be regarded as another item of consumption; it should be considered to be an investment. I would think that ECR5 recommendations represent

a project of low investment and high return.

Mr Deputy President, with these remarks, I support the motion.

MISS EMILY LAU (in Cantonese): Mr Deputy President, a group of Taiwan graduates came to see me last week. They requested me to air at today's motion debate their grievances about the discrimination which they suffered at the hands of the Government. Although they did not do their degree studies in Hong Kong or other Commonwealth countries, upon their return to Hong Kong, they were admitted to the School of Education of the Chinese University of Hong Kong through the same procedures as applied to local teachers and they have been awarded the same Diploma in Education like other graduates. In this regard, they did not understand why for so many years the Government had failed to give recognition to their academic status and reward them with equal pay for equal work. They felt that they had suffered great exploitation and discrimination. Moreover, they also regarded as discriminatory the recommendation of Education Commission Report No. 5 (ECR5) for an examination system to be set up to enable teachers who have not been able to secure Government's recognition to become qualified. They felt that in order to be fair to all, the examination should be obligatory for all parties, instead of being designed mainly for one particular group.

Mr Deputy President, I have a lot of sympathy for these teachers who made the complaint. Their plight reminds me of the strong protectionism of the Government. Although the Government always tell locals and foreigners that Hong Kong is a fair and free society, such incidents of unequal pay for equal work, which may even contravene human rights, will surely tarnish the image of Hong Kong. More importantly, the irony is that such protectionism is entirely not to the benefit of our students. We are all aware that the declining language proficiency and slipping academic standards of students, have been due to the lack of moral education and counselling; this is certainly linked to the issue of teacher training and manpower shortage.

ECR5 makes the point that it has been increasingly difficult to recruit local graduate masters in recent years and more and more teachers have no plans to read for a diploma in education. Some teachers leave the teaching profession after teaching for a few years. In this connection, some schools have made a point of hiring more non-graduate teachers to fill their vacancies. This has led to the phenomenon

in primary and secondary schools of teachers having to teach subjects which are other than their specialisms. Mr Deputy President, I am afraid that such arrangement will directly lead to a decline in education standard.

The failure of Government's policy to encourage non-Commonwealth graduates to become teachers in Hong Kong is, I believe, not helpful at all in terms of resolving this problem which may very well deteriorate. I hope that the Government will take a broader view on this issue and put Hong Kong's interests first. In order to improve the quality of education in Hong Kong, it is important that the Government should give up the tunnel vision that only local or Commonwealth universities will produce quality graduates. For example, ECR5 makes the point that the Government does not have enough means to ascertain the academic standing of non-Commonwealth universities, the Government has, also on account of inadequate manpower resources and for the sake of economy, introduced a multiplicity of teaching grades to complicate the situation. As a matter of fact, Mr Deputy President, there are many international academic accreditation bodies of good repute and they accreditate tertiary institutions all over the world, including non-Commonwealth universities. I think that all graduates of such accredited institutions should be allowed to teach in Hong Kong and become graduate or certificated masters in due course. The selection of academic accreditation bodies can be left to the Hong Kong Council for Academic Accreditation. This arrangement will not only alleviate the shortfall of teachers but will also enable more properly qualified, properly trained and mission-inspired people to join the ranks of teachers. And Hong Kong students will be the ones to benefit eventually.

However, I think that in the long run, if we are to further improve the professionalism of teachers, the Government should aim to have all teachers become holders of diplomas in education. We must understand that academically bright people may not necessarily know how to teach and they may not be able to communicate with young people. In this connection, professional teacher training is indispensable in terms of making teaching a real profession.

With these remarks, I support the motion.

MR LEE WING-TAT (in Cantonese): Mr Deputy President, I wish to speak on the issue of teachers' union mentioned in the Education Commission Report No. 5 (ECR5).

Many commentators have made the point since the public release of ECR5 that the

Education Commission's recommendation that a Council on Professional Conduct in Education be set up under the Education Department to replace the proposed General Teaching Council is indeed the most disappointing of all. The idea of setting up a teachers' organization, which we now call a teaching council, was raised as early as 1982 in the Report of the International Panel of Consultants (the Llwellyn Report). It was to be a body in charge of teacher registration, setting minimum conditions of service, giving influential views on teacher education, improving the professionalism of teachers and enhancing the professional status of teachers. And a body as such would be one which has responsibilities, authority and autonomy. The council would be responsible for monitoring teachers and carrying out disciplinary action against those who have violated the code of practice or otherwise been found guilty of dereliction of duty, in order to maintain minimum standards of professional conduct. Meanwhile, the promotion of teacher education will enable Hong Kong to maintain a high quality corps of teachers. The council will have the authority, like other professional bodies of lawyers and doctors, to register and deregister members. The council will need to have autonomy in the sense that it is to be formed by direct election through democratic procedures by teachers so that it can serve as a body with which teachers can identify, which truly represents and belongs to teachers. These three conditions have to be met in order to make sure that teachers are able to actively upgrade themselves and perform their best under an atmosphere of high vigilance and self-discipline. This will in turn translate into real benefits to the community as a whole, and to young students at school in particular.

But why is it that the Government did not set up the teaching council, in accordance with the recommendation of the International Panel of Consultants? The reason is that the Education Commission has acknowledged right from its first Report that the Education Department was already an adequate authority to monitor the professional qualification of teachers and that it would suffice for the Department to just issue a set of guidelines to enable teachers to have something to refer to in terms of professional conduct. That decision taken by the Education Commission has delayed the setting up of a teaching council for 10 years. But is it appropriate for the management of the enterprise of education to be entrusted entirely to the Education Department, with education workers unable to participate in the process at all? The Education Department as a government department is prone to deal with issues from the administrative and financial points of view. It is unfair and not possible for us to expect the Education Department to manage education from a theoretical and professional perspective. One is prone to lose confidence in the Education Department if the recent case of dismissal of the principal of Kung Shing

Tong School is anything to go by; it was an incident in which procedure completely took precedence over justice.

What sort of guidelines is the Education Commission hoping for? One important conclusion arrived at by the Preparatory Committee for a Professional Code for Education Workers after working on the issue for five years and meticulous consultation exercises and research is that the only way a code of professional conduct can be enforced is through the setting up of a teaching council with wide ranging functions. Mr Deputy President, I believe this conclusion is in fact the consensus of the entire teaching profession.

The Hong Kong Professional Teachers, Union with a membership of over 50 000 and 43 other active education bodies have reportedly made their clear representations to the Education Commission to express their support for the setting of a teaching council which has statutory status. Given that ECR5 recognizes that the setting up of an autonomous professional body is a goal worth pursuing, it is up to the Education Commission to create the necessary conditions and an environment conducive to the materialization of the body within a reasonable time frame.

The education circle has already made its position abundantly clear. We cannot see any insuperable obstacles which might get in the way. It is up to the Education Commission to draw up plans for the setting up of a teaching council according to the representations it has received. It would be very disappointing indeed if this issue has to be delayed for a few years more to see what can be done. Teachers have the responsibility of taking on a more active role in terms of acting as a partner of the Education Department in the development of the education enterprise in Hong Kong. They should not be relegated to mere targets of regulation by the Education Department. For the sake of the education enterprise, I think that the Government should act courageously and implement steps and procedures towards setting up a teaching council.

Mr Deputy President, with these remarks, I support the motion.

MR MAN SAI-CHEONG (in Cantonese): Mr Deputy President, we have in our community a group of admirable ladies who have made pre-primary education their vocation; they are wholly dedicated to the education of our three to six year-olds, teaching them the first lesson in their lives as it were, with love and patience.

Most of our kindergarten teachers are women and an unreasonable pay deal is what they have been receiving for a long time. ECR2, which was published in 1986, recommended that trained assistant teachers at kindergartens should receive a starting salary at point 5 on the master pay scale while their untrained counterparts should start at point 4. (Both starting points are close to point 1 on the present master pay scale.) A qualified kindergarten teacher would receive point 10 on the present master pay scale, which is already a not very reasonable pay package, given that most of them are either principals or prefects of studies. However, according to a survey conducted towards the end of 1991, we have learnt that 51% of our kindergarten teachers were not even getting that minimum pay. It can be seen therefore that there exists no protection at all in terms of pay for our kindergarten teachers.

Nearly all of us have the experience of teaching infants. However, the teaching of infants systematically and in an inspiring manner to make sure that they are able to develop intellectually and cope with everyday life and inter-personal relationship should be regarded as a special discipline in its own right. In this regard, we demand that kindergarten teachers must receive professional training. An interim target set by ECR2 was that by 1990 and 1994, 40% and 60% of our kindergarten teachers should have been properly trained, respectively. However, statistics show that up until 1990-1991, there were still 45% of our kindergartens not able to meet the 40% target. The consequent postponement, by ECR5 on the advice of the working group, of the implementation date set for these two targets to 1994 and 1997 respectively is indeed regrettable.

Whereas one can see from available data that there are apparently enough training courses provided by the Government for kindergarten teachers, the enrolment figures of these courses have been quite disappointing. (The enrolment rate for 1991-1992 was only 64%.) There are many reasons for this. One reason is that kindergartens are unwilling to hire qualified teachers, in order to cut running costs. The other is that some trained kindergarten teachers are not able to get the pay which they deserve. It is in this context that legislative means should be sought as a matter of top priority to prescribe a minimum percentage of qualified teachers and I support the recommendation of the Education Commission on this matter. However, ECR5 has made no mention of what sort of pay protection would specifically be given to the kindergarten teachers, following legislation. The lack of details to substantiate this recommendation may give rise to loopholes in terms of implementation.

One prerequisite for legislative control suggested by ECR5 is that an improved kindergarten fee remission scheme should be in place such that needy families will be able to pay for the increased fees which may result from legislation. That is a fair enough principle. However, one can see that the increased funding recommended in this respect will fall far short of the target. In this connection, I request that the Education Commission should reassess the spending in this respect to make sure that there is enough funding to make for the sensible enforcement of the legislation. This way our young children will not lose the opportunity of receiving kindergarten education altogether due to financial hardship.

I agree in principle with the ECR5 recommendation for the quality of kindergarten education to be improved through the improvement of the quality of kindergarten teaching in the first place. But in the long term, the Education Commission should review the nature and special needs of kindergarten education in the pragmatic context of Hong Kong. Consideration should be given, when the time is ripe, for kindergarten education to be incorporated into the subsidized public education system. I think it is the only way to really ensure the quality of kindergarten education.

Mr Deputy President, with these remarks, I support the motion.

MR HENRY TANG (in Cantonese): Mr Deputy President, the Education Commission Report No. 5 (ECR5) which has enjoyed the wide support of the community can be said to be the most popular document of recommendations issued from the governmental advisory framework in recent years. ECR5 lays its emphasis on primary education and is mainly focused on the issues of upgrading teaching quality and improving the teaching and learning environment. Such orientation also coincides with the cause for which our education workers have been fighting for a long time.

Education is the responsibility of both parents and Government towards society. In the context of the reversion of sovereignty of Hong Kong to China in five years time, bearing in mind the need for us to make Hong Kong people ruling Hong Kong a reality, we are going to need a greater supply of young talents who will be able to participate in the administration of Hong Kong and serve the community generally such that the good reputation and international status of Hong Kong will be preserved. Hong Kong industry is moving towards high technology, while we are in the midst of an economic restructure, in order to strengthen market competitiveness. Business

has relatively higher demands of our students in keeping with this trend towards high technology. In this regard, the Government is quite right to actively expand tertiary education to enable more young people to have the opportunity of upgrading their academic standard. However, education calls for a balanced development and the neglect of secondary and primary education would have an adverse impact on the quality of students.

I therefore welcome the recommendation of ECR5 to create graduate master posts in primary schools such that 35% of primary teachers will be graduate masters within a time frame of 15 years. Given that graduate master posts will be created in the primary sector, the issue of how best to determine their pay level is something which the Government should consider very carefully. There is a view that given that graduate masters will be teaching in both primary and secondary schools, we should give them pay parity. However, I think this is an issue which we need to look at more carefully. For there are very different requirements in terms of primary and secondary teaching. For example, the techniques and knowledge required in the teaching of chemistry and physics at secondary level and the teaching of natural science at primary level are basically different. To put it the other way around, the teaching of a group of 40 Primary II mischievous kids is no easy task either. In any case, the Government should consider and review very carefully the issue of the starting pay both in respect of graduate master posts for primary schools and in respect of the additionally created senior graduate master posts in secondary schools.

Mr Deputy President, ECR5 recommends the amalgamation of the four Colleges of Education and the Institute of Language Education into one autonomous tertiary institution. I think that such amalgamation is a step in the right direction for it will enhance the development of teacher training and academic standard. I understand that with the setting up of the amalgamated Institute of Education, the Government would be investing up to \$100,000 each year in each degree place. The level of subsidy which the Institute receives is close to that received by the member institutions of the University and Polytechnic Grants Committee (UPGC); indeed it is already more than what the Baptist College and Shue Yan College are getting. The fact is that students produced by our tertiary institutions have been able to achieve rather high international standard and reputation; some of them are even leaders of certain fields of academic research globally. It can be seen that our tertiary institutions will be well placed to produce high quality and excellent teachers, given adequate funding. And these teachers will in turn provide a soundly and firmly based

education to our next generation. However, I fail to understand why the Institute of Education should become a uniquely independent institution. Given that it is going to be a degree awarding institution, it should also come under the auspices of the UPGC in order that resources will be utilized in a more cost-effective manner. I hope that the Government will consider this issue very carefully.

As ECR5 states explicitly, education is an investment. I consider education to be not only an ordinary investment; it is a long-term investment, with possibly very high return. The more resources a community commits to education, and the more cost-effective the way in which these resources are used, the higher the return we can obtain. The cost of implementing ECR5 for the first year, that is, 1993-94, would require funding of \$290 million. Though the required funding may go up to \$1.27 billion by 1995-96, I hope the Government would still be willing to make more commitment, to increase the spending on education to 17.1% of our recurrent expenditure. I believe that the Government is now in a financial position to meet the extra spending without having to sacrifice or reduce funding committed to social welfare, housing and medical services.

It is for the sake of the educational development of our next generation, and for the sake of our future community needs, that the Government should very gladly take up this responsibility.

Mr Deputy President, I support the motion.

MR TIK CHI-YUEN (in Cantonese): Mr Deputy President, Meeting Point consider the Education Commission Report No.5 (ECR5) to be a consultative document with strategic significance. It touches on the issues of the professional quality of teachers and the teaching and learning environment, which are long-standing as well as immediate concerns of Hong Kong education. These two issues were discussed by this Council in a motion debate in May this year on the quality of primary and secondary education which I initiated. Meanwhile, ECR5 has made recommendations addressing these issues, which are worthy of our support. Of course, ECR5 also has certain inadequacies which must be rectified by means of public discussion and wide consultation so that its recommendations will become closer to perfection. I will express Meeting Point's views on the issue of creation of graduate master posts in primary schools and parental participation. Later on, Mr WONG Wai-yin will express our views on the issue of upgrading the Colleges of Education and improving the teaching and learning

environment.

Graduate masters for the primary sector

Meeting Point consider that the creation of graduate master posts in primary schools is a right goal to work for and we support hiring graduate masters to fill all teaching posts in the primary sector. But the strategy recommended by ECR5 is wrong. It proposes only one way of achieving the goal of upgrading, which is to encourage certificated masters to take a degree course in primary education so they may become graduate masters. Meeting Point consider that this singular solution is wrong in two respects.

First, we can see that over the next 15 years the number of degree holders will rise substantially, many of whom may be interested in choosing primary teaching as their career. However, they will not be able to join the ranks of primary teachers without a degree in primary education. This will effectively close the door to this elite group. Not only will social resources be wasted but the goal of ECR5 to attract high calibre teachers will also be defeated.

Second, the requirement that certificated masters may only be promoted if they have completed the degree course in primary education will result in all of the teachers in a primary school having the same degree in primary education. Such a school tends to be run on more monotonous and conservative lines than one in which teachers hold degrees in a variety of disciplines. What is more, given that primary graduate masters enjoy inferior conditions of service than their secondary counterparts, this will result in the former being regarded as graduate masters of an inferior kind.

Meeting Point have three recommendations on the issue.

First, graduates of all tertiary institutions should qualify for primary teaching once they have acquired the necessary teacher training, in order to expedite the upgrading process.

Second, graduates of Colleges of Education should be promoted to graduate masters once they have obtained a degree relating to education. They should have a wider choice than the required degree course in primary education.

Third, primary and secondary graduate masters should enjoy the same status and conditions of service.

Parental participation

Meeting Point always stress that parental participation is important in the learning process of children. Parents and children are both consumers of the education service and their rights have therefore to be protected. Meanwhile, we also believe that co-operation between parents and schools is important in the growing up process of school children. ECR5 has not devoted too much space to parental participation, except in paragraphs 2.9 and 2.20, where the importance of such co-operation is clearly acknowledged and the view is taken that parents have the right to information and participation. It also advocates the setting up of a standing committee, with parent as chairman, on co-operation between parents and schools to promote co-operation between both sides and encourage more parental participation. Meeting Point support these proposals. It is unfortunate, however, that there has not been much discussion on this issue since the publication of ECR5. In this regard, I appeal to educators as well as parents to offer their views. The implementation of these proposals will cost only \$5 million next year, which is not a heavy burden at all. I therefore would like to make it abundantly clear that the Government should not ignore the important factor of parental participation due to cost consideration.

Mr Deputy President, ECR5 has the credit of putting forward a package of recommendations. The suggested remedies are all complementary to one another. For example, while we have to upgrade teacher education, we also have to improve the teaching and learning environment for one cannot do without the other. Whereas the demand for additional funding to the tune of \$23.5 billion for the next 15 years would seem to be a big challenge to the Hong Kong Government, the recommendations will definitely have the widespread support of Hong Kong people if eventually they are able to improve the quality of education. In this regard, the Government should make the financial commitment to satisfy the needs of Hong Kong people.

While debating the issue of election system yesterday and earlier today, Members of this Council have expressed different views along their party lines. However, whatever one's party or faction, one would find common ground with others in terms of solving the education problem. In this regard, colleagues should take a united stand, regardless of party affiliation, to work together to fight for more resources from the Government so our quality of education may be improved.

Lastly, I would like to take this opportunity to express my discontent with the problem of shortage of education facilities. For many years now, the Tai Po and New Territories North District Boards have strongly requested that the Government alleviate the shortage of secondary and primary school places. However, the problem is still with us for all these years of discussion. This year, there are still 700 and 500 Form I students from Tai Po and New Territories North respectively who have to travel to attend schools outside their districts. The shortage of secondary places is a problem which the Government has not actively sought to resolve over the years. I would like to lodge my strong protest here in the hope that the Government will come up with a complete solution to this problem which bears on people's livelihood.

Mr Deputy President, with these remarks, I and two other Council Members of Meeting Point, namely Mr Fred LI, Mr WONG Wai-yin, will support the motion. Thank you.

DR YEUNG SUM (in Cantonese): Mr Deputy President, I wish to speak to the two sections of the Education Commission Report No. 5 (ECR5) concerning the improvement of teacher education and of the status of Colleges of Education.

All recommendations regarding the improvement of the quality of education will only get half the results though with doubled efforts made to implement them, without quality teachers. The Colleges of Education which are responsible for the training of our secondary and primary teachers have long been suffering from a lack of sufficient government attention. It is an indisputable fact that they are plagued with problems of inadequate funding and antiquated equipment. Unfortunately, other than confirming the need for the Colleges of Education to be separated from the Government, ECR5 does not seem to have any well-defined objectives and clear-cut commitment regarding the issues of upgrading their status and attracting more talents to join the ranks of teachers.

First of all, the four existing Colleges of Education are situated in 10 different locations. With no uniform planning standards, they suffer from inadequate space and poor teaching and learning facilities. The situation has in fact become even worse with the expanded enrolments over the past couple of years. Meanwhile, the problem of decentralization, with the facilities of four Colleges dispersed over 10

locations, results in the duplication of facility and ineffective use of funding resources. Regarding the piecemeal modifications to the existing campus facilities as suggested by ECR5, there is no way at all in which the Colleges of Education may be able to acquire central facilities befitting a tertiary institution, in the way of, among others, sports ground, swimming pool, central library, computer centre, student amenities centre and administration block. Meanwhile, they will not be able to attract the well qualified secondary school leavers to make improvement to the quality of overall education eventually. In this connection, a more far-sighted way to go would be for us to identify a site to provide centralized campus facilities for them immediately so as to make the best use of limited supply of talents and resources. It is only through effective allocation of manpower and resources that we will be able to achieve cost-effectiveness in the long run.

Secondly, one is still prone to query the courses offered by the future Institute of Education. ECR5 proposes that, once validated by the Hong Kong Council for Academic Accreditation, the Institute of Education would be able to run certain degree courses and to provide an opportunity for graduates to be admitted to a two-year, full-time course. It is unfortunate, however, that only 7%, or about 100 students, will have such an opportunity. Is such an enrolment not too small for such courses? Is this arrangement quite capable of attracting the well qualified candidates to take up primary teaching as their career?

Thirdly, there are many problems which may arise from the upgrading of Colleges of Education and which have not been carefully thought out. Little consideration has been given, in particular, to retaining experienced teaching staff and enabling them to continue their service. One possible way is for existing teaching staff to retain their civil servant status and, with enough training funds being made available, they may be encouraged to go for further studies either in Hong Kong or abroad so they will be able to continue their service in the Institute upon acquiring higher qualifications. The present recommendations tend to rely too much on the Provisional Governing Council which has yet to be set up. In any case, the Provisional Governing Council has no teacher and staff union representatives, a fact which may affect a smooth transition.

To conclude, Mr Deputy President, I would like to remind the Government that it is now time to make wholesale reforms to the Colleges of Education which have suffered from neglect for years. Any more excuse to delay reform, such as inadequate resources, or further review required, would only result in the further deterioration of the

quality of basic education and effectively deprive the teacher training institutions of the attention and substantial improvement which they so rightly deserve. Meanwhile, the failure of ECR5 to mention a specific timetable for the upgrading of the Colleges of Education is also disappointing. The extra funding commitment for the upgrading of the Colleges of Education recommended by ECR5 is extremely modest, that is, only \$1.6 billion over 15 years. We worry that this whole business of upgrading is merely trying to give pie-crust promise to silence the critics and that the improvement of quality of teacher education would forever remain a dream too remote to come true.

Mr Deputy President, with these remarks, I support the motion.

MR WONG WAI-YIN (in Cantonese): Mr Deputy President, the Education Commission Report No. 5 (ECR5) shows that in the next 15 years the Government should commit itself to the improvement of the quality of primary and secondary education and take appropriate steps in that direction. I will focus on two key issues of our education in the present context, namely, the improvement of the education environment and the upgrading of Colleges of Education.

The improvement of the education environment is an important section of ECR5; it is also something which will require huge spending. However, ECR5 recommendations in this respect are far from satisfactory. I would like to point out that floating class is merely a contingency measure as a result of inadequate provision of classrooms. It no doubt has a negative impact on students' learning spirit. However, while the new-design standard school proposed by ECR5 has 26 instead of 24 classrooms, it is still not quite equipped to solve the problem of secondary schools running 30 or more classes. In other words, most of our secondary schools will still have to run floating classes.

Neither does ECR5 make any commitment regarding the issue of whole-day primary schooling. Although the Education and Manpower Branch has plans to systematically raise the whole-day schooling class to teacher ratio to 1:1.5, the Education Department estimates that there will only be 154 whole-day schools by 1997 and most of our primary schools will still be operating on a bi-sessional basis. Put in another way, most of our primary schools will still operate on the ratio of 1:1.3. Meeting Point consider that the Government should make up its mind and go ahead with the implementation of whole-day primary schooling if it is serious at all about

improving the quality of education.

While ECR5 also recommends increasing the number of secondary and primary teachers, it is in response to the demographic changes and curriculum policy changes rather than motivated by the desire to lessen the workload of secondary and primary teachers. For example, the additional provision of teachers from 1992 onwards is, I believe, merely to cope with the bifurcation of matriculation and the teaching of the newly created advanced supplementary level examination subjects. And while ECR5 recommends the creation of one to two more certificated master posts for September 1995, that again is merely in order to cope with the additional workload generated by the implementation of the Targets and Target-Related Assessment (TTRA).

Regarding the issue of improving the teaching and learning environment, ECR5 proposes the additional provision of a staff common room, a student activity centre and one to two clerical officer posts, as well as a computerization programme. Whereas these will certainly be conducive to an improved education environment, Meeting Point consider that in the long term, the abolition of floating class and the implementation of whole-day primary schooling are issues which the Government must address squarely.

Now I would like to move on to the issue of the upgrading of Colleges of Education. ECR5 makes the point that the Colleges of Education find themselves in an embarrassing situation because they are not able to award degrees and it is becoming more and more difficult for them to attract high calibre secondary school leavers to enrol in their courses. At the same time, the poor resources of the Colleges of Education also have an impact on the students it actually manages to enrol. Meeting Point consider that their problem may be resolved in the following two approaches.

First, the Colleges of Education should become one degree awarding institution.

Second, better resources should be given to the Colleges of Education.

ECR5 has not made any specific commitment regarding the first point. We still cannot see the Colleges becoming one degree-awarding institution any time soon. Meanwhile, with the continued expansion of tertiary education, and given the bleak promotion prospects for certificated masters, the direct result could be further decline in the number of people going into primary and secondary teaching.

The Colleges also need to have improved facilities. Both teaching staff and students of the Colleges have for years complained to the relevant department about, among others, antiquated facilities, inadequate provision for equipment and library and unfair promotion prospects for lecturers. Indeed, compared with other tertiary institutions, the Colleges have apparently inadequate facilities and equipment. And teaching staff of the Colleges have indeed to take up more tedious and non-teaching related administrative duties, vis-a-vis their counterparts in other tertiary institutions. What is more, they are faced with even greater workload in the near future in anticipation of the forthcoming transition, preparation of documentation for academic accreditation, and the proposed redevelopment of campus. ECR5 has made no mention either of re-employment of lecturers or of opportunities open to them for further studies. Factors such as these will add to the anxiety of the staff.

Whereas ECR5 recommends the setting up by early 1993 of a Provisional Governing Council and an autonomous Governing Council thereafter to run degree courses, it has not specified the Government's financial commitment. One is therefore sceptical of the determination of the authorities concerned to allow the Colleges to run degree courses.

The Financial Secretary has budgeted \$4 million in the next financial year to lay the groundwork for the enhancement of the status of the Colleges of Education. We are very disappointed. It is roughly estimated that the money is only good enough for the four Colleges to buy several dozen sets of computers or for their libraries to acquire a consignment of new books. But it is hardly enough to alleviate the battered state which the Colleges find themselves in when it comes to facilities and equipment.

In this connection, Meeting Point consider that the Government should increase provision of resources, given its commitment to upgrading the quality of the Colleges of Education. We also suggest that the Government should first of all implement expeditiously the recommendation for the Colleges to start their degree courses and set a concrete timetable for its progress. Secondly, improvement should be made to facilities and equipment of the Colleges without delay, particularly in the transition period of the Colleges to the Institute of Education. If a large number of specific measures are left for the Provisional Governing Council to work out and to implement, then we are afraid that the deplorable state is going to persist. Thirdly, in the context of expansion of tertiary places, the appeal of the Colleges will be reduced in the years to come. It is up to the Government to look at the problem

and seek to improve the quality of students. Fourthly, ECR5 states that only about 10% of the certificated masters will become graduate masters through completing in-service training courses. In this regard, the Government should find ways to improve the quality of the remaining large number of certificated masters.

Mr Deputy President, with these remarks, I support the motion.

SECRETARY FOR EDUCATION AND MANPOWER: Mr Deputy President, may I first, on behalf of the Government, thank the Education Commission for its fifth report. As ex-officio Vice-Chairman of the Commission, I can personally attest to the dedication and hard work of its members and to the depth of thought and intensity of debate that have gone into the preparation of the Education Commission Report No. 5 (ECR5). I am sure also that my colleagues on the Commission will wish me to say how grateful we are to our Chairman, Mrs Rita FAN, for guiding us so skilfully through the maze of inter-locking issues to arrive at a strategic view of the improvements needed by and for our teaching force.

Universal education has brought into the classroom pupils from more diverse backgrounds, with a wider range of scholastic ability and motivation. This has made teaching more difficult than ever. The Commission's previous report, ECR4, addressed this problem. New initiatives were recommended to improve the curriculum, enhance counselling, set attainment targets and rationalize the medium of instruction. These have become policy and are being implemented. But the backbone of the education system, the linchpin to make all these improvements work, continues to be the teacher. Faced with increasingly complex tasks, he or she requires constant upgrading of knowledge and skills, as well as support and recognition not only from the Government but also from principals, parents and the community at large.

Paradoxically, our very economic success has tended to make teaching less attractive as a career at a time when the demands placed on our teachers, both personally and professionally, are at their greatest. Expanding availability of degree places and good prospects for employment in business and industry have given young school leavers an increasing array of choices and made a teaching career look relatively less attractive. A way must be found to make a teaching career more worthwhile, for we need teachers with the right qualities and attitudes to whom we can entrust the education of our next generation.

This is what ECR5 has sought to do. It proposes a package to improve the preparation and career development of teachers and to remove disincentives to promising young people interested in teaching. This package has been recognized and acclaimed as a comprehensive, forward looking and realistic package to deal with the present and future demands on the teaching profession. Of course there are, and will be, other views on specific issues, some offering alternatives and other actually disagreeing with what has been proposed. This is only to be expected, since ECR5 deals with a highly complex subject and its many recommendations affect different people differently.

ECR5 is now undergoing a period of public consultation which will last until the end of September. I urge the public, and the education community in particular, to study the report carefully over the summer and to let us have their views.

The Commission and the Government would welcome views from all sources and will listen to them carefully. When the period of public consultation is over, the Commission will take stock of the public response and consider whether its recommendations should be modified in any way. I shall then, as Secretary for Education and Manpower, formulate policy proposals for the consideration of the Executive Council, taking fully into account the public's views and the further thoughts, if any, of the Education Commission. This elaborate process is necessary to ensure that the community's needs and aspirations are fully reflected and given weight in the examination of policy options.

Since public consultation on ECR5 is still in progress, I do not propose to comment today on specific recommendations in the report or Members' views on them. Instead, I would like to make four general points.

First, unlike previous reports of the Education Commission, ECR5 deals with a single subject -- teachers. This reflects both the size of the problem and the importance of the proposed reforms. So far, public attention seems to have focussed on the cost of implementing these proposals. There is no doubt that a substantial investment is needed. But it would be quite wrong to believe that all the present inadequacies can be resolved simply by injecting more cash into the system. The changes which have taken place in our classrooms require tackling with imagination, patience and dedication. Money will not be everything. I hope and trust that the education community will treat ECR5 not passively as just a catalogue of overdue improvements, but positively both as an invitation to better and more clearly defined

opportunities and as a challenge to higher levels of endeavour.

Secondly, I know there is a view that all the ECR5 recommendations should be implemented as a package. I can understand the anxiety to make progress. I also accept that many of the proposals in the report are inter-dependent. But there are obvious limits to how far one can go with an "all or nothing" approach. If the corollary to not being able to proceed with all ECR5 proposals is to make no progress at all, then common sense would suggest that this is not an acceptable position to take. Some degree of priority setting will probably be necessary. The Government would welcome views from the community on what the priorities should be.

Thirdly, there is a further facet to priority setting, namely, the relative importance and urgency of ECR5 recommendations vis-a-vis other desirable improvements to the education system. There is a view strongly held in some quarters and eloquently expressed today that the Government should set a specific timetable for converting all primary school classes to whole-day operation. I have already explained the Government's policy on whole-day schooling in some detail, in answer to a question in this Council on 24 June. Our policy is to encourage primary schools to run whole-day classes wherever the enrolment situation in the locality allows. This encouragement is given in the form of additional and more senior teaching posts and an enhanced class grant. Resource considerations apart, this policy will enable all concerned to gain more experience of this mode of operation. It will also avoid a dramatic increase in the demand for good quality teachers which, as ECR5 demonstrates, the present system is not well placed to meet. This is why we have chosen not to adopt a definitive timetable for whole-day schooling at this stage. Nevertheless, given the amount of public debate which has surrounded the question of whole-day schooling, I wish to make it clear that I would welcome views from the community on the priority which should be accorded to setting a timetable for full conversion to whole-day schooling, in relation to the fundamental improvements recommended for teachers in ECR5.

Finally, and I apologize for keeping Members waiting, I come to the question of funding. To a large extent, the Financial Secretary's briefing on 8 July on spending priorities has already provided the answer. The recurrent expenditure to arise from ECR5 in 1993-94 has already been noted as a spending aspiration. Whether this aspiration can be translated into reality depends on several things. First, it depends on the outcome of the public consultation on ECR5 and what policies are finally adopted. Secondly, it depends on the amount of new money which the Government

will have at its disposal and the proportion of such new money which can be committed to fund those policies. Thirdly, in case the amount of new money allocated to the education programme is insufficient to meet what is needed for ECR5, it will depend on what scope -- and what support -- I shall have to redeploy existing resources from within my programme area. Thus, funding for ECR5, in the same way as funding for other spending aspirations, will be the outcome of dialogue and consultation between the Government and the wider community on the most appropriate means of meeting the greatest perceived needs in a situation of limited resources. I trust Members will understand if I cannot say today whether or not there will be sufficient resources to fund the whole of ECR5. But I will say this: as Secretary for Education and Manpower, I shall do my level best to try and secure the necessary resources to implement the recommendations if they prove to be widely supported by the community. I am glad and encouraged to learn today that I shall have Members' strong support in this effort.

Mr Deputy President, the Government identifies with the good work that the Education Commission has done in its fifth report and supports the spirit of the motion.

MRS SELINA CHOW (in Cantonese): Mr Deputy President, I would like to thank all colleagues, I mean both colleagues who have spoken and those have not (I assume they support my motion, because they have not voiced their objection to it). I am pleased to see such an enthusiastic response in the way of comments and suggestions to the Education Commission Report No. 5 (ECR5). I am sure that the suggestions made will definitely assist in our further consideration.

I do not wish to comment on the various points raised separately, except to say that there is one point which I think is very important but which was not mentioned in my earlier speech. I wish therefore to talk about it briefly at this point; and that is the issue involving kindergarten teachers. In the preparation of ECR5, it was our hope that, after considering the issue very carefully, the remission scheme could be implemented at double the speed than originally planned, to facilitate the development of kindergarten education. This would have a positive effect on the pay and conditions of service and improve teachers' training opportunities. While I would of course support the five year plan laid down by ECR5, I would also, speaking for myself, wish that more resources would be forthcoming so that we can proceed in quicker and bigger strides. The recommendation of ECR5 is acceptable as it stands,

but I believe that there are views within our community that work can proceed more expeditiously and this would surely be beneficial to the development of kindergarten education and teacher training.

Meanwhile, regarding the issue of parental participation, Mr TIK Chi-yuen has said just now that there has been apparently no response from the community to it at all. Indeed, even within this Council, it would appear that only Mr TIK and I are relatively more concerned about the issue. That already is a reflection of where the problem lies. Put in another way, there may be consensus among the public that it is not a problem at all and therefore they will not discuss it. But I doubt if this view is correct. On the contrary, I think since this is a problem which we have failed to address, I would very much like to see more public attention drawn to it.

Lastly, I am very glad that we all agree on the point that spending on education is definitely an investment for our future. I feel that we have to be very flexible with our investment. Whereas ECR5 talks about a 15 year plan, it does not mean that, resources permitting, or when strong societal demand is felt, we cannot expedite the implementation of the recommendations.

I am very happy to see the Financial Secretary in our midst, because he was not around during our debate. Now I am able to see him, I wish to say one more thing. On the one hand, I hope he can attach great importance to the demand by all parties concerned that the ECR5 recommendations be implemented. On the other hand, as Members have already said, although there may be a decline in the school age population, we hope that funding will not be reduced correspondingly, because the recommendations have to be fully implemented. If our society becomes more affluent, thanks to improved financial situation, then we hope that there are many more plans which we can implement even more expeditiously than anticipated.

Mr Deputy President, with these remarks, I hope Colleagues will be able to support the motion.

Question on the motion put and agreed to.

Adjournment

CHIEF SECRETARY: Mr Deputy President, I move that this Council do now adjourn.

DEPUTY PRESIDENT: Mr James TO has given notice to raise a matter for reply by the Government. Could I remind Members that in an adjournment debate Members have 45 minutes in which to speak. At that point or after all the Members wishing to speak have spoken, whichever is the earlier, I will call upon the Secretary for Security to reply.

Extradition and removal of criminals

7.10 pm

MR JAMES TO (in Cantonese) Mr Deputy President, the adjournment debate which I propose today is on the issue of extradition and removal of criminals. Why do I treat extradition and removal of criminals separately? For extradition involves extraditing criminals from one sovereign country to another but removal of criminals only involves the judicial co-operation between different parts of the same country. In this connection, insofar as Hong Kong is concerned, we may enter into extradition agreements only with the authorization of China, since such agreements may be interpreted as foreign treaties. Agreements with foreign countries or jurisdictions fall into the sphere of extradition; but it may be called removal of criminals when it is something between China and Hong Kong.

Extradition or removal of criminals indeed has to do with criminal activities. Since Hong Kong is an international financial centre we have to let it be known to the international community that we take our law and order situation very seriously. We cannot afford to see Hong Kong become a paradise or haven for foreign criminals. Similarly, with regard to foreign nationals in or residents of Hong Kong who have fled abroad after committing a crime in Hong Kong, we have to enforce our laws and bring them to justice, in order to uphold the integrity of our laws and the spirit of rule of law. Presently, Hong Kong has between 80 and 90 extradition agreements with other countries. In view of our future re-integration with China, it is actually up to us now to put the wheels in motion and no efforts should be spared to make sure that these agreements are extended into the future, so our afore-mentioned goals can be achieved.

According to available data, Hong Kong has achieved relatively good progress in terms of reaching extradition agreements with other governments. Given that such agreements will have to remain in force beyond 1997, China has also initially looked at some model agreements governing the issue of extradition and accepted some of the principles involved. These principles are quite important in the sense that they will safeguard the judicial systems, human rights and procedural arrangements of both sides. They include the following points:

(1) The country or jurisdiction which makes the request for extradition must produce prime facie evidence to the other side where the offender is staying;

(2) The act of the person against whom the extradition attempt is made must constitute a criminal offence both in the country asking for extradition and in the country where the said person is staying. And the offence must be clearly stated in the form of an appendix so both sides will be absolutely clear about its nature, which must involve a serious crime;

(3) The country which makes the request for extradition should not seek a false excuse to charge the offender or suspect with another offence upon his or her being successfully extradited;

(4) We will usually demand that the country making the extradition request should not extradite the offender to yet another jurisdiction or country, without the consent of the country or jurisdiction to which the offender is staying, so that certain rights to which he or she is entitled could be protected;

(5) In case of different judicial and penal systems between the two countries or jurisdictions involved in a case of extradition, usually the side requesting extradition is required to give certain undertakings in the first place. For example, in the event of receiving an extradition request from a country which has death penalty, Hong Kong which has no death penalty or does not enforce it should make a request that the offender so extradited will not face death penalty for the offence in question;

(6) We will not extradite a person for an offence of a political nature, or a political dissident, and

(7) If the offender has already been punished for a given offence in the place where he or she is staying, then the country requesting his or her extradition is not allowed to punish him or her again for the same offence. This is known as the principle of no double punishment.

I have raised this whole lot of technical problems because I wish to show that there are some important principles and basic concepts at stake in international extradition agreements. I believe that any agreement reached between Hong Kong and other jurisdictions should be based on the above seven major principles.

Meanwhile, when we talk about removal of criminals in the context of Hong Kong and China, it is even more complicated.

Mainland China and Hong Kong are very different in terms of legal system. We are totally different when it comes to legal concepts, court (including appeal) system, method of investigation, legal evidence, hearing procedures, sentencing and treatment of convicts serving their sentences. It is for this reason that great care must be taken in handling this matter. Let me give some examples to highlight at least four scenarios which may arise.

(1) A Mainland Chinese person flees to Hong Kong after committing a crime in China. When this happens, we have to pay attention to the seven principles which I have discussed above. We should take into account the need to protect political dissidents. Of course, we may actually end up in a dilemma. The Chinese laws may greatly curtail certain freedoms, but we in Hong Kong should consider very cautiously in light of the legal principles and concepts on which we insist.

(2) A Hong Kong person returns to Hong Kong after committing a crime in China and China asks for his or her extradition. Due to the difference of legal concepts, Hong Kong businessmen who frequently do business in China may encounter practices which are different from those in Hong Kong. For example, in the context of business practice in Hong Kong, non-payment after delivery of goods may lead to civil proceedings being taken; but in China, this may be interpreted as a case of swindling. Now I give you another example. When one fails to honour a promissory note, this may be treated as either a criminal or civil offence in Hong Kong, depending on the motive of the person who writes the promissory note. But in Mainland China, the legal concept may be a bit different regarding this issue.

In view of the increased trading and business activities between Hong Kong and China, we should consider very carefully the request, or future request by China to send back Hong Kong businessmen and people to China to stand trial. However, China has recently complained that they are concerned about cases such as these because many Hong Kong people have returned to Hong Kong, after swindling in China, to avoid the sanction of Chinese laws. Where should the hearing take place, in view of the circumstances involved? Of course, China would say that since the crime is committed in China, the hearing should be held there. There is another argument, however. It is undoubtedly that Hong Kong businessmen who are doing business or staying in China should observe Chinese laws. However, consideration must be given to the fact that they may have committed certain acts due to their ignorance of Chinese law and be made to suffer the legal consequences. It is for this reason that we have to be very careful in dealing with cases involving the extradition of Hong Kong people to stand trial in China for crimes which they have allegedly committed.

The United Democrats of Hong Kong (UDHK) have not yet reached a conclusion on this issue, but we would wish that the Government would in its deliberation consider very carefully the many principles involved.

(3) Mainlanders who have committed crimes in Hong Kong and who somehow managed to flee back to China are generally referred to in Hong Kong as "bandits from neighbouring provinces". There are Hong Kong people who would rather these criminals be tried in China in the belief that the harsher Chinese laws will have a greater deterrent effect. I would like to make one point very clear. If the crime is committed in Hong Kong, do we seriously wish the criminal, who happens to be a Mainlander, to be tried in China, bearing in mind that we have to uphold the integrity and spirit of the rule of law of Hong Kong?

Another point which I also have to make here is whether it is appropriate at all for Mainland China to try a Mainlander who has committed a crime in Hong Kong. If the trial is going to take place in China, then the local law-enforcement authorities will have to send along a large number of officers to testify as witnesses. According to data to which I have been able to get access, there have been cases involving Mainlanders being tried in China for crimes they committed in Hong Kong; however, the Chinese authorities have never sent for Hong Kong police officers or witnesses to testify in China. I think that for the sake of protecting human rights and promoting the rule of law and fair trial in China, haphazard court proceedings should not be supported.

(4) Regarding cases involving Hong Kong people sneaking into China after committing crimes in Hong Kong, we are now relying on informal removals. For example, in recent cases of such nature, the Chinese authorities arrested the suspects, declared them as persona non grata and sent them to the border where they were then duly picked up by the Hong Kong police. I would consider such informal removal of criminals, which is done not in compliance with any written rules and regulations, to be neither in keeping with the spirit of the law nor some of the basic principles.

There are in fact cases which are even more complicated than the complex scenarios which I have discussed up to this point. These have to do with certain acts which may be interpreted in completely opposite ways, before and after 1997. For example, some demonstrations, rallies and marches are permitted under the laws of Hong Kong before 1997; however, according to the criminal and constitutional laws of China, some of these activities may be regarded as indictable offence. For example, a few years ago, Mr HE Xin, a member of the Chinese Political Consultative Conference, made the remarks that proprietors and authors of some Hong Kong magazines which have criticized the Chinese leadership should be extradited after 1997 to stand trial in China for criminal defamation. I think remarks such as these are worrying indeed because legally acceptable behaviour and current laws will have quite different interpretation after 1997. I think it is an issue which we should handle more cautiously.

Lastly, I would like to say that, however complicated the issue, whether or not we have the extradition arrangements, negotiations should start as soon as possible. That will enhance confidence in Hong Kong and enable both Hong Kong people and foreign investors alike to have greater confidence in the maintenance of the laws of Hong Kong, our social stability and economic prosperity beyond 1997.

Mr Deputy President, with these remarks, I propose this adjournment debate.

MRS RITA FAN: Mr Deputy President, the topic of extradition and removal of criminals can be wide-ranging, highly technical and immensely legalistic. It can also be made to take on a political intonation. In fact, Mr TO's speech showed very clearly how it could be wide-ranging, technical, legalistic and also political. Indeed, the fear of 1997 is also skilfully insinuated and associated with the return of fugitive offenders. I think we can very easily launch into a very lengthy debate on

international law, the right of political asylum, offences which are overtly or covertly political and other complex issues. But for the man in the street, his main interest is whether the return of criminals back to Hong Kong or to the place of the crime will improve the local law and order situation. I shall therefore confine my comments on this and on non-political criminal activities.

There is no agreement between Hong Kong and China on the return of fugitive offenders. However, through the co-operation of Interpol and the close working relationship between our police and the Public Security Bureau, illegal immigrants and Hong Kong residents who commit a crime in Hong Kong have been arrested in China with the information provided by our Police Force. The Hong Kong residents are returned as unwelcome visitors back to Hong Kong. Illegal immigrants are charged and possibly tried in China. Now for those who legally enter Hong Kong, commit a crime and then remain in the territory, they are, of course, subjected to Hong Kong law. If they are illegal immigrants at one stage when they commit a crime in Hong Kong, and then they left and went back to China, then of course they are under Chinese jurisdiction. At this point of time, without any agreement or understanding on this, naturally they would have to be charged in China, if China considers it right that they should be charged.

This system, although lacking in formal and legalistic arrangements, seems to be working reasonably smoothly. Now one may take a very legalistic point of view and say: well, that is not good enough; we want a formal agreement. I am not in opposition to any formal agreement, provided that that formal agreement would facilitate and improve the law and order situation in Hong Kong. But I cannot put my hand on my heart and say that just because I want some legal nicety I want a deterrent effect on potential criminals to be removed. It is a fact, as Mr TO rightly stated, many citizens feel that trial in China for illegal immigrants who came to Hong Kong to commit crime is probably more of a deterrent effect than having the trial in Hong Kong. So unless we can find an effective way of ensuring that our system offers a similar or even better deterrent, there is really no need to rush into the matter at this point in time.

Now another reason for not wishing to rush into it is because of the reasons that Mr TO stated earlier, namely, the different legal systems, the different ways things are being done and the different maximum penalties for similar offences in the two places. Therefore, my view is that while we should not necessarily rule out the possibility of a formal agreement for the return of fugitive offenders with China,

provided that China is agreeable to it, we must take great care and be very cautious in our approach to this.

In the meantime, I agree totally with Mr TO that we should try to get as many extradition agreements with other countries in order that we have a good model to work on and which would serve as a useful reference point for future possible agreements on the return of offenders to China.

MR MOSES CHENG: Mr Deputy President, extradition is the delivery by one government to another, based on reciprocal arrangements, of a person accused of or convicted of a serious criminal offence committed outside the territory of the extraditing country and within the jurisdiction of the requesting country, which is competent by its own law to try and punish. Extradition and removal of criminals have been regulated by the provisions of the Extradition Act and the Fugitive Offenders Act as extended to Hong Kong by the relevant Orders in Council.

With the transfer of sovereignty occurring in 1997, Hong Kong has to make suitable arrangements regarding the extradition and return of fugitive offenders which should be in place before 1 July 1997. It will involve the reciprocal arrangements with the various countries and the enactment of the supporting legislation in Hong Kong. Such arrangements would undoubtedly have to be consulted with China to achieve smooth transition and convergence. I understand that work on negotiation has commenced and I hope that the Administration will keep all parties concerned posted on its development. I urge the Administration to consult the Chinese authorities in good time to avoid unnecessary problems or delay.

I note the call by some of our colleagues to the Administration to proceed with a similar agreement with China for the return of criminals who have fled Hong Kong after committing a serious criminal offence in Hong Kong. I am concerned about the timeliness of raising this very difficult issue at this particular moment. Arrangements for the return of criminals work on reciprocity. I doubt if it is possible to arrive at some arrangements which are acceptable to both governments as well as to the people of Hong Kong.

It will be expected that the safeguards usually found in the existing arrangements with other foreign countries would have to be included for the protection of the interests of the people of Hong Kong. In view of the noticeable differences in the judicial system and criminal legislation between China and Hong Kong, it would be

most difficult to gauge the extent to which such safeguards would be agreeable to the Chinese authorities, the scope of criminal offences which would be subject to the arrangement and would be acceptable by the people of Hong Kong. Thus I question the possibility of successfully entering into formal arrangements between the two governments in the foreseeable future. In the light of the many other pressing issues which have to be resolved with China, I urge the Administration to exercise due care in its approach towards this most difficult issue with China.

In passing, I would ask the Administration, in its course of considering the issue of return of criminals, to also explore the possibility of entering into arrangements with China for the repatriation of prisoners, so that illegal immigrants serving gaol sentences in Hong Kong can be repatriated to China thus relieving the problem of overcrowding within the facilities of our Correctional Services Department, an issue which is of concern to quite a number of our colleagues. Thank you, Mr Deputy President.

REV FUNG CHI-WOOD (in Cantonese): Mr Deputy President, we need to collaborate wholeheartedly with other nations and jurisdictions to combat the proliferation of international criminal activities. For example, with regard to drug trafficking, we have to rely on the concerted efforts of Hong Kong police, Interpol and other jurisdictions' police forces in order to solve drug trafficking cases. However, successful detection of a crime provides only a half solution. Advancing the cause of justice in the process of combatting crime also involves the extradition of the offender so he or she will face a fair trial and receive a commensurate sentence. Since crimes of this nature involve two, or more, jurisdictions, agreements must be reached between the jurisdictions concerned to facilitate extradition arrangements.

Recently, the Hong Kong Government has already reached agreements in question with a number of countries. Bills will be introduced in the next legislative year in order that we have legislation which will ensure that these agreements will continue to be in force subsequent to the expiry of the extradition agreements which Britain has signed, and which also apply to Hong Kong by extension, after the end of June, 1997. I think that the efforts of the Hong Kong Government in this respect are commendable. However, it would appear that the Government is quite evasive and actually employs delaying tactics with regard to the issue of post-1997 extradition arrangements between Hong Kong (the future Special Administrative Region) and China. I think that the Government should talk to China about the issue of extradition arrangements expeditiously, on the basis of its past experience and determination in handling extradition negotiations. We understand that extradition agreements

will take time to reach. Agreements whose principles and procedures are endorsed by a great many countries will be in the overall interests of Hong Kong and conform with the Basic Law. They will continue to be effective after 1997. With these agreements used as a model agreement in terms of reaching similar extradition agreements with other countries, we can apply, in accordance with Article 96 of the Basic Law, for the authorization or assistance of the Central Government in order to make suitable arrangements with other jurisdictions in terms of reciprocal juridical assistance. It goes without saying that the extradition agreements will have to abide by certain internationally recognized principles, in addition to continuing to be effective beyond 1997. Extradition arrangements between Hong Kong and China are admittedly complicated, but they should be dealt with expeditiously without any more evasion. Like the nationality issue, though complicated enough, it has to be resolved all the same. We cannot afford to allow the issue of extradition to drag on. The more sensitive and politicized the issue is, the more necessary for it to be dealt with within the law such that both the Government and the people could act according to the law and their confidence in the rule of law will be enhanced as well. Moreover, such arrangements and agreements will also have to be in line with international law and be in the interests of Hong Kong people.

These are my remarks.

MR STEVEN POON (in Cantonese): I am quite happy to be the last but one speaker of today's sitting, though not being the last speaker. I am not very clear about the purpose of this debate, but I hope that it has not been politically motivated. I am more concerned about the political aspect mentioned by Mr James TO just now. It is all very sensitive, particularly his reference to the remarks by Mr HE Xin. I hope we will not allow this kind of issues to become too politicized.

The rule of law is indispensable to any modern society. It is most treasured by Hong Kong people and the extradition of suspects is one of its most important aspects. Extradition involves a bilateral agreement reached by two countries, which deals with the repatriation of suspects. Such an agreement is used by both sides as a basis of deciding and executing cases of extradition.

At present, Hong Kong has extradition arrangements with dozens of countries and jurisdictions; but these arrangements are basically concluded between Britain and the countries and jurisdictions and are applicable to Hong Kong by extension. With

the political transition of Hong Kong, such arrangements will no longer be applicable to the Hong Kong Special Administrative Region after 1997. This being the case, the Government has to negotiate expeditiously with these countries and jurisdictions over the next several years for agreements which will remain in force after 1997. I understand that progress has been slow in this respect and I am very disappointed about this. I even worry whether the Government could, in the remaining five years, successfully complete the negotiations of dozens of such agreements. It is the responsibility of the Government to conclude the negotiations and renew the agreements before 1997. And it should disclose to the public the progress and results of negotiations and spell out the details.

I hope that the Government will deal with this issue expeditiously and renew the agreements with the relevant countries so we will have agreements in place which are applicable after 1997 for otherwise Hong Kong will become a haven for criminals all over the world. In that scenario, it will not only pose a big security threat to Hong Kong, but impose immense economic burden on us.

Mr Deputy President, despite the increasingly close ties between Hong Kong and China, there is no agreement between the Chinese and the Hong Kong Governments regarding the extradition of suspects. I agree in principle that China and Hong Kong should have extradition agreements, or I should say, agreements which deal with the removal of suspects. However, the two following points need at least to be taken into account in their deliberation of making any removal arrangements.

(1) Both sides must conduct negotiations for such agreements at an appropriate time. This means that the urgency of the extradition problem has to be ascertained, given the great many complicated issues which both Governments have to deal with at this point. Meanwhile, both sides have to consider whether the prevailing political environment is conducive to their negotiation of this issue. We should not forget that China is after all the suzerain and Hong Kong will become a mere Special Administrative Region of China. This is a very sensitive issue.

(2) If both Governments decide to conduct negotiation for extradition arrangements, then we will have to study very carefully our existing penal and legal systems. We are all aware of the big differences which exist between our two penal and legal systems. Hong Kong has effectively no death penalty and our severest punishment is only life imprisonment. But in China, all serious crimes are punished by execution by shooting. Given the vast differences which exist in terms of punishment, is it

appropriate for the two sides to enter into extradition agreements? This is an issue which needs to be looked at seriously'

Mr Deputy President, Mainland China is Hong Kong's closest neighbour. Many offenders can return to the mainland after coming to Hong Kong and committing a crime here. In this connection, for the sake of our stability and security, I am in favour of negotiating with China, when the time is ripe and appropriate, for formal arrangements regarding the removal of suspects. Thank you.

7.42 pm

SECRETARY FOR SECURITY: Mr Deputy President, I have listened carefully to the points made by Members this evening. I am grateful for the opportunity to outline the Government's position on this important subject.

It is in the interests of all communities that offenders should not be allowed to escape justice simply by crossing borders. It is therefore important that Hong Kong should retain after 1997 effective arrangements with other countries and territories for the surrender of fugitive offenders. Such arrangements will help to maintain Hong Kong's standing as a major international commercial and financial centre in which the rule of law prevails and in which it is safe to live and to work.

Hong Kong's existing arrangements for the surrender of offenders are based on bilateral treaties with more than 40 foreign countries which the United Kingdom has applied to Hong Kong and on a network of arrangements with Commonwealth countries under United Kingdom legislation which has also been extended to Hong Kong.

These arrangements cannot continue in their present form beyond 1997. The British and Chinese Governments have therefore agreed in the Joint Liaison Group that they should be replaced by bilateral agreements which will continue in effect beyond 1997. Both sides have also agreed a model agreement, on the basis of which Hong Kong should negotiate and conclude agreements with other countries.

We intend initially to concentrate on agreements with those countries with which we currently have agreements through the United Kingdom; with which there are substantial and regular commercial and immigration links; and which have legal and judicial systems compatible with those in Hong Kong. We have so far initialed

agreements with four countries: the Netherlands, Canada, Australia and Malaysia. We are continuing discussions with the United States, and we hope to open discussions with other countries shortly. I believe we have made very good progress.

We will need to enact local legislation to give effect to these agreements. I hope to introduce legislation into this Council early next year. This legislation will include the safeguards which Mr TO has mentioned and which are normally found in agreements governing the surrender of fugitive offenders. These include:

- (1) the double criminality rule, that is, the act in respect of which a fugitive's return is requested must constitute a crime in both jurisdictions at the time it was committed;
- (2) the prima facie rule, that is, there is a prima facie case against a person whose return is requested;
- (3) the speciality rule, that is, a returned fugitive should not be tried for any offences other than that for which he was surrendered; and
- (4) that return may be refused if the offence in question is a political offence.

We intend also to consider in due course whether we should seek to negotiate arrangements for the surrender of fugitive offenders between Hong Kong and the People's Republic of China before 1997, and between the future SAR and the PRC after 1997. It will not be easy to conclude any such arrangements, given the many differences between our respective legal and judicial systems, some of which other speakers have mentioned. We will be in a better position to consider the matter after we have concluded and brought into operation bilateral agreements with a number of other countries, and after we have enacted domestic legislation.

Thank you, Mr Deputy President.

Question on the adjournment proposed, put and agreed to.

End of Session

DEPUTY PRESIDENT: That concludes the business of this Session. It has been a memorable Session, one might say, an historic Session. I wish all Members well during the summer recess. The new Session will start on 7 October 1992 to which date I now adjourn this Council.

Adjourned accordingly at twelve minutes to Eight o'clock.

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