

OFFICIAL RECORD OF PROCEEDINGS

Thursday, 22 April 2004

The Council continued to meet at half-past Two o'clock

MEMBERS PRESENT:

THE PRESIDENT

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

THE HONOURABLE KENNETH TING WOO-SHOU, J.P.

THE HONOURABLE JAMES TIEN PEI-CHUN, G.B.S., J.P.

DR THE HONOURABLE DAVID CHU YU-LIN, J.P.

THE HONOURABLE CYD HO SAU-LAN

THE HONOURABLE ALBERT HO CHUN-YAN

IR DR THE HONOURABLE RAYMOND HO CHUNG-TAI, J.P.

THE HONOURABLE LEE CHEUK-YAN

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

DR THE HONOURABLE ERIC LI KA-CHEUNG, G.B.S., J.P.

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

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

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

THE HONOURABLE NG LEUNG-SING, J.P.

THE HONOURABLE MARGARET NG

THE HONOURABLE MRS SELINA CHOW LIANG SHUK-YEE, G.B.S., J.P.

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE CHEUNG MAN-KWONG

THE HONOURABLE CHAN KWOK-KEUNG, J.P.

THE HONOURABLE CHAN YUEN-HAN, J.P.

THE HONOURABLE BERNARD CHAN, J.P.

THE HONOURABLE CHAN KAM-LAM, J.P.

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

THE HONOURABLE LEUNG YIU-CHUNG

THE HONOURABLE SIN CHUNG-KAI

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

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

THE HONOURABLE WONG YUNG-KAN

THE HONOURABLE JASPER TSANG YOK-SING, G.B.S., J.P.

THE HONOURABLE HOWARD YOUNG, S.B.S., J.P.

DR THE HONOURABLE YEUNG SUM

THE HONOURABLE YEUNG YIU-CHUNG, B.B.S.

THE HONOURABLE LAU KONG-WAH, J.P.

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

THE HONOURABLE MIRIAM LAU KIN-YEE, J.P.

THE HONOURABLE AMBROSE LAU HON-CHUEN, G.B.S., J.P.

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

THE HONOURABLE CHOY SO-YUK

THE HONOURABLE ANDREW CHENG KAR-FOO

THE HONOURABLE SZETO WAH

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

DR THE HONOURABLE LAW CHI-KWONG, J.P.

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

DR THE HONOURABLE TANG SIU-TONG, J.P.

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

THE HONOURABLE LI FUNG-YING, J.P.

THE HONOURABLE HENRY WU KING-CHEONG, B.B.S., J.P.

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

THE HONOURABLE MICHAEL MAK KWOK-FUNG

THE HONOURABLE ALBERT CHAN WAI-YIP

THE HONOURABLE LEUNG FU-WAH, M.H., J.P.

DR THE HONOURABLE LO WING-LOK, J.P.

THE HONOURABLE WONG SING-CHI

THE HONOURABLE FREDERICK FUNG KIN-KEE

THE HONOURABLE IP KWOK-HIM, J.P.

THE HONOURABLE LAU PING-CHEUNG

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

MEMBERS ABSENT:

THE HONOURABLE HUI CHEUNG-CHING, J.P.

THE HONOURABLE LAU CHIN-SHEK, J.P.

THE HONOURABLE MA FUNG-KWOK, J.P.

PUBLIC OFFICERS ATTENDING:

THE HONOURABLE DONALD TSANG YAM-KUEN, G.B.M., J.P.
THE CHIEF SECRETARY FOR ADMINISTRATION

THE HONOURABLE HENRY TANG YING-YEN, G.B.S., J.P.
THE FINANCIAL SECRETARY

THE HONOURABLE ELSIE LEUNG OI-SIE, G.B.M., J.P.
THE SECRETARY FOR JUSTICE

THE HONOURABLE MICHAEL SUEN MING-YEUNG, G.B.S., J.P.
SECRETARY FOR HOUSING, PLANNING AND LANDS

THE HONOURABLE JOSEPH WONG WING-PING, G.B.S., J.P.
SECRETARY FOR THE CIVIL SERVICE

DR THE HONOURABLE PATRICK HO CHI-PING, J.P.
SECRETARY FOR HOME AFFAIRS

THE HONOURABLE STEPHEN IP SHU-KWAN, G.B.S., J.P.
SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR

DR THE HONOURABLE SARAH LIAO SAU-TUNG, J.P.
SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

THE HONOURABLE FREDERICK MA SI-HANG, J.P.
SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY

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

THE HONOURABLE AMBROSE LEE SIU-KWONG, IDSM, J.P.
SECRETARY FOR SECURITY

THE HONOURABLE JOHN TSANG CHUN-WAH, J.P.
SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY

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

CLERKS IN ATTENDANCE:

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

MR LAW KAM-SANG, J.P., DEPUTY SECRETARY GENERAL

MR RAY CHAN YUM-MOU, ASSISTANT SECRETARY GENERAL

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

PRESIDENT (in Cantonese): Council will now continue with the debate on the Second Reading of the Appropriation Bill 2004.

APPROPRIATION BILL 2004**Resumption of debate on Second Reading which was moved on 10 March 2004**

MR ABRAHAM SHEK: Madam President, amid signs of market improvements, the Financial Secretary delivered his maiden Budget speech on 10 March 2004. The tone he adopted in the Budget was a cautious and conservative one. Except for the issuance of government bonds, there were practically no major new economic or fiscal initiatives introduced. The general consensus is that the Secretary played it safe, and rightly be so, as he seems to be delaying the proposed controversial taxes, and avoiding to address the more fundamental and structural economic problems of Hong Kong.

In terms of revenue, no new major levy, save an environmental "green" tax, was introduced. The controversial proposal of a Goods and Services Tax was subtly proposed without a real timetable for consultation, let alone implementation. The idea of a land tax evaporated in the air. In terms of tax concession, two existing minor schemes were extended: the salaries tax deduction for home loan interest and the duty concession for ultra low sulfur diesel.

However, the decision to pursue the issuance of government bonds on bridge and tunnels is a breakthrough, considering that it is a change in direction from the Government's previous Budget position. The construction sector which I represent welcomes this news, and is delighted to hear that the \$20 billion in capital to be raised later this year will be spent mainly on infrastructural projects, which in the Government's words, will hopefully bring long-term economic benefits to Hong Kong. In this respect, I encourage the Government

to clearly spell out what is defined as "long-term economic benefits" and if there are also other criteria in identifying capital projects eligible to be funded with the newly raised capital. Any newly raised capital committed to infrastructural projects should be in addition to the \$29 billion committed in the Annual Budget.

Another request which my construction constituents have repeatedly called for is the Government's extension of private sector participation in public infrastructural projects. The sector therefore welcomes a \$6 billion proposal to re-channel the Sha Tin Water Treatment Works through the Public Private Partnerships (PPP) programme. This latest project partially addresses the sector's concern that the progress in implementing PPP is relatively slow. In particular, they consider the Government has been unnecessarily cautious and conservative in identifying projects of larger scale and scope. It should be pointed out that the construction industry is not the only sector to benefit from PPP or Private Finance Initiatives (PFI). The Government itself will be able to launch more financially sustainable projects without further worsening the budget deficit. Also, PPP would benefit the wider public through job creation. Obviously, wider implementation of PFI or PPP will benefit the community as a whole.

As for expenditure reduction, the Budget showed an even more notable absence of new initiatives. The Budget's cost-cutting measures, including civil servants' pay cut, streamlining of departmental structures and downsizing of staff entitlements, are all existing policy initiatives which were introduced by the Secretary's predecessor. Admittedly, the Government's fiscal deficit has been considerably eased by the recent property rebound. But the increased revenue from land-related taxes is no cure for the financial problems which are structural in nature. The ultimate goal of eliminating Hong Kong's fiscal deficit must not be deterred simply because the economy is showing a mild recovery.

The major economic direction the Budget suggests is to revitalize the economy and promote employment. Crucial to the revival of the economy is a healthy property market. While both demand for flats and property sales have rebounded, land supply is still rather restricted. Real estate developers find it difficult to replenish their land bank even though the Government has reopened the application list since January. The main problem may be that the Government has set the minimum guaranteed price at an unrealistically high level — one which is well above market prices. The Government has at least rejected five bids on the ground that they failed to meet the starting price. It is

only early this week that the Government accepted a developer's bid for two residential sites, and agreed to resume land auctions next month. Fervent bidding can well be expected at the auctions. While the Government's land pricing policy seems to boost market sentiments in the short term, it is definitely not good for the long-term, stable development of the property market. I therefore urge the Government to set the starting prices for new land at a level which is in line with market prices. As for the premiums levied for land under modification, the Government should also set a realistic level so as to encourage more modification. Then, more land supply will be pumped into the system as the market requires.

Another major economic direction the Budget suggests is for Hong Kong to further integrate with the Mainland. To guide our business development, the principle of "market leads, government facilitates" has been proposed — this being an alternative expression for "small government, big market". Accordingly, the Government will aim to further assist the business sector in tapping new opportunities which arise from the Mainland/Hong Kong Closer Economic Partnership Arrangement (CEPA). As well, it will enhance and better co-ordinate economic and infrastructural developments on Lantau Island. So far, almost 400 applications from local manufacturers have been granted zero-tariff exemption for their Hong Kong produced goods. These goods consist of mainly pharmaceutical drugs and blank compact discs, which belong to the low tariff category and have relatively low added value. The more lucrative potential benefits opened up by CEPA — that of attracting newer industries with higher value-added production processes to enter the territory and helping our industries move up the value chain — have yet to be realized. This is one key aspect of CEPA which the Budget has not given much attention to. But it is one which the Secretary must put more focus on during his term.

Although there have been significant improvements in market sentiments over the past few months, fundamental economic problems do remain. The recent market rebound will not be sustainable if the economy is still undergoing restructuring, and if the gap between available jobs and qualified workers widens. The other economic paths mentioned in the Budget, such as stimulating tourism and strengthening our financial services, offer no easy solutions to the structural unemployment problem. The fact is, it is not just blue-collar jobs which have been lost. More and more white-collar positions are vanishing too. Here, the "market leads, government facilitates" principle should not mean it will just be a hands-off style of governance. It should be about doing the right thing at the

right time. The Secretary should proactively lay out options, the "opportunity cost" and strategies which Hong Kong may adopt in speeding up the restructuring process. Already, some labour unions have expressed concerns that Hong Kong may enter an era of "jobless recovery": that the economic situation may improve but local employment may not. Obviously, it is imperative to strive for a broad consensus.

I agree with the general view that we should not be too harsh with the Secretary's conservative approach. After all, this is his first ever Budget, but he should realize that time is of the essence. He should not expect to have a long honeymoon period with the public. What Hong Kong needs now is leadership not only in fiscal policies but also in every aspect of administration. Mr Financial Secretary, we have faith in you and now is your turn to prove to us that you can do it.

Lastly, before I conclude, Madam President, I would like to give due recognition to the former Financial Secretary, who in his previous Budgets has laid a strong foundation for making Hong Kong what it is today, so that we can have a very good Budget this year. With these words, I support the motion.

MRS SELINA CHOW (in Cantonese): Madam President, the Budget this year emphasizes a market-led economy, with the Government playing a facilitating role. The objective is of course to revitalize the economy and enable the public to live in peace and work in contentment. This general philosophy and direction is entirely in line with the beliefs and objects advocated by the Liberal Party all along. It is for this reason that we in the Liberal Party urge the Government to pay proper attention to one anomaly in society, in which people in the middle class pay heavy taxes, shoulder heavy responsibilities but enjoy little welfare benefit, and find ways to bring relieve to their plight.

At present, among the 3.2 million people in the working population of the whole territory, only 1.35 million have to pay tax. 30% among the latter shoulder 95% of the tax. Of these 30% of the people, those in the middle class account for a considerable proportion. Since the economy has been in recession after 1997 and the number of unemployed people has increased, the number of taxpayers in Hong Kong has actually decreased by about 130 000 compared to that before the reunification. As a result, the burden that has fallen on the middle class is becoming increasingly heavy.

It is true that in the Budget this year, some so-called small favours as extending the salaries tax deduction for home loan interest for two years have been offered. However, we should not forget that effective from this year, the middle class has to bear the burden of a second phase of salaries tax increase. Although on the face of it, Financial Secretary Henry TANG has not proposed any new tax item, he has in fact continued to implement the tax increase proposals formulated by his predecessor. To extend the tax deduction arrangement for two years this time around is merely like spitting out a small mouthful of the juicy meat that one has bitten.

Therefore, we believe that if the Financial Secretary is truly sympathetic with the public and wants to take the pressure and pain off the middle class, then he must, as proposed by the Liberal Party, postpone implementing the second phase of the salaries tax increase. Only when they are given a respite when the economy is beginning to recover can the middle-class people live in a stable environment unfettered by the troubles of a heavy tax liability, feel at ease to spend, harbour less grievance, have the peace of mind to give free rein to their abilities and continue to be the main driving force of social development.

In fact, in the past month, the Chairman of the Liberal Party, Mr James TIEN, has been floating the proposal to defer the salaries tax increase. He also reiterated this point in his speech yesterday. However, Financial Secretary Henry TANG has all along refused to consider the proposal. Of course, our justifications are in fact very strong and we hope that the Financial Secretary can think twice.

Madam President, as a matter of fact, just like the general public, the middle class also cherishes a dream of having a cosy home. Therefore, the adoption of a stable policy on the property market to avoid great fluctuations in prices is definitely worthy of our recognition. However, I wish to point out that property prices have recently seen a reversal from bust to boom. Coupled with the moratorium on the sale of Home Ownership Scheme (HOS) flats and a complete halt of the Home Purchase Loan Scheme (HPLS) designed for the middle or sandwich class, the Budget may not be able to cater for the aspirations of members of the public, in particular those in the middle class who wish to purchase properties to improve their quality of life.

Specifically, I believe the Government should resume the now discontinued HPLS and make the implementation of this scheme a long-term policy, so as to provide assistance to people who have the need to purchase

properties. From the introduction of this Scheme by the Hong Kong Housing Authority (HA) at the beginning of last year to its discontinuation in November, the quota of 10 000 applications was quickly filled. One can say that the keen response was not anticipated by the authorities. Since transactions in the property market are becoming active, it is expected that the purchasing power hitherto suppressed for various reasons will gradually surface. I know that the HA, which is also facing financial difficulties, is still undecided as to whether the HPLS should be continued. Maybe it is necessary for Financial Secretary Henry TANG to lend a hand and discuss with the Secretary for Housing, Planning and Lands, Mr Michael SUEN, to see if appropriate financial assistance can be offered to people of the middle class.

Although some people may query why the Government should use public money to finance members of the public to purchase flats or are concerned that losses to public coffers may be incurred, I wish to point out that the HOS launched years ago was precisely intended to assist people who had the need but could not afford private properties to purchase properties. Moreover, the bad debt ratio of the HPLS is the lowest among loan schemes of its kind. As of February this year, it was reported that there had been only 14 such cases, a bad debt ratio which is in fact the lowest among the low. However, among the members of the public whom the Liberal Party had come into contact with, many of them coincidentally expressed a desire to buy their own homes, perhaps due to their restored confidence in the property market. We hope that the HPLS can be reintroduced. This measure can definitely help these people, in particular those who cannot afford the first instalment but have the regular income, to purchase properties.

Madam President, as the representative of the retail sector, I have as in the past consulted the sector on the Budget, however, the response was very lukewarm. Apart from being strongly opposed to the goods and services tax, as they have always been, the sector does not seem to have very strong views on other matters. Since I have reflected the views of the sector on this issue a number of times inside and outside this Council, that is, its views and arguments concerning such a tax, I do not intend to repeat them now. In sum, the Financial Secretary cannot overlook the sentiment of the retail and wholesale sectors, that is, they consider such a tax totally unacceptable. Not only do the wholesale and retail sectors hold strong views against it, the same voices can also be heard in society. In fact, we have heard several Members express their opposition based on various viewpoints yesterday and among members of the Liberal Party and of different sectors in society whom I have come into contact

with, many have also expressed very strong reservations. This clearly reflects that the levy of such a tax will affect not just the interests of the sectors concerned but also possibly those of society as a whole.

I believe the public at large all understand that the good intention of the Financial Secretary in considering and examining the introduction of this tax is to broaden the tax base. However, there is more to lose than to gain in terms of social costs. Firstly, in order to levy this tax, both the Government and businesses have to pay huge administrative costs to handle the onerous procedures. It is also necessary to increase manpower, thus imposing an additional and unnecessary burden on businesses and seriously injuring the business environment. In particular, the blow to small and medium enterprises cannot be underestimated. We believe the Government already understands that sales tax is a regressive tax, therefore, people on low income will naturally be exempted from it. Financial Secretary Henry TANG has also mentioned this aspect in his speech. However, in the end, the heavy burden will again fall on the shoulders of the middle class.

The most undesirable effect of introducing a sales tax in the Hong Kong Special Administrative Region (SAR) is the detrimental effects on our simple taxation system of low rates, as well as the reputation and competitiveness of Hong Kong as a shopper's paradise. It will be a blemish in the development of the tourism industry and in its quest for quality and the prices of goods will also rise. Furthermore, it will encourage the general public to go north or out of Hong Kong for spending. The Government must really think long and hard about these obvious drawbacks.

In conclusion, I strongly oppose this proposal, which is being considered by the Financial Secretary, because this tax runs counter to the Liberal Party's support for the principles of a simple taxation system, a friendly business environment and high cost-effectiveness. Such a measure will become a nuisance for the public and cause undesirable effects on the business environment and the public.

I call on the Government to conduct a detailed impact assessment before coming to any decision, in particular, to assess the huge administrative burden and listen to the views of the retail, service and catering sectors, experts and academics. It is imperative that this measure will not be forced through on the grounds that this is a world trend.

Another example that bears testimony to the same undesirable consequences of a tax increase is that since 1997, the sale of red wine in Hong Kong has dropped from 21 million litres to 11 million litres last year. In spite of this, the Government still increased the duty on red wine last year. Not only will this further suppress the sale of red wine, and this will also make Hong Kong a place with fine food but expensive wines, a favourite tourist destination with one shortcoming. I want to make a declaration here. I do not have any interest to declare because I do not have any predilection for or habit of drinking red wine. I am only concerned about the undesirable consequence of inducing a drop in revenue as a result of an increase in duty. A member in the red wine trade told me that, although Hong Kong claims to be a world city in Asia, the quantity of wine sold on a per capita basis is, surprisingly, one of the lowest among the cities of the world. Is this not a great irony and a joke? I hope that the Financial Secretary will seriously consider lowering the duty on red wine in the coming year and levy duty on a per bottle basis rather than on the ex-factory price, so as to reverse the trend of a drop in the consumption and sale of wine.

Here I wish to thank the Financial Secretary and Secretary Frederick MA, on behalf of the tobacco industry, for not increasing the tobacco duty. Moreover, the recent stepped-up operations by the Customs and Excise Department to clamp down on illicit cigarettes is strong proof that, with adequate co-operation between the authorities and the industry, it is indeed possible to create a mutually beneficial and win-win situation.

Mr James TIEN mentioned the motor vehicles first registration tax yesterday. I very much agree with his views and sincerely urge the Financial Secretary to review this tax again, so as to achieve the effect of spurring an increase by making a reduction. In addition, the industry has two other proposals which are beneficial both to itself and the public. Firstly, if the Government can secure the eligibility to apply for temporary licences for motor vehicles from Hong Kong, so that Hong Kong people can drive to Guangdong Province, this will not just give Hong Kong people more opportunities of travel but will also be beneficial to the travel industry in Guangdong Province and a win-win situation will definitely be attained. Secondly, up to 2002, through a reduction in motor vehicles first registration tax, the Government encouraged the replacement of vehicles which have been in use for more than eight years. It is a pity that this measure of merit that contributes to both road safety and environmental protection was cancelled two years ago. I hope the Financial Secretary can seriously consider restoring this policy that can benefit all parties.

In cutting down on expenditure, the Government has indeed shown its resolve and come up with results, and together with the co-operation of the civil servants and the proper supervision of this Council, we can see that the number of civil servants is dropping and the expenditures of various departments have also shrunk. I concur with the prediction made by Mr James TIEN earlier on, that judging from the present trend of economic revival, the SAR Government may achieve the target of eliminating the deficit in or before 2007, rather than having to wait until the year 2008-09.

With the economy looking up, the Government will naturally also be given a boost and the upbeat in the tourism industry can also bring good prospects to various service industries. Therefore, the Government, seeing this, has committed huge amounts of resources to supporting and promoting tourism. This is wise and worthy of our recognition and commendation. One good example is the allocation of an additional \$95 million by the Financial Secretary to boost the various publicity, training and research programmes for the tourism industry. I believe Members must have already heard a piece of good news, that is, the Mainland has further expanded the scope of the Individual Visit Scheme. This will give an additional 150 million compatriots the eligibility to travel to Hong Kong on an individual basis. Before the announcement of this good news, the number of mainland tourists this year was expected to break the 11 million mark. As things now stand, it is likely that this number will be exceeded, thus bringing substantial revenue to the SAR. There is indeed urgency in promoting travel to Hong Kong and raising the quality of service. We in the Tourism Board will on the one hand make the greatest all-out effort to attract tourists from various places, and on the other, also strengthen the Quality Tourism Services Scheme to make Hong Kong a quality international traveller's paradise.

However, no matter how great the promotional effort is, it cannot countervail the damage wrought on Hong Kong's business reputation by the unscrupulous business practices of a few dubious businessmen. We must clamp down hard on these dubious businesses. I hope the Government will take this worsening problem seriously and discuss counter-measures together with honest businessmen, so that measures to stamp out business practices detrimental to Hong Kong's reputation can be formulated, on the premise that normal and efficient business operation will not be affected.

I so submit. Thank you, Madam President.

MR CHEUNG MAN-KWONG (in Cantonese): Madam President, the pledge made by TUNG Chee-hwa that he would pull no punches in investing in education appears more and more like a dark joke in education. The Financial Secretary, Mr Henry TANG, said that this year, he had done all he could on the education expenditure, which, on the face of it, has been reduced by only \$72 million. However, Prof Arthur LI has said very clearly in the Legislative Council that the recurrent expenditure in education would have a natural annual increase of 4.5%. Therefore, the Education and Manpower Bureau has to make an additional saving of \$2.5 billion in order to balance the books and accomplish the new tasks in education reform.

In order to achieve a saving of over \$2 billion, irrespective of whether it be universities, secondary schools or primary schools, all of them have become targets of the cost-cutting exercise. In universities, sub-degree and higher diploma programmes have taken the brunt of the funding cut. Courses either have to become self-financing or simply disappear. The yearly tuition fee has risen from some \$31,000 to \$40,000 or more than \$50,000. The subsidy for part-time degree and Master programmes also has to be withdrawn and the tuition fee will rise drastically. Degree programmes are also depreciating, since the number of subsidized credits has been cut from 108 to 90 and the quality of university education will be affected. Individual universities are planning to carry out re-engineering and even to scrap some departments. Universities have become more and more commercialized and utilitarian in nature and their prime consideration is their financial situation. For universities, the focus of their work is not on academic pursuits but raising funds; the survival of faculties and departments does not depend on quality but on student intake; the energy of professors are expended not on teaching but on job security. Serenity no longer reigns in universities and the focus in the campuses has deviated from the proper pursuits. Such are the woes facing university education.

What puzzles universities most is that TUNG Chee-hwa has not practised what he preaches: he said that the age participation rate of tertiary education should reach 60% but he wanted to withdraw all subsidized places; he said that he wanted the university education system to switch from a three-year structure to four-year, yet he wanted to cut funding for universities. Prof Arthur LI said in the Legislative Council that an increase in university tuition fees would be considered and grants for students would be changed to loans. Students will have to borrow more in loans to meet the higher tuition fees in future. During

times of an economic boom, the repayment ability of university students was high. However, nowadays, university graduates could only earn just enough to support themselves, not to say supporting their families or repaying debts. The prospects for university students is getting more and more restricted. They should consider themselves lucky if they do not become unemployed.

The cut in resources for universities will continue for at least 10 years. During these 10 years, universities will have a hard time, Vice-Chancellors will have a hard time, professors will have a hard time and students will have a hard time. "Having a hard time" is the portrayal of universities nowadays.

Madam President, the education resources for primary and secondary schools have always been inadequate. The investment in education by the Government of the colonial era was biased against primary and secondary schools, and it is still the case with the Government of the Special Administrative Region (SAR). The annual unit cost was about \$23,000 last year for subsidized primary schools, \$34,000 for secondary schools and \$230,000 for universities. The unit cost for universities is 10 times that for primary schools and 6.5 times that for secondary schools. Prof Arthur LI said in the Legislative Council that the unit cost of university students in the SAR is generally on a par with those of other countries but the unit costs of primary and secondary school students are only 60% of the international level. This demonstrates the long-term neglect of the Government of basic education and what is more, its bias against making investments in primary and secondary education.

However, secondary and primary schools have to face the pains of funding cuts still. In recent years, the Education and Manpower Bureau has accelerated the pace and expanded the scope of a cull on schools. In the past two years, the number of classes has shrunk by 63 in secondary schools and by 676 in primary schools. The number of primary schools that have ceased to enrol Primary One students and are facing the fate of being culled has reached 82. This trend of culling schools will spread to secondary schools. Teachers are now in jitters and parents have no peace of mind. The Government has not taken the opportunity offered by the decreasing population to implement small-class teaching, and instead, it has sacrificed the interests of students to plug the deficit by reducing classes and culling schools, which is tantamount to cutting out a piece of flesh to mend a boil. This is neither reasonable nor moral, making the frustrations and grievances of the education sector increase by the day.

The past two years were years of rallies and petitions for the education sector, having seen stakeholders in kindergarten education take to the streets, as did those in primary and secondary schools and universities. Teachers took to the streets, parents took to the streets and students also took to the streets. When there is a lack of democracy in the political system, when the executive-led system is being high-handed and unreasonable, when teachers and parents have no recourse for their complaints, then taking to the streets becomes the most potent act of resistance. This year, 4 500 people have taken to the streets in opposition to the cut in funding for education, and 4 000 people have taken to the streets in opposition to reducing the number of classes and the culling of schools. These were responses to government measures to cut back on education, reduce funding and its failure to win the heart of the public. If the Government continues to ignore the expectations of society on education and to target education in cutting costs, rallies and petitions will come wave after wave and become the greatest irony of the education reform launched by TUNG Chee-hwa.

There are also politics in the issue of fiscal deficit. With the drop in student population, the Education and Manpower Bureau is reducing the number of classes and culling some schools on the one hand but building new ones on the other. An even greater oversupply of school places is artificially created. Old schools are replaced with new ones to achieve the goals of culling schools, in order to effect a changeover, create divisions among school sponsoring bodies and control the schools.

By reducing the funding for universities, the Education and Manpower Bureau has forced universities to delink their salaries from those of civil servants, high-handedly pushed for the merger of universities and interfered in the academic freedom and autonomy of the institutes. The University Grants Committee (UGC) has become a tool of the Education and Manpower Bureau in forcing universities to heed the beck and call of the Bureau and put in place an artificial division of labour in academic pursuits. The most ridiculous example is the 120 places in the daytime Postgraduate Diploma in Education (Primary) Programme offered by The Hong Kong Institute of Education this year, which are all on one single subject study of English Language, and it is not allowed to offer programmes on other subject studies such as Chinese, mathematics and general studies which look as though they have all vanished without a trace. Should universities deviate from the roles prescribed by the Education and Manpower Bureau or fail to follow the conditions imposed by the Bureau with

regard to funding, then their funding will be slashed and they will face a punitive reduction in funding.

The Education and Manpower Bureau, capitalizing on the fiscal deficit problem, has launched measures to cull primary and secondary schools, effect a changeover and interfere with the autonomy of the universities. The aim is to control the education sector under the pretext of a fiscal deficit. According to Mrs Alice LAM, the Chairman of the UGC, if we want tertiary institutions to act smart, they will not make too much of an effort if we retain just \$2. If we retain \$10, then they will be more compliant. Since when has a boss lady from the UGC come along to bid the Vice-Chancellors of universities to act smart and be compliant? The autonomy of universities is now subjected to the authority of a boss lady and the funds for universities have been retained by the boss lady as fines. The UGC is no longer independent and neutral, and it has become a henchman and a tool of the Education and Manpower Bureau.

After the reunification, the SAR Government has been constantly seeking opportunities to introduce one-line vote in the education sector, so as to impose a ceiling on education expenditure. The detrimental effects of a one-line vote lie in impacting on the salaries and staff establishment of school principals and teachers, undermining the stability of the legion of educators, and increasing the burden on education borne by parents. When the former Financial Secretary, Antony LEUNG, sat on the Education Commission as Chairman, he proposed a resource strategy of "increasing parents' commitment". The Education and Manpower Bureau has expended a great deal of effort on developing quality private schools and nobility schools under the Direct Subsidy Scheme (DSS), with a view to making parents pay expensive tuition fees for access to higher quality education. Mrs Fanny LAW had also remarked that if parents of students under the DSS wanted their children to enjoy the benefits of small-class teaching, they only had to pay higher tuition fees.

DSS schools receive a lump sum grant according to the number of students and they are the precursors of the Government's move to impose a ceiling on educational expenditure. A few years ago, the Government already turned the salaries of janitors, clerks and information technology co-ordinators in subsidized schools into lump sum grants. Recently, the Government further plans to turn 20% of the salaries in subsidized schools into lump sum grants, thus paving the way for the salaries of teachers to be delinked with civil servants. The ultimate goal of the Government is to make the proportion of one-line votes

100%, so that just like schools under the DSS, a ceiling can also be imposed on the expenditure of subsidized schools. Parents will have to pay higher tuition fees before their children can receive quality education. This will bring about a qualitative change in nine-year free education and the design is obvious to all.

Madam President, I must give the Government a clear warning that it should stop rocking the education boat or set its sight on parents' wallets. Nine years of free education is a human right of students and it should never be the case that only those with means can have quality education but those without are mistreated. On behalf of the Hong Kong Professional Teachers' Union and the Democratic Party, I will oppose all out the Government's policy which will increase parents' burden and jeopardize the stability of the education sector. I definitely do not wish the Government to cause another confrontation over one-line votes in addition to those over the reduction in the number of classes, the culling of schools, the changeover of school sponsoring bodies, the reduction in funding and delinking, because of which the education sector can never have any peace and has to take to the street all the time.

Madam President, constitutional affairs have been the talk of the town this year. However, among the three Departments and the 11 Bureaux, the Constitutional Affairs Bureau is the one single Bureau tasked with the least responsibilities. The work of the Constitutional Affairs Bureau can be grouped into three areas, namely, electoral affairs, constitutional review and promotion of the Basic Law. In electoral affairs, most of the work has been handed over to and is undertaken by the independent Registration and Electoral Office. The job of constitutional review has also been surrendered to the Chief Secretary for Administration for co-ordination. The Secretary for Constitutional Affairs has degenerated into a bit actor and a courier. The promotion of the Basic Law can in fact be entirely taken over by the Education and Manpower Bureau and the Home Affairs Bureau. Therefore, the Constitutional Affairs Bureau, not being gainfully employed, finding nowhere to place itself and receiving pay without making any contribution, should have vanished without any protest.

Two years ago, when the Democratic Party scrutinized the legislation on the Accountability System for Principal Officials, it already proposed the deletion of the Constitutional Affairs Bureau and that the Chief Secretary for Administration should take over the co-ordination of constitutional affairs. At that time, the royalists, serving as convoy for TUNG Chee-hwa, opposed the proposal strongly. Recently, it was TUNG Chee-hwa himself who proposed a

political structure consisting of the threesome to carry out a constitutional review. This proves that we had foresight and that it is unnecessary for the Constitutional Affairs Bureau to exist independently as a Policy Bureau. For this reason, the Democratic Party proposes that the post of the Secretary for Constitutional Affairs be deleted and the civil servants in the Bureau be subsumed under the Chief Secretary for Administration, so as to streamline the structure and save expenditure, thereby achieving two ends with one measure.

Madam President, the Democratic Party also requests that the post of Senior Special Assistant in the Chief Executive's Office be deleted. This post had been left vacant since the departure of Andrew LO from the Government at the end of 2001 until the eve of the announcement of the 2003 Budget. At that time, the Democratic Party planned to propose the deletion of this post, so it made enquiries with the Treasury concerning the annual expenses incurred for this post. At that time, the Treasury dragged its feet in giving a reply, however, in the interim, the Chief Executive's Office, in a rare display of efficiency, filled this post, so that the Democratic Party could not delete it eventually. This year, the Democratic Party will resume its effort and demand the deletion of this post, with a view to saving the expenses and relieving the fiscal deficit on the one hand, and giving on the other a warning to the Chief Executive's Office that it should learn a lesson and refrain from interfering in the autonomy of universities which will do immeasurable good.

Madam President, I so submit.

MR YEUNG YIU-CHUNG (in Cantonese): Madam President, generally speaking, this year's Budget is pragmatic. It can be regarded as a continuation and sequel of last year's budget. Although there are not many new ideas, nor is there any ambitious plan, I still think that the Budget, in some measure, has managed to keep tabs on the present situation in Hong Kong. As a saying puts it, "it is better to be still than to stir."

The blows from the Asian financial turmoil, the September 11 incident and SARS are nightmares for the Hong Kong public. During this period, businesses were mired in an unprecedented plight, and the public had to taste the bitter consequences of economic recession. Although Hong Kong has now emerged from the trough of the economic decline, the vitality of the community as a

whole has been depleted and the public is easily unnerved by any policy. At such a time, what the community needs most is a respite to fortify its strength. I am glad that the Budget this year is striving in this direction.

In 2003-04, the Government of the Hong Kong Special Administrative Region (SAR) incurred a consolidated deficit of \$49 billion. Although the deficit was far lower than the original estimate of \$78 billion, the fiscal reserve of the Government has fallen to \$266.4 billion. It is therefore understandable that eliminating the fiscal deficit remains the most pressing task of the SAR Government.

It is necessary to control expenditure and raise revenue in order to eliminate the fiscal deficit. Nevertheless, in view of the initial rebound of the economy and the need of the public for a breather, there is no doubt that particular prudence must be exercised in implementing measures to cut expenditure and raise revenue, so as to avoid blunting the momentum of economic recovery and increasing the sufferings of the people.

We are very pleased to note that almost all of the several major measures to increase revenue in this year's Budget have not targeted on the general public. This is in line with the policy direction of "promoting people-based governance, giving our community a respite" as advocated in the 2004-05 policy address. This welcome.

Firstly, on the sale and securitization of assets, the Government announced in the Budget last year that government assets amounting to \$112 billion would be sold and securitized in the next five years. We believe that asset securitization is a more viable approach for the time being. Through asset securitization, not only can the Government raise capital from the public to meet infrastructure expenditure and ease the present fiscal pressure, it can also avoid selling its assets at a low price in the present unfavourable market environment. The issues surrounding the sale of the Hunghom Peninsula earlier on have already offered some valuable experience and delivered a lesson. No member of the public will wish to see any similar incident recur. Another advantage of asset securitization lies in the Government not losing the right to manage its assets, so that the impact of asset securitization on the livelihood of the public, in particular on public companies, is minimized. The asset securitization of the

five tunnels and one bridge is a good beginning. The Government should grasp this opportunity to test the response of the market, meanwhile, it can also devise better policies on asset securitization in the future. We believe the prospects of securitization are positive and good.

Secondly, the issue of bonds valued at not more than \$20 billion. To consolidate Hong Kong's position as an international financial centre, apart from a well-established supervisory mechanism, an equally important task is to tie in with and balance the development of the market. Given the prevailing low interest rates, the issuing government bonds will not only offer a greater variety of investment tools to the market, but also give the development of the bond market in Hong Kong depth and bring further improvements to the financial system. Moreover, given the low interest rates offered by banks nowadays, the bonds issued by the Government can be considered a low-risk but high-yield investment option for the public. It is believed that the response of the market will be quite keen.

Thirdly, on the Personalized Vehicle Registration Marks Scheme. This is by far the most creative idea in the Budget this year. From this measure, we can see the genuine good intention of the SAR Government, which has not forgotten the troubles of the public even as it strives to create sources of revenue. Therefore, although this measure is entirely voluntary and consistent with the principle of those willing should pay, it will neither affect the interest of people who do not intend to bid nor increase the burden of the public, and it will also bring revenue to the treasury. This kind of creativity and compassion for the public is truly worthy of our recognition.

Madam President, next I will express some views on the budget for education.

In the year 2004-05, the government investment in education will run up to \$59.5 billion, accounting for 23% of government expenditure. Of this amount, basic education takes up nearly 60% of the overall education expenditure. While the deficit position remains precarious, education is still the Government's greatest investment. The Democratic Alliance for Betterment of Hong Kong (DAB) wishes to express its understanding for and acceptance of the Government's commitment to education.

The Education and Manpower Bureau said that the total amount of funds allocated this year was more or less the same as that of last year, however, because of the natural increase as a result of the salary increments of teachers and other staff members, together with the requirements of new initiatives in education, such as the introduction of curriculum development leaders in primary schools, improving the Expatriate English Language Teacher Scheme, the introduction of the study on teaching in small classes, and so on, there is an increase of over \$2 billion in recurrent expenditure. Because of this, it is necessary to continue to control the education expenditure and various parties in the education sector have to share the burden. Among them, the Education and Manpower Bureau has to shoulder \$920 million, the funding to universities has to be reduced by 10%, thus saving \$890 million, and the Vocational Training Council has to shoulder a burden amounting to \$49 million. So as far as the outstanding \$80 million is concerned, it is necessary to wield the axe at primary and secondary schools. With the declining birth rate and slowing population growth, schools are facing under-enrolment. Therefore, it is inevitable that layoffs, reduction in the number of classes and even closures will occur. However, we feel that in this process, the Education and Manpower Bureau should help schools that have been operating well to end just as well, so that arrangements are made for school sponsoring organizations, teachers are given alternatives and students can continue their studies, thereby achieving an all-win situation.

Madam President, given the tight resources for education, our concern is how resources can be put to the best use so that every cent spent on education will bring results. This is no easy end to achieve. The Government can consider two aspects, namely, to redetermine the priorities of various measures and to reduce wastage. In redetermining priorities, an examination of various segments of education is called for. For example, some people consider that the spending on the Native-speaking English Teacher (NET) Scheme was too great and hold the view that with more and more teachers passing the language benchmarking test, the resources for employing expatriate teachers can be reduced accordingly. However, other people consider that the NET Scheme helps student learn English. Should the Government re-examine the utilization of resources in this area? Another example is the School Building Programme for various districts proposed by the Government earlier on. After weighing such factors as the supply and demand of school places and the diversity of school sponsorship, is there any room to reduce the number of schools to be built? Since the calculation of school places was based on the population projection

made a couple of years ago, the authorities should closely monitor the actual population profile in various districts and review the School Building Programme.

No amount of money could be enough if we, having continuously injected resources, do not properly monitor the utilization of resources and address wastage. For example, among the schools made to stop offering Primary One classes, eight of them have already carried out school improvement works and the amount of money involved was \$160 million. Although the school environments have been improved, the schools are made to close down, which is indeed a great irony. We hope that the Secretary will honour his undertaking of re-examining non-essential improvement projects and reviewing the approach in handling these projects and decide whether the projects should be continued or otherwise, as well as making arrangements to deal with vacant schools and classrooms, so that no more wastage would occur.

Although the funding arrangements for universities in the next few years have been settled, in the long run, the time for implementing a four-year academic system in universities remains indefinite. Some institutes under the UGC have followed the world trend and taken the lead in introducing four-year dual degree programmes. However, the fourth year has to be self-financing and students have to pay more in tuition fees. Is this approach a compromise that will enable the implementation of a four-year academic system in universities? Will the authorities consider financing the fourth year of such programmes when resources permit?

Finally, I wish to talk about teacher training. In recent years, although a variety of teacher training, such as part-time diplomas, certificates, language proficiency examinations for teachers, and so on, have exerted great pressure on teachers, these initiatives are worthwhile in the interest of raising the quality of teachers in primary and secondary schools. However, as far as upgrading the quality of kindergarten teachers is concerned, the authorities have not shown sufficient resolve and the resources committed are also rather inadequate, therefore, serving kindergarten teachers are offered no opportunities to upgrade their qualification and quality. Therefore, I hope the authorities can devise a distinct professional development framework for kindergarten teachers.

Madam President, I so submit.

MR MARTIN LEE (in Cantonese): Madam President, the Budget this year is the fifth deficit budget since the reunification, and also the fourth deficit budget in a row since the 2000-01 financial year.

Since the reunification, the democrats have held no power nor clout, and we are the minority in the Legislative Council. I recalled that in 1995, Mr CHEN Zuoer attacked the Hong Kong Government as "getting killed in a car crash" for its lavish expenditure on social welfare. He criticized that since Mr Chris PATTEN had come in office, the Government's spending on various welfare expenditure was like a super race-car running at a very high speed. He also warned that if we went on in the same speed, we would certainly "get killed in a car crash" in a few years. Imagine that had the democrats been in power in these seven years, how would those opponents of democracy have scolded us? Though we have not been in power, those opponents of democracy still accuse the democratic camp of championing for welfarism to give away free lunches which would, eventually, exhaust the fiscal reserves, and for this reason, there should be no democracy in Hong Kong at the moment. Is it a fair statement?

Last month, when Premier WEN Jiabao spoke at a press conference of the National People's Congress, a Hong Kong reporter asked him if the Central Authorities were going to launch any new initiatives to support the Hong Kong economy. The Premier's reply was: I met with Mr TUNG Chee-hwa lately, and he made "once again" requests for helping further the development of Hong Kong economy, so the Central Government and relevant departments were seriously considering Mr TUNG's proposal.

So our Chief Executive only knows how to hold out his hand for favours and that is what he is good at. Madam President, I do not appreciate this approach indeed. All along, people in this community uphold a spirit of perseverance and diligence and they are self-reliant. Many a man, feeling that the money he earns from one job is not enough, would take up one more part-time job. Even if he thinks that he is not making enough money, he would hope that his next generation can stand a good chance of success. As I always tell my foreign friends, if they see a bus driver being over-taken by a Rolls-Royce with a tycoon smoking a cigar sitting at the back, the bus driver would not be jealous. He would only say, "I will never have the chance of sitting at the back of a Rolls-Royce, but as long as I work hard, I hope that one day my son will have

such a chance." This is what the Hong Kong people are like. As long as we have a level playing field, with our hard work, everyone stands a good chance of success.

Nevertheless, a new culture seems to have emerged. If anyone should have a problem, he can go to the Government. This attitude is in fact most damaging to our society. As such, I hope that our Government will not take the lead in doing so, and those rich and influential people should not ask for favours from the Chief Executive either. In fact, if we go on like this, it would harm the development of society as a whole. Our real estate tycoon, the Lee's family, is particularly good at this, thus making people say that Hong Kong is "A City of the Lee's". Take the Dongjiang water as an example, when the Water Supply Agreement was signed in 1989 between Guangdong and Hong Kong, we (the former Legislative Council) also found that the terms and conditions were very harsh to Hong Kong. Yet, as we were asking them for water supply, we had no alternative but to accept and sign the agreement. Recently, some people, including those in the Democratic Alliance for Betterment of Hong Kong, have suggested adjusting the price of Dongjiang water downward by 20%, so that Hong Kong could pay less for the water. Yet, is it fair to the Guangdong Provincial Government? A contract is a contract. Once a contract is signed, we must abide by it. If the terms are too harsh, we can negotiate with the opposite party for better terms come the expiry of the contract. Nonetheless, we can never ask for a price reduction when the contract is still in force, thus violating the contract spirit.

In fact, for years, we have been hoping that the Mainland will develop into a community upholding the rule of law, and the contract spirit is an integral part of it. Besides, we are much well-off than our compatriots in the Mainland. In Hong Kong, the per capita Gross Domestic Product is US\$25,000 per annum, while in the Mainland, it is only US\$1,106. Compared to them, we are 22 times higher. How can we ask them for favours? It would be most unfair. For this reason, the Democratic Party objects to this approach. A contract is a contract, and we must give it the due respect. We also earnestly hope that the Mainland can build up as soon as possible a respect for the rule of law, which will be most conducive to the future of our Motherland.

Thus, it is my sincere hope that in dealing with issues in Hong Kong in the future, the Chief Executive and the Government of the Hong Kong Special Administrative Region will refrain from asking for small favours and advantages from others. We must live up to the spirit of Hong Kong as we did in the past,

and we must stand on our own legs without relying on others. This is the road to success. Thank you, Madam President.

MR JASPER TSANG (in Cantonese): Madam President, the Financial Secretary said in his Budget speech that the signing of the Mainland/Hong Kong Closer Economic Partnership Arrangement (CEPA) is "a prime example of how 'one country, two systems' benefits Hong Kong". We in the DAB agree entirely to this viewpoint. We do not agree with some people, including Mr Martin LEE, who liken CEPA to a request for favour and alms from the Central Authorities. We totally believe that CEPA will bring forth a win-win and mutually beneficial situation. Had it not been the case, provinces and cities in the Mainland would not have asked for the conclusion of similar arrangements with Hong Kong following the signing of CEPA and the implementation of some Hong Kong-Guangdong co-operation projects.

Over the past few months, I have had contact with many trade delegations from the Mainland that wish to secure similar arrangements with Hong Kong. These delegations to Hong Kong, coming from various cities and provinces in the Mainland, all wish to study the further implementation of CEPA. Last week, I was present at one such occasion, on which a chamber of commerce said that it had received some 80 such trade delegations coming from cities and provinces all over the Mainland to discuss economic co-operation with Hong Kong. This shows that such arrangements must definitely be mutually beneficial. We in the DAB have all along maintained that the development of economic co-operation and relations between Hong Kong and the Mainland is crucial for Hong Kong's own development, and that the co-ordination and support of the SAR Government is indispensable.

Since earlier this year, the various provisions of CEPA have been implemented one by one. In order to facilitate the implementation of this agreement, the DAB has explored a number of follow-up measures. I wish to propose three of them to the Government now.

Our first proposal is that the SAR Government should properly follow up the establishment of operation by individual proprietors of Hong Kong businesses in the Mainland. Under Annex 4 to CEPA, permanent Hong Kong residents who are Chinese citizens can, in accordance with the relevant laws and regulations of the Mainland, operate as individual professional service providers

in Guangdong Province without being subject to prequalification applicable to foreign investors. We believe this policy can provide business start-up opportunities as a means of earning a living to grass-roots Hong Kong people who have lost their jobs as a result of economic restructuring. The SAR Government is obligated to give its vigorous support.

As a start, we maintain that the SAR Government should co-operate with the various departments of the Guangdong Provincial Government in stepping up publicity, with a view to enabling Hong Kong residents to gain an extensive understanding of the Mainland's policies and regulations on individual business operators; counselling should also be provided to people wishing to start businesses in the Mainland, so as to let them know and help them solve the problems they may encounter in setting up their businesses there. At the end of last year, the DAB invited the leaders of the Administration for Industry and Commerce and the Local Taxation Bureau of Guangdong to hold a series of talks in Hong Kong. The topics of the talks included an introduction to the registration of individually-owned businesses and the types of local taxes payable by them. These talks were well received and attended by large numbers of participants. We will continue to hold such activities and hope that the SAR Government can make more efforts in this respect.

Besides, as regards those Hong Kong residents who have already started their individually-owned businesses in Guangdong, the Government should provide them with sustained assistance aimed at helping them solve the problems they encounter in the course of operation. The DAB plans to visit places like Guangzhou and Shenzhen to gain an understanding of the business conditions of those Hong Kong residents operating individually-owned businesses there, especially the difficulties encountered by them, so that it can propose solutions to the governments of the two places. But the Government is able to offer far more assistance to these business operators than any non-governmental organizations. We are of the view that the Guangdong Office of the SAR Government, in particular, should play a greater role in this respect.

Third, to reflect the needs of Hong Kong people. The Central Government should be requested to suitably extend the scope of business categories for individually-owned businesses and to open up more places for them. The reason is that the categories are presently confined to retail businesses. Is it therefore possible for us to ask for an extension of the categories to industries requiring relatively simple management, such as the

catering industry and salons? And, since the scope of operation is limited to Guangdong at present, is it possible for us to ask for an incremental extension for Hong Kong people — whose native places actually cover the whole country? For example, as a next step, consideration can first be given to Shanghai, Jiangsu and Zhejiang, places that are more attractive to Hong Kong people. This is the first proposal.

Our second proposal is that the SAR Government should also encourage mainland companies to come to Hong Kong. I mean it should co-operate with the mainland authorities to encourage mainland companies to set up branches or representative offices here. At least, negotiations should first be held with the Guangdong Provincial Government to urge it to adopt effective measures on encouraging companies in the province to set up branches in Hong Kong, with a view to upgrading the competitiveness of the Pearl River Delta (PRD) Region and Hong Kong. We think that from the angle of developing an externally-oriented economy, this is good to both Hong Kong and Guangdong. Actually, just a short time ago, Guangdong Governor HUANG Huahua, in his report to the 10th Plenary Session of the Guangdong National People's Congress, also highlighted the policy of "venturing out". He said that the PRD Region should see more reasons than others to capitalize on CEPA and enhance its co-operation with Hong Kong as a means of accessing the international market. Since CEPA has relaxed the entry threshold for Hong Kong companies wishing to operate in the Mainland, we are of the view that the Central Government should also consider the possibility of relaxing the restrictions on mainland companies wishing to set up branches or representative offices in Hong Kong, so as to open the doors of both sides and create a win-win situation.

According to a survey conducted by the Hong Kong Trade Development Council in 2002, 19.7% of the companies in the PRD Region had already set up branches in Hong Kong; 14.5% had planned to do so; and, 49.3% of them agreed that there was a need to set up branches or representative offices in Hong Kong. Most of the companies covered by the survey thought that, geographically, no other cities in the world could replace Hong Kong as an international financial centre; over 80% of them considered that it was easier for them to carry out regional business activities in Hong Kong, and that Hong Kong had an advantage over cities in the Mainland. This shows that companies in the PRD do have a practical need to rely on Hong Kong as a base of "venturing out". The coming of PRD companies in large numbers can further consolidate our status as the regional headquarters of out-of-country enterprises, in turn

promoting the development of our financial industries, services sectors and other industries and easing our unemployment problem. This is definitely a win-win and mutually beneficially situation.

Our third proposal is that we should make use of CEPA to enhance our trade co-operation with the Mainland, in particular Shenzhen. Hong Kong and Shenzhen are separated by just a river, the latter being the largest Special Economic Zone of the country that is always at the forefront of reform and opening. Hong Kong should thus co-operate much more closely with Shenzhen than with any places in the Mainland. But there seems to be such a huge gap between the reality and expectations.

The results of using CEPA as a means of enhancing the co-operation between the two places have not been very impressive. Every now and then, over some issues where co-operation looks very easy, both sides would nonetheless fail to reach any agreement after a long time. For example, just the day before yesterday (the 20th), the *Wen Wei Pao* reported that the governments of the two places had still failed to reach any agreement on the development of the river loop area due to their divergent views on the contents of development. This shows that because of their respective requirements and interests, the governments of the two places are still unable to accommodate each other's divergent views and come to an agreement on their co-operation. We hope that the SAR Government can be more visionary in its attitude and take the initiative of proposing to work out a long-term and integrated development plan with Shenzhen. We also hope that a new development plan can be worked out on this basis to promote and facilitate the smooth co-operation of the two places. In this connection, we in the DAB would like to highlight two specific proposals that we consider feasible.

First, in the project on developing a cross-boundary economic co-operation zone in Shenzhen, is it possible for the Government to explore the possibility of establishing a land port at a suitable boundary location, taking into account the future logistics needs of both places? It is projected that under the external economic environment following China's accession to the World Trade Organization, the foreign trade of Hong Kong will see a huge growth of 8% per annum in the next 20 years. For this reason, both sides will have to make continuous and huge investments in infrastructure construction. The pressing problem now is that the bulk of the freight transport between the two places is still undertaken by Hong Kong container lorries holding licences of both sides.

The transportation potentials of the Mainland are thus not effectively utilized, and the costs are very high. Besides, due to the need for clearance, container lorries and their drivers are most of the time not running on the roads. Whenever there are any problems with customs clearance, such as computer breakdown, serious traffic congestion will result.

Madam President, the day before yesterday, I had to go to Shenzhen to attend to some business. I crossed the boundary at around 7 o'clock in the evening, and as soon as I exited Lok Ma Chau, I saw an endless queue of container lorries on the highway. It was about 7 pm, and I just wondered whether all these container lorries could disperse before midnight. The DAB's proposed land port will operate like this: A southbound container is carried by a mainland container lorry to the Shenzhen section of the land port, where unloading takes place. Immediately after this, a northbound container — a northbound container from Hong Kong — is loaded onto the same mainland container lorry, which then heads back immediately. The Shenzhen customs authorities random check the goods inside the southbound container at the cargo yard of the land port, and having undergone clearance, the container is carried internally to the Hong Kong customs authorities in the land port for further random inspection. The container is then loaded onto a Hong Kong container lorry having just unloaded its northbound container. The Hong Kong container lorry then leaves immediately for Hong Kong. Similarly, a northbound container from Hong Kong is handled in the same way, but in the reverse direction. This means that a Hong Kong container lorry will unload its container upon arrival at the land port and then carry a southbound container on the journey back to Hong Kong.

If co-location clearance is also implemented, the transportation inside the land port will be even simpler and the journey shorter. Container lorry drivers will be able to travel smoothly without any delays throughout. Even computer breakdowns will only lead to an accumulation of containers inside the land port. We estimate that if this proposal is adopted, Hong Kong container lorries will be able to run more than 10 round trips a day, and that is much more efficient than having just two round trips a day at present. The turnover rate of the Shenzhen side will also multiply. It is estimated that direct transportation costs can be reduced by at least 50%, thus enhancing the competitiveness of both Hong Kong and the PRD. We also believe that the income of container lorry drivers and container owners will increase very substantially.

Another specific proposal concerns whether or not it is possible to extend the electrified train services of the Kowloon-Canton Railway to the train station in Shenzhen. The Shenzhen Train Station is located at the hub of the city's public transportation network. It is very convenient to travel from there to the town centre, switch to other modes of transport or to the Hong Kong-Shenzhen express bound for various places in the whole country. The implementation of this proposal will require very limited investments by both sides. On the part of Hong Kong, for example, it will have to rebuild or increase the capacity of the facilities along the short rail section between Lo Wu and Shenzhen stations, such as overhead cables, train tracks and signalling systems, so that they can be fit for the operation of electrified trains. On the part of Shenzhen, it will have to rebuild or expand its station platform facilities. Besides, we also think that a site adjacent to the Shenzhen Train Station may be identified for the construction of a clearance building, where co-location of clearance can be introduced. This can eliminate the overcrowding problem faced by Hong Kong and Shenzhen due to the impossibility of expanding the clearance building at Lo Wu. We propose to demolish the existing clearance building at Lo Wu. The two sides can make joint investments in constructing a new clearance building, and upon the completion of the new building, the Lo Wu Station can be cancelled.

The two proposals mentioned above are of great urgency. Anyone who has ever crossed the boundary from Hong Kong through Lo Wu to Shenzhen can notice that the existing facilities there lag far behind the needs necessitated by the flows of goods and people.

Thank you, Madam President.

MR LEE CHEUK-YAN (in Cantonese): Madam President, the debate today is on the Appropriation Bill relating to the Budget, but I suppose all Hong Kong people may have forgotten the Budget already. There are now very few discussions in society on the Budget. Some commend the Financial Secretary's Budget for giving the community a respite. I very much agree — however, I must say that the respite is not for the community, but for the Financial Secretary himself. Outside, cannons are being fired, as everybody is arguing about the constitutional reform. The Financial Secretary may have watched too many movies recently, movies like "Buddha's Palm" and "Infernal Affairs", so these movies are mentioned in the Budget. He is hiding somewhere, watching movies while others have to go the front. That cannot be allowed. That is

unfair. For this reason, I want to haul him back from his respite, to where the cannons are firing. But it seems that the Financial Secretary does not want to be bothered by the booming cannons, which is why he has already left, probably for a movie again. Which movie is he watching now?

Madam President, despite its claim, what the Budget will bring forth will not be any real respite but just the tranquility before a tempest, because it can be noticed very clearly that the Financial Secretary is going to introduce an austerity policy. Under such a policy, the public expenditure of Hong Kong will fall back to the level 20 years ago. As can be seen from the Medium Range Forecast, the Government plans to bring public expenditure as a share of the Gross Domestic Product down to 16.9% in 2008-09, back to the level in the late 1980s and early 1990s. Does the ruling regime of TUNG Chee-hwa, who is returned by a coterie election, want Hong Kong to move backwards for 20 years in time? Is the suppression of public expenditure to the level 20 years ago — rationalized as it may be by the avowed principle of "small government, big market" — in fact synonymous to funnelling benefits to large consortia and ill-treating the ordinary public?

Madam President, I wish to remind the Government that the social and economic conditions of Hong Kong in the 21st century are markedly differently from those of a decade or two ago. The Government is of course capable of bringing down the level of public expenditure to that of a decade or two ago, but with respect to Hong Kong's existing economic and social conditions, it cannot possibly turn the clock back by 20 years. Twenty years have passed, and Hong Kong has changed entirely.

The first change is the gradual ageing of our population. The Government cannot possibly prevent people from ageing, nor can it rejuvenate the elderly, meaning that the expenditure on social welfare and health care is bound to be forever rising. Our population has been ageing, so the situation now is vastly different from that of 20 years ago.

There is also the second major change. Members must not forget that in the last century, that is, about 20 years ago, the university participation rate of young people was lower than 20%. But what is the rate they are talking about now? The aim is to raise the university participation rate to 60%. If, on the one hand, the Government wants to achieve a 60% participation rate, but is reluctant to invest in education on the other, how can the goal be achieved?

The third obvious difference can be seen in the rapid deterioration of the wealth gap problem over the past couple of decades. Disparity in wealth will lead to many social problems. For example, people now say that there is a need for training, so huge resources have to be invested. Ten to 20 years back, there was no need to expend such huge resources. No training was then provided, but all people could find a job whenever they wished to. With all the changes in society, there is now a need for training, social security and various community services. There was not so much discontent and resentment in society 20 years ago, not some many cases in which people are hacked. There are more such cases now, Tin Shui Wai being a fine example, thus posing the question of whether or not family services should be strengthened. But instead of enhancing its services, the Government now wishes to cut back on them, pushing them back to the level 20 years ago.

We must realize that there is no way that the expenditure of the entire society can regress to the level 20 years ago. The Government may well argue that it can still deliver services with the same efficiency and of the same standards even by using less money — by enhancing efficiency, in other words. But, honestly, who will believe it? Can it cope with all the changes over the past 20 years simply by enhancing efficiency? There are many more problems nowadays. Though the Government claims that it can enhance its efficiency and use the same amount of money to cope with the changes over the past 20 years, I do not think that this is at all possible.

The Government should actually ask people whether they want a bad orange for just a few dimes or a big, succulent one for a bit more, maybe a dollar, not just a few dimes. Does the Government have the courage to let people take their pick, asking them whether they want a bad orange or a good one? Is it true to say that because the Government knows itself only too well, knows that it is a juiceless, bitter orange of thick skin, it dares not let people take their pick? The point is that even when people can choose as they wish, they will not believe that the Government is capable.

People all have a pretty clear idea of whether the Government is a bad orange. But I can assert that the Government's curtailment of expenditure will only end up in a complete mess, which is already beginning to surface, evident in the reduction of social welfare expenditure, for example. We have recently noticed that there is an acute shortage of social services in some areas, resulting in spates of tragedies in society. Tin Shui Wai has given us a very clear picture

of the situation. Concerning the recent incident in Tin Shui Wai, I can still remember one remark very vividly, to this effect, "I shall redeploy resources to strengthen the services in places like Tin Shui Wai and Yuen Long, where there are more cases of child and spouse abuse and family problems." Redeployment of resources. Hearing this, I cannot help asking, "Once resources are redeployed, what other kinds of services will receive a cut?" When resources are redeployed to plug one of the holes, other kinds of services will receive a cut, so this is no solution after all. A complete mess is bound to be the end result.

The resources for many social welfare organizations have been reduced, and so has the funding for universities. This soon leads to a problem. All these organizations have started to turn their axes to their staff. The new recruits of social welfare organizations are all employed on agreement terms, with tenures ranging from three months to one year. This means that after an employee has completed a one-year agreement, he may have to accept a reduced salary before he is offered a contract renewal of one year. As a result, front-line staff will always be new recruits, or fresh graduates, who can never enjoy any job security. In that case, how can they be expected to deliver quality services? All these employees may well work for their organizations for just a year or two. This will lead to problems sooner or later.

The situation in universities is just the same. The funding for universities has been cut. Members can imagine that under such a situation, there is bound to be widespread panic among the existing academic and administrative staff of universities, and new staff may have to accept comparatively meagre salaries — of course, when compared with the wages of grass-roots workers, their salaries may not be meagre at all. But how much can they earn after studying for so many years, obtaining their bachelor's, master's or even doctor's degrees? Will they feel worth it? They may well consider the possibility of starting a career overseas. In that case, a brain drain may result. This will be the consequence of reducing university funding.

I can actually cite many, many more consequences of the mess. Is the Government really going to ignore all these consequences and reduce its expenditure across the board to the level 20 years ago? The Financial Secretary has not been listening to my speech, but I will still leave this question to him: "Is he bent on reducing public expenditure to the level 20 years ago? Is he going to do so regardless?"

Second, about another major issue, that is, the direction of Hong Kong's economic development. Whether in the policy address or the Budget, the Government seems to be telling the community that the direction of our economic development can be summed up simply by these words: "Continue to live on what we have while asking for more favours". I can remember how Mr NG Leung-sing said yesterday that the vulnerable should not count on the Government but should stand on their own feet instead. I wish to tell Mr NG Leung-sing, that to begin with, these people are the vulnerable members of society. Also, he must think about one more point. We can be considered strong when compared with these people. Hong Kong as a society is strong enough, right? The Government is strong enough, right? But what has happened to us? Are we not counting on the Central Government? Have the people of Hong Kong heard Premier WEN Jiabao say at the press conference after the recent session of the National People's Conference that TUNG Chee-hwa had once again asked for economic favours. How do we feel about this? Do we feel that the people of Hong Kong have already become too reliant on the Central Government? Where has the enterprise of Hong Kong people gone? In other words, the most dangerous tendency now is that whenever there are any problems, people will just turn to the Central Government. The purpose of doing so is not so much to solve the problems faced by Hong Kong, but to enable Hong Kong businessmen to shift their business back to the Mainland much more expeditiously. But then, where should Hong Kong be heading for? Is this policy conducive to the good of Hong Kong? The enterprise of Hong Kong people has all gone to the Mainland, can no more to be found in Hong Kong, so what is Hong Kong going to do? If we always turn to the Central Authorities for anything we need, can there still be any more development prospects for Hong Kong?

We can see that the Government and the Financial Secretary frequently mention CEPA, that is, the Mainland/Hong Kong Closer Economic Partnership Arrangement. But has it ever occurred to us how much benefit CEPA can really bring to Hong Kong? Mr LI Jiangfan, Director of the Institute of Tertiary Industry in China, Sun Yat-sen University, Guangzhou, once cautioned that while CEPA would produce complex effects on the economy of Hong Kong, it could not possibly give any boost to its manufacturing industries. This is something we all know, because there are not too many manufacturing industries in Hong Kong anyway. That is why the implementation of zero tariff can do very little to ease the unemployment problem in Hong Kong. Although the services industries are given the advantage of entering the mainland market

ahead of foreign companies, this advantage will last one to three years only. Although a foothold can be gained earlier than others, there will be another round of industrial shift in the next one to three years. The shift will see a massive northward movement of technical professionals and managers. As a result of this, modern, professional and high-level services will account for a lower proportion in the Hong Kong economy, while that of traditional, low-level services will increase. The northward movement of industries and professional talents will also lead to an increase in Hong Kong's Gross National Product (GNP) but a drop in the Gross Domestic Product (GDP). The GDP is the gross product of those people staying behind in Hong Kong. The GNP is the gross product of all Hong Kong people, including those working in the Mainland. If the GDP drops, can there still be any room for Hong Kong's development?

Besides, the Pearl River Delta has already completed its restructuring from traditional industries to hi-tech enterprises engaging in electronic communications, automobile manufacture, chemical production, and so on. Hong Kong cannot play any role in the provision of core technologies to these industries. It also does not enjoy an advantage in operation, and it is even totally inexperienced. In addition, following China's accession to the World Trade Organization, direct dealings between Guangdong and foreign businesses will increase, meaning that Hong Kong's role as an intermediary in the foreign trade of Guangdong may diminish. Our local technologies may well fail to catch up.

There are so many related problems, but why has society not thought about them? People are just behaving as if they could just allow the *status quo* to drag on, as if Hong Kong would fare well as long as CEPA can be properly handled. But I do feel that very obviously, even if all is smooth with CEPA, Hong Kong will not fare well. What will happen in the end will just be a quicker flow of money to the Mainland. What will become of those who are left behind in Hong Kong?

The worst thing, the last thing I want to see, is that the prevalence of strong discontent in society, the feeling of being politically hemmed in, of having no way out, may eventually trigger off another exodus of emigrants. This is the last thing I want to see.

Madam President, the latest unemployment rate has just been announced. When it comes to tackling unemployment, the Government has likewise turned in

a "blank answer sheet". Well, there are usually only just two measures to tackle unemployment: to boost the economy and to create job opportunities. But what are the greatest difficulties faced by the Government in the employment of these two measures? I personally think that the first major difficulty faced by the Government is its own reluctance to spend any money. Yes, I do know that the Government has spent some money, has employed some temporary workers. But then the 19 000 temporary posts created initially have now been reduced to 11 000. The number has been reduced once again. Even if the Government does not want to spend any money, there are still many other ways to boost the economy. For example, the transportation industry has been asking the Government to reduce the fuel duty rate to zero. Actually, this is already the case in Singapore and the Mainland. Zero-fuel duty is in fact one way to boost the economy, to enable the transportation industry to take off. Once the transport industry is enabled to do so, there will be knock-on effects on the economy of Hong Kong as a whole. Why is the Government reluctant to do so? I hope the Financial Secretary can tell me whether he is prepared to introduce zero-fuel duty directly. See, the Financial Secretary is shaking his head. I hope that in the next meeting, the Financial Secretary can explain why he is shaking his head now. Why is it impossible to introduce zero-fuel duty? Is that because he is not willing to spend money? This is actually a very great problem; the Government is just reluctant to spend any money.

The second great difficulty is that while it does not want to spend any money, the Government also does not want to affect the interests of the business sector. For example, we frequently ask, "Why has there been no improvement to the unemployment problem for such a long time?" The answer is very simple. Those who are employed, that is, those who have a job, must work very long hours, must cope with an ever-increasing workload, until they are totally exhausted, because their employers simply will not employ more workers. Even if there will be more customers, they will not employ any more workers all the same. Working hours are so long, but if they can be restricted somehow, there will be a greater need to take on more workers. However, the Government is definitely unwilling to do so, because in that case, the interests of the business sector will be affected. The Government is forever timid with everything it does, so fearful of affecting the interests of the business sector. Honestly, our society wishes only to strike some kind of balance. The problem now is that while some people have to work until total exhaustion, the unemployment rate is nonetheless very high. There is thus a need to strike

some kind of balance. We just want to strike a balance, not to ask for any equal distribution of wealth. Many people talk about equal distribution of wealth, but this is not what I mean. I just hope that society can strike some kind of balance. That is all I have been driving at. Why is there such a reluctance to do even such a small thing?

Lastly, Madam President, I wish to add one more point. The Government must never privatize any of the water treatment works under the Water Supplies Department. The Government has come up with such a grand excuse, a notion called Public Private Partnership, "3 P's" in other words. I may as well add one more "P" to it, making it "4 P's" — Public Purse, Private Profit. There are "4 P's" totally, signifying that public money will be funnelled to all those consortia in the end. Why do the consortia want to operate the water treatment works for the Government? The only reason is profit. Will there really be any efficiency enhancement as claimed? They will only employ 90 workers, so how can they be so efficient as claimed, so efficient that there will be no need for any government "subsidy"? The Government will probably have to provide "subsidy" to keep the water treatment works running. That is why I think that the privatization project of the Water Supplies Department is totally undesirable and may lead to a crisis of some kind. People may be worried about whether there will be any deterioration in the quality of the water they drink, and whether water charges may rise. This is yet another problem. I believe eventually water quality will deteriorate and water charges will also rise. So, in the end, members of the public will become the victims once again. Thank you, Madam President.

PRESIDENT (in Cantonese): Mr NG Leung-sing, do you wish to seek elucidation?

MR NG LEUNG-SING (in Cantonese): I wish to clarify one point. Mr LEE Cheuk-yan just now referred to my remarks yesterday. I suppose Mr LEE Cheuk-yan may have turned a bit dizzy as a result of the interpretation of the Basic Law, which is why it now appears that he has misinterpreted my remarks yesterday. I must state clearly that unlike what Mr LEE Cheuk-yan said, I never said that the vulnerable must not be permitted or allowed to rely on the Government. I actually said quite the opposite thing, and let me just read out

my relevant remarks once again: ".....what Hong Kong needs after all is an enterprising spirit, not any over-reliance on the Government. When it comes to helping the vulnerable, the Government must of course make commitments to improving the employment situation.....". These are the exact remarks I made. Thank you, Madam President.

MR AMBROSE LAU (in Cantonese): Madam President, during the policy debate, I said to the effect that in the course of formulating the 2004-05 Budget, the Government should draw lessons from the experience in the past six years and learn from history and the successful reigns of Emperor Wen and Emperor Jing in the Western Han Dynasty, and that it must first realize the objective of the policy address on allowing people to take a respite, and then allocate more resources to the formulation of various policies to assist in our economic development. Subsequently, the Financial Secretary has also adopted "giving our community a respite" as the theme of his first Budget. The overall comment of the Hong Kong Progressive Alliance (HKPA) is as follows: steps have been taken to "give our community a respite", and this should be duly recognized; the community has not been made the victims of measures to increase revenue, so this is a true reflection of "people-based governance". But it must also be pointed out that, in adopting "a light touch" approach to economic revitalization, the Government has failed to capitalize on the opportunities offered by the Central Authorities to boost the economy, and that it has also failed to introduce a greater number of decisive measures to reduce the wastage of public money.

Madam President, the Budget has accepted some of the HKPA's proposals on "giving our community a respite": rationalizing the structure of government departments, no drastic reduction of social welfare, health care and education expenditure, no tax increase, the continued freeze of government fees and charges directly affecting the people's livelihood and the business environment and also the extension of the salaries tax deduction for home loan interest. The HKPA has always maintained that "expenditure reduction must precede tax increase". The Government must first rationalize the structure of its various departments, so as to downsize and save expenditure. In regard to the structural rationalization of government departments, the civil service establishment has been downsized from 198 000 posts in early 2000 to 172 000 posts now. And, by late March next year, the number of posts will be further reduced to 165 500. This is in line with the principle of "big market, small

government" advocated all along by the HKPA. Since more than 70% of the Government's recurrent expenditure is on the payment of staff salaries and fringe benefits, the downsizing of the civil service establishment will be of vital significance to expenditure reduction. The HKPA is of the view that the Government should introduce further measures on structural rationalization and strive to bring public expenditure as a share of the Gross Domestic Product (GDP) down to 20% or below, for this is the only means of ultimately easing the pressure of tax and fee increases. The various proposals made in the Budget, such as those on the continued freeze of government fees and charges directly affecting the people's livelihood and the business environment, no tax increase and the extension of the salaries tax deduction for home loan interest will help the business sector rebuild its strength and allow the community to take a respite. The extension of the salaries tax deduction for home loan interest will also lighten the burden of the middle class. But the HKPA is still of the view that further improvements should be made in respect of the over-concentration of the tax burden on the middle class.

"Giving our community a respite" is intricately related to the maintenance of a low and simple tax regime in Hong Kong and also the upholding of the "big market, small government" principle. The successful reigns of Emperor Wen and Emperor Jing were marked by two features: first, giving the people a respite by imposing light taxes and labour; second, government frugality and avoidance of extravagance to ensure healthy public finances.

However, the goods and services tax mentioned in the Budget, that is, the so-called sales tax, which will be payable every time when people make any spending, will run counter to the principle of imposing light taxes and labour. According to the Budget, more than 120 countries have introduced this type of tax, and Hong Kong is the only exception among developed economies. But it must be pointed out that Hong Kong also happens to be the only developed economy that practises a low and simple tax regime. Hong Kong has been telling the outside world that its simple tax regime is conducive to business operation, so why does it want to follow the "success examples" of countries and regions where high and complicated tax regimes are practised? Is that because it is considered necessary for Hong Kong to switch to a high and complicated tax regime similar to those found in the 120 countries? A sales tax is apparently fair, for the tax burden is to be shared equally among all social strata. However, since low-income families are to be granted exemption, they will not be affected. In that case, the tax burden of the middle class will increase. The middle-class

people are in the greatest need for a respite, so if they are rendered unable to take a respite because of the sales tax, the consequences will be very serious. What is more, the administrative costs of a sales tax are very high, and if visitors have to undergo very complicated procedures for tax refund, the tourism industry will also be adversely affected. A sales tax, ostensibly a means to broaden the tax base, may actually end up exhausting the people and adding to the burden of the middle class.

In regard to "frugality and avoidance of extravagance", the Government of the Hong Kong Special Administrative Region (SAR) is far, far below standard. The reports of the Audit Commission over the years all point to huge black hole of squandering in various government departments. The HKPA has proposed that the Government should proportionately reduce the funding for the relevant departments according to their amounts of wastage revealed in the value for money audit reports of the Audit Commission, with a view to ensuring the proper utilization of resources. However, the Government has rejected the proposal, simply saying that Bureau Directors will carry out reviews on the basis of demand. The HKPA is disappointed by such a reply, maintaining that it cannot address people's greatest concern, the squandering of public money.

Madam President, to really "give the community a respite", no attempt must be made to "fleece" the people in the interest of generating revenue. The good thing about the three revenue-raising measures mentioned in the Budget is that they do not seek to "fleece" the people, which is positive. What is not so good about them is that they are not based on economic growth, but on land auctions, the sale of government assets and borrowing.

The first measure, the resumption of the application list system. The proceeds from land sales last year were not substantial, amounting to a mere \$4.85 billion. The estimated proceeds this year will be \$12 billion, and the proceeds will increase every year thereafter, rising to an estimated \$30.7 billion in 2009. The moratorium on land sale and the suspension of the application list system have deprived the Treasury of a source of substantial revenue, and the fiscal deficit has understandably come to exert mounting pressure. However, given the sluggishness of the property market and the acute problem of negative equity assets, there were in fact no alternatives to the moratorium on land sale and the suspension of the application list system. Now, after a year of respite, as the market gradually absorbs the accumulated surplus of housing units, an equilibrium of supply and demand is emerging, and people are beginning to

regain their confidence in the property market. The resumption of the application list system will thus help the property market return to the right track, in addition to relieving the fiscal deficit pressure.

The second measure, the sale or securitization of government assets. It was announced in last year's Budget that the Government would sell or securitize assets of \$112 billion over the next five years. This year, the Government will securitize the revenues from government toll tunnels and bridges to realize up to \$6 billion, and it also expects to realize another \$6 billion by privatizing the assets of the Airport Authority. In the coming financial years, it will continue to sell its interests in shares of the MTR Corporation Limited and the Disneyland as well as its water supplies and postal services, in the hope of ultimately achieving its revenue target.

Third, the issuance of bonds valued at \$20 billion. The Central Authorities have expressed support for the issuance of bonds by the Hong Kong Government, and, in addition, since there is an abundance of capital in the market, as much as \$3,600 billion worth of deposits in the banking system, the issuance of government bonds can actually offer an additional option to individual and corporate investors. The \$20 billion will be spent mainly on infrastructure projects, and since such borrowing will involve interest costs and principal repayment, the Government must set down a benchmark for minimum investment returns, so as to ensure that the capital raised will only be spent on projects with long-term economic benefits that can effectively boost the economy. The bond market in Hong Kong is not well-developed; the total value of all bonds not yet reaching maturity is just about 45% of the GDP, but in such developed countries as the United States and Japan, the rate is as high as 150%. The HKPA is of the view that the \$20 billion bonds to be issued by the Government are definitely too small in amount and can be of very little use only. The Government must expand the local bond market and increase its dimensions by striving to promote product diversification. Specifically, the government, state enterprises and private enterprises of the Mainland should be induced to issue bonds in Hong Kong; local blue chip corporations, which now only issue bonds in Europe and America, should be encouraged to do so back in Hong Kong; moreover, countries and enterprises in the rest of Asia should also be induced to issue bonds in Hong Kong. In addition, steps should also be taken to foster the development of bond derivative tools such as bond futures and interest futures. The Government should adhere firmly to the proper direction of promoting the development of the local bond market, so as to enhance Hong Kong's status as an international financial centre.

The HKPA maintains that we must not rely solely on these three measures to bring about economic revitalization. Doing so will be tantamount to "leaving ourselves to the mercy of Heaven", and, not only this, we will sooner or later use up all we have. The reason is that the Government's assets are limited in quantity, and the supply of land is likewise not unlimited. As there is bound to be less and less available for disposal, these measures cannot possibly be relied upon as any long-term solutions.

Madam President, the Budget contains no specific and feasible measures on revitalizing the economy and tackling the problems of economic restructuring and unemployment. Nor does it seek to boost the economy by capitalizing on the measures implemented by the Central Authorities to assist Hong Kong. Right at this juncture when "proactive efforts" are badly needed, the Government has simply mixed up "a light touch" and "giving the community a respite". The HKPA is of the view that while the people do need a respite, the Government must instead be "more diligent and proactive in governance".

When it comes to boosting the economy, apart from providing \$95 million for various tourism promotion and training activities and establishing a \$250 million fund for promotion of creative industries, the Budget says very little about other measures. As stated in the policy address, "our most pressing task is to implement the various arrangements under CEPA in time". But since the implementation of zero-tariff under CEPA, only 300 Certificates of Origin involving a total worth of \$150 million have been issued. This is not satisfactory. In respect of capitalizing on the zero-tariff arrangement, the Budget simply fails to put forward any feasible tax concession measures to encourage the development of high value-added industries in Hong Kong, something that can reverse the trend of industrial drain and create more jobs for local people. In regard to the measures on promoting Hong Kong as an offshore Renminbi (RMB) centre, the Budget still leaves much to be desired.

China and the ASEAN Free Trade Area are set to form the largest free trade zone in the whole world, populated by 2 billion people and providing limitless business opportunities. Hong Kong is located right between these two major free trade areas, and the relevant free trade agreements are also applicable to it. The HKPA maintains that the Government should promptly explore and formulate effective policies on upgrading our competitiveness. Specifically, a policy must be formulated as soon as possible to offer concession to Hong Kong enterprises returning to Hong Kong and to foreigners investing in local

manufacturing industries. The plan on liberalizing the boundary closed areas and developing a new boundary economic zone should be implemented. Steps should also be taken to develop Hong Kong into an off-shore RMB centre. Finally, measures should be implemented to enhance the role of Hong Kong as a hub between China and the ASEAN Free Trade Area.

Madam President, I so submit.

MR LEUNG YIU-CHUNG (in Cantonese): Madam President, according to Mr LEE Cheuk-yan, very few people have discussed the Budget this year. Maybe, people just think that since the Budget is all about a "respite", they should likewise take a rest instead of engaging in any discussions. But I suppose the story is not as simple as that. The most important reason may be the fact that the Budget is just like a blank sheet of paper on which nothing is written. Since nothing has been put forward, it will be pointless to hold any discussions. This viewpoint is shared by an economic analyst who said, "I simply do not know how to discuss and analyse this Budget because there is practically no substance in it."

However, Madam President, I must add one point here. Maybe there have not been too many discussions and proposals, but this does not mean that there is thus nothing contentious about the Budget. In particular, at this very time when the economy has not yet fully recovered and when we are still plagued by various problems, the inaction of the Government can be likened to plunging people into the rough sea and watching them drown with folded arms. This is a totally irresponsible act.

It is a pity that instead of paying any heed to such a criticism, the Financial Secretary seems to be very proud of his "light touch" approach. I have such an observation because on the day following the announcement of the Budget, in a radio programme, he even compared his policy to the reigns of Emperor Wen and Emperor Jing of the Han Dynasty, saying that a "light touch" approach would be most appropriate to Hong Kong under the current circumstances. But has it ever occurred to the Financial Secretary why a "light touch" approach was adopted during the reigns of Emperor Wen and Emperor Jing? That was because, realizing that both the people and society were in total devastation following the Spring and Autumn Period, the Warring States Period and the tyranny of Qin Shi Huang, the government at that time decided that the people should be given a respite instead of being made to suffer any further hardship.

If the Financial Secretary also agrees that what has been said was the true historical context, is he in fact admitting that the policies advocated and implemented by Mr TUNG and the various Financial Secretaries in the past are largely responsible for causing the poor conditions, hardships and difficulties faced by us today? However, Madam President, even if the Financial Secretary so admits, I still do not think that our present situation should be likened so simplistically to the historical and social conditions some 2 000 years ago, and that a "light touch" approach should be employed as the only means to resolve our problems today. The reason is that the social problems today are much more complicated than those 2 000 years ago. Therefore, we cannot possibly solve our problems with such a simplistic approach.

The Financial Secretary may well think that his predecessors were all good at "expectation management". When Mr Donald TSANG was Financial Secretary, for example, he adopted the "cry wolf" approach every time, stressing that due to the fiscal deficit, people just should not cherish too many hopes. In contrast, Financial Secretary Henry TANG simply adopts a hands-off attitude now, paying no heed to anything. Some think that the Financial Secretary expects people to wait for the blessing of luck, in the hope that when the economy picks up, the people's lot will improve automatically. If, however, the economy does not pick up and there is no improvement to the people's living, the Financial Secretary will not have to assume any responsibility. He may then claim, "It is all because of the poor economy or your own lack of luck, having nothing whatsoever to do with the directions and objectives of my financial management." Such an approach will work to the benefit of the Financial Secretary. Why? Because if the Financial Secretary does not have to bear any responsibility, his career prospects in the Government will never be affected.

However, Madam President, I think if one is really committed to directing or fostering the economic development of Hong Kong, one must always face the realities and seek to tackle all the social problems instead of burying one's head in the sand like an ostrich. When it comes to the realities before us, has the economy really improved or recovered, and has the unemployment problem really been eased, as claimed by the Financial Secretary? Should we thus contend ourselves with optimism just because the unemployment rate has dropped from 8.7% to 7.2%, releasing some 60 000 people from unemployment?

Madam President, we really cannot feel any optimism under the current situation. The "economic improvement" as we can notice now is confined to a

handful of trades and industries only. If we look at the actual growth rate in February this year as an example, we will see that with the exception of retail businesses, which grew at a rate of 11.4%, all trades and industries were unable to receive any sizeable benefit and record any substantial growth. The Labour Department emphasizes that there have been many job vacancies recently, as many as some 20 000 last month, but we still need to look at the whole picture more clearly. As announced by the Labour Department, for some posts belonging to the top 10 categories of vacancies, that is, menial jobs such as clerks, labourers and office assistants, there are usually more than 10 applicants competing for one opening. This means that many people belonging to the lower strata of society still have to rely on the Government for the creation of jobs to solve their unemployment problem. Unfortunately, in this Budget of the Financial Secretary, the Government has not offered any assistance in this respect, nor has it made any extra efforts to create job opportunities. The only thing it has done is just to extend some 10 000 temporary jobs. Madam President, we must note that these jobs are just temporary in nature, not long-term ones. As a result, how can we be satisfied with this Budget?

Like Mr TUNG's policy address, the Budget also acknowledges one problem that worries us even more: globalization may not be entirely beneficial to Hong Kong and may lead to the problem of structural unemployment.

However, what has been said and what has been done are so very different, and the problem has simply remained unresolved. The Government has made no improvements in this respect, nor has it made any extra efforts to ease the unemployment problem. It has just been waiting, thinking that once the economy picks up, all problems will be solved. But can economic improvement really solve all problems and improve the unemployment rate? The answer is frankly "no", Madam President. The experience of the United Kingdom and the United States can show us clearly that economic improvement may not necessarily bring forth job vacancies. Upon careful analysis, we will see that economic improvement is often brought about by enhanced productivity made possible by technological advances. That is why even if the economy picks up, additional jobs may not necessarily be created. We simply cannot be too optimistic about the effects of economic progress.

Rather, we are very much worried about another problem. We are worried that nowadays, and even in the future, even when job opportunities are available, the levels of wages will not rise but will drop instead, and that working

hours will become longer and longer instead of becoming any shorter. For example, in the first quarter of 1998, those earning less than \$5,000 a month accounted for only 9.4% of the total employment figure, or some 370 000 in actual number. But by the fourth quarter of 2003, the percentage had almost doubled, rising to 17.3%, or some 559 000 in actual number. This shows that even when employment statistics show that more people are under employment, people's levels of income may still keep dropping. Can such a situation be considered satisfactory? Besides, apart from the falling levels of workers' income, we also notice that working hours are extending. For instance, in the first quarter of 1998, those working more than 60 hours a week represented only 13.8% of the total working population, and the median number of working hours per week was just 45. But what is the situation now? The median number of working hours per week has risen to 48, and those working more than 60 hours a week have also increased to 24.5%, or double the original percentage in other words. From this, it can be seen that even when the economy picks up and the employment situation improves, the levels of basic income and working hours will still see no improvement at all, and not only this, they will instead change for the worse.

I therefore think that we must not be unrealistically optimistic, nor should we over-exaggerate the effects of any particular policies. CEPA is an example. As also pointed out by Mr LEE Cheuk-yan, CEPA may not necessarily offer us too much assistance. This is not to speak of the fact that following China's accession to the World Trade Organization, it must open its market to the whole world, so the edge enjoyed by Hong Kong in the Mainland will only diminish over time. Besides, macro-regulation measures are being implemented to cope with the overheated mainland economy, and the United States is about to raise interest rates. All these factors will produce adverse impacts on the economy of Hong Kong. However, the Government has not put forward any clear-cut and long-term measures which can show us how all these problems can be solved. Quite the contrary, we notice that the Government seems all the time so pleased and satisfied with the so-called V-shaped rebound of the economy these days. We find this very worrying, because we doubt whether all this can really render us any useful and positive assistance.

Madam President, I must say the "light touch" approach I have mentioned is seen only in the authorities' expenditure policy; in respect of revenue, the approach is different. Why do I say so? The reason is that the incumbent Financial Secretary has decided to adhere to the plan laid down by his

predecessor, Antony LEUNG. In other words, he will proceed with the second phase of tax increase set out in Antony LEUNG's Budget. The implementation of the plan will drag 1.29 million employees into the tax net, thus adding to their financial burden.

In addition, what is most worrying is the Financial Secretary's repeated emphases on imminent increases in government fees and charges. Such increases will impact seriously on the people's livelihood. Ultra low sulphur diesel is one example, and many Members have already discussed this. The Government's treatment of ultra low sulphur diesel duty is so different this year. This time around, it is stated very clearly that the tax concession will only be extended for a period of nine months, after which it will be withdrawn, meaning that no more concession should ever be expected. But I wish to tell the Financial Secretary that the effects of diesel oil duty are really very far-reaching. As a matter of fact, professional drivers are unable to get any substantial benefits under the current economic conditions. This is especially the case with the Individual Visit Scheme, which can at best bring forth some sort of general consumption. But this type of consumption is of very little help to professional drivers. Their business turnover is still very low, so any increase in diesel oil duty will only add to their already heavy burden and deprive them of their means of living, making it impossible for them to carry on their business.

I hope that the Financial Secretary can take account of this problem. Frankly speaking, the restoration of the duty to its original level will produce two effects which I find most worrying. First, there will be negative impact on the cause of environmental protection. Second, the competitiveness of the logistics industry, which we have emphasized so much and so often, will also be affected in some measure. Why do I say so? Madam President, the reason is that in neighbouring places, the pump price of diesel is just about \$3 per litre, but that in Hong Kong now has already risen to about \$6.4, meaning that the price of diesel in some countries is 50% lower than that in Hong Kong. Not only this, in some places such as Singapore, Thailand and Malaysia, no duty is levied on diesel. Can we imagine what will happen? Will our logistics industry lose its competitive edge when diesel oil duty is levied in Hong Kong but not in other places? Will our competitiveness be undermined?

The impact on the logistics industry aside, the cause of environmental protection mentioned just now will similarly be affected. Why? Because some professional drivers may thus decide to break the law, to use industrial

diesel. This is bound to cause environmental pollution to worsen, making it impossible to bring forth any improvement. I therefore really hope that the Financial Secretary can give some thoughts to this point. Actually, when we discussed this tax concession two weeks ago, Secretary Frederick MA did promise to hold further discussions with the Financial Secretary. I hope that the Financial Secretary can tell us whether the concession period of nine months will be further extended.

Madam President, in a haste to eliminate the fiscal deficit, the Government has neglected the actual situation in society. I think this is both unfair and improper. We are truly worried by what we have noticed. Education and health care, for example, are basically welfare services related to the people's livelihood, but because of the fiscal deficit, the expenditure on them has been reduced again and again. It can thus be seen that what should basically be welfare services have come to be regarded as commodities. Health care services will be itemized and charged, and it is probable that these fees will be increased further. Education is also caught in such a situation. Many schools may have to be closed down, and fees will also be charged for many programmes of study in university. All this has completely shattered our long-held concepts about social welfare. I believe Members are all well aware of the far-reaching consequences. Therefore, we must not continue to ignore livelihood problems and focus only on eliminating the fiscal deficit. We must not talk only about a "light touch" approach and refrain from attending to practical issues in a serious manner.

Madam President, some may question, "If we do not allow the Government to create new sources of revenue and reduce expenditure, how can it tackle the fiscal deficit?" I think in tackling the fiscal deficit, the most important tasks, after all, should be to boost the economy, eliminate policy blunders and avoid wastage of public money. Members have already discussed these points, so I do not intend to repeat them here. However, I still wish to make it very clear to the Government that care must be taken not to waste any public money in the course of policy formulation, for this is also one way to tackle the fiscal deficit. Thank you, Madam President.

MR LAU PING-CHEUNG (in Cantonese): Madam President, the 2004-05 Budget is the first Budget prepared by Financial Secretary Henry TANG after his assumption of office. Many people say that this is really a neutral Budget

containing no surprises, a diligent attempt to realize "people-based governance", and to give the community a "respite", the very principles set out in the policy address announced by the Chief Executive in January this year. We can all see that owing to a cyclical surge, the economy of Hong Kong has started to recover, leading to a continuous decline in the unemployment rate. Some people hold the view that as long as the Government can ride on this trend and continue to intensify its efforts of implementing CEPA, the Hong Kong economy will automatically thrive again without the introduction of any other initiatives. Some people have thus commented that Financial Secretary Henry TANG is really "a lucky doctor taking over an already recovering patient". But whether this is true is just a matter of opinion.

From the macro perspective, I agree that the Government, in positioning itself, should follow the principle of "market leads, government facilitates", or "big market, small government" as advocated in the past. Given the gradual recovery of the economy, I agree that the Government should first observe how the situation develops while proceeding with the various measures of reducing its expenditure, operating costs and fiscal deficit. Following this, depending on the situation, measures should be introduced to further assist those industries that have not shown any obvious signs of recovery, or to foster developing industries. In the words of the common masses, "There is no greater wisdom than riding on the prevalent trend."

However, from the micro perspective, very sadly, I must say that the construction industry, to which I belong, is in dire need of prompt government assistance measures. The most noticeable evidence of this can be gleaned from the unemployment statistics. Following the implementation of CEPA and the resultant market revival, the number of posts available in various industries has been increasing. The overall unemployment rate was 8.7% at its height, but it has since been declining, and the latest rate, the rate for the period from December 2003 to February 2004, has dropped to 7.2%. However, during the same period, the unemployment rate of the construction industry stood at 18%, which not only far exceeded the overall unemployment rate but also showed a rise, instead of a decline, when compared with the industry unemployment rate of 16.4% recorded by the previous survey. This is worrying and requires prompt and active adjustments of the Government's housing policy.

The sluggishness of the construction industry can only be tackled by the creation of job opportunities after all, and we need to look at this at two levels.

To begin with, professions related to the construction industry, such as the architectural and surveying professions, are among the 18 major service sectors benefited by CEPA. Some of the local professional bodies related to the construction industry have already signed agreements with their mainland counterparts on the mutual recognition of professional qualifications, and these agreements are being implemented step by step, making it possible for local architects and estate surveyors to obtain the qualifications necessary for professional practice and provision of service in the Mainland after passing supplementary tests. In regard to such breakthroughs, thanks are due to Financial Secretary Henry TANG, who headed a delegation to Beijing and accompanied the professional bodies in their negotiations with their mainland counterparts. And, it is for this reason that he is quite familiar with the difficulties encountered by local professional service providers seeking access to the mainland market.

As pointed out by the Financial Secretary in his Budget speech, some professionals, such as planners and materials surveyors, are still negotiating with their mainland counterparts on the mutual recognition of qualifications, and that the high entry threshold is still the main obstacle faced by local professional service providers seeking access to the mainland market. The Special Administrative Region Government will have to assist the service sectors in the negotiations on lowering the threshold before the small and medium service providers of Hong Kong can set up offices in the Mainland for service provision. We are delighted to hear this commitment from the Financial Secretary: "The Government attaches much importance to the successful implementation of CEPA and will spare no effort to provide the necessary support for this. We invite the business sector to report to us immediately any bottlenecks or administrative obstacles encountered in any particular area. The mainland and Hong Kong authorities will take swift action to tackle them." I hope that the Financial Secretary will honour this commitment and provide continued assistance to the service sectors in opening up the mainland market. The lowering of the threshold, in particular, is a matter that should be discussed between governments; local professional bodies, or any individuals for that matter, are not in a position to negotiate with mainland government departments.

What is more, the main beneficiaries of CEPA are professionals; ordinary skilled or semi-skilled workers will still have to look for jobs in the local labour market, threatened at the same time by wage cuts, non-payment of wages and even unemployment. At the height of the property boom, the ratio of

government housing projects to private-sector ones was 3:7. Owing to the shrinkage of the property market, the number of private-sector projects has been on a continuous decline, gradually leading to an even ratio between government and private-sector projects. The ratio now is roughly 5:5, and there may well be more government projects than private-sector ones. As a result of abnormal development, there was at one time a property market bubble in Hong Kong. That was why the Government subsequently adjusted its housing policy and gradually extricated itself from the property market by halting the construction of Home Ownership Scheme units and suspending land auctions. Although these measures will further reduce the number of jobs, although the industry knows that they will worsen the problem of unemployment, it is nonetheless generally supportive of these measures. In recent years, due to the deficit problem, the Housing Authority has replaced the redevelopment of old housing estates by a building rehabilitation plan that can extend the lifespan of ageing housing estates by another 25 years. This is really a three-win plan, as it can improve living conditions, generate additional rental revenue and create job opportunities for construction professionals and workers.

In order to ease the unemployment problem faced by the construction industry, I have repeatedly requested the Government, here in this legislature and outside, to expedite the launching of infrastructure projects and make the best use of large works projects, so as to create more jobs for local workers. Although the Government says that as much as \$27 billion was spent annually on infrastructure projects in the past five years and in the coming five years, the expenditure will even go up to \$29 billion a year, its works projects — as I have pointed out to it — have nonetheless failed to sufficiently multiply the related economic benefits. Government officials in charge of works projects should act wisely and accord priority to labour-intensive projects, or projects requiring short planning time, such as building maintenance. Alternatively, the \$23 billion or so works projects left by the two former Municipal Councils can be utilized to create jobs for more workers and professionals as soon as possible, so that they can earn some income; or, large projects can be split up by all means, so that a greater number of local consortia, professional service-providers and workers can take part in bidding and share the benefits brought about by economic construction.

I also propose the Government to adopt Public Private Partnership as much as possible for projects with market value. That way, market forces can be utilized and bureaucratic vetting procedures bypassed. I am grateful to the

Financial Secretary for his support and efforts, which have resulted in the implementation of several leisure and cultural projects, including a recreational and cultural centre in Kwun Tong and the construction of another civic centre, bowling ground and town park in Tseung Kwan O. I hope that after gaining some experience from these projects, the Government can act more ambitiously and launch more projects, in line with the principle of "big market, small government".

Madam President, for half a year, the property market has been gradually picking up. The sales and prices of new flats put up for sale by developers have all been rising steadily. As developers' land reserves diminish, they wish to buy more lands to replenish their reserves. The new application list for the sale of government land consists of 17 sites, but as at this Monday (19 April), that is, since the list was announced in January, only two sites expected to yield revenue of some \$1 billion to the Treasury have been successfully "hooked". The industry is generally of the view that such a deadlock is largely attributable to the firm stance of the Government on land prices.

I think it may be a good idea for the Government to select some smaller residential sites for gauging market responses. Small sites will naturally mean lower prices, so even small-sized developers can also take part in bidding if they wish to; the real market worth of a site can be known only when an auction is held. This is more desirable than the situation under which no auction can be conducted due to the failure of the Government to reconcile its estimated prices with those of developers. Fierce competition in public auctions, in contrast, can enable consortia and the community to see the transaction prices of land sites, thus increasing confidence in the market values of land lots, and in turn creating the kind of market sentiments that can boost transactions. This is far better than having the Government and developers to speculate on each other's estimation. The bidding price of the two sites mentioned above, for example, is close to \$1.7 billion, or \$1,600 or \$1,800 per sq ft on average. When construction and interest costs are added, the average price per sq ft will be close to the market price of existing units in the same areas. The actual transaction prices of the two sites will be known following the auctions to be held at the end of next month. I wish to emphasize that the Treasury can receive revenue only when there are land auctions; and, workers can get jobs only when there are new construction projects. It is especially worth noting that private-sector construction projects require shorter preparation time when compared with government projects.

They can be launched very quickly to create jobs for construction workers, professionals and other workers, thus easing the unemployment problem.

I also wish to say a few words on the proposal of the Financial Secretary to extend the salaries tax deduction for home loan interest from five years now to seven years. I have been repeatedly proposing that this deduction should be offered as a relief for mortgagors, so as to lighten the financial pressure on middle-class professionals embittered so much by negative equity assets in recent years, and also to help boost the property market. The period of extension currently proposed by the Financial Secretary is just a partial acceptance of my proposal, but he still has my support and thanks, because his proposal can benefit most middle-class property owners. It should be noted that the lending interest charged by banks has remained low over the past few years; what is more, although the deduction maximum is maintained at \$100,000, the average amount of deduction claimed by eligible applicants was just \$30,000 last year. This shows that not all property owners will exhaust the deduction limit. This of course means that the actual loss in tax revenue suffered by the Government will be less than \$30,000.

On the surface, it seems that the higher is the deduction maximum, or the longer the deduction period, the greater will be the Government's loss in receivable tax revenue. But if we think about the matter more closely, we will see that mortgage interest will actually diminish as a mortgage ages. The interest payable in the first few years will be most substantial, but after a few years, it will diminish all the way. If a more generous deduction can induce some people to consider buying larger residential flats to improve their living conditions, the stamp duty on property transactions will enable the Government to make up for its loss. In that case, "an apparent loss may instead lead to gains", as the colloquialism goes. I therefore propose that no validity period and maximum claim should be attached to the deduction. This will maximize the effectiveness of the deduction in boosting the property market.

I also wish to rehash one point, that the Financial Secretary should consider the introduction of tax concession for environmental building design. Environmental building designs, such as the installation of pipes to collect storm water for toilet flushing, or the promotion of natural ventilation and lighting, environmental balconies and hanging gardens to reduce energy reliance and consumption, will all require extra costs and floor area. Therefore, the Government's offer of tax concession will encourage the adoption of these

environmental concepts in building design. Besides, the Government should also consider the introduction of salaries tax deduction and rates remission for the building maintenance costs incurred by owners, with a view to encouraging them to carry out regular repairs and maintenance to ensure building safety and eliminate the hotbeds of the SARS virus and others. In cases where the registered owner of a unit is a company, maintenance costs are tax deductible, so why should individual owners be treated differently?

Regarding the Financial Secretary's proposal on issuing government bonds, my support is only conditional. The Financial Secretary first announced the issuing of government bonds not exceeding \$20 billion for the "Hong Kong Link", and then on Monday (19 April), the sale details of the first lot of bonds totalling \$6 billion were announced. The pace is really fast, and these details, as if by coincidence, were announced together with the decision on land auctions right before the announcement of the Budget. In the past, when huge revenue was available, the Government did not exercise any tight control over its expenditure, thus leading to an incessant increase in recurrent expenditure and in turn the perennial fiscal deficit today. The Government should really learn a hard lesson from this. This time around, the Financial Secretary has proposed to issue government bonds not exceeding \$20 billion to finance infrastructure and other investment projects. In other words, the objective and total value of the bonds to be issued should both be strictly limited, and the proceeds should not therefore be spent on meeting recurrent expenditure. I hope that the Financial Secretary can honour his promise.

I support the issuance of government bonds because on the one hand, the Government can raise capitals to expedite the launching of infrastructure projects to create more jobs. I naturally support this. On the other hand, I also think that some infrastructure facilities yielding steady revenues can be securitized and put up for sale in the market to provide an additional investment option to members of the public. As people are able to purchase bonds for local public facilities, their sense of belonging to Hong Kong will surely increase, and securitization will also make it necessary for these facilities to comply with market rules more closely in terms of fees and operation. This may be helpful to narrowing the gap between publicly-run and privately-run public facilities in terms of fees and operation. Moreover, this will also help develop the Hong Kong bond market and enhance Hong Kong's status as an international financial centre.

I so submit.

MR TOMMY CHEUNG (in Cantonese): Madam President, the first Budget which the Financial Secretary has compiled after assuming office gives us some joy and surprise. The surprise is not big, nor is the joy. For even if there is, that would not be felt right at this moment.

Let me talk about the joy first. The Financial Secretary proposes in the 2004-05 Budget to extend the validity period for salaries tax deduction for home loan interest from five years to seven years and also to extend the duty concession rate of \$1.1 per litre of ultra low sulphur diesel to the end of this year. All these measures which are favourable to the people should be supported, but they have no fundamental influence on the direction of our economic development. So from a passive perspective, the merit of the Budget for 2004-05 is that there would not be any move which will cause great repercussions on implementation. As a Western proverb says, no news is good news. The Budget gives the people as well as the business sector some time to plan for the future.

As for the surprise, I am worried that the time with which the people and the business sector can take a respite would not last very long. First of all, the Secretary has disclosed that he intends to introduce a goods and services tax, that is, the so-called sales tax. Though it is said that it would be a number of years from now even if this is put into force, once an idea is mooted, it is like planting a time bomb in our economy. To this the catering sector would like to express its strong opposition. I would now turn to discuss the reasonable demands for which the catering sector has been fighting for so many years and which are still not heeded.

With respect to the introduction of a sales tax, the Secretary said that its aim is to ease the deficits by widening the tax base. The sector holds misgivings about whether or not collecting a tax from the consumers can really increase revenue to a great extent and help reduce the deficit. If the rate for this tax is set at 5% as assumed by the Secretary, the prices of goods and services will rise markedly and this would undermine the competitiveness of the retail and catering sectors. In recent years, with the economic boom on the Mainland, plus the Individual Visit Scheme in place and the efforts made by local enterprises in cost reduction, there has been a slight narrowing of the gap in prices between Hong Kong and the Mainland. If a sales tax is introduced, it would deal a heavy blow to the consumption desire of the people and the tourists. That will cause the market, which has just regained some vitality, to revert back to square one. Hence the Government's estimate that each single percentage

point in the rate of the sales tax will yield a revenue of about \$6 billion a year will fall flat. Moreover, with the sluggish business, the revenue from corporate profits tax will also fall. This is really a disaster coming hard on the heels of another.

Overseas experiences clearly show that implementing a sales tax would mean cumbersome policies and procedures as well as high costs for the government and corporations. For the Government of Hong Kong, it would likewise mean very high costs. In Hong Kong there are close to 10 000 food establishments. Most of them are small to medium in size. Those which are lucky may only manage to get a small profit and those who are not may have to run into losses. If these food establishments are required to change their transaction flow or way of entering their ledgers in order to maintain a record of the transactions, then it would mean a big problem to them as they have to take on more staff and working hours to meet the policy requirements. What can they do if business turns worse instead of better? For the Government, how much extra public money will it have to spend, how much extra administrative work will it have to do and how should the civil service establishment be expanded in order to cope with the implementation of this complicated system? I am worried that, in the end, Hong Kong will incur more losses than gains.

Two days ago, I went to Hillwood Road for dinner. My friends in the catering sector inquired after my injured leg as I staggered into the restaurant. To my surprise, they handed me a letter and asked me to convey it to the Financial Secretary. The letter was about their opposition to the sales tax. So I have an impression that they are very concerned about the sales tax.

I agree that everyone has a responsibility to eliminate the fiscal deficit. However and as the figures show, the deficit of the SAR for the year 2004-05 has fallen drastically from the estimated \$78 billion to \$49 billion. If the economic conditions remain unchanged and if this trend can be maintained, the deficit problem can hopefully be gone sooner than expected. There would not be any need to wait till 2008-09 before the deficit is eliminated. In this regard, the Chairman of our party, Mr James TIEN, has said repeatedly in this Council that there is no reason for us to bear such a great risk and destroy our excellent tradition of a simple and low tax regime in order to tackle a problem which would cease to exist in due course.

The Financial Secretary said that the sales tax is presently being studied and it would be a matter of years before it is enforced. However, when the

business sector makes business plans, it will have to look into the way ahead. This is particularly the case with the catering sector, for often the lease agreements we enter into would last for some eight to 10 years. We are all setting our eyes on the long term and we have to consider whether or not such investment environment would be favourable. If a sales tax is introduced, even if it is said that it would be a few years from now, that would affect the market and investment sentiments, the retail consumption and even public finance. So all this will pose a great potential threat. Thus the authorities must think again on this issue, especially when the Audit Commission has on many occasions pointed out that squandering still exists in many departments. The Government must present more details about its plans to reduce expenditure before it can consider introducing a new tax. For if not, the public will not likely to be convinced. Research work in this regard must be undertaken meticulously. Consultation must be made to cover the broadest spectrum of sectors in society. And the views from the employers, employees and clients of the catering sector must be heard.

In addition, I would like to reiterate the demands for which the food and catering industry has been fighting for so many years.

First, the duty on wines. Mrs Selina CHOW has declared earlier that she does not have any personal interest in this because she does not drink. I would like to declare that for decades I have been an occasional drinker of wine, but that does not affect my view on whether or not a duty should be imposed on wines. In 2002 the Government increased the duty on wines at a rate from 60% of the ex-factory price to 80%. During the debate on the policy address at the beginning of this year, I made it clear again that the duty rate should be reduced to zero. In this regard and with reference to the Financial Secretary's remark that there would be no scope for adjustment, I am very disappointed. Before the duty rate was raised, the price of wines in Hong Kong was already on the high side. After the duty rate was raised, when tourists from all over the world come to Hong Kong and when they look at the price of wines in the menu, they would think that our wine prices are exorbitant and they would think that the price of all the dishes and food in our restaurants are similarly set at rip-off prices. This in turn affects their eating-out consumption in Hong Kong. Such adverse impact would induce knock-on effects on the restaurants and retail businesses in Hong Kong, or the tourists would think that everything here is expensive. For this reason, the wine duty has a very unfavourable impact on our position as a shopper's paradise and a gourmet's paradise.

Second is on the question of reducing a basket of business costs. Expenses on gas, electricity, water and the trade effluent surcharge alone would take up as much as 12% of the sales turnover of a food establishment. I have said many times in this Council that while deflation has persisted for 60-odd months in Hong Kong, there has been no reduction whatsoever in the tariffs charged by the utilities such as the power and gas companies, as well as the fees charged by the Government such as the water tariff and the trade effluent surcharge, regardless of how severe or otherwise the deflation has been. Some of these government fees and charges have even increased, for a surcharge is collected. In recent years there is also the problem of employment insurance. Later on I would talk about the problem experienced by the sector as the insurance premiums for employment insurance have increased by many folds. As for rents, in view of the constraints of the lease term and removal expenses as our tools of business and kitchen facilities cannot be easily removed, the landlords often reject our requests for rent reduction because they are fully aware of our constraints.

As for power supply, although it is not owned by the SAR Government, the high power tariffs payable by the people and the businesses presently are all attributed to the granting of a 15% guaranteed return for shareholders' capital by the Government. In the absence of any monitoring body, it is no surprise at all that the two power companies have acted in blatant neglect of public demands to lower power tariffs during the long and dreary days of the financial turmoil.

The labour legislation requires employers to take out insurance for their employees and this has made insurance companies raise the premiums at will in complete disregard of the affordability of the companies. We know that after the September 11 attacks and given changes in the global scene, there is a need to make adjustments. We also know that there is a need to take out insurance policies for employees. But all these are never a justification that the companies should be asked to pay premiums at many times of the original rate. In the catering industry, many employers have complained to me over this couple of years that, many measures have been adopted to improve the working conditions and as a result, the number of injuries at work has fallen at a double-digit rate over the past five years, from some 10 000 a year to a few thousand cases, but despite the drop in work injuries and even a zero-injury record for some companies, the insurance companies have raised the premiums by some tens of percentage points or as much as 100%. I think this loophole must be plugged and the industry should be given a chance to take out insurance policies which

are fair and reasonable. For those insurance policies required by law, the Government should consider setting up a centralized organization to take care of insurance matters instead of learning them to the insurance companies.

On the question of government fees and charges like water tariff and the trade effluent surcharge, I have a lot to grumble. But now I am almost out of breath after so many years of grumbling. This is more so the case with the industry. With respect to the water tariffs, as we overestimated our water consumption in our negotiations with the Chinese side on purchasing water from Dongjiang, in the end we have to dump the excess water into the sea. But we still have to pay the money. Recently, there seems to be a better arrangement for it. On the question of trade effluent surcharge, it is a nightmare which has haunted us for years. Usually an industry operator will get a notice from the Drainage Services Department all of a sudden, demanding payment of the surcharge accumulated over a number of years. The amount in arrears would range from some tens of thousand dollars to some hundreds of thousand dollars. Such sums of money are entirely not budgeted. For restaurants which have not made any profits for a long time, they are at a loss as to what they should do after getting the bill. They do not know if they should close down or to raise money to pay the bill. All in all, the industry has never been at ease after the introduction of this surcharge.

Of the some 30 industries required to pay the surcharge, the catering industry alone bears almost 90% of the revenue from this surcharge. Why should the catering industry be required to bear such a great share? The reason is actually very simple and I think the Financial Secretary must know this when he was a Member of this Council. The surcharge is determined according to a standard adopted at that time, which is every 2 000 chemical oxygen demand units per cubic metre, that is, a very great coefficient was used to be multiplied by the volume of water consumed. That is how the industry comes to pay for this amount. Although it is said that the aggrieved party may lodge an appeal, the procedure and costs of an appeal could mean some tens of thousand dollars. For more than 80% of the food establishments in the industry, the appeal costs are higher than the actual amount of surcharge payable. In such circumstances, it would be hard for these food establishments to lodge an appeal. As for those food establishments which can afford the appeal costs, more than 90% or even all of them can win in their appeals. Why do I have to tell the Financial Secretary about this? It is because ever since the imposition of the trade effluent

surcharge, the Director of Bureau who is responsible for the enforcement of statutory requirements in environmental protection has changed hands for five or six times, from Mr Bowen LEUNG in those days to Dr Sarah LIAO now. These Secretaries have told me that it is not that they do not want to reduce the surcharge, but that the Financial Secretary would not allow them to do so, for that involves money which is more than some hundreds of million dollars. So I would remind the Financial Secretary here that he should consider this issue, that is, this surcharge is very unfair to our industry and it should be relaxed. I hope that he would make a fresh review to examine whether the surcharge is fair or otherwise to the catering industry and that he would come up with a decision on whether or not it should be revised.

Finally, the Financial Secretary and the Director of Bureau have discussed with me and the industry, and I hope that they can have some luck in striving to include some of our businesses like the manufacturing of moon cakes and other traditional Chinese cakes under CEPA in the next round of CEPA negotiations.

Madam President, I so submit.

MR ALBERT CHAN (in Cantonese): Madam President, one might say the Budget this year is an intelligent one politically. It asserts the predominance of stability over everything else and a preference for the status quo to change. The many measures proposed in the Budget are basically an attempt to maintain the current mode of operation of the various departments and bureaux. Overall, though it has fancy claims of being people-based and giving the community a respite, the Budget actually aims at saving the economy instead of the people. The adversity and suffering faced by the people of Hong Kong over the past six years should be clear to the Financial Secretary, but in his bid to follow the basic concepts of public finance, that is, avoiding an increase in expenditure, he has banged the door on the suffering masses and rejected their pleas for help. The Budget has nothing to offer to these people living in extreme misery. It has not given them a helping hand. Basically, the Budget continues to make the rich richer and the poor poorer. It strengthens the vested interest possessed by the consortia and groups, and answers the aspirations of many political parties. However, for the socially disadvantaged, their rights will continue to be exploited and no measures have been proposed to enable them to lead a better life.

Various government departments and Directors of Bureaux have stressed in the special meetings of the Financial Committee that though they have no room to increase expenditure, they would not slash expenditure substantially. They will improve service quality through the so-called productivity enhancement. But we can see that in the past month or so, there have been many cases of domestic violence. These tragedies are caused obviously by the reduction of government expenditure or a failure to increase resources in places where they are needed. That has caused a regression in service quality and the services are unable to meet public demand. I am convinced that in the future, and as a result of the Government's unwillingness to provide support to the socially disadvantaged, more tragedies are bound to happen. Let me refresh the memory of the Financial Secretary by making reference to some tragedies that occurred in recent years.

The recent tragedy which happened to a family in Tin Shui Wai is clearly a result of the insufficiency of resources. The Government has failed to increase the police manpower and community services in the area to cope with the rapid development there in recent years. So those residents who should be protected and given the right kind of service are unable to get the services and protection they should be given.

Earlier an assistant professor of The Hong Kong Polytechnic University committed suicide because the Government planned to slash its funding to the universities and that the departments had to cut their staff and so everyone was at the end of his tethers. Some people committed suicide because they could not withstand this tremendous pressure.

There is also a case of a Ph. D. student from the School of Education, University of Hong Kong who killed himself. It happened because the Government wanted to cut resources and the Ph. D. student feared that he could not find any teaching post and so he killed himself for the worry about being rendered jobless.

From September 2003 to March 2004 this year, at least four teachers killed themselves. They happened because of the stringency in resources which denies teachers of the support they should get and they are required to bear more responsibilities. As teachers have to receive more training, their workload is increased. This deprives them of the time they can spend with their families and hence the mental stress they face increases. Some teachers are chronically

depressed. In addition, some schools are faced with the possibilities of reducing the number of classes and teachers. So the teachers are subject great pressure and some choose to end their lives as they fail to cope with the stress.

This spate of incidents show that the impact created by the slashes in expenditure related to the people's livelihood has led to the most tragic results. For the slashes in expenditure or a failure to increase expenditure in areas where an increase is necessary serve to make government services fall short of demand. As the people in need are denied of the prompt support that they should get, these tragedies have happened.

This Budget was released against a background of six years of failures and blunders made by the TUNG Chee-hwa Administration. As we look back over the past six years, the various changes which have taken place in society all point to the fact that this Budget has not responded to these social changes as well as the demands of the people. So the social problems will only go from bad to worse.

Let us look at the problem of the disparity between the rich and the poor from the Gini Coefficient. Under normal circumstances, the Gini Coefficient should be under 0.45. But in 1991, the Gini Coefficient in Hong Kong was 0.476; and in 2001, the Gini Coefficient was as high as 0.525. This constant rise in the Gini Coefficient shows that the problem of the disparity between the rich and the poor is always deteriorating. If we look at other countries, for the year 2000, the Gini Coefficient for developing countries, including those in Latin America, was only 0.49, whereas it was 0.525 in Hong Kong. The figure in the Middle East was 0.37. For developed places, it was 0.3 in Canada, 0.4 in the United States, 0.45 in Singapore and 0.25 in Japan. It can therefore be seen that the problem is so very acute in Hong Kong. The Budget has not addressed this problem, and it continues to allow the vested interest groups and the mega-billionaires of Hong Kong to make monstrous profits.

Another problem is that the gap between personal income is getting very serious. In 2000, the monthly personal income of the lowest percentile has fallen from \$1,667 of 10 years ago to \$1,400. Taking account of the inflation factor, the actual disparity would be much greater. For the highest percentile, the personal monthly income had risen from \$18,600 of 10 years ago to \$27,800 then. When the price index factor is taken away, the increase is about 50%.

So with respect to the gap in personal income, and as compared to 10 years ago, the income of the poor people has reduced, but for the rich, their personal income has increased by as much as 50%.

Now let us look at the disasters brought about by TUNG Chee-hwa during these six years, that is, the hardship experienced by the people in the wake of the financial turmoil and the problem of unemployment. For many years the unemployment rate has risen sharply and for the period from May to July 1997, the rate was at 2.2%. For the period from December 2003 to February 2004, the rate was 7.2%. The problem of unemployment is therefore very acute. The situation is worse in the construction industry: the unemployment rate in 1997 was 2% and it was 19% in 2003, I stress, 19%. That is entirely caused by the Government. As we pointed out when the Government suspended the sale of Home Ownership Scheme (HOS) flats and land repeatedly, this suspension of the sale of HOS flats and land would only make the construction industry go from bad to worse. When no buildings were built, the unemployment of the construction workers would only become more acute. But the Government did not heed such warnings and in order to ensure that the consortia would be able to sell their flats, the Government chose to suspend the production of HOS flats and imposed a moratorium on land sale. That has forced the construction industry to face sky-rocketing jobless figures.

As we can see, for many years in the past, the poverty problem in Hong Kong has kept worsening. Wages are constantly dropping and more and more people are impoverished. Not only has the Government not offered any assistance, but that the outsourcing adopted by it only aggravates the problem of poverty as contractors are squeezing contract workers of their wages. These workers are supposed to get a wage which is not too low, but due to exploitation by the contractors, they are only getting a despicably low wage. According to findings on employment poverty from the Research Institute on Social and Economic Policy, those in employment but whose income is lower than the median monthly income for that year are regarded as poor. In 2001, the median monthly wage was \$10,000 and the rate for employment poverty was as much as 42%. It was at least 10% higher than the 31.6% in 1997. In other words, of the working population in 2001, one in four persons was living in poverty.

Another problem is that the real wage of the grass-roots workers is falling. We can see that the wage of the grass-roots workers is always falling, when

added to the factor of inflation, the index of the wage of grass-roots workers has been constantly falling, from 120.3 in December 2001 to 117.7 in December 2003.

Then there is the problem of underemployment in the working population. So besides the grave problems of unemployment and poverty, there is also the problem of underemployment. When the criterion of working less than 35 hours in the seven-day period before the survey is used, the underemployment rate for 1997 was 10%; in 2003 it increased to 13%. When added to the increase in temporary jobs and outsourced jobs, the income of workers on the whole has become unstable. As the Government keeps on outsourcing its work, the number of permanent workers is constantly falling and so the number of temporary workers and contract workers is increasing. These workers are given extremely unfair treatment and in many cases, workers have to put up with default payment of wages.

During these past six years, there has also been the acute problem of an impoverished middle class. On the problem of negative equity assets, though the Budget has presented some measures, especially in the assistance given on home loan interest, the profits reaped by the banks still keep on rising. The financial contribution made by the owners of negative equity assets and the middle class to the banks is always rising. The Government has not come up with any concrete measures to help the owners of negative equity assets to tide off their difficulties, leading to the constant rise in the number of bankruptcy cases. As we look at the bankruptcy cases, though the figure for March this year has improved somewhat when compared to last year, if the figure is compared to that in March 2000 when there were only 377 bankruptcy cases, the number for March this year is three times higher with 1 296 cases.

Madam President, though we can see that there is some improvement or a rebound of the Hong Kong economy recently, the problem of fiscal deficits is still acute. The problems and worries faced by the socially disadvantaged and various sectors across the community are still plenty. The deficit problem is largely caused by the reduction in government revenue, in particular, that from land sale. Against such a background, population ageing, the various social problems and the unemployment problems have all caused increases in public expenditure. This deficit problem therefore cannot be hoped to disappear within a short time and it is all the Government's own making. Now with the signs of an economic recovery, the Government should encourage those with the means to spend more and it should not do anything to undermine the small

consumption desire that they still have. So the introduction of a sales tax is definitely going in the wrong direction. The Government should also do its best to help the poor people get out of poverty so that their lot can be improved as the economy fares better. In addition, the Government should enhance infrastructure development, boost the creative industries and increase the competitiveness of Hong Kong. It should not just wait for handouts from the Central Government. For so many years we have relied on ourselves instead of help from some people or government. It is only when the Government can put into practice financial policies which truly address the needs of the people and are forward-looking and aggressive enough that there will be hopes for a full recovery of the Hong Kong economy.

Madam President, I would like to talk about the issue of diesel oil duty. The Government has always stressed the principle of "big market, small government". But the diesel oil duty violates this principle. In meddling with the operation of a free market with a high diesel oil duty, the Government is making Hong Kong less competitive than our neighbours. This duty is definitely a wrong tax. It is never a tax that should be levied under "big market, small government".

Lastly, on the issuance of bonds. Madam President, I welcome this proposal. Actually, when people were talking about the "10 core projects" as early as in 1990, we suggested that the Government should issue bonds. Bonds are in line with the so-called cross-generation benefits, that is, the infrastructure costs will not be borne entirely by people of this generation, for they are also paid by those who use it later. The issuance of bonds will enable costs of the project to be met in a cross-generation mode. It is only after four officials in charge of financial matters have respectively assumed their office that the Government finally agreed to the idea of issuing bonds. Though this new measure has come somewhat belatedly, we would still welcome it.

Thank you, Madam President.

MR ALBERT HO (in Cantonese): Madam President, on this occasion of the Budget debate today, I would like to discuss two issues with the Government. The first is the "big market, small government" concept of financial management which has always been advocated by the Government. The second is the theme proposed in the Budget of being people-based governance and giving a respite to

the community. I would like to draw a comparison with the Budget using the direction proposed by the Democratic Party, that is, giving people enough of what they want is the key to social stability.

Madam President, the idea of small government as proposed is actually referred to downsizing the establishment of the Government to reduce some recurrent expenditure. One of the goals is to cut deficits and the hope that there would be less intervention from the Government in the market. This means a complete withdrawal from the market, especially the property market, in order that a favourable business environment can be created to promote market recovery.

We are not against these directions and there are some to which we agree. However, we stress that the idea of "big market, small government" can never mean that the Government should relinquish or reduce the duty it owes to society and the role it plays there. I would like to mention a few things to show the kind of roles and responsibilities that the Government should assume. First, it should uphold fair competition. If we are talking about a big market, but it is actually not operating fairly and it is completely monopolized or filled with corruption, then this will not be the market that we want to see. What the Government should do is to maintain fairness in the market, for this will make the economy grow in a healthy manner.

In our opinion, for many years certain industries in Hong Kong, especially those of energy and power, are really characterized by monopolization or unfair competition. So for many years the Democratic Party has been suggesting to the Government that a fair competition law or anti-trust law should be enacted. As a matter of fact, the drafts of these laws have been studied and some chambers of commerce have been consulted on these drafts and they are supportive of the ideas behind these laws. But I do not understand why the Government is still unwilling to consider these laws to date. Of course, I do not want to play down the efforts and achievements which the Government has made in regulating the market. For example, with respect to the financial market, laws have been introduced to improve the regulation of the securities trade and the banking sector and to create a level playing field. But overall, Hong Kong is still in lack of the kind of fair competition and anti-trust laws which I have just mentioned.

Second, not only has the Government not enacted these important laws to safeguard fair competition, it has regrettably adopted some policies from time to

time in favour of some giant consortia or granted special privileges to certain companies. These serve to create unfairness and handing benefits out. Many such examples can be found in the property sector.

It can now be seen clearly that the Cyberport project which has come heavily under fire is no more than a property development which reaps huge profits for the developers. We can see that the Residence Bel-Air project has enabled developers to reap tens of billion dollars of profit while the Government has never admitted that it is really a property development. Another example of favouring the developers can be found in the recent Hunghom Peninsula case in which public assets valued at billions of dollars are lost. Then there is the West Kowloon Cultural Centre Project. We are gravely concerned that it may become a replica of the examples cited above, that the Government will again use all sorts of reasons and excuses to hand over this huge project which is after all mainly a property development project to the giant consortia, thus dismissing any chance of fair competition. In this regard, the Democratic Party would issue the strongest and most unequivocal warning to the Government to show that we can never connive at such things again. Regardless of comments that political parties here are not mature enough or that our votes are insufficient, we will raise our opposition by all means. If in the West Kowloon project, the Government remains unwilling to consider things in accordance with the principle of fair competition and only tailors things nicely for some giant consortia, then we will certainly protest and oppose it persistently.

Actually, as opposed to market considerations, another function of the Government is to consider things from the perspective of public interest and it should intervene in the market should the occasion calls for it. In this regard, we would not raise any strong objections. For example, in a bid to protect the environment, the Government may formulate some measures, such as introducing taxes or other fees and charges or even offering some concessions to certain industries. We all agree to these measures, for they are drawn up with public interest in mind. For these industries, they may not be able to gain any profits and if the Government does not intervene and regulate, they would just externalize their costs, that is, transfer their costs onto the public. For example, the landfills may create pollutants. Then the Government should intervene proactively to internalize the costs, that is, to make the manufacturers pay for the pollution they cause. In addition, the Government should take the lead in areas like consumer rights, industrial safety, and so on, and it should enhance its regulatory role.

Another role which the Government should play is that in some, though not all circumstances, the Government must undertake some, direct and active economic measures which are anti-cyclical in order to boost economic recovery. This is especially true at times of a persistent economic downturn or recession. We have suggested many times that the Government should devise some bold tax measures to encourage investment.

From the outset the Democratic Party has never opposed the idea that the Government should formulate some bold measures such as offering tax holidays to attract some big companies or consortia to come here for investment, provided that these measures are not directed against a certain company or trade but that they are applicable to all companies which meet the objective requirements announced beforehand. If these concessionary measures are offered, we would think that they are acceptable and that they should be carried out boldly by the Government. Factors which should be considered are the size of companies intending to invest in Hong Kong, the number of staff they want to hire, and so on. Then the Government may offer some more preferential measures boldly. So why can this not be done? I think that it can be done at any time and not necessarily as part of an anti-cyclical measure.

As for anti-cyclical measures, we think that many of the current temporary jobs are actually created in the hope of reducing the jobless rate and boosting public confidence. Many Members would think that there are lots of other things in our community which the Government should take care of, like demolishing illegal structures and improving environmental hygiene, and so on. So the Government should be in no hurry to slash these temporary jobs. We even think that tax concessions in respect of scientific research and education, like the offer of double tax reductions, should be introduced boldly in order to attract investments. This will enable companies to be willing to make long-term investments in scientific research and education so that these companies or industries concerned will benefit eventually.

There is also the issue of privatization. We do not oppose it necessarily. But at a time when the economic outlook is not clear, it would not be proper if privatization progresses too fast, for it will make people uneasy. So in our opinion, all these measures should be launched in the light of the prevailing economic conditions. So despite some signs of an economic recovery, we do not think that it is the right time to launch some of these measures, including privatization.

Finally, we have suggested that the Government can play an active role in, for example, things like a boundary industrial zone which has been mentioned earlier, though the Government and the Chief Executive have said that there may be many difficulties about it. There is a project which I really do not understand why, after so many years of talking, fails to become a reality. What are the reasons for it? It is the waste recovery park in Tuen Mun. A few hectares of land have been earmarked for recovery purposes, but the Government has never begun any work. The project should be beneficial in terms of environmental protection and boosting employment, but why is it not undertaken? It is baffling and I just wonder whether the Government would respond to this later.

After talking that much, let us come back to the relationship between the Government and the market, that is, the idea of "big market and small government" which is mentioned so often. But what the Government has done is really a small government and a big spender. Why? According to reports by the Audit Commission, we have wasted tens of billion dollars a year. It can be noted from the reports released by the Director of Audit last November up to the present that the amount of money wasted is simply staggering. In the November report, the Audit Commission flayed 10 departments for wasting public money to the tune of \$2.27 billion a year. The money wasted includes vacant classrooms and excessive bought school places from the Education and Manpower Bureau. Though a total amount is not given, we would estimate it to be some \$900 million. The Food and Environmental Hygiene Department wasted about \$240 million according to estimates made by the Audit Commission as a result of a vacancy rate of some 20% in the market stalls and the idle state of some facilities. For the Civil Engineering Department, as much as \$270 million of public money was used to revise the contract for the first phase reclamation works of the Disneyland after it was signed. As for the criticisms against the Lands Department, the Audit Commission said that the Lands Department had not required the shipyards and other tenants in Penny Bay to clear up the polluted soil and demolish the erected structures when land was resumed, nor was the pollution made by the shipyards there properly assessed. The result was that a huge sum of money totally \$510 million was expended to clear up the polluted soil there when it was found that it had a heavy concentration of the carcinogen dioxin.

All these sums add up to some \$2 billion. That does not include the \$100 million spent in the Harbour Fest last year and the \$800 million to \$1 billion in

the Hunghom Peninsula case. In addition, there are also many other examples like the use of funds which has also come under much fire, but I will not talk about these for the lack of time. The Government has decided to suspend the sale of HOS flats at all costs. The result is that there will be a loss of some \$200 million in 2006 in the management and maintenance expenses of the some 20 000 unoccupied flats and the rentals which should be receivable would be astronomical as losses up to 2006 could mean \$1.5 billion.

The billions or tens of billion dollars of squandering which I have listed above, if saved and used to help those in urgent needs, then the poor people in Hong Kong would not have to live under dire distress as they do today. So insofar as the second theme of the Budget is concerned, that is, to give the community a respite, if the Government is saying that it wants to practise *laissez-faire* and allows the people to improve their lot through their own efforts, then it is really shirking its responsibilities. Mr Albert CHAN has just cited many examples of impoverishment and the disparity between the rich and the poor, so I do not intend to repeat them here. At a time when Hong Kong is called a cosmopolitan city, and as the former Financial Secretary wanted to make it a Manhattan plus, the people of Hong Kong are still so poor and the rich and the poor are still poles apart. So many of our old, weak, and the handicapped are not getting the most basic protection that they deserve and they are denied a decent living. I therefore think that we should never talk about being a Manhattan plus, for we are only a minus, let alone a Manhattan. Our conditions are really much worse off than many other big cities. So I really hope that the Government will respond to the issues raised by me. Thank you, Madam President.

MISS MARGARET NG (in Cantonese): Madam President, the first Budget compiled by Mr Henry TANG, the Financial Secretary, after he has assumed office is mostly a continuation of the Budgets compiled by Mr Antony LEUNG, the former Financial Secretary, that is, it continues to raise the salaries tax, slash civil service pay, propose to increase various kinds of government fees and charges, and so on, and government departments will continue to cut their expenditure as planned. It is also common knowledge that the police and the Independent Commission Against Corruption, two big law enforcement units, are going to be financially stringent. At the same time, the Judiciary will face a crisis of the administration of justice being affected as a result of the reduction in resources. So the Budget as compiled by Henry TANG is at best one which is short of new tricks to add to the burden of the public and make life more

intolerable for the people. But it is a far cry from revitalizing the economy and giving the community a respite. Maybe only the Financial Secretary is having a respite himself, with the public being left struggling and suffering.

So the Budget has offered nothing to write home about. The only novelty may be the Personalized Vehicle Registration Marks Scheme and the issuance of bonds, which have been discussed by other Members in detail earlier. So I will focus my speech on some other points.

First, there are signs of a regression in transparency in public finance. The income and expenditure accounts provided by the Government this year are too generalized, and one just cannot see how public money has been spent and whether or not properly spent. At times of financial stringency, the most important thing is to reduce wastage. I hope the departments concerned will provide us with a breakdown of the income and expenditure in the future.

Another point which affects transparency is the so-called PPP (private-public participation) as mentioned by many Members. The Government may avoid scrutiny by this Council by adopting this practice, that is, it can avoid being accountable to the public. If the Government's adoption of the PPP approach is to make use of the resources of the private sector, then it can still make the input of public resources public at its own initiative and subject it to the regulation of this Council. If the Government does not set up an effective regulatory mechanism, then it would be difficult to prevent the occurrence of favouritism and cronyism in the use of public resources. Yesterday, there was an article in a *South China Morning Post* column where the example of the privatization of a water treatment plant was used to question whether the use of this practice would save public expenditure or whether it was really selling land resources at rock-bottom prices.

Second, the use of Government House. This morning, I raised a question specifically on the use of Government House. On the surface, Government House seems to take up only a negligible share of public expenditure, but actually it involves a very important principle. Government House used to be Governor House, and after the reunification, if the Chief Executive chooses not to use it as residence, it should be open to the public. I think many people would like to pay a visit there, take some photos and tour around the place. This historical building is also a tourist spot in itself and it would certainly attract many visitors, both local and overseas. The Government may even consider

permitting the operation of a café or a shop to sell some souvenirs there. This will help our tourist industry and increase revenue.

Now the Chief Executive does not reside in this house, but the taxpayers are required to pay for the refurbishment, maintenance, management and security of his private residence at a sum which nobody knows while at the same time maintaining the former Governor House as venue for banquets hosted by him.

According to information provided by the Government, during the year 2003-04, the Chief Executive held a total of 102 functions at Government House and permitted 41 other functions held there by other departments or non-governmental organizations. The number of days opened to the public was only six. According to the Government, the number of six days was two days more than that open to the public during the colonial days! When a Government House which is so vast is closed to the public and reserved for the sole pleasure of the Chief Executive to entertain his guests, one just wonders whether this is sound utilization of resources or it is simply creating a prerogative.

I have asked the Government to provide us with a list on the functions organized in Government House by the Chief Executive and other organizations, but to date no reply has been given. This placing of a prerogative of the Chief Executive over and above public interest is really something the people of Hong Kong would not like to see.

Third, policy and information researches done by the Government. Another question I raised is about the research projects undertaken by the Central Policy Unit. Policies should be evidence-based. That is the practice in other countries. But the policy studies made by the Government of the Hong Kong Special Administrative Region are extremely scanty and the studies undertaken with taxpayers' money are almost invariably not made public for the people's benefit. The studies listed by the Central Policy Unit are mostly not policy studies but political studies. When the academic circle learns of government deficits, the first thing it will do is probably to cut research expenses. However, the launch of policies which only serve to meet political objectives, which are also out of touch with the social reality will not only fail to save money and waste public money instead. I hope the Government will face up to this fact and improve its research efforts. Unless there are special reasons that the findings must remain confidential, then they must be made public as a rule. Even if they

cannot be made public at once, they must be made public as soon as possible. This is a means to enhance the standard of research by way of public monitoring.

Fourth, legal aid. This is an issue of grave concern to this Council. I have made my views on this known in the policy debate and I will not repeat them today. The following figures should be noted: the budget in 2004-05 for duty lawyers scheme is some \$46 million, that is to say, the amount of money which a defendant can use is \$1,820; and for the free legal service available to members of the public, the amount of money used on every service seeker is less than \$100. The annual budget for the Legal Aid Department for 2004-05 is some \$780 million, and this includes legal expenses and operation costs of the Department. When shared among the some 7 million people in Hong Kong, this is \$100 for every person. For an international city which highly values the rule of law, this sum is definitely not generous at all.

If the Government continues to curb the expenditure on legal aid, it is inevitable that the rule of law will be subject to challenge and it can never be sound. On the question of unrepresented litigants, the Courts have expressed grave concern, for the severity of the problem is eating into the efficiency of court proceedings. However, the Resource Centre for Unrepresented Litigants set up by the Judiciary last year could only set aside less than \$1 million to provide limited information on procedural matters and the litigants were unable to obtain any support service in legal advice.

Recently, on a one-day tour of London, I visited the centre for unrepresented litigants in the Royal Courts of Justice. I found the centre very successful in that it offers legal advice and helps litigants to see justice done. Moreover, a very important thing is that this will smooth out court procedures and make the hearings more efficient. The funding this centre got in 2003 was £450,000, or some HK\$6.5 million.

Fifth, I would like to reiterate my views on the sales tax. As a sales tax encompasses retail activities and services, I hope the Financial Secretary can hear views from the legal profession to see how this new tax will impact on the development of legal services. The operation of legal services, in particular in the form of legal firms, has been very difficult in recent years. To meet the competition in the profession, the small and medium-sized law firms can only reduce their charges. While the profit margin narrows, the operation costs are

always increasing. This applies especially to tremendous increases in insurance expenses. Last year, with the Australian group HIH gone bankrupt, all the law firms in Hong Kong had to share an additional expense of some \$400 million. Last year, some \$130 million was paid and more would still have to be paid over the next few years. Set against this background, if the Government wants to introduce a goods and services tax, that will only increase the burden on the profession. In addition, there will be extra administrative expenses for this new tax.

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

If costs are increased across the profession, that will certainly make legal services less attractive to the public. What I am saying are not those services like advocacy in criminal cases which are essential, but all sorts of other legal services to assist commercial activities and safeguard the various interests of the public. All these are vital to the development of the service industries in Hong Kong. I hope the Financial Secretary will not do anything which may bring in minor gains but nevertheless incur huge losses, that is, adversely impeding the development of the service industries simply for some tax revenue which is limited.

I so submit.

MR HENRY WU (in Cantonese): Madam Deputy, the first Budget released by Mr Henry TANG, the Financial Secretary, is practical generally. At a time when the Hong Kong economy is showing the first signs of recovery, it is generally thought that less policy changes would be the most effective way to help the economy develop in a healthy manner.

In view of the acute deficit problem in recent years, I agree to the proposal made in the Budget to issue government bonds to raise funds to finance infrastructural projects and other investment items which are beneficial to the long-term economic interest of Hong Kong. I believe the issuance of bonds may reduce the financial burden borne by the Government in infrastructural and

investment projects. This will help the Government achieve its goal of eliminating its deficit by 2008-09.

I am very glad to see that, two days ago, the Government introduced its plan to securitize the revenue of five tunnels and one bridge. The initial response has been good and it is expected that the scheme would raise \$6 billion. As the interest rate offered by the banks is presently close to zero, the bonds would provide another investment option to the people. The most important thing is that this is the first time which the Government has allowed all securities companies to participate directly in the process of issuing bonds. This will facilitate small investors to apply for the offer. I would therefore like to praise the Government here for its progressive and open attitude.

In the past when the Government wanted to securitize or privatize its assets, for example, in the listing of the Tracker Fund and the MTR Corporation Limited (MTRCL), only the large securities firms were entrusted with the share issue work by the banks. The small and medium-size securities firms were allowed to involve in that only through very indirect means. The huge and well-established retail network in the local securities market was not made good use of. The small and medium-sized securities firms were simply neglected and they were not given any opportunities of direct involvement. So as early as in 2000, I arranged for a meeting with the then Secretary for the Treasury, Ms Denise YUE and I urged her that should the Government wish to securitize its assets later, issue bonds or privatize, it had to take into full account the small and medium-sized local securities firms and give them opportunities of direct involvement. At that time, Secretary Denise YUE undertook that should shares of the MTRCL be offered again, the authorities would take these proposals into full account. Due to the changes in economic conditions, the MTRCL shares have not been offered again, but I have not ceased in my efforts to strive for the fruition of these proposals. I have conveyed to related officials through different channels and on different occasions that the small and medium-sized securities firms should be given equal and reasonable opportunities to fully make use of the sound retail network in the local market.

Madam Deputy, in order to ensure that the small and medium-sized securities firms are given an opportunity of direct involvement in this bond issue, I have written a letter to Secretary Frederick MA of the Financial Services and the Treasury Bureau. At the meeting discussing the issuance of bonds for the five tunnels and one bridge in the Panel on Financial Services in this Council, I

stated clearly that proper arrangements should be made when choosing the agents for the bond issue, and that the prospectus should list clearly the condition that full use should be made of the retail network in the local securities market. Secretary Frederick MA had acceded to these requests on a public occasion and in the end the authorities agreed to give the opportunity for the first time to all securities firms to directly take part in the issuance of bonds.

According to the government plans, after the smooth launch of the bonds for the five tunnels and one bridge, the other plan to issue bonds at a value of \$20 billion will be launched very soon, probably by this summer. This method of investing money to reap more money would enable the Government to raise more funds to finance its infrastructural projects. The Government also has plans to privatize the Airport Authority and merge the two railway corporations in 2005-06. I hope therefore that the experience gained this time can serve as a good start. What the authorities should do is to make a review soon so that the future securitization or bond issuance plans can draw reference from this experience, that the details can be refined to enable all securities firms to take part directly, hence bringing benefits to the small investors, and that an all-win situation be achieved for all.

Madam Deputy, after heaping praises, I have to come to criticisms. Though the securities sector welcomes the bond issuance arrangements, as the Budget has not proposed any further plans to honour the pledge made by the Government years ago on abolishing the minimum commission for stock brokers and the stamp duty for shares transaction, both the sector and I myself are extremely disappointed!

Throughout these years from 2001 to the present, I have expressed repeatedly the rationale and my strong request to the three Financial Secretaries in office during the period on the abolition of stamp duty on share transactions. In this Council alone, discounting the speeches made in the panel, I have spoken at least six times in the Council meetings by to my own rough estimates. I have also stressed many times my request that the stamp duty on share transactions should be abolished and that the related levy and charges should be reduced. However, like his two predecessors, Financial Secretary Henry TANG has not made any reasonable and fair response. He has only replied in a nonchalant manner that this would not be possible due to the fiscal deficit. There is no reasonable and systematic plan or timetable to implement the reduction or abolition of stamp duty on share transactions.

All along the Government has been stressing that in order to follow the international trend, the costs of transaction should be reduced and that the local securities market should be made more competitive and on par with international practice, so there is also a need to abolish the minimum commission charged by stock brokers which has been in force for well over two decades. The Government also pledged many years ago that after the abolition of the minimum commission for brokers, the stamp duty on share transactions would be abolished. Much to our regret, it has been a long time since the minimum commission has been abolished, but nothing has been done to the stamp duty on share transactions. This runs counter to the international trend of not levying any stamp duty on share transactions, and so we can hardly say that Hong Kong is on par with international practice.

I would like to remind the Government here that after the abolition of minimum commission for stock brokers, the stamp duty on share transactions accounts for a major share of the cost of share transactions. But what the Government is doing is just sitting back and holding out its hand to take the money. For the stock brokers, they have to invest a lot of resources, manpower and facilities to serve the investors and contribute to the securities market in Hong Kong and its position as a financial centre. Brokers have to work very hard and bear the risks in the market. They also have to face the harsh and unjust rules of regulation. It can be said that they are leading a life which is very miserable and unfair.

The Government has been using the pretext of a deficit in recent years and says that there is no scope for any tax reduction, therefore it would not abolish the stamp duty on share transactions. However, upon close analysis, it can be found out that the stamp duty on stock transactions only contributes on average 2.4% of the total public revenue each year. During the past few years when there was a fiscal deficit, it only contributed 2.2%. This shows that in practice the portion occupied by the stamp duty on share transactions against total public revenue is not great at all. So deficits should not be used as a pretext by the Government to justify its not honouring its pledge.

Madam Deputy, during the five years before the reunification in 1997, the portion taken up by stamp duty only contributed 26% of the total revenue. Then the portion went up to 46% at one time. That was due to the impact of external factors like the international financial turmoil after 1997 and terrorist

attacks, and so on, hence the economy became sluggish and so property prices and transactions sagged and so the revenue from stamp duty levied on property transactions fell sharply. As a matter of fact, the share occupied by the stamp duty levied on stock transactions has always been small as compared to the overall revenue from stamp duty. Hence it has only a very minor role to play in the elimination of deficits. As for the drop in revenue from the stamp duty levied on property transactions, it should never be offset by levying a stamp duty on stock transactions.

Before the reunification, some of the proceeds from land sales had already been transferred to the Land Fund and it was transferred back to the Government of the Hong Kong Special Administrative Region after the reunification and so an additional \$200 billion was added to the reserves. In the past few years, though Hong Kong has repeatedly suffered blows from many unexpected events and that its economy has been battered, with the great care and support from the Central Government, our economy has managed to come out of the doldrums since the middle of last year and signs of a recovery are showing. According to the Medium Range Forecast for 2003-04 to 2008-09 as presented in the Budget, though the fiscal reserves would drop to a level of \$160 billion, it however represents an increase compared to the average reserve level of some \$140 billion in the five-year period before the reunification. So despite the fall in the stamp duty levied on property transactions, this can be offset in practice by the income from the Land Fund which has been transferred to the fiscal reserves.

After the above analysis, it can be seen that the abolition of the stamp duty on stock transactions does not carry any substantial weight to the overall revenue. However, we also understand the difficult situation which the Government is facing, that though the economy has just recovered, it would not be feasible at all to ask the Government to take on an across-the-board approach and abolish the stamp duty on stock transactions. In order to prevent the Government from putting up various excuses, shirking its responsibilities and doing nothing, I have done something for it. I now propose a concrete plan after weighing all factors such as a sound financial position, the economic strength, the international trend, investment costs and market competitiveness, and so on. I now strongly demand here that the Government should reduce the stamp duty on stock transactions over a four-period, that is, to reduce the stamp duty on stock transactions by 0.05% each year from 2005-06 to 2008-09, until the stamp duty is completely abolished in 2008-09.

I believe this middle-of-the-road proposal will not bring about any adverse impact on this Budget and the Medium Range Forecast, and it will on the other hand make Hong Kong more competitive on the international front. The fact that the Government has honoured and fulfilled its pledge will help boost public confidence in the Government and hence it will form a solid foundation for governance and administration in future.

Madam Deputy, as a responsible government, it should honour and fulfil its pledge. It must not say one thing but do another, or procrastinate in honouring its pledge on abolishing the stamp duty on stock transactions. If the Government refuses to cut the stamp duty rate in times of a fiscal deficit as well as in times of a surplus, then it is simply destroying its credibility in governance. It is damaging the trust which the sector and the public have put in it. As for this Budget, originally I gave it a high grade of B+ because of the satisfactory arrangements in bond issue, but as the Financial Secretary has not proposed any fair and reasonable plan to reduce or abolish the stamp duty on stock transactions, a single move which may upset the whole game, so my grading of the Budget may be revised to a negative one. For this reason, I implore the Financial Secretary to stop before it is too late and never make any more blunders on that. He should review the whole issue again and give serious thoughts to the proposal on reducing the stamp duty rate on stock transactions on a gradual and yearly basis. He should make a proper response next week. For if not, I will have some reservations about this Budget.

Madam Deputy, I so submit.

DR LO WING-LOK (in Cantonese): Madam Deputy, I speak to support the Appropriation Bill 2004 and I would like to make use of this opportunity to discuss with the Financial Secretary the part in the Budget on health care.

In recent years, the annual provisions for health care and public health are as high as some \$30 billion, when spread over a population of 6.8 million, that would mean about \$5,000 for every person.

Maybe we can talk about what can be done with this \$5,000 in health care. Depending on various health care costs in various health care institutions, \$5,000 can be use to inject 25 to 100 persons against influenza and raise their immunity

against influenza during the influenza season of that particular year. A sum of \$5,000 can be used to provide 25 visits to a general out-patient clinic. In fact, in most countries the annual demand for general out-patient service is less than 10 times per person. Thus the sum of \$5,000 can serve to meet the annual requirements of three or more persons for general consultations for a full year. If this sum of \$5,000 is used on hi-tech health care, it can only be sufficient to take a scan once for a person using the magnetic resonance imaging scanner and the scan can only be localized to one part of the body. If a patient has to be hospitalized because of serious conditions, according to estimates in this year's Budget, \$5,000 may only meet one quarter of the costs of the eventual discharge of this patient. According to estimates made in this year's Budget, the costs of discharging a general patient are \$20,680. From the above figures, it can be seen that preventive and front-line treatment on a primary level is much cheaper than hi-tech treatment. If preventive work and public health efforts as well as primary treatment services are sound, they will greatly help reduce the demand for remedial treatment and expensive hospitalization service.

The Hospital Authority (HA) gets a provision of \$28.1 billion from the Government this year. The provision for the Department of Health is \$2.9 billion. From these figures, we can see that in our medical system, the amount of funding received by remedial treatment and hospitalization services against the amount of funding for preventive medicine and public health is nine to one. Such a ratio is not unique to this year alone, for it has been maintained for quite a long period of time. This shows that treatment instead of prevention has long been the emphasis in our medical system. Over the past 10 years, our public hospitals have been made very attractive in appearance, but our public health work has been in contrast not making much progress.

About this phenomenon, I have spoken on many occasions, but it seems that the Hong Kong community, the Government and the medical profession have all failed to make any proactive response. It was not until SARS had broken out that the many inadequacies in our medical system were exposed. The hospital system which we had all been so proud of became the breeding ground for SARS and its spread. Our weak and frail public health system failed to cope with the drastic developments of the epidemic and so it was stretched to its limits. The result was 1 755 infections and 299 deaths.

To rectify the failures of our medical system, the input of more resources alone will just not do. For as we all know, there is got to be a limit to the amount of public resources each society can put into health care and there is no way that all the health care needs of all the people be met.

So some people have come up with the wishful thinking that if public health care institutions are permitted to raise their fees and charges and if resources thus gained from these fees and charges are retained, then the problem of insufficient resources in the public health care system can be solved. As a matter of fact, increasing the fees and charges of public health care services is a two-edge sword. For on the one hand, increasing the fees and charges of public health care services to a level charged by private health care institutions can really make those who can afford private health care services choose private sector services and hence reduce the pressure on the public sector institutions. But on the other hand, there are many users of public health care services who cannot afford the fees and charges of private health care institutions. When charges for the public sector institutions increase by \$10, the money at the disposal of these people will be decreased by \$10. So it does not matter whether the public sector institutions increase their fees and charges by \$10, \$100 or \$500, for these people will never be able to switch to using services provided by private sector institutions. Therefore, an increase in the fees and charges in the public sector will only add to their burden.

If the Government permits the public sector institutions to provide services on a self-financing basis like the private sector institutions, and if these public sector institutions are permitted to increase their resources using all sorts of ways and means, that is actually like providing capital to these institutions to run their business. It will only make public health care institutions pay an overriding attention to making money and cause the quality of service to drop. I have to stress that if public health care institutions are allowed to offer services like the private sector, it will only be unfair to most users of their services. Private sector services should only be provided by the private sector institutions in accordance with market forces and standards recognized commonly by the local and international medical profession.

In the aftermath of SARS and at a time when the HA is facing a deficit, it is understandable that the HA is allowed to retain some medical and non-medical revenue as part of its resources. However, the Government does have the

responsibility to oversee how such resources are utilized. Moreover, in the compilation of the Budget each year, there is a need to review such arrangements. The Government should take into account the overall development of health care in Hong Kong and the merits and demerits of such arrangements mentioned by me.

There are signs showing that the HA and the universities are willing to permit more senior medical doctors to engage in limited private practice. The medical profession is very concerned about this. The Hong Kong Medical Association is presently conducting a consultation on this. I think that the most important consideration is public interest: Would this arrangement reduce the resources available to users of public health care services? Or would this affect the quality of the medical services they get? As public money is used to employ these medical doctors, is there any mechanism in place to ensure that they can discharge their duties impartially while engaging in limited private practice? In other words, can it be ensured that they devote fully to their service in the public hospitals and that when treating private patients they will not use their links with the public hospitals to subsidize these private patients? The Government should make a review together with the institutions concerned to examine if there is any practical need for this and to urge these institutions to set up an effective monitoring mechanism.

On the question of reforming the medical system of Hong Kong, there are two major directions which we may explore.

The first is to reposition public health care services in Hong Kong.

Positioning means saying to the public that given the limited public resources, it would not be possible for the Government and the public sector institutions to provide all services to all the people, so priorities must be set. I think that of all items which should be accorded a priority, the most important thing is to enhance the efforts in public health and the prevention of diseases, and there must be an input of suitable resources. Centres for Health Protection under development are a step in the right direction. But the Government must have long-term resource commitment in this. It can never do it in the way it is doing this year: setting up Centres for Health Protection while cutting resources for the Department of Health. Another major focus of public health is to put resources on items which most people would find hard to afford and where every person may need access, for example, the treatment of acute diseases and emergency

services. Say when someone meets a serious traffic accident, irrespective of whether he has the money or medical insurance coverage, it is very likely that he would be sent first to the casualty ward of a public hospital. So such emergency services must be run properly. Another focus is to attach importance to the training of healthcare personnel. Over the past few years, and given the stringent finances of the HA and the public sector institutions, the training of medical and nursing personnel has not been satisfactory. We are facing an imminent succession problem in both personnel and technology in addition to resource problems. So I hope that the training of health care personnel may be able to meet the needs of health care development in Hong Kong. The next point is to provide a health care safety net to the poor people. Finally, more resources should be injected into research in medicine. The fact that SARS can be tracked down within such a short time is owed to the efforts made by world-class medical scientists in Hong Kong. When compared with other advanced places in the world, these scientists are getting only a very meagre amount of resources and it is a shame that these resources are to be cut in the wake of SARS. The Government must work hard to rectify this situation.

The second major direction of development is health care financing. We can never say that there is no need for health care financing at a time when we are well-off or when society is affluent. Nor can we ever say that health care financing should never be mentioned at a time when there is an economic downturn. So this issue of health care financing should be on the agenda under all circumstances. In developed places, unless the government there can increase taxes all the time, the ever-increasing health care needs can never be satisfied. As Hong Kong upholds a low tax regime and faces a deficit problem, the most pressing task is to find a solution to long-term and sustainable health care financing other than resorting to the public coffers. The Government should not just think about how resources for the HA can be increased but it should do the same for the health care system of Hong Kong, which means both the public sector health care services and the private sector health care services.

Hong Kong boasts a team of excellent medical and nursing personnel, two world-class medical schools and top-notch medical researchers, it would be a pity if they can only work for the 6.8 million people of Hong Kong. Recently, I have paid visits to Beijing, Shanghai and Guangzhou and shared my experience with the medical profession there. I find that these cities have already become regional health care hubs and patients would come to these cities if they cannot find the right kind of treatment in their hometowns. A large number of these

patients will meet the medical costs by their own means. So a huge amount of resources and medical cases are flooding into these cities. Hong Kong certainly does possess the conditions to become a medical centre for the whole of China after cities like Beijing, Shanghai and Guangzhou. With the Individual Visit Scheme and greater convenience in entry and departure formalities, there would be an increasingly large number of mainland residents who can have access to health care services in Hong Kong. With the increase in the number of these service users, the private sector health care services in Hong Kong will put in better resources, so the fixed costs of service delivery would drop and hence more people, both from the Mainland and Hong Kong, would be able to afford private sector health care services. Therefore, both the medical profession and I would be glad to explore with the Government on how to remove these barriers to enable more mainland people know, come into contact with and use the health care services in Hong Kong.

Madam Deputy, I so submit.

MR MICHAEL MAK (in Cantonese): Madam Deputy, the first Budget compiled by the Financial Secretary has not brought any surprises to my sector, for what the Government is doing is to brandish a knife and chop off resources for health services. Now the Hospital Authority (HA) is like a patient suffering from anaemia and serious malnutrition, what I am referring to are its finance and manpower, but unfortunately the Government has not prescribed the right medicine for the HA. On the contrary, it is cutting the flesh and draining away the blood from the HA as the Budget this year plans to further reduce the expenditure of the HA by \$1.43 billion.

Under the second round of the voluntary retirement scheme launched by the Government and the voluntary retirement scheme of the HA, a total of 1 084 nurses and 129 allied health professionals have left the service. The above schemes have led to the wastage of many talents who are well-experienced. Thus staffing is seriously affected. And most unfortunately, this year's Budget plans to cut 127 nursing staff and 135 allied health professionals. Yet the number of medical staff, that is, medical doctors, will increase by 147. At a time when the nursing staff and allied health professionals are in acute shortage, the Government only chooses to increase the number of medical doctors while slashing the number of nursing staff and allied health professionals working at the front line. This is only favouring certain groups of people while

discriminating against others. Or maybe the Government is making the wrong calculations. Therefore, I urge the Government to offer a public explanation on the reasons behind this unreasonable state of affairs and formulate clearly-defined staffing targets. I hope the Government will not take the lead to create division. As the representative of the sector, I must point out that this is very dangerous and I hope the Financial Secretary can be aware of it. Though the Financial Secretary may have delegated his powers to Secretary Dr YEOH, he should instruct Secretary Dr YEOH to find out the reasons behind it.

After being hit by the SARS epidemic last year, Hong Kong was under the threat of avian flu and type A influenza at the beginning of this year. At a time when the health care system has not yet recovered from the blow suffered last year, health care workers have to face the shortage of resources and cope with the huge increase in demand for health care services. So they are placed under a heavy workload and great pressure at work. This is really stretching them to their limits and they are on the verge of getting burnt out. In fact, I have mentioned the burnt out effect many times but unfortunately their selfless sacrifices have not been properly recognized. Not long ago the HA even tried to slash the pay and allowances of fellow workers who entered service after April 1998. This is really dealing a further blow to the morale and stifling their professional development. Service quality is bound to be affected. Like other countries, Hong Kong is facing the problem of a growing and ageing population and the demand for public health care services is increasing year after year. But the Government is turning a blind eye on this and even plans to slash 128 beds in the general wards of public hospitals. This is another example showing how the Government puts its determination to eliminate the deficits above the life and health of the people.

Recently, the newspapers have given extensive coverage to the issue raised by me last Monday in the Panel on Health Services about a request made by a paralyzed person called Bun for euthanasia. He is a helpless patient and he needs a breathing machine. The Government is so mean when it comes to helping those in need to purchase medical equipment, but on the other hand it is squandering on other things. Like the Harbour Fest in which \$100 million was dumped to organize some concerts which later came under heavy fire from all quarters. And behind the music and dances of the Harbour Fest shows, one can see vivid pictures of people dying in society for lack of help.

Madam Deputy, the population of Lantau Island has been increasing sharply in recent years. The population in Tung Chung alone is expected to increase from 42 000 persons in 2002 to 95 000 persons in 2011. Medical facilities there are very deficient. At present there is only a health centre in Tung Chung to provide public health care services for the people there. But the centre and the private health care services in Tung Chung do not provide any night services. Lantau Island has been developing rapidly in recent years. Many large developments are proceeding there, for after the airport at Chek Lap Kok, the Disneyland will soon complete. So it is expected that the trend will continue and the island's population size will increase drastically. The Government must not cling to rigid rules and resist changes. It must not think that a hospital of about 1 100 beds would be provided only when a district's population reaches 200 000. It is because of this reason that for many years the Government has not planned to build a hospital in Tung Chung. It will be too late to build a hospital when Tung Chung's population has reached 200 000. I hope the Government will provide reasonable and quality health care services to the people living in Tung Chung, especially as the Tsing Ma Bridge which connects it with the outside world may close down any time in inclement weather. I urge the Financial Secretary to instruct Secretary Dr YEOH to give serious thoughts to this.

All along the Government has refused to increase resources to promote primary health care services, for the reason of the fiscal deficit. This is short-sighted. For it fails to realize that primary health care services can achieve the effect of "prevention is better than cure". In the long run, they will lower the incidence of diseases and medical costs. I therefore urge the Government once again to set up an inter-departmental committee or working group to step up primary health care services. These would include publicity on occupational safety, improving the air quality and the quality of potable water, as well as keeping a territory-wide cleaning campaign in force. These will help put the spread of diseases under effective control and hence safeguard public health.

On the acute imbalance between private sector and public health care services, over these years in this Council I have repeatedly urged the Government to foster closer co-operation between private sector hospitals and public sector hospitals. Recently, the notion of "4P" has emerged, that is, Private Public Partnership Project. I hope the Government can do more on the

4P. Unfortunately, the results in this regard are still far from satisfactory. The most obvious example is insufficient co-ordination between private and public health care institutions during the SARS outbreak last year, resulting in public hospitals having to bear the tremendous pressure alone. Therefore, I urge the Government to work extra hard on this, and may I ask the Financial Secretary again to instruct Secretary Dr YEOH to work on that.

At the beginning of this year, I raised in this Council the issue of a better health care financing policy and urged the Government to address the issue, draw extensively from the experience of other places and find out a better plan for health care financing. The plan should then be offered to the public for consultation, with a view to formulating a new and sustainable policy as soon as possible. Recently, the Government plans to submit the health care financing scheme to the Legislative Council again for discussion. I hope the Government will hear more from the public, consult the sector and the people and strike a balance among the taxpayers, health care service providers, patients and the Government itself. However, I would like to tell the Government again not to waste any efforts on the "Health Protection Accounts" for, as I have said, the concept of Health Protection certainly carries moral risks and the Government will not be able to reap any return from it. Please bear that in mind!

Under CEPA, there are many concessions given to Hong Kong to open up the mainland market. Medical doctors and dentists may practice on the Mainland, but nurses and other allied health care professionals are not given the same treatment. This is another example of the lack of respect for the contribution made by professionals in the health services sector. I hope that the authorities concerned will not create division in this respect, though I think that even with CEPA, my colleagues may not be interested in practice on the Mainland. But that does not mean that similar opportunities should not be offered to my colleagues.

Madam Deputy, I would like to talk about some another issue as well. That is about Article 100 of the Basic Law which I have mentioned many times. The Article stipulates that public servants may all retain their seniority with pay, allowances, benefits and conditions of service no less favourable than before. About the question of "no less favourable than before", just as I have said many times, this involves many factors which are complicated, such as the prevailing cost of living, the mode of consumption and economic conditions. Such

standards cannot be measured purely in money terms. If the Government continues to use high-handed means to slash civil service pay and establishment, that will affect the stability and sustained development of public services seriously. So officials should not just cite Article 100 when they talk with me, unless they are asking for an interpretation of the Basic Law on this provision, but that is something I never want to see.

Madam Deputy, of course I do not agree with the Government's plan to slash resources for health services. However, the Financial Secretary has proposed this year some measures to raise revenue and cut expenditure which are quite pragmatic and creative. For example, the plan to extend the eligibility period for home loan interest deductions will ease the financial burden of the people. As regards other measures like the issuance of bonds and the Personalized Vehicle Registration Marks Scheme, I think that they should work and that some substantial revenue can be obtained. Having said that, I do not support the introduction of a goods and services tax, for that would deal a blow to the spending sentiment of the people and even that of visitors to Hong Kong.

Besides, I am very much in support of the idea of "polluter pays", but what I hate is that there are many giant consortia which are only bent on making money and creating great amounts of rubbish recklessly. Recently, a giant developer plans to pull down the Hunghom Peninsula. It is estimated that this would create 200 000 tonnes, Mr Financial Secretary, 200 000 tonnes of construction waste which will not only damage the environment but also waste a great deal of the taxpayers' money. I do not know how the Government will step in with respect to this matter. It is disgusting to note that these developers should act like this in blatant disregard of the principles of "polluter pays" and "producer of construction waste" pays. I hope the Financial Secretary can tell us what he plans to do about it.

The Financial Secretary has become a hot candidate for the next Chief Executive. I hope he can be open-minded and that he will have a clearly-defined plan to tackle the deficit problem. I hope he can uphold his own philosophy of financial management by targeting the necessary revenue and expenditure measures. He must act in public interest dauntlessly, and never subject himself to the influence of any political groups or giant consortia.

I reckon the Financial Secretary will agree to my views on the tobacco duty. Earlier on in another meeting, I posed a question to the Financial Secretary, asking him why he had not planned to raise the tobacco duty. For both active and passive smoking would lead to a host of health problems. These are clear enough. On the question of passive smoking in particular, think about our next generation, why should they be made to contract lung cancer or other diseases because of passive smoking? I therefore urge the Financial Secretary to raise the tobacco duty heavily in his next Budget. I am not sure about the duty on alcoholic beverages, for some people may think wines may help improve some body functions. However, I still think that it is not right to indulge in drinking and so the duty on alcoholic beverages should be raised as well.

Generally and in principle, I support this maiden piece by the Financial Secretary. Thank you, Madam Deputy.

DR LAW CHI-KWONG (in Cantonese): Madam Deputy, first of all, I wish to say a few words on social welfare expenditure. What is said about this in the Budget this year can be described as the most ambiguous of its kind in all these years. After deducting the expenditure on social security, the reduction of social service expenditure is 5.7% on the surface. We can only notice that, as announced in the Budget, disregarding social security expenditure, the rates of reduction for other expenditure items, namely, youth service, community development service and funding for non-governmental organizations, are 13.7%, 52.6% and 4.2% respectively. All these rates are extremely shocking.

We can of course criticize very simplistically that the Government has sought to slash social welfare expenditure. But the computation is not that simple, and I manage to sort things out only after asking the Government questions on the Budget. Madam Deputy, in order that the figures concerned can be put down on record, I beg your indulgence in listing the statistics here. To put it simply, disregarding the expenditure on creating temporary posts to increase job opportunities and the expenditure on SARS-related items last year, the expenditure reduction resulting from the civil service pay cut is 2.26% of the overall expenditure; the reduction caused by the fiscal deficit is 3.47%, or \$320 million. This is slightly higher than the 3% we were informed of before the announcement of the Budget. The Government is aware of the acute shortage

of many services, so it has allocated an additional \$430 million to these services. Computed on the same basis mentioned above, the rate of increase is 4.88%. The increase is mainly for elderly services, which take up \$300 million, and there is also an increase of \$90 million for rehabilitation services.

Having learnt of so many figures, Members may ask, "Disregarding the civil service pay cut, the expenditure on creating temporary posts to increase job opportunities and the expenditure on SARS-related items, is there any increase, or decrease, in social welfare expenditure?" This should be a question for the Financial Secretary or the Secretary for Health, Welfare and Food to answer. It will be politically incorrect for me to do so.

It is mentioned by the Chief Executive in his policy address that the social welfare sector has been encouraging members of the public to take part in voluntary work, and in recent years, many new ideas have been put forward to induce involvement of the business sector in social services. The Financial Secretary responded to this in the Budget by saying, "On the social welfare front, I have been impressed by the commendable efforts of the social welfare services organizations to promote corporate social responsibility and encourage the business sector to participate in community affairs. The Government will earmark an additional \$200 million on a one-off basis to promote the development of a tripartite social partnership comprising the Government, the business community and the welfare sector, and to encourage corporations to take part in helping the disadvantaged." The social services sector welcomes this arrangement in general and will actively explore how best to utilize the resources available.

Madam Deputy, I also wished to discuss the wealth gap problem originally, but since the motion topic today as displayed on the electronic notice board is the Second Reading of the Appropriation Bill 2004, I will withhold this part of my remarks.

I wish to discuss health care spending. On this, I do not want to quote too many figures. Unlike what I did just now, I mean, just now, I said that I wanted to sort out the computation involved, so I had to quote many figures. But the figures related to health care are very straightforward. Two Members, Dr LO Wing-lok and Mr Michael MAK, have already mentioned some of the figures. Regarding the funding for the Hospital Authority (HA), even after pay

cuts are taken into account, there is still an actual decrease. Members all know that the HA is faced with an acute deficit, and the increase in population and elderly people will at the same time boost the demand for health care services. The increase in demand, coupled with reduced funding and the deterioration of the deficit, will exert very heavy pressure on the quality of services delivered by the HA.

In its report, the expert committee appointed by the Government points out many inadequacies of our health care system as revealed in the SARS outbreak last year. Apparently, the Government has allocated additional resources to the handling of contagious diseases in hospitals, but this is more or less offset by the curtailment of funding elsewhere.

Another health care problem which the Government should note is the issue of manpower. Dr LO Wing-lok will be pleased by the increase in doctors, but Mr Michael MAK will be upset by the reduction of nursing staff. What we need to note, what worries us, is that at a time when the overall funding for the HA is being cut, the increase in doctors is not caused by increasing demand (I have mentioned that demand is increasing). The increase is not related to this. There is only one reason — doctors' demand for specialist training. Nurses do not need such training, but doctors do. We understand that specialist training is very important to doctors and also to the quality of the health care services we receive. We also know that doctors will still be providing services even when they are receiving specialist training. But should the HA shoulder almost all the responsibility for doctors' specialist training? We notice that this phenomenon started to emerge only from the 1990s onwards. Before that, most doctors took care of their own specialist training. I hope that the Government can seriously examine the issue of who should be responsible for doctors' specialist training and how the responsibility can be shared reasonably. This requires some thinking.

The third health care problem is about the uneven distribution of resources among Hospital Clusters. On the Budget, I had asked a question about the drugs expenditure of different Hospital Clusters and found that there were huge variations. I am not going to cite the actual ratios, but suffice it to say that the expenditure of the Hong Kong West Cluster is several times that of the New Territories West Cluster — I mean, really several times, and this may be the result of an uneven distribution of hospital beds as well as differences in patient profile and drugs prescriptions. Several years ago, the Harvard Team report

already pointed out that there was an uneven distribution of hospital beds in Hong Kong. Actually, once we realize that the population in New Territories West cannot possibly be smaller than that in Hong Kong West, we will see that such an uneven distribution will be very unfair to some residents.

This is therefore the most difficult problem to solve. How can an even distribution of resources be achieved when the HA is facing a deficit and a reduction of overall funding? This is a very difficult problem to solve and also a challenge to the HA. This problem must be addressed squarely, and Hong Kong people should really be treated more fairly. Though Hong Kong is very small in size, it is still a very long way from Tin Shui Wai to Princess Margaret Hospital. There is Route 3 now, though, and without it, the journey will even be longer. But then, I am not sure whether ambulances taking this route have to pay any tolls. This question was raised as early as several years ago, but there has been no improvement so far. This is also a problem.

Lastly, I wish to say a few words on the Personalized Vehicle Registration Marks Scheme. This looks like an innovation, but as we all know, similar schemes are also found in other countries. I do not know whether these countries also held conventional vehicle registration marks auctions like Hong Kong before they introduced personalized vehicle registration marks. Why do I ask this question? Well, I am worried that this initiative may only lead to seeming increases in revenue. What I have in mind are some basic economic concepts. In the past vehicle registration marks of this kind were limited in supply, so they could be sold in auctions at very high prices, for reasons of demand elasticity. People would all vie for the same vehicle registration mark they liked.

But after the introduction of personalized vehicle registration marks, supply will become unlimited in theory, thus leading to a natural and drastic drop in prices. For example, a person surnamed HUI (許), will not have to vie for the vehicle registration mark of HU1, and those surnamed LAI (黎 or 賴) will not have to vie for the vehicle registration mark of LA1. They can just make up numerous vehicle registration marks, such as KK LAI, CK LAI and LAI ON ON. How much additional revenue can this initiative create? Or, will it reduce revenue instead? I really do not know. The Government therefore must look at this very cautiously. From the perspective of basic economic principles, I think overall revenue may well drop. What worries me most is a problem with the proceeds from conventional auctions which will be transferred to the

Lotteries Fund. There is now obviously no need to compete for LA1, because if I were surnamed LAI, I would simply adopt LAI, adding in my initials. Will there be any more need for an auction then? So, naturally, conventional auctions will become less popular, and the revenue of the Lotteries Fund will also drop. Therefore, I just hope that the Government can closely follow whether the revenue of the Lotteries Fund will really decrease. The Government may of course consider the idea of transferring part of the proceeds from personalized vehicle registration marks to the Lotteries Fund. But if there is still an overall decline in revenue, the scheme should be withdrawn and reconsidered. I hope that the Financial Secretary can heed my advice. His proposal is quite innovative, but the results may not necessarily be good, from the financial point of view, that is. It is of course a happy thing to own one's preferred vehicle registration mark. It will be happier still if more money can be saved. But will this do any good to the Treasury? That warrants our consideration.

Madam Deputy, I so submit. Thank you.

DR ERIC LI (in Cantonese): Madam Deputy, while this is the maiden Budget delivered by the Financial Secretary, Mr Henry TANG, this is the 13th, presumably the last, time I take part in the Budget debate. My presentation of views on the Budget on behalf of the Hong Kong Society of Accountants and as the Deputy Chairman of the Taxation Committee of the Hong Kong General Chamber of Commerce actually dates back to the middle of the '80s. Back then, I was called an "expert" by the media. But after becoming a Member of this Council, gradually I was called a "politician". With the accumulation of experience and knowledge, I began to give more consideration to the reality, apart from talking about ideals. During this period, not only were words spoken quite hard to understand, it was not easy for ideas to be expressed clearly too. In fact, much of what I said in this Council will take years to realize. For instance, I started talking about a sales tax back in 1984, and Hong Kong has since then seen five or six Financial Secretaries come and go. It is only until now a genuine need for sales tax is seen realistically. The proposal of abolishing the estate duty was raised by me in 2002. I guess Financial Secretary Henry TANG probably has heard of it. I need not talk about it anymore, because Dr Philip WONG, Mr James TIEN, Mr Ambrose LAU and a number of other Members have already mentioned it. Today, I need not worry about talking endlessly and harping on old tunes again.

"Allowing the community to take a respite and build up its strength" is used as the theme of this year's policy address. I share this view very much. I guess I can describe myself as having had a respite after taking a three-week vacation; I have even gained considerable weight. I hope today's Budget debate can be conducted in a way that is more relaxed, simpler and easily understood. Therefore, I have not made a special effort to prepare a draft speech today.

There was nothing for me to do during my cruise vacation in Egypt except watching the sun rise and set every day. It is marvellous to watch sunrise and sunset in Africa. I have come to better understand what it means by "the night is always the darkest just before dawn". Hong Kong economy has endured a five-year-long dark period, during which it has experienced the financial turmoil, the rampant outbreak of SARS, and the structural challenge brought about by the opening up of Chinese cities to the outside world. Many financial and monetary experts have been "put to the test" by these abrupt and severe blows. I believe all of us will remember vividly this five-year-long nightmare. Of course, it is extremely easy for Members to settle old scores and criticize indiscriminately. However, we should wake up and face a brand new day at daybreak. At a time when politics and the economy are constantly changing, how many deliveries made today are forward-looking? What day will we face come tomorrow?

Madam Deputy, I have a habit of telephoning to check the weather forecast after waking up every morning. This is particularly important in Britain, for its weather is generally sunny, with occasional casts and showers. When it comes to economic analysis, the Government generally predicts a mix of opportunities and crises, and advises us to be cautiously optimistic. As members of the community, what should we do to prepare for tomorrow? It was just months ago that Mr Henry TANG accepted appointment as the Financial Secretary at a critical and difficult moment, whereas it has taken me 13 years to undergo a transformation from an expert into a politician. With the acceptance of the political appointment, Financial Secretary Henry TANG has to turn himself into an expert in a matter of months. How can he thoroughly understand things that are inexplicable and immediately revise the blueprint devised by his predecessor last year within months after his assumption of office? I really do not know how he can manage it. It is simply unfair to ask require to do so.

Insofar as this Budget is concerned, I will not, like other Members, merely criticize the Financial Secretary for failing to introduce new initiatives. Instead, I will examine whether his performance is satisfactory and consistent with certain impartial standards. The three standards are mainly set by me. First, subsequent to the changes to the timing of publishing the policy address and the Budget two years ago, the time gap has been brought closer. As a result, the Budget has to closely follow the theme of the policy address. As Mr TUNG has made it clear in this year's Budget that it is essential to keep a "small government" and allow the community to take a respite, Members should have realized well beforehand that they cannot expect too much of the Budget.

Second, when the three objectives laid down by the former Financial Secretary, namely raising tax, slashing expenditure, and stimulating economic growth, have still not been achieved (otherwise the Budget should have been balanced) and the economy has only just begun to recover, it is necessary to look at the economic recovery in terms of its momentum, endurance, strength, depth and width, before revising these objectives. Revising the proposals of increasing tax and slashing expenditure before grasping all these data will lead to certain consequences. In particular, raising tax or expenditure might result in inflation when the economy has just begun to recover. Should that happen, the Financial Secretary will be criticized. Major changes should therefore be avoided as far as possible at this critical moment.

Third, politicization should be avoided. In an article published by me in March this year, I described this year as a year of politicization because three extremely complicated elections were going to be held in Taiwan, the United States and Hong Kong. In addition, the current situation in the Middle East is like a bomb that has yet to be defused. As such, it is not easy to thoroughly understand the situation. It is also tremendously difficult for a consensus to be reached in the community and among economists at this moment. I consider it more appropriate to view this year's Budget as work in progress and wait one more year before examining the blueprint outlined by Financial Secretary Henry TANG for the subsequent years. This will enable the Financial Secretary to size up the situation. Moreover, this approach is smarter and more restrained.

When I examined the Budget last year, I was concerned whether it was consistent with the estimate and whether a deficit would eventually occur. The rating given by me last year was not high because there was a large gap between

the Budget and the estimate, and there was a huge deficit too. This year's Budget was not too accurate either. But the fact that it has dropped from \$100 billion to \$50 billion has really surprised us. I do not care who did it and how it was done; anyway, it is unnecessary for so much analysis to be done. The deficit has eventually turned out to be good. A company performing like this will definitely see its share prices rise. This Budget has finally decided not to raise tax and slash expenditure substantially. As a watchdog in this Council, I have no idea what else Members want? What more can they ask for? In my opinion, the balance sheet next year is easily predictable because it will certainly look more "presentable" after the sales of assets. However, Hong Kong's long-term prospects will really hinge on the performance of the Financial Secretary.

I have gained some enlightenment in terms of the philosophy of fiscal management. I was told on my way to a temple at Edfu (I wonder how many people have visited the temple. It was built 5 000 years ago) that the taxation method at that time was extremely simple. There was a secret passage into the temple — the water level of River Nile was used to determine the level of tax to be levied in a particular year. It was because the temple was situated in a desert. Given the close correlation between the fertility of soil and the water level, a high water level would bring another bumper harvest. Thus, tax would be adjusted higher in a bumper year, and lower in a year of poor harvest. This logic dates back to 5 000 years ago.

I believe the principle of "who have the means pay more" we are talking about, and even the anti-economic cycle initiatives mentioned by Mr Albert HO earlier, can be interpreted in a new light. The relevant principle was interpreted by a number of Members as those who have the means will always have to pay more. I think this expression can be interpreted differently: Instead of having the same group of people always pay more, all taxpayers have to pay more in years when they have the means to do so. As regards the expression "anti-economic cycle", Mr Albert HO has only told us part of the story, that is, the Government has to "spend" when the economy is bad. I agree with this, as this is theoretically feasible. However, who will be willing to support a tax increase proposal when the economy is improving? We will consider it workable if the entire political environment can either make every taxpayer pay more tax when the economy is good, or the Government "spends" when the economy is in the doldrums. However, behind this ideal of fiscal management, I feel that we have to consider the realities.

The Basic Law has made it clear that the principle of keeping expenditure within the limits of revenues and striving to achieve a balanced budget has to be observed. Under the current political framework and reality, it is very difficult to observe this principle. Financial Secretary Henry TANG understands this very well. Against the backdrop of a sagging economy, it is simply tremendously difficult, politically, to reduce expenditure and raise taxes; on the contrary, it is easy to do so when the economy is good. If we really have to do so, we must interpret the Basic Law more loosely. In particular, discussion on the fiscal reserves must be conducted with extreme care. This is because tax can only be raised when the economy has truly improved. By raising tax, we can make ample provision and store up grain against a bad year, so that the tax revenue can be utilized when the economy is bad. However, this is not going to be easy, and extreme care must be exercised as well. To adopt this method, we must not set an upper or lower ceiling for our reserves too. This fiscal situation, though not necessarily ideal, can still be considered against the realistic political environment. However, the political climate can be volatile.

I think the Government should take credit for China's implementation of CEPA and the Individual Visit Scheme this year. I once said that, though it seemed that only Hong Kong stood to benefit from these policies, there was no need for Hong Kong to feel inferior. Hong Kong people will be unable to hold their heads high if we often stress that Hong Kong has been benefited. This will also make officials of the Central Authorities look down upon us too. When it comes to politics, Hong Kong is often more concerned about its relationship with China than money. For China, however, relationship and money are equally important. In making our requests, we have to do more than matching politics with the economy. Sometimes, the economy has to match politics in Hong Kong. We feel that Hong Kong is still valuable in many aspects, and so Hong Kong must discuss everything with China. Financial Secretary Henry TANG should all the more lead Hong Kong economy to boost its value so as to enable us to contribute to China in every aspect. In so doing, we can be spared eating an excessively large humble pie.

We need not feel inferior in presenting these key observations and data. Of course, these matters should not be handled entirely by the Hong Kong Government. Hong Kong upholds a "small government". It is impossible for the Government to handle everything. Very often, the business and

professional sectors should do this instead. China is dissimilar to Hong Kong in terms of system. Very often, politics and economy are inseparable in China. In any attempt to strive for anything with the Chinese Government, we must always exercise restraint. All politicians can simply help the Government by not acting in a hostile or antagonistic manner. Otherwise, the result will be counter-productive, and Hong Kong's economic value will drop too. In the end, Hong Kong will become a liability in terms of politics, or China's liability in international politics. Should that happen, what little economic value Hong Kong may have will not necessarily be an assurance.

I have spoken a lot about Public Sector Reform. I have also spoken on this in the Government Efficiency Unit. I am not going to repeat them today. I have dwelt a lot on such issues as private enterprise co-operation, listing of assets, salary reviews, and so on. The fact that I received a lot of positive feedback from many civil servants (I was talking to hundreds of civil servants) afterwards proves that many civil service leaders are very enthusiastic and open-minded. The only thing we have failed to see is the political resolve of the Hong Kong Government and Members. I hope to say a few words to this Council and the Financial Secretary in relation to this issue.

When Hong Kong economy was in the doldrums decades ago, several Financial Secretaries, such as Sir John BREMRIDGE and Sir Philip HADDEN-CAVE, resorted to drastic measures to slash expenditure, and they had been highly praised for such actions. Now, more than two decades down the line, the government structure has become even more cumbersome, and the problem is so deep rooted that nothing can be changed. Should we fail to streamline this cumbersome structure, what happened last year will happen again — you will be tied up with the system and suddenly given a knife. You will then be told to cut yourself with the knife without being told where you should lay your blade. Should you wield the knife at yourself, you will cut yourself. Should you point the knife in the opposite direction, you will cut your partner and infuriate the public, thereby putting you in a dilemma. In order to resolve the structural deficit, I think we should not only look at the sales tax, a topic I have discussed for years, but also resolve the revenue problem, as well as understanding why expenditure is so easy to increase but difficult to reduce.

Let me come back to Egypt. Pharaohs in Memphis, the oldest city of Egypt, were mostly special envoys sent from Greece. I am talking about what happened more than 5 000 years ago. These pharaohs were not elected.

However, they were required to demonstrate their physical strength to the people every year in a large square in front of a temple. During the event, a bull would be set free to chase after them. By dodging rams by the bull in the first round, they could show to the people that they were healthy, strong and intelligent, and capable of leading the people in the following year. Of course, I do not know whether the bull had been "tampered with". Nevertheless, immense difficulty was involved in the act. Financial Secretary Henry TANG has to face not a bull, but 60 highly critical Members instead. It is not going to be easy for him to pass the test of the Legislative Council every year.

I have talked a lot and repeated myself numerous times here in this Chamber. I would like to wish Financial Secretary Henry TANG successful administration and harmonious relations. I hope Hong Kong economy can ride out the stormy weather, the structural deficit will disappear, the unemployment problem can be resolved expeditiously before Mr Henry TANG steps down as Financial Secretary, and the economy keep improving and stop falling. What is more, I hope the Financial Secretary can lead Hong Kong economy and help upgrade Hong Kong's status as an international financial centre.

With these remarks, I support the motion.

MR CHAN KAM-LAM (in Cantonese): Madam Deputy, although the general response to the maiden Budget delivered by the Financial Secretary, Mr Henry TANG, has been good, the community is still concerned whether the fiscal deficit can be successfully eliminated in 2008-09. Apart from selling assets and issuing government bonds, the Financial Secretary has not come up with additional measures to raise revenue and reduce expenditure. Will the Government excessively rely on economic revival to achieve its target of eliminating the fiscal deficit?

First of all, we would like to say a few words on future economic growth. The Financial Secretary has anticipated an economic growth rate of 3.8% for the next five years. In the opinion of the Democratic Alliance for Betterment of Hong Kong (DAB), in consideration of this year's economic growth, the annual economic growth rates for the next four years have to exceed 3% on average before actual economic growth can reach 3.8% within the next five years, as anticipated by the Financial Secretary. As such, we estimate it is possible for the economy to grow at this rate. We also consider this forecast more

pragmatic. Notwithstanding this, we must remain alert and must not take things lightly because the world is constantly changing. The fact that we will face an annual fiscal deficit of tens of billions of dollars in the next few years will impact enormously on the livelihood of the people.

The DAB still has strong reservations about the Government's proposal of issuing bonds and selling assets, despite the fact that the Financial Secretary has emphasized in his Budget that the purpose of issuing bonds worth \$20 billion is not to meet operating expenditure but to give the Government greater flexibility in the employment of funds to embark on infrastructure and other investment items with long-term economic benefits.

The Financial Secretary stated in the Budget that "our principle is that operating expenditure should be covered by operating revenue. We will definitely not live on credit." We fully share his view.

However, it can be note from this year's forecast of revenue and expenditure that the Government actually seeks to issue bonds to reduce the fiscal deficit. Without taking the bonds into consideration, this year's deficit stands at \$62.1 billion. With the injection of revenue from bonds, the consolidated deficit will drop to \$42.6 billion. It can thus be seen that the Government cannot after all conceal its intention of "making up for the deficit by living on credit". As Members should be aware, the issuance of bonds and the securitization programme differ fundamentally in the sense that the latter, backed by substantive revenue, has merely employed financial skills to credit a lump-sum revenue into the government account earlier. However, the issuance of government bonds can easily give people an impression that it is easy to make money and that the Government has to live on credit because of lavish spending. What is more, the Government has to pay interest for the bonds. It can be seen that more than \$4 billion in interest has to be paid for the bonds within the next five years. Therefore, the DAB would like to urge the Government to exercise prudence and enhance transparency in dealing with bond issuance.

What is more, we hope the Government can impose a ceiling on the amount of bonds to be issued every year, instead of issuing \$20 billion bonds annually. Franking speaking, should \$20 billion bonds be issued annually, it will mean an issuance of \$100 billion bonds in five years. It is earnestly hoped that the Government can do some calculations to determine if it is possible for the

ceiling to be fixed at one quarter of the total annual expenditure on infrastructure in the near future. Should this prove to be possible, we very much hope to see the annual issuance of bonds being capped at \$10 billion should an average of \$40 billion be spent on infrastructure. On the other hand, we hope to tighten the control on operating expenditure or expeditiously achieve a balanced budget. We surely do not want to see the Government using bond issuance as an excuse to whitewash our deficit Budget as something normal. This is because the general public may merely know the size of the deficit, but they might not be aware of the heavy financial burden they are going to bear.

In an article published in the "Financial Commentary" by the Research division of the Bank of China (BOC) last month, it was pointed out that should the Government choose to issue bonds at one go, its consolidated account would turn from a \$6 billion surplus position to a \$14 billion deficit position, and its fiscal reserves would have fallen from \$158.4 billion to \$138.4 billion by 2009. This would affect meeting the target of achieving fiscal balance. What is more, rating agencies might not endorse should the total amount multiply as a result of persistent bond issuance. For this reason, the DAB maintains that flexible fiscal management and long-term affordability should become the prime concern in the Government's consideration in respect of bond issuance.

The BOC's research report has also pointed out that in developed bond markets such as the United States and Japan, the scale of which is equivalent to 150% of GDP, their governments have to pay the price of tolerating a long-term fiscal imbalance. For the sake of maintaining the linked exchange rate, the Government cannot take the lead to issue bonds on a massive scale over a contracted period of time, however developed Hong Kong's bond market is. Otherwise, new risks will arise. It is imperative for the Government to clarify the following issues: Is the bond issuance a one-off exercise or cyclical? In other words, will the debt keep on accumulating because we have to borrow again after paying off the debt? Should the debt keep accumulating, our financial burden will become very heavy indeed.

It must be stressed that although the projected figures on the impact of bond issuance on the Government's future financial position might not be entirely accurate, we absolutely agree that the Budget has not yet reflected what will happen when the debts are due. When the debts are due one batch after another, bond issuance can have an enormous accounting impact on the goal of

achieving fiscal balance. The Government must prudently guard against making bond issuance a drug that will cause delay to resolving the fiscal deficit. Like a shell coated with sugar, it tastes sweet initially but turns bitter afterwards.

The DAB would like to reiterate that it is imperative for the Government of the Hong Kong Special Administrative Region (SAR) to properly perform its duty of stimulating the domestic economy in the next couple of years because, as we can all see, reducing expenditure is just as difficult as raising revenue. Another option is waiting for continuous economic growth. In order to reverse the structural deficit problem confronting Hong Kong presently, we must strive to improve the current economic situation. We consider this an arduous task. It can be described as an enormous challenge to the Financial Secretary too.

Hong Kong's economic recovery has obviously gained good momentum; even deflation has almost completely vanished. However, Members who care to look at the situation a bit closer can see that the recovery is only partial. The seemingly robust property market is just one aspect of the market for only the prices of some luxury flats have been inflated considerably, while the incomes of the general public have not yet been fully restored to previous levels. As a result, the people are still extremely prudent in spending and home purchase. As we continue to be plagued by the economic transformation, our unemployment rate remains high and we are facing low-cost competition from the Mainland and the possibility of being marginalized by the Mainland. We can simply not resolve our employment problem or achieve full recovery by relying solely on the Individual Visit Scheme to bring prosperity to our market and to improve the employment situation of the low-level service sector. For these reasons, we very much hope that the Government can continue strengthening our economic ties with the Mainland to enable Hong Kong to truly benefit from CEPA, integrate with the Mainland in terms of economic development, and rid ourselves of influence by external economic factors. We earnestly hope the Government can come up with more creative ideas to promote economic development, and formulate more economic policies to benefit the business and labour sectors.

We are pleased to see that the Budget has responded to a considerable number of requests made by political parties and allowed the community to take a respite by proposing such measures as extending the entitlement period of home loan interest deduction by two years, deciding not to raise tax, freezing

government charges affecting the people's livelihood and the business environment, extending the duty concession for ultra low sulphur diesel, deciding not to slash education expenditure, and so on.

Insofar as the proposed extension of the entitlement period of home loan interest deduction by two years is concerned, the DAB is of the view that while it has answered our aspiration, the two-year extension is not adequate. We hope the concession can be extended to 10 years. And in order to ease the burden on motor vehicle owners, the duty on ultra low sulphur diesel should be reduced by half.

On the other hand, in terms of stimulating the economy and enhancing the employment of low-skilled workers, the Government has, apart from promoting creative industries and tourism, given little attention to other aspects. It is earnestly hoped that the Government can expedite the implementation of the boundary new economic zone programme, introduce more attractive concessionary policies to lure ventures back to Hong Kong, vigorously develop green industries, and introduce a more comprehensive policy to address the imbalance problem with economic recovery and the employment problem confronting low-skilled workers.

Moreover, since the implementation of the Individual Visit Scheme to facilitate the travel of mainlanders to Hong Kong in August last year, Hong Kong has seen a massive inflow of travellers from the Mainland, which has in turn driven Hong Kong economy and the overall market to a remarkable recovery. Over the past nine months, Hong Kong has seen tremendous improvements in terms of immigration clearance, maintenance of law and order, facilities to support tourist spending, and so on. However, we still consider these improvements inadequate. In a recent fact-finding visit by members of the Panel on Economic Services to Britain and several European countries, we found that these countries performed remarkably well in promoting tourism. Several Members have had an impressive experience of touring urban London on an open-top bus for four full hours on a Sunday. I believe many colleagues have never had such a relaxing sightseeing experience before, whether they travel aboard for business trips, visits or seeing their relatives. During the bus tour, we could get off the bus every 10 minutes along the route and get on the bus after sightseeing until we have toured every sightseeing spot in urban London on a designated route. Even though Hong Kong sees the necessity to promote tourism, tourists visiting Hong Kong cannot enjoy the fun of visiting our

sightseeing spots in such a relaxed manner. Can we widen our scope of thinking when we consider promoting the economy? I very much hope the Government can do more in a pragmatic manner.

Recently, the DAB has striven with the Central Authorities through a number of channels for continued opening up the Yangtze River Delta and cities in the Huanbohai Economic Zone to allow people living in these places to visit Hong Kong on an individual basis. Several days ago, the Central Authorities made another announcement to allow more than 100 million mainland tourists to visit Hong Kong on an individual basis. Apart from greatly welcoming this decision, we would like to express our thanks for the vigorous support rendered by the Central Government in the interest of boosting the SAR's economic development.

Undeniably, the SAR Government has in recent years made tremendous efforts in promoting tourism in Hong Kong. Yet, as we have already seen, although the proposal of building a cruise terminal was put forward a number of years ago, the plan has not yet been finalized to enable construction works to commence. I earnestly hope the Government can expeditiously make up its mind to do something to improve our tourism facilities.

Thank you, Madam Deputy.

MR WONG SING-CHI (in Cantonese): Madam Deputy, I also wish to express concern over social welfare expenditure through our discussion today. In recent years, the Government has reduced its social welfare spending considerably on different pretexts, such as the Enhanced Productivity Programme, lump sum grant, pay adjustment, and consolidation of many services. Some social services have to be terminated as a result of discontinued government subvention. Single Parent Centres and Post-migration Centres are among the examples. Despite the fact that these services are generally considered in various surveys useful by the public and are even considered essential by the recipients, and that these services do provide positive assistance to the recipients, the Government has remained hell-bent on its own way and insisted on closing down these services. This is very disappointing.

Given tight finances in the economy, it really gives no cause for criticism to cut expenditure where appropriate, to spend where appropriate or to save

money where appropriate, but the Government must not waste money casually. For example, recently we have seen the sale of Hunghom Peninsular at pathetic prices, which has caused the Government to suffer a loss of close to \$1 billion. This is not something that the public would wish to see. But I hope the Government will not forget that social welfare expenditure is not just a matter of mathematical addition or subtraction. It is an investment to society. If the Government fails to properly address social welfare problems early, a bigger tragedy may be resulted and by then, we would have to handle much more [problems] and to plough in much more resources.

Recently, many people have expressed concern over family violence. Although resources for the Social Welfare Department (SWD) in respect of family and child welfare have been increased, can they cope with the complicated present-day family relationships and the needs of society? This is, in fact, questionable. I hope the Government will further study this issue and examine if there is a need for adjustment to resource injection for the provision of family services, particularly for addressing family violence. For example, regarding the manpower of social workers of the SWD for handling serious cases of family violence, each social worker is responsible for 45 cases, which is indeed a very heavy workload. Without additional resources, these social workers will have to face such heavy pressure continually. We are worried that family tragedies similar to the one happening in Tin Shui Wai recently will recur. In that case, I think the social workers would be under even greater pressure, and the community would be in greater difficulties and distress. So, I hope the Government can expeditiously consider ways to increase the provision of resources for addressing the problem of family violence.

The Government discontinued the provision of resources for Post-migration Centres and Single Parent Centres on the ground that Integrated Family Service Centres are set up. But to many new immigrants or single-parent women, they need support from a community with similar experience and also personal family services, particularly as new immigrants or people who have just entered a new phase of life as a single-parent are in great need of emotional support. The Democratic Party hopes that the Government will think twice and reconsider if these centres still have to be closed down rashly. The savings thus made from the hasty termination of such services are insignificant to the Government. So, I hope the Government can earnestly consider this point.

The Democratic Party is also very concerned about the problem of poverty among the elderly. Chief Executive TUNG Chee-hwa has time and again expressed his concern for the elderly and undertaken to increase the allowance commonly known as the "fruit grant" for the elderly. But as time passes, the Government still has not fulfilled its undertaking. Many of the elderly still have to live on the meagre "fruit grant". I hope the Government can take care of the actual needs of the elderly.

Madam Deputy, mutual assistance and support are most important in times of economic difficulties. Regrettably, the SAR Government has only given the impression that it bullies the weak to benefit the strong. It has not proposed any policy or measure whatsoever to address the problem of poverty in Hong Kong. The gap between the rich and the poor is worsening and the number of low-income families is ever increasing. But so far, we have only seen the Government sit by with folded arms, and this is most frustrating. The Democratic Party hopes the Government will bear in mind that the vast majority of the community has to toil very hard for a living.

Madam Deputy, I would also like to speak on issues relating to planning, lands and works. I hope the Government can respond to the needs of society.

Firstly, we must pay attention to the protection of natural resources. At present, occupation of government land or breach of conditions of land grant is very common. For instance, there is a case in which a developer has occupied land of the Lantau Country Park for as long as 20 years; there have been complaints about the Green Island Cement Company breaching conditions of land grant; and there is even the shocking incident of the damaged Tung Chung Stream. These have made people ask: What incidents are there implicating the Government's perfunctory and frivolous attitude that have not been disclosed?

The Tung Chung Stream incident deals a head-on blow to the Government. In order to provide for an artificial lake in the Disneyland, 400 tonnes of pebbles were "stolen" from the Tung Chung Stream. The incident even involves corruption and bribery. The Independent Commission Against Corruption has recently launched operations resulting in many arrests. Fortunately, the incident was brought to light by environmental groups, and it was only then that the Government took actions hastily. However, the Government appears to have done very little in terms of monitoring. We would like to ask: How much

more valuable resources of Hong Kong have been sacrificed due to negligence on the part of government departments, and how much more do Hong Kong taxpayers have to pay to make up for negligence on the part of government departments?

Secondly, we consider it necessary to review the existing legislation. Recently, we have found that a private lot at She Shan Tsuen in Tai Po has been used for waste dumping. In fact, this happens not only in She Shan Tsuen, but also in many sites in the New Territories. Regrettably, despite involvement from many departments, nothing practical has actually been done. The Buildings Department said that prosecution would be instituted, but no action has been taken so far. In these incidents which show incompetent government monitoring, although there is *prima facie* evidence, prosecution still cannot be instituted against owners of such land due to limitations in the existing legislation. Such being the case, when residents in the vicinity and members of the ordinary public face these problems, they simply do not know what to do.

We, therefore, suggest that law-breaching landowners and the land concerned be blacklisted, so that any subsequent application for modification of land use should not be accepted. Only in this way can such incidents be curbed once and for all. If the Government insists on discussing the issue without making any decision, the Government would find itself at the end of its tether when more agricultural land is used for landfilling purposes, in which case the public will be made to suffer ultimately. We have seen that "greenish" natural resources turned into "blackish" landfills because of "grey areas" in law. This is indeed so horrible that one could not bear the sight.

Thirdly, let us take a look at the development of new urban areas or new towns. The high-density planning of Tseung Kwan O has all long attracted much criticism. In response to public aspirations, the Government has decided not to launch further reclamations in Tseung Kwan O as a remedy to the lack of leisure sites in the concrete jungle. Certainly, we hope that the Government has truly listened to the views of the people and that it has ceased reclamation not for the purpose of reducing the supply of residential flats.

However, we must note one point and that is, the Government has suggested that studies be conducted on development for mixed uses, in order to expedite the construction of the relevant facilities through involvement of the

private sector. In this connection, I hope the Government will proceed in an open, fair and equitable manner, allowing private enterprises to submit tenders. As long as the development proposal submitted by a private enterprise is considered suitable, the enterprise should be given the opportunity to participate in the project, rather than finally awarding the project to major developers or major consortia, for this will deprive small and medium developers of the opportunity of participation. In fact, in studying this approach of development for mixed uses, the Government must draw up clear guidelines to avoid the passing of benefits.

Finally, I would also like to mention the youth problem. The Government should continue to pay attention to the present situation of youngsters and their future development. Many youngsters are now in a very difficult position. For example, there is the problem of youth unemployment, law-breaching behaviour, drug abuse, and also the problem of gambling which has already existed and will continue to deteriorate. The Government absolutely should not neglect these problems, for these problems will have a perpetual impact on society and youngsters. What is more, it will have an impact on the future of Hong Kong. If the Government continues to take rudimentary or superficial measures, it simply cannot address the situation. So, I hope the Government will continue to pay attention to this and truly come up with more proposals and provide more resources, so that youngsters can restore resilience amidst hardships and face up to society and to the future.

To facilitate youth development and their participation, we hope that the Government can truly implement the proposal on a Youth Council. But I do not hope that the Government aims to merely set up a structure, rather than truly enabling young people to express their views and even to exert their influence on administration through the Youth Council. So, in the course of developing this Youth Council, the Government should inject resources into it and provide greater support, so that youngsters can be enabled to say what they wish to say, to realize their goals, to experience and to achieve. In this regard, I hope the Government will understand that we will have to count on our young people in the future. Owing to the problem of ageing, youngsters have become all the more important. If, after a decade or two, our children of this generation or our young people in future need to be taken care of by society because they have been denied access to suitable development, then we will not know what to do. So, I hope the Government can launch more programmes in this regard and

provide more resources, so that our young people can truly make commitments for the future of Hong Kong and truly become the pillars of the future of Hong Kong. Thank you, Madam Deputy.

MISS CHOY SO-YUK (in Cantonese): Madam Deputy, today (22 April) happens to be the 35th anniversary of the Earth Day. In my following speech, I will express the views of the Democratic Alliance for Betterment of Hong Kong on the part concerning the environment in the Budget.

An objective of the Earth Day is to remind human beings to protect the environment and treasure earth resources. When we look at this year's Budget, although it is stated that landfill charges will be imposed and a tax will be levied on the disposal of tyres, which are no doubt proposals in conformity with the "user pays" principle and which we will certainly support, they merely scratch the surface in terms of making fundamental improvement to the problem of refuse in Hong Kong. To put it directly, the proposals cannot even reach the standard of "treating the head when the head aches and treating the foot when the foot hurts", for the Government has only been "treating the foot when the head aches and treating the head when the foot hurts".

I do not intend to be alarmist in saying this. In fact, if we look around the world, in places where the problem of refuse accumulation can be tackled effectively, the most resources and efforts are channelled to the reduction of refuse without exception. Where the production of refuse is inevitable, the authorities will explore all possible ways to enable refuse to be recycled and reused as far as possible by vigorous efforts through different channels, including waste recovery, recycling or reuse. Only when they are at their wits' end and a small amount of refuse remains unresolved that they will be forced to resort to landfilling or incineration. So, resources should be distributed and allocated in accordance with this order, in that the most resources should be provided to waste reduction whereas the least resources should be provided to landfills.

Regrettably, the SAR Government is acting in a diametrically opposite way. For a long time, the Government has intentionally or unintentionally attached little importance to waste reduction measures at the upstream of refuse production, while failing to provide support to environmental protection industries midstream to enhance the effectiveness of waste recovery or recycling.

On the contrary, it has attended to trifles to the neglect of essentials by injecting most of the resources into the ultimate disposal of refuse, that is, landfills. Such mismatch and imbalance in resource allocation explains why refuse accumulation remains a long-standing problem despite annual injection of colossal public coffers by the Government into waste disposal. This is the very fundamental reason why the problem remains effectively not solved.

Moreover, on refuse disposal, the practices adopted by the Hong Kong Government are not in keeping with the world trend, for it insists on handling it on its own and refuses to create a suitable business environment for environmental protection industries. As a result, a favourable environment is lacking for these industries to develop, and the absence of sufficient private sector involvement has made it impossible for the work of refuse disposal to be effectively shared out. This is another reason why the refuse problem has persisted as a fast knot that has remained untied for such a long time.

According to the Budget, the operation of landfills alone already incurred an expenditure of \$1.1 billion in 2003-04. Together with collection, transportation and other relevant costs, as much as \$5.5 billion is spent on refuse disposal yearly. Even with the introduction of a landfill charge for construction waste, it is merely a drop in the ocean when it comes to reduction of public expenditure in this area. Judging from the present circumstances, it cannot be clearer that the Government lacks correct policy directions. However massive the injection of resources is, the resources will only be engulfed, and we will only get half the result with twice the effort.

In fact, these views are not novel for they have long been the consensus of green groups. Besides, in many of my previous speeches, I have repeatedly urged the Financial Secretary, when spending public money, to bear in mind that the money must be well-spent. Regrettably, the Government has consistently turned a deaf ear to my advice.

Madam Deputy, while the creation of wealth is never an objective of efforts to promote environmental protection, the fact remains that if we can just avert the wrong policy directions, the Government will not only achieve annual savings to the tune of over \$5 billion in expenditure on refuse disposal, a large number of jobs can also be created and the green industries will be able to develop robustly and hence generate economic benefits in billions of dollars.

Just do some calculations and we will see a difference of over \$10 billion a year. When compared with the very controversial Boundary Facilities Improvement Tax proposed by the Financial Secretary which is expected to generate a revenue of \$2 billion, one can instantly see which is a more worthy option. It is a pity that the Financial Secretary is not here and therefore cannot hear this.

The effectiveness of waste reduction entirely depends on our vision! As long as the SAR Government is genuinely committed to taking it forward, there are actually a lot of things that it can do. I have given many examples in this connection and so, I do not wish to repeat them here.

(THE PRESIDENT resumed the Chair)

In principle, for products that can be substituted by environmentally-friendly products in the market, the Government should enact legislation on the use of such green products. For those with no green substitutes, it is necessary to introduce financial incentives, such as an environmental protection tax, so that through the principle of polluter pays, polluters will be encouraged to produce less refuse and the public will at the same time be encouraged to use green products to reduce the amount of refuse requiring disposal. Moreover, it is also necessary for the Government to legislate to mandatorily require enterprises that are likely to produce a large amount of waste, particularly packaging waste, such as soft drinks plants and manufacturers of domestic appliances, to recover the waste they produced, with a view to enhancing the effectiveness of waste recycling in Hong Kong.

Having established these principles, the Government can, in accordance with the types of waste, start dealing with the many kinds of waste containing non-environmentally-friendly or harmful substances, such as computers, leaded batteries, plastic bags, disposable utensils, household furniture, polyfoam boxes, and so on. I would like to add that as environmental protection technologies develop, many toxic wastes which were in the past considered impossible to be disposed of can now be substituted by environmentally-friendly raw materials at fully affordable costs. For instance, manufacturers will only have to pay US\$3 to US\$5 more if they use unleaded computer motherboards. However, while many countries in the world now require all imported computer motherboards to use unleaded materials, Hong Kong has totally pay no heed to this.

Madam President, now I wish to turn to the problems in the treatment of chemical waste.

First, the Tsing Yi Chemical Waste Treatment Centre. The Treatment Centre, which receives funding to the tune of \$400 million annually, has registered a low utilization rate at only 40% to 50%. Due to the northward relocation of a large number of local industries, the actual usage of this Treatment Centre is far below its design capacity. But given limitations in the terms of the contract signed with the management company, the Government still has to pay the full administration cost to the management company based on its design capacity. The substantial waste of public money is imaginable.

To address this anomaly, we reiterate that the Government must address the problem squarely and immediately negotiate with the management company on a revision of the relevant terms of the service contract, in order to practically reflect the reality that the actual utilization is below the level designed originally, thereby preventing public money from being rashly wasted continuously. Meanwhile, this can also reduce the chances of the Government indiscriminately transporting chemical wastes to this treatment plant in Tsing Yi disregarding whether or not they are useful or toxic, resulting in strong opposition from residents in the district. This is also because the Government has to go by the unreasonable contract signed before and so, these substances have been arbitrarily sent to this centre for treatment.

Moreover, the present-day technology in environmental protection has already made it possible for industrial waste oil collected to be refined into lube oil of commercial value. If we look at it purely from the cost of refining, this technology does offer great potentials for development and an environmentally-friendly outlet for industrial waste oil, thus serving two purposes at the same time. While the Government has to provide a subsidy of \$7,000 for each ton of industrial waste oil treated, it has all along refused to grant a tax relief to such recycled lube oil. In fact, the Government imposes a 30% duty on lube oil made from the waste oil collected. As a result, the edge of this environmentally-friendly production technology is totally dulled in the competition with other non-environmentally-friendly production methods, thus making it difficult for wealth to be created through environmental protection, and the Government has to pay a \$7,000 subsidy for each ton of oil.

With regard to government subsidy, the Government now pays the processing firm \$10,000 for each ton of treated industrial waste oil. But the processing firm charges \$3,000 from manufacturers for disposal of waste oil and collects such waste oil for the Government. In other words, the Government has to pay a handling charge of \$7,000 for each ton of waste oil. Considerable subsidies from public coffers mean that taxpayers are made to subsidize the disposal of waste oil by manufacturers and this is obviously unfair. In this connection, we strongly urge the Government to substantially reduce the subsidy to \$5,000 or less. This can save public money and implement the principle of polluter pays. This can also prevent the practice, which is said to be adopted by some companies, of ripping off the Government by way of rebate. That is, they charge the Government \$10,000 but in effect, the oil collected is not recycled. Rather, they seek to reap benefits by way of rebate through collection. That is, they have been ripping off the Government and ripping off public coffers.

Madam President, although the SAR Government has carried out a lot of work in environmental protection, there are still many inadequacies. An example is outdoor air quality. As we all know, the two power companies constitute the biggest source of air pollution in Hong Kong, producing more than 60% of carbon dioxide in the territory. But much to our surprise, the consultants commissioned by the Government pointed out that Hong Kong can adopt a renewable energy target of only 1% by 2012. Worse still, this target even includes landfill gas. In fact, many people think that such gas cannot in the least be considered "renewable energy", but the Government outrageously said that a target of 1% can be met only by 2012.

On the contrary, when we take a look at places or cities elsewhere in the world, we will see that Britain has already adopted a renewable energy target of 10% by 2010 for the whole country, whereas a higher target of 25% by 2010 is even proposed for London. Madam President, with a renewal energy target of 10%, that is, we do not even have to follow the 25% target of London, and if we can just meet this 10% target, experts are of the view that the tariffs for electricity generated by renewable energy will be even cheaper than that generated by coal. That said, price is not the most important consideration. It is more important that we will have a better environment, cleaner and fresher air and a healthier people. In the meantime, the Government will also be paying less for health care services.

Madam President, in the debate on the expectations of the Budget last month, I said that "environmental protection" and "creation of wealth" are not in conflict. Besides, a vast majority of environmental endeavours absolutely does not require huge resource injection and may even create abundant job opportunities, provided that the policies and directions are correct. Therefore, many environmental endeavours are now in stagnant not because of reasons relating to resources and ability. Rather, it is because the Government does not intend to facilitate this area of work though it is capable of doing so and lacks sincerity. Although the Financial Secretary is not here and therefore cannot hear what I have said, I very much hope that the Government can truly listen to public views and take on board constructive suggestions. I hope the Government can consider this seriously. I have spoken at length just to tell the Government that it can achieve annual savings of over \$10 billion to close to \$20 billion in its coffers. But the Government has simply rejected such savings. It only considers the remarks made by Members year after year a sheer playback by a malfunctioning tape recorder, repeating over and over again arguments and views with which everyone is utterly familiar.

Madam President, I so submit.

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

MR TAM YIU-CHUNG (in Cantonese): Madam President, the Budget this year suggests giving our community a respite. In the present economic environment which is showing signs of recovery, this is a rather pragmatic approach. The Government has actively responded to the requests of the DAB and the general public by extending the salaries tax deduction for home loan interest and the duty concession for ultra low sulphur diesel, refraining from increasing taxes, freezing government fees which affect the people's livelihood, not reducing expenditure on education, and so on. These merit our support.

Given the fact that the Government is going to reduce public expenditure drastically, we feel that the Government has to take precautions for a few issues. First, it has to consider how to prevent the poverty problem from getting worse. Over the last decade, the poverty problem of Hong Kong society has been deteriorating, and it has come to a very serious situation. According to the Social Development Index prepared by the Hong Kong Council of Social Service

(HKCSS), if we draw a line at those with an income of half or below half of the median income, Hong Kong's poor population reached 1.09 million last year, accounting for 16% of the total population. As a result of economic restructuring, layoffs and salary cuts are increasingly common, and the income of the grassroots is falling, in contrary to the general trend in society. The average annual household income, for example, of the lowest percentile of Hong Kong households in the last decade has virtually dropped 16%, but the average income of the territory's households has increased by 27% in real terms. Therefore, Hong Kong's Gini Coefficient has reached 0.525, making Hong Kong one of the regions in the world with the largest wealth gap.

With impoverishment becoming increasingly common, more and more people join the underprivileged and badly need the support and assistance of society. According to figures of the HKCSS, at present, one in every 4.5 children under the age of 15 comes from a poor family, and among the elderly, one third belong to the poor. The poverty phenomenon is even more serious in communities where a greater number of new arrivals have gathered. For example, in Tin Shui Wai, out of its population of 270 000, apart from 40 000 residing in private buildings and 46 000 in Home Ownership Scheme flats, 184 000 are tenants of public rental housing. Out of these 180 000, one quarter of them have to live on Comprehensive Social Security Assistance (CSSA). Among the public rental housing tenants in Tuen Mun, as many as 6% have defaulted on rental payment because of financial difficulties.

In order to prevent the poverty problem from deteriorating, thus leading to social instability, the Government must formulate comprehensive anti-poverty objectives, strategies and measures which are systematic and of a longer term in this respect. As for proposals which will have a serious impact on the livelihood of the grassroots, such as the introduction of a goods and services tax, we are very much worried that its implementation will affect the financial burden of the grassroots. Moreover, we hope that the Financial Secretary can consider relaxing the age limit for dependent parents allowance and scrapping the upper age limit for applications to the Continuing Education Fund. These are to tie in with the prevailing environment because although some parents may not have reached 60, they are no longer fit for work and have to depend on their children. However, these children are not entitled to allowances even though they are providing for their parents. As regards the Continuing Education Fund, the upper age limit also obstructs some mature people or elderly from continuing to apply to the Fund in order to access opportunities of continued education.

The Government is making great efforts to cut expenditure, but what drawback will this bring to the harmony and development of the community? This is the second question which the Government has to consider in its financial management. Recently, a family tragedy happened in Tin Heng Estate of Tin Shui Wai, resulting in three deaths and one case of serious injuries. We express our deepest sorrow and condolences, and strongly urge the authorities to strengthen counselling services and improve community recreational facilities in such new areas as Tin Shui Wai, Tung Chung, and so on.

Most of the population in the Tin Shui Wai community are grassroots. In recent years, its population has risen rapidly to over 270 000. In a matter of four years, eight public housing estates and courts have been completed one after the other in the northern part of Tin Shui Wai. However, the community service facilities have fallen short of matching the sharp increase in population by a wide margin. Even such basic community facilities as community halls, football pitches, rest parks and the like are not available. In the northern part of Tin Shui Wai, the ratios of new immigrant families, low-income families, families with unemployed members and cases of CSSA recipients are all higher than the average figures territory-wide. There are serious problems of family finance, adaptation to society and development of children, and the pressure of life on the residents is particularly heavy. However, at present, there are only three family services centres in Tin Shui Wai, and the lack of sufficient social workers has made it simply difficult to meet demand. Although the authorities have recently said that manpower will be increased, that is only commitment in the original planning which is nothing extra.

In such circumstances, the Government should increase resources for social services and counselling in such new towns as Tin Shui Wai and Tung Chung before it is too late. In particular, it should enhance services to help new immigrants to adapt, help youth to develop and help families, and also increase the number of social workers so as to prevent similar tragedies from recurring. Furthermore, the various community facilities mentioned just now should also be put in place as soon as possible, making it convenient for the residents to freshen their minds and alleviate pressure.

At the moment, the Government is lop-sidedly carrying out cumulative effect management of social services. To cope with various assessments, social service agencies have spent a lot of resources on such internal work as working

out targets, calculating figures or submitting reports, and the resources used on residents are reduced consequently. Adding to this the pressure of the Enhanced Productivity Programme, the quality of service is inevitably affected. For instance, at present, a new arrival service team comprises three members only, but its annual target of caseload is 600, that is, each team member has to handle two new cases every three days. Thus, they can hardly follow up each case in detail. The Tsz Wan Shan family tragedy which happened two years ago and the recent Tin Heng Estate tragedy have highlighted the disadvantages of this management culture of excessive emphasis on figures. Thus, the Government must adjust this management culture so that the service agencies can give full play to their people-oriented spirit, explore problems more acutely, and provide support and counselling to those in need, assist them in self-help and mutual support, and relieve their distress or difficulties in life. Only in this way can the objective of promoting community harmony be achieved.

In his Budget, the Financial Secretary indirectly admitted that Hong Kong has entered a state of "jobless recovery". Therefore, in future, it is difficult for Hong Kong to completely solve its unemployment problem by relying on economic growth. Nevertheless, the current measures of the Government in creating jobs are relatively passive. Yesterday, my colleagues already raised their views in this regard. The Government should not only place its hope on the Individual Visit Scheme and CEPA for bringing job opportunities. Rather, it should actively create more hot spots for employment opportunities. The DAB has always advocated the early implementation of the plan to develop a new economic zone at the boundary, introduction of concessionary measures to lure enterprises to return, and the vigorous development of environmental protection industries to overcome the difficulties encountered by the grassroots in finding employment.

As a result of the rapid changes in economic structure, a large number of grass-roots workers have been marginalized, and it is difficult for them to return to the mainstream economy. Apart from retraining, the Government must create more outlets. Developing local community economy is a desirable method. The style of the Dragon Market operated by the Hong Kong Federation of Trade Unions in the past proved that this is feasible. Therefore, the Government should dial up its strength, facilitate the development of various business models which offer high employment opportunities and develop actively the dual economy to create more job opportunities for the grassroots.

On the other hand, in respect of developing tourism, I hope the Government can also be more active and positive. Recently, I have visited the once hot tourist spot of Mui Wo. In the past, a lot of people would take the ferry to Mui Wo for an outing. Now, in order to relaunch the local economy, the local rural committee and residents' organizations have put forth a series of proposals, including improving the beach, setting up aquatic sports centres, developing the route to Silver Mine Cave, and so on. They have made numerous proposals to the government departments concerned, but the Government appears to have turned a cold shoulder to them, employing the delaying tactic time and again so far. Initially, it said there would be an outcome at the end of March, but now, April is almost over and nothing has been heard. Even though they have petitioned the Chief Executive, nothing has come out of it. At present, we are talking a lot about promoting tourism; with this outlying island at hand, how can we bring and create its tourism features into the fullest play? Mui Wo is only one of the examples. I hope the Government can consider in detail the various measures as soon as possible to promote tourism and create job opportunities. In particular, I hope it can think of more ways to increase the employment opportunities of the grassroots.

I so submit. Thank you, Madam President.

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

MR LAU KONG-WAH (in Cantonese): Madam President, on the Budget of the Financial Secretary, it so happened that the Director of Audit published his latest Report yesterday when we are having the debate in these two days. I feel that the Audit Report published every year will deal a timely blow to the Government.

The Audit Report published during the Budget debate also carries some enlightenment insofar as our debate is concerned. As we can see, no matter how hard we try to generate revenue, in the eyes of the public, cutting back on expenditure is also of paramount importance. Every time when the Report is presented, government departments would be found squandering money to the tune of tens of billion dollars. It is really unacceptable to the public. Every time the Report is presented, we always hear certain events being criticized by media reports as "throwing money down the drain". Apparently, there are signs of squandering of public money.

I have taken part in the work of the Public Accounts Committee (PAC) for seven years. Every time when the Audit Report is published, not only the media will lash out at the Government, a lot of criticisms will also come from Members, and the PAC will call a number of hearings. If the government departments have really learned their lessons, the cases of squandering may not happen over and over again. However, from what I have seen in the past seven years, the wasting of resources is repeated among government departments. The case happened in Department A this year may be found in Department B next year, and the same may be found in Department C in the year after. The incessant recurrence of wasting and lessons, if its moral is not learnt, will deal a heavy blow to the monitoring by Members and the public.

The incessant recurrence of wasting is basically found in three situations. The first one is omission in procedure. For certain procedures, if government departments do not comply or exercise full co-ordination, may result in wasting. The second situation is: even if consultants are commissioned to conduct studies, the proposals made by them may not be adopted for actual enforcement, thus resulting in the wasting of large amount of resources. Yet the consultants may not have to shoulder the responsibility for the report compiled initially, and the government departments will be let off the hook by saying that the study has been done by the consultants. The wasting is caused by inadequate monitoring. The third is due to cumbersome and bloated structure. The dealing of certain issues may have to go through 10 or more different levels, producing mountains of papers and numerous meetings. As civil servants have to deal with a lot of procedural hurdles both outside and inside the office, they are sometimes weighted down with work.

I think we should take the Audit Report seriously, and in fact, when preparing the Budget every year, the Financial Secretary will always try to come up with all possible ways to increase taxes, but not putting any efforts in making savings. By making this point clear to the Financial Secretary this year, I hope that, next year, he will really take stock of all the Reports presented by the Director of Audit so far, so as to consider, for instance, whether or not the cumbersome structure of the Government is necessary. This is the first thing he should do. Secondly, I hope the Financial Secretary will also review if consultants should shoulder the ultimate responsibility if they are found involved in the wasting. For the third area of review, if some departments are found to have wasted public money, how we can ensure that the same thing will not recur

in other departments. This is very important. I hope the Financial Secretary will practically conduct these reviews, so that taxpayers can rest assured that the Government will attach importance to making savings and avoiding further wasting of public resources.

On the management of resources, the effective use of resources is also very important. The recent Tin Shui Wai tragedy is still under investigation, but as far as our police officers are concerned, are they in a position to make professional judgement in dealing with the evermore complicated family disputes or community problems? I think that it is not at all easy. For this reason, in terms of community support network, the matching of resources is indeed very important. In addition to domestic violence, we come across very often people with mental disorder seeking help at police stations. It happens almost every day. But how can our front-line police officers, who have not received such professional training, be expected to cope with these cases of mental illness and domestic violence which are becoming increasingly serious? As such, apart from co-ordinating our support system, I think we need to deploy additional resources to train front-line police officers, so that they can deal with community cases in addition to crimes.

Furthermore, since the policy of one social worker for each school is adopted for schools, we should implement a programme of one police sergeant for each school. This is to supplement for special situations in schools and he can call for back-up when he cannot cope. For police stations, even if we provide training to our police officers, they may not reach the standard of social workers. Can we consider adopting the programme of one social worker for each police station? It is not necessary for the social worker to station there, but he may be associated to particular police station so that when police officers are confronted with tough cases or they feel that they are unable to make professional judgement, they can always contact the social worker at once. It is hoped that the Government can explore the idea of one social worker for each police station. I understand that reviews are being done, but an inter-departmental review is also very important. It is also crucial to the better and effective utilization of resources.

Besides, the Financial Secretary came up with a new idea in his Budget, that is, the proposed Personalized Vehicle Registration Marks Scheme. This

Scheme aroused a lot of discussions in the community and has been generally well-received by the public. People find the Scheme attractive for they can at least have a choice and find it a great fun. As the details of the Scheme have yet to be announced, I hope the Government will, before finalizing the arrangements, consider seriously the following areas. First, as there is a standard format in the registration marks we currently use, police officers have become used to this format and find it very convenient in law enforcement. Yet in future, they may have to handle different combinations with different figures and alphabets which do not follow any format. Would it be easy for them to get used to in enforcement? For instance, if I have made a mark as "IOU", in a quick glance, it might be seen as "10U". It would be easy for someone to take down the wrong licence plate number. Likewise, the mark "SOS" might be taken as "505". These cases may happen easily.

Another point to note is that the Mainland did try to implement this Scheme two years ago. But it was over in about 10 days' time. They cancelled the Scheme in 10 days because it might lead to some very complicated problems, of libel or commercial dispute. I have no idea how the Government is going to prevent these problems from arising. For instance, for a mark of "TMD", it could simply be someone whose name is Tam Man Dak, or it could be the United States TMD air defence system, and it could be vulgarity commonly spoken in Putonghua as well. If there is an alphabet following TMD, it would very often be offensive. But who can make a judgement? I feel that we must be very careful about this.

Finally, the auctions of special registration marks are very often welcomed by the public. The Government managed to make a revenue of more than \$60 million in the year before last, and more than \$80 million last year. How the implementation of the proposed Scheme is going to affect the current auctions? It is still an unknown. The proceeds seemed to have dropped a little in the recent auction. If the proceeds from the auctions are greatly affected upon the introduction of the Scheme at the end of this year, it may end up in a loss of revenue, instead of raising additional revenue.

I hope the Financial Secretary will make it a trial Scheme and consider the seriousness of the above situations before continuing to take forward the Scheme. Finally, I do hope that the Scheme can be a success. Thank you, Madam President.

PRESIDENT (in Cantonese): Does any Member wish to speak? Twenty-four Members have spoken today, with the 31 Members who spoke yesterday, altogether 55 Members have spoken on the motion.

MS MIRIAM LAU (in Cantonese): Madam President, I move that the debate on the Second Reading of the Appropriation Bill 2004 be adjourned to the meeting of 28 April 2004.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the debate on the Second Reading of the Appropriation Bill 2004 be adjourned to the meeting of 28 April 2004.

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

(Members raised their hands)

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

(No hands raised)

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

PRESIDENT (in Cantonese): Council will continue with the debate on the Second Reading of the Appropriation Bill 2004 at the meeting to be held on 28 April when public officers will respond. If the Bill receives its Second Reading, its remaining stages will also be proceeded with at that meeting.

MOTION ON ADJOURNMENT

PRESIDENT (in Cantonese): Motion on adjournment. Before the debate begins, I would like to talk about the causes and consequences surrounding the way I deal with the request of Mr Frederick FUNG to move this motion.

Mr FUNG submitted his request just after 11.00 am yesterday, pointing out in his letter that, (I quote) "it is learnt that a special meeting would most likely be convened by the NPCSC shortly to deliberate on and endorse this report, with a view to formally setting in motion the constitutional reform process in Hong Kong in accordance with the contents of its interpretation of the Basic Law on 6 April. This reflects that the issue is of considerable urgency and importance to public interest". (End of quote) Because of the very tight time constraint, I could not ascertain when the NPCSC would convene its meeting, and though there were relevant reports in the press, the President of the Legislative Council could not act according to reports in the press to come to a decision to approve or otherwise. Moreover, it was Mr FUNG who had made the request, naturally he was obliged to provide me with the precise information. Hence, within the shortest time in the afternoon, I gave him a reply to inform him that I did not allow the request. The purpose of giving a speedy reply was to enable Mr FUNG to provide me with any information he deemed useful.

Subsequently, some time after 7.00 pm, when I was still presiding over the Council meeting, I received notice that Mr Martin LEE and Mr Frederick FUNG had requested me to leave the Chamber to meet them. I was, however, unable to leave. Eventually, I met Mr FUNG and Mr LEE at 8.30 pm. Mr FUNG provided me with the statement issued by the Chief Executive on 19 April which indicated that the Standing Committee of the National People's Congress (NPCSC) would meet on 25 and 26 April, and had put the report submitted by the Chief Executive on its agenda for deliberation.

I am of the opinion that the latest information provided by Mr FUNG offers sufficient grounds to support his claim of urgency. Having regard to all the circumstances, including the possible implications of the motion on other items of the agenda in today's meeting, I have decided to permit Mr FUNG to move this motion, the purpose of which was to allow this motion to proceed in the Legislative Council today. Such a move is to enable Members who have spoken in the debate to have their speeches recorded in the Official Record of Proceedings of the Legislative Council.

I noted that the mass media, when reporting on the ruling this morning, mentioned that an individual Member who was dissatisfied with the ruling has made criticisms outside the Council directed at the President of the Legislative Council and has even alleged that the ruling was made out of political considerations and with the election votes in mind. As a matter of fact, this is not the first time that such behaviour of criticizing the President outside the Council has been shown. I feel grievously saddened by this.

The President of the Legislative Council is elected by and from among Members of the Legislative Council according to the Rules of Procedure, which are made by Members of the Legislative Council, to discharge the functions of and exercise the powers conferred on the President by the Rules of Procedure. In exercising these powers and discharging these functions, which include making rulings on relevant matters, I will only consider them from a procedural viewpoint, without bias, partiality, fear or regrets, and without taking into account the merits and demerits of the matters to be proposed or whether or not they relate to my personal interests. The purpose in so doing is to strictly preserve the respect for the Rules of Procedure and the Legislative Council, and to ensure that the dignity of the Legislative Council including the President and Members be maintained, for it is one of the integral and irreplaceable institutions of importance in the Hong Kong political regime.

Any Member who, on account of his displeasure with the ruling, vents his dissatisfaction outside the Council or even abuses the freedom of speech to mislead the public would not only damage the exclusively independent image of the President of the Legislative Council, but would also seriously jeopardize the credibility of the Council. If the legislature in Hong Kong cannot be duly respected, how can it play its role of co-ordination with and of checks and balances on the executive?

I wish to hereby reiterate that should any Member be dissatisfied with any ruling made by the President of the Legislative Council, the proper course of action is to state his grounds to the President as Mr Frederick FUNG did yesterday, rather than unilaterally making unsubstantiated personal conjectures or unrestrained comments to the mass media.

According to parliamentary practices, it is improper and inappropriate for Members to comment, outside the Council, on the rulings made by the President.

I sincerely call for co-operation on the part of the Members for upholding the dignity and reputation of this Council, as well as maintaining the personal ethics required of a Member.

The mover of the motion and other Members will each have up to 15 minutes to speak. In addition, the mover of the motion will have another 15 minutes to speak in reply. Mr Frederick FUNG.

MR FREDERICK FUNG (in Cantonese): Madam President, I move that this Council do now adjourn, in order to hold a debate on the submission of the report by the Chief Executive to the NPCSC on conducting elections of the Chief Executive and all the Members of the Legislative Council by universal suffrage in 2007 and 2008 respectively.

Madam President, today I have not had the time to read the newspapers because I have been very busy indeed. But having listened to the comments made by the President, I must give her a hand. Yesterday, with the assistance of our staff, both Mr Martin LEE and I spent a lot of time on collecting the relevant information in order to prove that point mentioned by the President just now, that is, if the debate cannot be proved to have urgency, the President will not permit it. Of course, we cannot guess the motives of other people — normally we do not like to guess the motives of others. But in dealing with this issue at least, we have been questioned by the President, and we have made great efforts of lobbying and collected a lot of information before our request is reconsidered. I can testify that it was a true account of what had transpired.

Madam President, in fact there is a very important reason for me to move this motion today. I believe everyone knows that the Chief Executive presented his report to the NPCSC in less than 48 hours after the latter had released its report. I shall for the sake of brevity refer to his report as "the Report" thereafter. In fact, it was really a very quick speed by today's standard, and it was really rare. As we all know, the Chief Executive has the habit of doing everything step by step, one step at a time. But this time around, he achieved the target in one single step.

Besides, three Members from the pro-democracy camp, namely, Mr Michael MAK, Mr WONG Sing-chi and myself went to Shenzhen today and had

a meeting with Mr LI Fei, Deputy Director, the Legislative Affairs Commission of NPCSC. We requested that the Legislative Council and its Members be included in the consultation processes of the NPCSC, especially those with relevance to Hong Kong affairs. The reply given by Mr LI Fei at the time of the meeting illustrated why it is necessary for us to conduct this adjournment debate. I think one of the possibilities is that, on the issue of holding consultation, the Central Authorities, that is, the NPCSC, forgot the Legislative Council in the "second system" under "one country, two systems". Why should we say so? He told us that this consultation exercise was held on the basis of a decree issued by the Chairman of NPCSC, who instructed them to hold a consultation according to the normal working rules of the NPCSC, and the scope of consultation would cover NPC Deputies of the region, that is Hong Kong, delegates of Hong Kong to the Chinese People's Political Consultative Conference (CPPCC) as well as some organizations and celebrities in Hong Kong.

I asked him, "Why the Legislative Council was excluded?" The actual situation was like that. We all know that, under "one country", with the exception of Hong Kong which has its own Legislative Council, all other provinces and cities do not have any legislature. Under the system of "one country", those NPC Deputies, CPPCC delegates and organizations just mentioned by me may really be some very important representatives of their respective provinces or cities, but Hong Kong has a Legislative Council, which does not exist in other places of China.

The second question I asked is: What had they done to the opinions of the Legislative Council and its Members? If our opinions were not heard, why should they say that a consultation had been conducted? Mr LI Fei told us that, he had treated the SAR Government as a mechanism of the constitutional system, and the information submitted by this mechanism, that is, the suggestions or opinions of the SAR Government had already incorporated those of the Legislative Council. In other words, theoretically, if the first and second reports submitted by Chief Secretary for Administration Donald TSANG to the NPCSC had contained opinions of Members of the Legislative Council, and they had read the reports, then from their viewpoint, the reports had already consulted the Legislative Council or its Members. Therefore, I raised another question: Had our SAR Government omitted anything? We said just now that in less than 48 hours' time, the Report had been submitted to the NPCSC. Then at least on the official agenda of the Legislative Council, just as the President said in the

beginning, that at least on the official agenda of the Legislative Council, there was no discussion on the Report. So, is it not true that our SAR Government has omitted this?

Anyway, we made some suggestions to Mr LI Fei. First, when something similar happens in the future, we hope the NPCSC can remind (we dare not use the words of "advise" or "warn", because someone must have "tiger's gut" before he can use such words) the SAR Government of setting up a formal channel of consultation in the assembly establishment for the Legislative Council or its Members. Secondly, in the future if the NPCSC conducts similar consultations, is it possible for it to put the Legislative Council or its Members on the list of invitations to consultations? If they could choose either one of the two options, the abovementioned "possible loophole" could already be plugged. Mr LI Fei said that he was prepared to convey this opinion to Mr QIAO Xiaoyang, Deputy Secretary-General of the NPCSC, and see what he thought of it, and then he would give us a reply. This exactly illustrates that, if the NPCSC discusses this Report this Sunday and Monday, then today is the best and the only opportunity in this Council for us to discuss the views and opinions contained in this Report of the Chief Executive.

Regarding this Report, Madam President, I would like to mention the second area that warrants our discussion and attention: Why was the Report compiled? The main reason is that the elections to be held for the next term of the Legislative Council after 2004 and for the next Chief Executive have to be reviewed, and the reviews are subjected to the provisions of Annexes I and II to the Basic Law. So actually should we adhere to the present system, or should we amend the scope that can be reviewed in the present election systems for the Legislative Council or the Chief Executive as per Annexes I and II? Before today, there were already considerable discussions on this subject, and the discussion process revealed that the Central Authorities held the view that "one country, two systems" is premised on "one country", and "a high degree of autonomy" is not equivalent to "autonomy". Therefore, we also know that the Central Authorities mentioned five steps last months as it chose to adopt the method of interpreting the Basic Law in dealing with the controversy, for compliance by the Hong Kong Government as it proceeds with the constitutional review. Of the five steps, the Chief Executive of the SAR Government should take the first step of submitting a report to say whether there is a need to amend the political system. Then the Report is submitted to the NPCSC, and the amendment mechanism can be activated only after the latter has indicated its agreement.

We can see that, the two events, from raising the issue to the indication of agreement, the NPCSC took 12 days to proceed with its interpretation of the Basic Law; and then it took less than three days for the Report to go through the process of subject proposition to its submission to the NPCSC. I feel that somebody was cutting the Gordian knot in both events. The advantage of the "cutting the Gordian knot" approach lies in the quick speed involved. You can get an outcome very soon, and if the final conclusions are well understood, everyone can act on them accordingly. The disadvantage of this approach is that, if some people disagree with the outcome arrived at by the "cutting the Gordian knot" approach, or hold different opinions or propose better approaches, these views could not be reflected because the process is too fast. As the process is too fast, the opinions could not be absorbed. As the process is too fast, such views could not be incorporated into future policies. As such, it will produce an antagonizing effect, which makes people who may have suggestions or even good suggestions think that the policy-makers are not listening to or simply ignoring them, thereby creating contradictions and conflicts. We feel that if such a situation is allowed to continue and worsen, it will be most unfavourable to the continued development of "one country, two systems" in Hong Kong.

Madam President, I would like to discuss the nine principles espoused in the Report. Due to the time constraint, it would be impossible for me to discuss each and every one of the principles. I would just speak on several principles which I think are more important. I believe other Honourable colleagues would also deal with them later on when they discuss some other aspects.

As a start, before coming to the Report, I must say that though it did mention some principles and factors in respect of amendment, I feel the Report has not mentioned the most basic principle. I have been a student of political science. Prof LAU Siu-kai was in the Chamber a moment ago, but now he is not here. In fact, he used to be one of my teachers. The most important point in the studies of political science is, when considering political systems, the best and ideal situation is, a certain economic system would normally, in the process of its operation, bring about a certain model, which we may call it as a political system. And such a political system should match with that particular economic system. It is like the case with a sword that must be put back into its scabbard; that way, the draw and return of the sword will be very smooth. But if the sword is put incorrectly into the sheath for a sabre, even if that sheath could take

it, it will never fit so well, and there always seems to be something impeding its movement in and out of the sheath.

We can all see that Hong Kong is an economic system that practises free market economy, and this international city is already highly developed. In all aspects such as the economic, financial and trading aspects, Hong Kong is very advanced. In similar economies, I can see that the systems adopted in governing their places or countries are, generally speaking, democratic systems, in which their policy-makers or leaders in different positions and legislators are all elected by universal suffrage. From this general principle, we can see that nearly no one would gainsay that Hong Kong is not a free market economy insofar as its development is concerned. It must be ranking among the top five or top ten in the world, or it may even rank among the top three economies in the world. Under such circumstances, I would ask the Government, "What kind of political system should match with such an economy? Why does it not talk about this premise, this general principle?" If the Government just dwells on its nine principles, it will never hit the mark because for any other systems, as long as they do not work with the free market economy, then it is absolutely in vain no matter how hard we try. The system does not work with the economy. It is just like a sword being stuck in a wrong scabbard. Even if you can push it into the scabbard, you will have difficulty drawing it out. This is exactly the reason why our economy has suffered so badly, and apart from the international factors, we still have problems in one area or another.

After discussing this major premise, I note that item (vi) of the Report mentions that when considering the actual situation, public opinions, as well as other factors, including the present stage of constitutional development, economic development and so on must be taken into consideration. If the understanding and logic mentioned by me just now has been heard by the relevant party, and if the experience of other countries has been taken into account, then item (vi) does not constitute any problem at all. In other words, if Hong Kong is a free market economy, and many countries already had the experience of practising this kind of economy for 100 or even 200 years, then we need not repeat that process of 100 or 200 years. This can be compared to light bulbs which we are using every day. After the British scientists had invented the light bulbs, we do not need to spend another 2 000 years to invent a light bulb. I can buy a light bulb or manufacture one, then I can use it. Therefore, some people say that other countries have gone through it for 200 years, but Hong Kong has just started it for a decade or so. This is absolutely not a reason, nor

is this logical. If we have never used a certain item before, then must we go backward by several decades? This should not be the case, nor is this possible.

Secondly, under the political system of a free economy, the results of elections will serve the needs of the system. In other words, if the mainstay of a free economy is economic activities, then it shall require many different types of economic talents to serve the different needs of the many different industries. In that case, the election system will reflect such a result. In other words, such people will naturally be elected, otherwise the political and economic systems will not match with each other. Therefore, I feel that item (vii) does not pose any problem, nor does item (viii). Of course, needless to say, item (ix) also will not pose any problem. Therefore, I feel that the items mentioned by me just now, that is, items (vi), (vii), (viii) and (ix), are all related to the political system and the economic system. For those who are well versed in and understand the system of free market economy, they will surely know that a democratic political system is essential.

The "cutting the Gordian knot" approach could lead to serious or trivial consequences. If the consequences are trivial, no one would voice any objection, then the element of quick speed in this approach will impress other as "efficient" and "fast". If the consequences are serious, then it is a case of a "top-down imposing approach", "quickly closing the file", and the people are put into a situation where they have no chances, no conditions, no ability and no channels to reflect their views. Therefore, for the very strong reactions among the people triggered by the two incidents, namely, the interpretation of the Basic Law and the submission of the Report by the Chief Executive, I feel that one of the contributory reasons was the "cutting the Gordian knot" approach adopted in the process.

I feel that if there is a genuine desire to do a good job in this incident, be they the Central Authorities or the SAR Government, they should incorporate the divergent views. From the perspective of "three heads are better than one", the Government should listen to opinions more extensively. If you want to win the hearts of the people, you should listen to opinions more extensively. If you do not even listen to opinions, how can you win their hearts? If you want to do an even better job in governance, then apart from listening to opinions more extensively, you should adopt those opinions and accept those people, thereby making them part of the Government. In this way, the Government could have an abundant supply of talents from more varied sources, otherwise, it will

continue to wither — continue with the predicament of having difficulty in finding a replacement for a resigning Bureau Director; or all you can do is to identify a civil servant to fill up the vacancy left by an outgoing Bureau Director. If so, this system can never develop on a sustained basis. I hope this discussion can stimulate the Government into thinking more, with greater depth and with a wider spectrum.

Thank you, Madam President.

Mr Frederick FUNG moved the following motion: (Translation)

"That the Council do now adjourn for the purpose of debating the Report by the Chief Executive of the Hong Kong Special Administrative Region to the Standing Committee of the National People's Congress on whether there is a need to amend the methods for selecting the Chief Executive of the Hong Kong Special Administrative Region in 2007 and for forming the Legislative Council of the Hong Kong Special Administrative Region in 2008."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That this Council do now adjourn.

DR YEUNG SUM (in Cantonese): Madam President, in its interpretation of the Basic Law, the NPCSC has added conditions to Annexes I and II to the Basic Law relating to the amendment of the methods for selecting the Chief Executive and forming the Legislative Council that the Chief Executive should first study if there is a need for amendment and submit his proposal to the NPCSC for deliberation and decision. This is amending the law in a disguised form, dealing a heavy blow to "one country, two systems" and "high degree of autonomy". Nevertheless, the most heartrending part of all this is that, in his report on whether or not the methods for selecting the Chief Executive and forming the Legislative Council should be amended on the basis of the NPCSC's interpretation of the Basic Law, our Chief Executive has added nine conditions and factors, setting up obstacles himself to elections by universal suffrage in 2007 and 2008, thus betraying the interests of the people of Hong Kong.

The Democratic Party does not accept the report submitted by the Chief Executive to the NPCSC. We consider that this report is neither founded on any legal principle nor rational. More importantly, it completely fails to reflect the mainstream opinion of the Hong Kong public. First, in the report, the Chief Executive proposed that it was necessary to amend the methods for selecting the Chief Executive in 2007 and forming the Legislative Council in 2008. However, the basis, reasons and the intention of the people for the amendment were in fact all missing. In the Second Report of the Constitutional Development Task Force, the Chief Secretary for Administration, Mr Donald TSANG, mentioned that the recent opinion poll had shown that more than half of the people were in support of electing the Chief Executive by universal suffrage in 2007, and 60% were in support of electing the full Legislative Council by universal suffrage in 2008. However, the Chief Executive made no mention of this mainstream opinion in his report. Rather, he listed out nine conditions. I think these nine conditions are no doubt tantamount to self-imposed obstacles to elections by universal suffrage, surrendering submissively again the "high degree of autonomy". This is most regrettable indeed.

Among the nine conditions and factors, some are founded not on any basis in the Basic Law. For example, not only is item (iv) which reads "any proposed amendments must aim at consolidating the executive-led system headed by the Chief Executive" not founded on any legal principle, but is also in contradiction to the Basic Law article stipulating that the executive authorities should be responsible to the legislature. Another example is item (v) which reads "development towards the ultimate aim of universal suffrage must progress in a gradual and orderly manner step by step. The pace should not be too fast". The Basic Law only mentions "gradual and orderly progress", so this is no doubt a hurdle imposed by the Chief Executive himself, impeding elections by universal suffrage in 2007 and 2008. What in fact is a pace too fast? At that time, Chairman of the Basic Law Drafting Committee, Mr JI Pengfei, said that it was not desirable to have elections by universal suffrage within a decade from the day of reunification. What the Basic Law restricts is also the first decade. Moreover, Mr LU Ping, the then Director of the Hong Kong and Macao Affairs Office, also pointed out in 1993 that after 2007, that is the election proposal for the third Legislative Council, was totally an internal issue to be decided by Hong Kong, and the people of Hong Kong had all the conditions to implement democracy. Now, the Chief Executive has proposed in the report that "The pace should not be too fast." It is very obvious that after the NPCSC's

interpretation, the Government of the Hong Kong Special Administrative Region (SAR) automatically dovetails with the Central Authorities, cripples itself and imposes obstacles to elections by universal suffrage in 2007 and 2008. May I ask how the Chief Executive is going to be accountable to the majority Hong Kong public demanding elections by universal suffrage in 2007 and 2008, and how he is going to explain to them?

Item (vii) points out and I quote, "any proposed amendments must enable different sectors of society to be represented in the political structure, and to participate in politics through various channels" (end of quote). It is inevitable that the people would think the so-called "different sectors of society participate in politics through various channels" mentioned by the Chief Executive is in fact hinting that functional constituency elections must be retained, making it impossible for the full Legislative Council to be returned by election by universal suffrage. However, in fact, election by universal suffrage is basically the best way to realize "balanced participation". If some of those with vested interests are not yet prepared for elections by universal suffrage, the rules of the game should not be changed to protect the interests of the business sector, thereby ignoring the demand of the majority of the people.

Although the Central Authorities and the SAR Government have different channels and ways to dampen the aspirations of the Hong Kong public for democracy, and the Central Authorities even have the final say on constitutional reform, a suppression of the aspirations of Hong Kong people for democracy in fact would only make it impossible for problems stemming from the existing system to be thoroughly resolved. As a result, the Government would continue to lack acceptability and credibility in governance, the Legislative Council would continue to be unable to monitor the Government effectively, and the public's views would continue to not be effectively reflected. Such a political ecology is doing no good but harm to Hong Kong's political stability and prosperity and stability. Recent opinion polls indicate that people's trust in the SAR Government and the Central Government is falling. If this continues, I am afraid the extent of public discontent may be more serious than that demonstrated last year over the enactment of laws on Article 23 of the Basic Law.

The NPCSC is meeting at the end of the month to discuss the report submitted by the Chief Executive. This morning, Members of the democratic camp went to Shenzhen to express their opinions to the NPCSC. We sincerely

hope that the NPCSC can take on an open attitude and listen to the views of the Hong Kong public. Moreover, we hope that the NPCSC will not give the final word and close the door to elections by universal suffrage in 2007 and 2008. Once the NPCSC accepts the report of the Chief Executive, or as some newspapers have reported, or even brings in other strict conditions, it will set a very bad precedent, opening the door to adding other provisions or conditions outside the constitution. Then, the credibility of the Basic Law will be gone, and this will also seriously damage Hong Kong's rule of law and the people's confidence in the Basic Law.

I very much hope that the Central Government can show concern for the aspirations of Hong Kong people for democracy. Election of the Chief Executive and the Legislative Council by universal suffrage in 2007 and 2008 will help greatly to improve the governance crisis of the SAR Government, stabilize Hong Kong's social development and even unify peacefully with Taiwan. I hope the Central Government can apply self-restraint and give "high degree of autonomy" a chance in the SAR. This will have very substantial and positive meaning to the development of "one country, two systems" in the SAR, and even to its contribution to the country.

I so submit. Thank you, Madam President.

MR HOWARD YOUNG (in Cantonese): Madam President, at the beginning of this month, the NPCSC gave an explanation on the issue of whether or not the methods for selecting the Chief Executive in 2007 and forming the Legislative Council in 2008 as stipulated in Annexes I and II to the Basic Law needed amendment. The NPCSC also affirmed that the Chief Executive, Mr TUNG Chee-hwa, could act in accordance with the stated procedure to propose to the NPCSC to request it to affirm that a review of the constitutional development in Hong Kong could commence.

The Chief Executive responded to that swiftly last Thursday. He submitted a report to the NPCSC on whether or not the abovementioned two methods needed amendment. In the report he affirmed that amendment should be made and hoped that the NPCSC could give its approval.

In our opinion, that the Chief Executive has done this is because he is keenly aware that the people of Hong Kong have expectations for constitutional

development in Hong Kong. They hope that there will be changes and if any change is to be made, the commencement of a constitutional review would become all the more pressing. Therefore, the Chief Executive has submitted a report to the NPCSC in the hope that such a review can commence. The Liberal Party approves of such a move and regards this as desirable for it serves to reflect the hopes and aspirations of Hong Kong people.

The NPCSC has decided to hold two meetings on this Sunday and next Monday on the report submitted by the Chief Executive in order that an unequivocal reply can be given. From this it can be seen that both the Chief Executive and the Central Authorities attach great importance to the constitutional review. As a matter of fact, the NPCSC has sent its representatives on a special trip to Shenzhen to hear, in yesterday and today's meetings, the views expressed by people from all sectors in Hong Kong, including the three Members of this Council who have gone to Shenzhen this morning specifically to express their views. It is also precisely because of this reason that the Liberal Party thinks that there is really no need to hold a debate on the Chief Executive's report today.

What then is of greater importance? The report of the Chief Executive has basically incorporated the views on constitutional development gathered earlier from all sectors across the community by the Constitutional Development Task Force headed by the Chief Secretary for Administration.

So we think the most important point now is to wait until the NPCSC has endorsed the report submitted by the Chief Executive so that the Government of the Hong Kong Special Administrative Region (SAR) can propose some specific plans for constitutional reform and consult the community extensively. In fact, some political parties have already proposed their own plans for constitutional reform. We therefore hope that the SAR Government can propose its plans for constitutional reform at the soonest so that parties and groups in the Legislative Council as well as the community can study and be consulted on these plans. It can also give them ample time to engage in rational discussions in order to form an arrangement which is broadly acceptable to the community.

It is the intention of the Liberal Party that once a decision is made by the NPCSC, considerations will be made with reference to the views in the Party and the public at large while taking into account the nine factors stated in the Chief

Executive's report before formulating our own specific plans on constitutional development.

In tune with the keynotes of the Basic Law, there should be gradual and orderly progress towards the selection of the Chief Executive and the formation of the Legislative Council by universal suffrage. Therefore, we are of the view that once the green light for constitutional review is on, both the public and the political parties should strive to forge a consensus to facilitate the SAR Government in gaining the trust and support of the Central Authorities and completing the constitutional reform while maintaining the economic prosperity and social stability of Hong Kong. We would like to state once again that the Liberal Party will exert its utmost to propose plans for constitutional reform which are concrete, practicable and rational, and we will seek to reach a consensus with all political parties and groups in Hong Kong.

Thank you, Madam President. I so submit.

MR ANDREW CHENG (in Cantonese): Madam President, I would like to respond to the remarks made by you at the beginning of the debate.

Madam President, I know you did not mention my name direct. However, from your eyesight, I could feel your criticism very strongly, and I must be at least one of those mentioned by you.

PRESIDENT (in Cantonese): Mr CHENG, you take the condemnation personally.

MR ANDREW CHENG (in Cantonese): I know, Madam President

PRESIDENT (in Cantonese): It is your own choice.

MR ANDREW CHENG (in Cantonese): And you should not debate with me here. Please allow me to continue with my speech.

Madam President, just now you used the words "grievously saddened", saying that someone had abused the freedom of speech outside this Chamber and criticized the President unscrupulously.

Madam President, I am taking the condemnation personally. In other words, this morning, I spoke not in my capacity as a Member of the Legislative Council. Instead, I was just speaking in my capacity as a guest presenter of the talk show "Teacup in a Storm", which I have been doing for many years. My remarks this morning were made in my capacity of a talk show presenter, and such comments had not made any derogatory reference to the President. Following the traditional style of the show which is usually light-hearted and satirical, I only discussed the rulings made by the President yesterday on the wordings of the motion proposed by Mr Frederick FUNG, and wondered why it had been turned down in the morning, and was supported later.

PRESIDENT (in Cantonese): Mr Andrew CHENG, I have no intention of debating with you, and I also allow you to speak. But I hope you can speak on the subject of the motion.....

MR ANDREW CHENG (in Cantonese): Madam President.....

PRESIDENT (in Cantonese): If you want to discuss with me (that is the President) on what I said just now, please do so after the meeting. Do not waste the time of the meeting on making clarifications for yourself. I have already reminded you that you are taking the condemnation personally. If you wish, I can talk to you after the meeting. But please come back to the subject of the adjournment debate.

MR ANDREW CHENG (in Cantonese): Madam President, I shall continue to take the condemnation personally. Please do not interrupt my speech. I shall continue to address the President and Honourable colleagues when I make my comments in this debate. I hope you will not interrupt me anymore.

PRESIDENT (in Cantonese): Please speak on the subject.....

MR ANDREW CHENG (in Cantonese): Madam President, you spent several minutes just now on telling us your decisions. And I am really taking the condemnation personally. Madam President, I am definitely taking the condemnation personally, because who else has, as you put it, abused the freedom of speech in criticizing the President unscrupulously outside this Chamber?

I personally feel that I was speaking in my capacity of a guest presenter at that time. We have freedom of speech in Hong Kong, and such freedom can be enjoyed by everyone, including the President of the Legislative Council. She is also a human being, and she was elected from among the 60 Members of this Council. Her decision may be subject to certain criticisms outside this Chamber and in certain forums of free speech. I hope the President of the Legislative Council can have the noble tolerance and broad-mindedness and take such criticisms with an unperturbed mind, and she should adopt the attitude of "correcting the mistakes, if any, and guarding against them, if none."

PRESIDENT (in Cantonese): I just want to tender you this proverb, Mr CHENG.....

MR ANDREW CHENG (in Cantonese): Madam President, we think the best merit of democratic elections is that anyone may have his own consideration in making his decision. This is the merit of democratic elections. The merit of democratic elections is, when a political figure — I never agree with the term "politico" used by Mr Albert CHENG, because he always uses it in the derogatory sense. I like to use the term "political figures". For any political figure (this includes the President of the Legislative Council, each and every Member of the Legislative Council, the Chief Executive, and even the only Bureau Secretary in this Chamber now, Secretary Stephen LAM), whenever he makes any decision, and in this instance we are now holding a debate on this motion just because the Chief Executive has submitted the Report to the NPCSC in a great hurry, this decision, I think, is very much the same as any other political decision, that it must carry with it political considerations. Therefore, as there are political considerations, I really hope that the Legislative Council can

provide us with the room to speak our minds freely. Therefore, yesterday the President had originally ruled against our motion today, saying that there was no urgency. It was possibly because you did not know that the NPCSC would discuss the report this weekend, and then later you realized the urgency. Did you realize or appreciate the urgency, or did you have certain political considerations? I think everyone would like to know the truth, and this kind of comments, I believe were just some extremely simple comments. Therefore, I hope we can have freedom of speech. With regard to the kind of freedom we can enjoy outside this Chamber, on which we are discussing, I also hope that we can treasure it.

Madam President, regarding this report of the Chief Executive.....

PRESIDENT (in Cantonese): Mr CHENG, I would like to ask you, do you think that the President of the Legislative Council had taken her personal interest and other political factors into consideration when she made her procedural ruling.....

MR ANDREW CHENG (in Cantonese): Madam President, you asked me to discuss today's motion.....

PRESIDENT (in Cantonese): It was because you have just.....

MR ANDREW CHENG (in Cantonese): I was about to discuss this report, Madam President. I think even if.....

PRESIDENT (in Cantonese): As you have mentioned the freedom of speech, then you have to answer the question.

MR ANDREW CHENG (in Cantonese): Madam President, in ordinary debates, usually you do not allow me to debate with you. Today, as I proceed to speak on the motion, you keep on asking me questions, as if you are having a debate with me. Madam President, I want to clarify once again that, as a commentator,

all I had done was to raise some hypothetical questions, so as to induce some answers in society, and then initiate some discussion. If the President thinks that I have made some offensive remarks about you, I hope you do not take them personally. This forum of free speech is for facilitating our consideration. Madam President, when you made the decision, did you make any political considerations? Only God and you know the truth. Therefore, anyone, be him the President of the Legislative Council, or any Members of the Legislative Council, when he does something, does he have any political considerations? Madam President, in fact, I originally intended to use only three or four minutes to speak on this issue. However, due to your persistent interruption, I have already used more than seven minutes now, and I do not want this to go on anymore. Madam President, I have been working with you for a long time in this Chamber. In fact, all along, I have always felt that you are most fair and impartial. And I also trust the President has exercised great prudence in making the rulings yesterday.

Madam President, today we are discussing the Second Report of the Constitutional Development Task Force as well as the report presented by the Chief Executive to the NPCSC. This is very simple and straightforward. However, there are certain points which are rather significant, and also very significant to the democratic development of Hong Kong.

First of all, I would like to state my opinions on the issue of principle in relation to constitutional development and certain views in the Second Report of the Task Force, especially reference to the maturity of political groups in paragraph 3.23, and to political talent in paragraph 3.22, and so on. When I came to these paragraphs, I could not help thinking why there is a lack of political talent in the eyes of the SAR Government. Is Hong Kong really short of political talents? Or rather the SAR Government does not want us to have political talents in Hong Kong?

It is like something that happened only yesterday. Let us look at why the Chief Executive wanted to scrap the two Municipal Councils. The two Municipal Councils used to be the ideal arenas and venues for training political talents. The Chief Executive "scrapped" the two Municipal Councils with a very swift stroke, thus closing the doors of the venues for those who aspire to participate in politics and those who like to devote themselves to join the political councils through the baptism of direct elections. Paragraph 3.22 keeps mentioning that most of the local talents are already in the establishment. This

is of course correct. Only in the Government, such a giant establishment, could talents like the Administrative Officers be groomed. For consultative framework like councils or District Councils, though they are big in establishment, they do not hold any substantive power. Although there are 60 seats in the Legislative Council, how much room do we have for grooming political talents?

Therefore, after presenting this report, I hope the Government will not be so hypocritical as to say that we do not have enough political talents and we need more time to groom such talents. With the present political system, we simply do not have the opportunities to make our political talents interested in joining the political arena, no matter how many years we have.

Next, I would like to discuss the maturity of political groups. Frankly speaking, many political groups are described as lacking an overall manifesto of governance and holistic policy research in different areas. Honestly, we in the Democratic Party do not dare boast that our policy research has been very good. However, whenever an important document is forthcoming, be it the policy address, the Budget or each and every major policy, we would present our own research reports, the lengths of which range from four or five pages to 100 or 200 pages. In addition, we also have a complete set of macro concepts. However, all these could not arouse much media attention, nor any discussion by the press simply because we do not have the opportunity to administer Hong Kong. Therefore, it is useless even if we have announced such ideas.

Policies are dry and boring. Even if policies are put forward by the Government for study, such as the "Hong Kong 2030: Planning Vision and Strategy" study mentioned some time ago, I think, as even the media do not understand what it is all about, not much has been reported by the press. In fact, this is very important. If certain issues do not carry some immediate significance, they are usually forgotten. Nevertheless, even though the policies are forgotten, it does not mean that our party has no plan for it, or we have no research direction.

Therefore, I would like to tell the Chief Secretary for Administration, Mr Donald TSANG, that we hope the Government will not look at us through "tinted glasses" (meaning "biased view"), a pet term frequently used by Mr TSANG.

Very often, they will look at us, people who usually disagree with government policies, through "tinted glasses". "Tinted glasses", personally I think they bear some negative connotation, that is, the judgement would be biased. Please do not do that. I hope the Chief Secretary for Administration can understand us Members, especially the opposition Members, have too strong love for the Government and for Hong Kong, that explains why we have been so earnest and harsh in our criticism. We would not act like the royalists who accept whatever the Government has done or will do. Any person may stand to make mistakes, so may any government. What we are doing is just to present our opinions. When we present our views earnestly, we are often unfairly labelled, and be looked at through "tinted glasses".

Therefore, for the nine points in the report submitted by the Chief Executive to the NPCSC on 15 April, I strongly wish to spend several minutes to go over them. What I want to say is, a freshly drafted report presented to the Chief Executive on 14 April was delivered to Beijing on 15 April in a surprisingly efficient manner. What were the implications behind such a move? Did it show that the SAR Government was lack of confidence? Did it imply that the SAR Government did not wish to listen to the strong reactions of the people after we found out the nine points of opinions? Had it occurred to the SAR Government that the reactions of the people would be even stronger if the report was delivered to Beijing by then? So, that was why they rushed ahead submitting the Report to Beijing regardless. Then, ideally the objective could be achieved before 1 July of this year, thereby getting rid of the issue of elections by universal suffrage in 2007 and 2008, letting such elections die a natural death in Hong Kong.

Frankly speaking, such a "conspiracy speculation" is indeed a natural inference. By this, we are by no means making wild guesses, nor are we using your perspective or "tinted glasses" in making unscrupulous criticisms. Therefore, I hope the Government can understand that, among these nine points, there are certain proposals that will really lead to extremely controversial interpretations of the Basic Law. For example, the various channels of participation in politics are mentioned. For example, the maturity issue which was discussed earlier. For example, the substantive power of appointment of the Chief Executive. For example, the proposition that the pace should not be too fast; that the interests of different sectors of society must be considered; that

there should not be any adverse effect on the systems of economy, monetary affairs and public finance, and so on. We have never seen these in the Basic Law.

Due to the time constraint, Madam President, I hope the Government will understand how the people feel and do not bury the election by universal suffrage into the grave. Thank you, Madam President.

PRESIDENT (in Cantonese): Mr Andrew CHENG, I invite you to come to my office after the meeting because, under whatever circumstances, you are still a Member of the Legislative Council. I hope you could remember this capacity.

MR ANDREW CHENG (in Cantonese): Madam President, can you tell me, what is the intention of asking me to come to your office? Are you going to give me a lecture?

PRESIDENT (in Cantonese): I thought I was giving you an opportunity of explanation. I believe you want to make a clarification, do you not? If you do not want to make any clarification, you do not have to come.

MR AMBROSE LAU (in Cantonese): Madam President, in the report presented by the Chief Executive to the NPCSC on whether there is a need to amend the methods for selecting the Chief Executive in 2007 and for forming the Legislative Council in 2008, it has put forward the specific proposition of "(they) should be amended", and in the meantime, it has also put forward nine factors that we should take into consideration. The different sectors of the community have divergent views on these nine factors of consideration. Many people in the community are of the view that it is still not suitable to implement elections by universal suffrage in Hong Kong on a full scale in 2007 and 2008, because this is not compatible with the actual situation in Hong Kong, nor is it in line with the principle of gradual and orderly progress, and is contrary to the nine factors listed in the report of the Chief Executive. In the light of these reasons, the commercial and industrial sectors and the middle class have great reservations and worries about the radical proposal of holding elections by universal suffrage. As the political organization speaking for the commercial and industrial sectors

and the middle class, the Hong Kong Progressive Alliance (HKPA) fully appreciates their aspirations.

Under such circumstances, Mr QIAO Xiaoyang, the Deputy Secretary General of NPCSC, in his capacity as the representative of the Central Authorities, started to hold a two-day meeting commencing yesterday with people from different sectors of Hong Kong as well as the Constitutional Development Task Force led by Mr Donald TSANG, with the purpose of listening to opinions expressed by different sectors of the Hong Kong community on the report of the Chief Executive. After meeting with people from different sectors of the Hong Kong community, Mr QIAO Xiaoyang said that Hong Kong people who had spoken in the meeting held different viewpoints, which was not one-sided. The HKPA thinks that these different viewpoints would be of great help in facilitating the NPCSC deliberation of the Chief Executive's report. The HKPA hopes that the NPCSC can, on the basis of having fully considered the different viewpoints expressed by people from different sectors of Hong Kong, expedite confirming that it is possible to amend the methods for selecting the Chief Executive in 2007 and for forming the Legislative Council in 2008, and that the NPCSC can specifically define the principles and the scope of such amendments, thereby further clarifying the next phase of constitutional development and enabling it to go ahead smoothly.

Madam President, I so submit.

MR ALBERT HO (in Cantonese): Madam President, today Hong Kong has entered a very critical, or even dangerous political situation. This is because the moves made by the Central Authorities and the Chief Executive during the short span of three months have seriously damaged "one country, two systems" and "a high degree of autonomy". Such damage has already caused great harm to the central nerves of "one country, two systems" and "a high degree of autonomy", ruining the foundation of the rule of law which has been built up in Hong Kong over a long period of time; and now even the mutual trust between Hong Kong and the Central Authorities has been, I believe, undermined completely.

Madam President, I am not trying to raise alarmist talk. I just hope everyone can understand one point: Do not think that it is just a trivial issue because the scope of the recent interpretation of the Basic Law is limited and the

wordings used are rather moderate. Do not think that the Central Authorities will treat Hong Kong people generously and would respect the opinions of Hong Kong people and their choices on the issue of constitutional development just because we find Mr QIAO Xiaoyang, the Deputy Secretary General, quite humorous in speech, and his attitude relatively gentle, without resorting to fiercely threatening verbal tactics.

Madam President, the recent interpretation of the Basic Law has caused three fatal damages. The first damage, the NPCSC has once again, freely and without restraint, invoked Article 158 of the Basic Law to interpret the Laws of Hong Kong. Although the interpretation exercise could well be described as a supplementary enactment of law, what we have actually seen is a concrete move to amend the provisions. This has rocked the boundary of our autonomy as well as the affirmation of the final appeal in Hong Kong. The justifications employed in this interpretation are hardly comprehensible to us— not just people of the legal community who have the benefit of common law training, but also anyone who has some common sense or who can read and write — they are simply incomprehensible. Let us take the amendment to the electoral legislation as an example. It was originally stipulated that, be it securing consent or reporting for record, three constituents must be passed, namely, two-third of the Members of the Legislative Council, the Chief Executive and then the National People's Congress (NPC). However, they suddenly become five hurdles — two extra hurdles have been added; and "reporting for record" has been changed to "getting approval", or even "approval beforehand". Even words said by Mr LU Ping, the official once in charge of Hong Kong affairs and a formal representative in the State Council and an authority on the issue of Basic Law, are no longer valid, or even have disappeared altogether. Under all such circumstances, can we have a better answer, apart from misgivings?

In the last interpretation of the Basic Law, the NPCSC kept stressing the legislative intention, highlighting the fact that there might be a need to add supplementary provisions as there could be certain ambiguities in writing in the Basic Law. However, this time around, this line can no longer hold because they were trying to create something out of nothing. Therefore, this time around, Mr QIAO Xiaoyang, the Deputy Secretary General, in addition to the reference to legal implications, also talked about the development of the circumstances, which meant that it would depend on the development of the situation. This made us at a loss as to what he was trying to say. We now

realize that the legislative intention and the development of the situations can be put together at the same time, be compatible with each other, and have no conflicts at all. In other words, the legislative intention can be changed any time with the development of the situation. What kind of principle is this for interpretation of the Basic Law? I hope later, if there is the chance, the Secretary for Justice can explain to us how these two principles can be applied with compatibility? We now realize that we need to interpret the original intention of the law according to the development of the situation.

Madam President, if the NPCSC could interpret any provision of the Basic Law freely, at any time and without restraint, with or without legal proceedings, then do our protection provided by "a high degree of autonomy" and the judicial final appeal still have any material meaning in the Basic Law, our significant constitutional document?

As for the second damage, just as many people from the legal community and members of the public have said, this interpretation has completely ignored the need for a due process in law. The intention of this interpretation was announced only seven days ago, and it was completed within five days. Before issuing this interpretation of the Basic Law, neither the content nor the scope had been mentioned. I had even asked Chief Secretary Donald TSANG whether he knew the content of this interpretation in a meeting of this Council several days before the handing down of the interpretation. As he recommended us to accept the interpretation of the Basic Law, saying that it would be good for Hong Kong, then did he know the content of the interpretation, and did he know the subject matters discussed in the relevant text? Mr TSANG answered in the negative. I assume that the Chief Executive also had no knowledge of it. In other words, there was no way for Hong Kong people to express their opinions, nor was there any consultation. However, our Chief Executive and our officials did tell us to support the interpretation unconditionally. What was most shocking is that, one of the subjects covered by the interpretation had never been discussed by us in the past, that is, "if there is a need" as mentioned in the Annexes — meaning that "if there is a need" to amend the provisions. This point was not even mentioned in the earlier consultation conducted by Chief Secretary Donald TSANG. It is not until now that we realize the great significance of this point. This is because we can clearly see that, the reference to "there is a need" means that only when the three constituents (that is, the three institutions which have a part to play in

amending the provisions) consider that, after deliberation, there is a need, when they all think that there is a need to amend the provisions before the amendment mechanism could be activated. So, we now realize that the phrase "there is a need" could generate a whole set of activation mechanism. Therefore, if this is not considered as amending the legislation, what else can it be? However, the greatest problem is, even if it was necessary to make amendment, why could we not first conduct a consultation, so that we could be informed of the content being discussed, so that we could express our opinions and conduct extensive discussions, thereby enabling the issue to be deliberated more thoroughly? Madam President, nothing has been done in this aspect. The present approach is: "It is all signed and sealed". Then, what due process of law is there to speak of?

The third damage is of course the severe damage done to the mutual trust between the Central Authorities and the SAR. This is because, in future, the Central Authorities will have to assume the full responsibility on the issue of constitutional development. And I believe the Chief Executive and his three-member Task Force could only become the vehicle for enforcing the instructions of the Central Authorities. Under such circumstances, I do not know what we can say now. Because in future, it will become a struggle between the people and the Central Authorities insofar as this issue is concerned. If we do not strive ahead to fight for our rights with the Central Authorities, there would not be any more room for us to fight on.

Earlier on, in our meeting with the Chief Executive, we repeatedly asked him what would happen next? What could we do? How could we express our opinions most effectively? At that time, he had already presented the report. So I said let us stop scolding him; the report had been presented, so let us ask him to tell us what would happen next. The answer was: No comment. Madam President, "no comment". I do not believe that the Chief Executive and the three-member Task Force did not have any draft or plan. Even if it was only a draft proposal, he could say so to us. Why could he not share it with us? Even if he said the final green light would have to be given by the Central Authorities, he could still tell us his difficulty. But the answer was "no comment".

Therefore, on that day, we felt utterly miserable. The dialogue between us was entirely meaningless. The meeting gave us the impression that the Chief Executive and his three-member Task Force were just working to serve the

Central Authorities. Even if they were not the messengers, at most, a bit more senior, just executive secretaries. As such, it would be meaningless for us to condemn them, and it would not be a pity at all even if we should dispose of them. If this should go on like this, what should we do?

Madam President, after the interpretation was issued, three officials from the Central Authorities came Hong Kong to sell hard materials in a soft approach. In fact, we all know that each of them adhered strictly to a well-defined line, though they were relatively gentle in their attitude. Our mission at that time was to do our best to ensure TUNG Chee-hwa could really listen to public opinions when he submitted his report, and that he would not bring in more unnecessary hurdles, thus at least providing Hong Kong people with greater room for discussion, no matter what the ultimate outcome would be. This was because we all knew that it would not be an easy task for us to change the content of the report. But our proposal could at least give Hong Kong people the opportunity to speak their minds and express their opinions freely. After the march on 11 April, we could relax ourselves slightly because the march gave us an opportunity to express our strong protest against the interpretation. As for why we had to protest so strongly, I have already mentioned the reasons just now. We hoped that we could sit down to express our opinions to the Chief Executive. Therefore, we presented our letter to him, sincerely requesting him to have a meeting with us, sincerely requesting him not to completely deny us the opportunity to discuss with him and to express our opinions before his submission of the report. Mr SZETO Wah even formally requested him in this Council to hold a public consultation on his draft report. However, Madam President, do you know what happened? On 15 April, the Chief Executive presented his report. He passed a copy of his report to us only after his submission. Although we had requested an appointment with him the day before, yet he still would not give us the chance to persuade him to delay this process slightly. This was actually not something with an urgency that called for its completion within one or two days, or even in one or two weeks.

Madam President, having read this report, we know it very well now, and come to realize that the nine factors are explicitly the core of the whole report. In fact, it was possible to amend the provisions to implement elections by universal suffrage in 2007 and 2008, and even the Central Authorities were ready to let us make some minor amendments. Be it through public opinions or by way of some other channels, everyone seemed to be prepared for this to

happen. As for how the provisions would be amended, we had no idea. However, the people really needed to have the room for discussion, and should be provided with the room to fight for it. However, the report submitted today contains surprisingly the nine factors. If we go through the nine factors carefully, and read them together with the report of Chief Secretary Donald TSANG, we should realize that it has involved a lot of value judgement, many observations and conclusions derived from analyses. Finally, we could even see that there are many explicit restrictions on our choices. Our colleagues have also mentioned just now that many of these nine factors do not exist in the Basic Law. Many of these items were made according to the judgement of the three-member Task Force, and such judgement precisely reflects their conservative and prejudiced values. For example, they think that amendments should not be lightly contemplated, and when amendments are proposed, they should not affect the operation of other systems; that this Chief Executive has to maintain the executive-led system; that his substantive power must not be affected in any way. However, the report has not mentioned the aspirations of the people, the participation of the people, as well as checks and balances by the people. None of these has been mentioned.

As for the other factors, we feel that the conclusion cannot be clearer. However, I just wish to say one point, the people still have very strong aspirations for democracy. Therefore, we must continue to fight for it persistently. Thank you, Madam President.

DR LAW CHI-KWONG (in Cantonese): I just wish to express my views on the maturity of political groups, which is one of the factors of consideration in the report of the Chief Secretary for Administration.

I assisted the forming of the United Democrats of Hong Kong (UDHK) in 1990. I took up the post of secretary of the UDHK in 1991 and since then I have been working with the Democratic Party for nine years. With regard to organizing the development of political parties, I have some very profound feelings after reading the Chief Secretary's report. He said that the membership of various political parties was still relatively small and members of the general public still showed little interest in joining political parties. Nevertheless, I consider that this is somewhat reversing the cause and effect to use this as an indicator or a factor for consideration. Today, political parties are subject to

tremendous restrictions as far as development is concerned, for they can only take part in the elections of District Councils and the Legislative Council. However, there are only 60 seats in the Legislative Council and most of the seats are returned by functional constituencies according to a mechanism of seniority; political parties can hardly win those seats.

As to the issue of the general public showing little interest in joining political parties, it is also a result of the restrictions imposed on the functions of political parties under the present political system, as they are unable to bring their functions into full play. Provided that the Chief Executive is returned by direction election and political parties are able to take part in the election, then I believe the whole scenario can be changed overnight. For that reason, once the scope is broadened to allow the Chief Executive to be returned by direction election, I believe tens of thousands of people will show interest in joining political parties, because this will bring to light the substantive significance of their participation as well as their concrete functions. In that case, more people will be happy to participate in all this.

The Chief Secretary mentioned in the same paragraph that "there are quite a number of more experienced members who are well seasoned in dealing with business in the legislative and district councils. However there are only a few who have experience in public administration or in running the government." I have a more profound feeling about this. During the years of the UDHK or the succeeding Democratic Party, a number of party members had to secede from the party to which they belonged once they were promoted to a certain position or rank. A retired veteran member, who had once quitted his party after he was promoted to a certain rank, rejoined the Democratic Party recently since he has already retired. Come to think about this. How can we find a politician who has experience in public administration or in running the Government? According to the logic of the Chief Secretary, does it mean that no one should do that? This can only be achieved on the condition that the Chief Secretary intends to introduce fundamental changes to the Administrative Officer system by handing over all the administrative tasks to political parties. That is, anyone who assumes office as the Chief Executive is free to recruit tens of thousands of civil servants as soon as he comes into office, then he can have experience in running the government. Is that what the Chief Secretary has been thinking? Does he wish to quash the notion that have been adopted by the entire civil service structure, in particular the recruitment of Administrative Officers? If this is the case, he should make it clear because it is worth discussion. In other

words, is the existing Administrative Officer system an obstacle to the overall development of the government of Hong Kong? This is actually not what I mean. In fact, the underlying meaning is: As long as these tasks are performed by Administrative Officers, there will be no democracy, because it is fundamentally impracticable to find some people who have substantive experience in public administration or in running the government. This is a matter of logic. So if we look at it from this perspective, then it is tantamount to dismissing the whole thing in a broad-brush manner, that is, nobody should even think about it in future.

Moreover, the report also mentioned that "political groups focus more on issues of the day and individual political episodes. They lack an overall governing manifesto and an overview in policy research in different areas." In this regard, I wish to challenge the Chief Secretary. When the Democratic Party conducted a survey about population policy some years ago, we assigned only one research assistant to carry out the task, but his salary was nothing more than one fifth of his counterpart in the Policy Bureau. Then, what was the difference between our population policy survey and the Government's survey in terms of comprehensiveness? If one says existing political parties are incapable of accomplishing certain macroscopic studies and examining far-reaching core issues, then it should boil down to a question of resources. The wages of our staff were less than one fourth or even one fifth of the wages of a staff member of the authorities, what else can he do? How can political parties conduct policy research? Once again, this is a chicken and egg question. If they cannot achieve progress, their participation in elections by means of the progress of democracy is denied, or if no additional resources could be granted to them under the current system, then how can these political parties carry out any in-depth policy research? Once again, this is the chicken and egg question.

I wish to respond to the remarks of "the public is not certain whether political groups are able to look after the interests of different sectors of society, as well as the long term interests of the HKSAR." I do not agree one particular idea, that is, why should all political groups look after the interests of different sectors of society? What notion in politics is this? Let us take a look. Which country or which political party of a certain region can look after the interests of different sectors of society comprehensively? Will things work in that way only? Is that what the Labour Party has been doing? If we have to put things in that perspective, then the Labour Party is not qualified at all. Why should all political groups look after the interests of different sectors of society? Does it mean that the Conservative Party can achieve that? It should absolutely not be a

criterion at all. For that reason, when we take the issue of political groups into consideration, we should actually give thought to a system, an overall political system, instead of reversing the cause and effect. A lot of factors are actually the result of the closed political system, but we put all the blames on these factors and make them the root of the problem. Of course, I understand that there is some connection with the maturity of political groups, but the question is, how can we make them much more mature? This can only be achieved under an opened political system which provides more opportunities for public participation. Full democracy is the only resolution.

Thank you, Madam President.

MR CHEUNG MAN-KWONG (in Cantonese): Madam President, today's debate is about the Chief Executive's report. It is a "Loyalty Dance" report presented by the Chief Executive to the Central Authorities.

The so-called loyalty is nothing but blind loyalty, a blind move, which puts heavy shackles on universal suffrage; the Chief Executive's report will chain it up for 30 full years. This is a report which pledges allegiance to the Central Authorities, a report which dances the "loyalty dance" to the Central Authorities. Firstly, it seems that he is duty-bound to pay heed to the views of the Central Authorities insofar as the political system is concerned, but he sees not the people in his eyes, he simply turns a blind eye to the people's views. Politics is the business of the people; democracy is to let the people to have the final say. A political reform report which only serves the Central Authorities, not the people, is nothing but dictatorship, it is undemocratic and it simply runs counter to democracy.

The most distasteful conclusion of the report is to "aim at consolidating the executive-led system headed by the Chief Executive". The statement is extremely communist, socialist and dictatorial. Since the Chief Executive is not returned by election based on universal suffrage, on what ground should his governance be consolidated by the people of Hong Kong? On what ground should the people of Hong Kong be led by him? On what ground should his policies, including all of his stupid policies, the 85 000 policy, the policies for the enactment of laws on Article 23, and the way he harboured Antony LEUNG in the car-purchase scandal, in addition to this stupid and ridiculous report which murdered elections by universal suffrage, be supported by the people of Hong

Kong unconditionally? The three-person task force led by Donald TSANG is going to perform the "loyalty dance" to the Central Authorities and the Chief Executive. This is a choice of his own, but do not force the general public to join him and the Chief Executive in the dance. We would rather jump into the sea than join the Chief Executive in his "loyalty dance".

Secondly, this report has contracted "democracy phobia" and "snail-paced democratization". Democracy in Hong Kong is already progressing at a pace which is even slower than a snail's. Hong Kong has been fighting for democracy for 20 years, yet democracy is still so faraway. This is a sheer shame on Hong Kong. After the people of Hong Kong have just experienced the untold hardship during TUNG's 10-year calamities, they are forced to contract TUNG's snail-paced democratization disease. The report says that it "must progress in a gradual and orderly manner step by step". Is it the case that we could only see democracy after waiting for 30 years more, 30 years plus 20 years, a total of 50 years, as XIAO Weiyun said? During these 50 years, we do not know how many youthful years and how much endeavours are made by generations of people. If this snail-paced progress to democracy, which makes the people of Hong Kong wait for half a century, is not democracy phobia and snail-paced democratization, then what is it?

Thirdly, the report treats public opinions as ants, for the Chief Executive is so autocratic that he can rub you out with only a finger. Donald TSANG's report clearly stated that around 60% of people supported universal suffrage, but mainstream public opinions only become one ninth of the actual situation of staging universal suffrage in TUNG's report, accounting for a one-ninth fraction of the overall consideration only. Moreover, in addition to this one-ninth fraction, there are eight more conditions, even the understanding on the part of the public of the Basic Law is considered one of the factors in considering whether universal suffrage could be implemented. We are talking about universal suffrage, can this be in fact a Basic Law benchmark test? Only those who have read the Basic Law over and over again be considered qualified to vote? Universal suffrage is a human right, so even if a person is illiterate, even if he knows not even a word, even if he turns not a page of the Basic Law, he still has the human right, he is eligible to vote. Why should an understanding of the Basic Law override the value of human rights? Why can it deprive a person of his right to vote? TUNG's report opposes universal suffrage, and he plays every foul he can, resorts to every conceivable means, and treats public opinions

as ants by rubbing them out single-handedly, feeling no pity for their demise at all.

Fourthly, TUNG's report is a bogus impartial report, for it is actually against democracy, smacking of political hypocrisy. Someone says that the report has only reflected public opinions strictly according to the facts as it has adopted no negative stance towards political reform or even universal suffrage. Nevertheless, please take a look at what "TUNG's nine principles" have said. "TUNG's nine principles" said that we should enable different sectors of society to participate in politics through various channels. Provided that a universal suffrage is full-scale, then there is only one channel. The so-called various channels are actually ways other than universal suffrage. Another channel at present is the functional constituency (FC). The report seeks to make FC last forever and to ensure this political institution will remain unchanged for 50 years, how can one say that this report has no stance? How can one say this report is impartial? How can this report, which uses the FC to check and balance universal suffrage and prevent universal suffrage to be implemented in the foreseeable future, be called impartial? How can it be called independent? All of TUNG's nine principles carry an anti-democracy agenda, but he is audacious enough to put on the cloak of independence and impartiality. This is sheer political hypocrisy.

Fifthly, the TUNG's report is actually a blind loyalty report, an obscurantist report, a snail-paced report, a bogus impartial but in effect anti-democracy report which belittles public opinions, tramples on public opinions, treats public opinions as ants and rubs public opinions out with a single push of the finger. For that reason, we decline to accept this report. This report is rubbish, it gets in the way of democracy and its only purpose is to be burnt by the people, so as to scour people's eyes, to kindle the blaze of democracy, to arouse public indignation to fight for the arrival of democratic election by universal suffrage.

Thank you, Madam President.

MR LEUNG YIU-CHUNG (in Cantonese): Madam President, today, as we proceed to debate on the report submitted by Mr TUNG to the NPCSC, we really feel extremely helpless and frustrated because it is a report that has neither the legitimacy nor the right rationale. It does not have legitimacy because the 6 million or 7 million people of Hong Kong have not authorized Mr TUNG to

submit this report, and in addition, it was just submitted in response to the demand of the Central Government. In addition to killing universal suffrage for 2007 and 2008, it also invited the Central Authorities to interfere with the internal affairs of Hong Kong, thus burying the "high degree of autonomy" of Hong Kong into the grave. As the report lacks legitimacy, naturally its content is illogical. Taking a global look of the report, we can see that it basically consists of distorted justifications for opposing the dual elections by universal suffrage. The whole report can be summarized in a few words, that it is "not following the Basic Law, conducting a black-box operation, distorting the views of the people and strangling democracy."

In the past, officials from the Central Authorities often criticized democrats in Hong Kong of not respecting the Basic Law, and even accused some Hong Kong people of burning copies of the Basic Law. Yet, in spite of all these, I feel that the severity of such acts could not be compared with this collaborated conspiracy between the Central Authorities and the SAR Government in amending the Basic Law. Recently, a public opinion survey centre of the University of Hong Kong released the finding of a survey on the confidence of Hong Kong people in the Central Government and the SAR Government after the recent interpretation of the Basic Law. Both confidence indices have dropped. What are the reasons? It was because both Governments had failed to live up to their pledges, having failed to implement the principles of "one country, two systems" and "a high degree of autonomy". So, they had betrayed the trust of Hong Kong people.

In fact, the act of the NPCSC in taking the initiative of interpreting the Basic Law is tantamount to announcing that the principle of "one country, two systems" has been formally replaced by "one country, one system" because in the Hong Kong system, its judicial independence has already been stripped by the NPCSC. Perhaps some people may think that it is clearly stipulated in Article 158 of the Basic Law that the power of interpretation of the Basic Law is vested with the NPCSC. However, Article 158 is at the same time drafted to protect the existing systems of Hong Kong without adopting the legal interpretation system of the Mainland. And, what are the conditions for the recourse to the interpretation of the Basic Law by the NPCSC? The provisions are as follows, "if the courts of the Region, in adjudicating cases, need to interpret the provisions of this Law concerning affairs which are the responsibility of the Central People's Government, or concerning the relationship between the Central Authorities and the Region, and if such interpretation will affect the judgments on the cases, the courts of the Region

shall, before making their final judgments which are not appealable, seek an interpretation of the relevant provisions from the Standing Committee of the National People's Congress through the Court of Final Appeal of the Region." The whole provision has not mentioned anything about the NPCSC taking the initiative to interpret the Basic Law. So obviously, the act of the NPCSC has violated the principles of "one country, two systems" and "a high degree of autonomy".

Unfortunately, the Central Government wanted to put up a tough stance. So, the act of report submission by the Chief Executive was nothing more than a show, with the Central Authorities being the director behind the scene. Anyway, given the development of events, we can come to a conclusion now, that is, the Central Authorities have absolutely abandoned the principle of "a high degree of autonomy", nor do they care about outside comments on this aspect. They just want to have control, control, and control is more important than anything to them.

In fact, in addition to not adhering to the provisions of the Basic Law, this report was also processed in a black-box operation, which has violated the established procedures of dealing with similar major issues in Hong Kong in the past. It took less than a month for the NPCSC to promulgate the interpretation and for the Chief Executive to submit the report. For this incident of the NPCSC issuing the interpretation and the Chief Executive submitting his report, the NPCSC took less than a month to complete the whole process — from making the announcement to the promulgation of the interpretation. It proceeded in an even quicker pace than the announcement of the appointment of the accountability officials by the Chief Executive in 2002. Apart from the swiftness, the whole incident was also enveloped in great secrecy, so what were the reasons? Well, they were afraid of any leakage of information, thus causing repercussions in society, and then discussions will follow. In fact, was this the usual practice of the Hong Kong Government in the past? For an interpretation issue that had significant and far-reaching consequences, it was not revealed to the people until a final outcome had been reached. In the end, the people had no alternative but to accept it, thus denying them any right to participate and discuss in the process. Could this be called "respecting public opinions"? Could this be called "respecting our high degree of autonomy"? Similarly, in respect of the report of the Chief Executive, we had requested for a prior discussion on it in this Council before its submission to the NPCSC. In the end, all the same, the Government maintained its original stance of not accepting our

views, and excluded Members of the Legislative Council, who represented the majority views of Hong Kong people. Members of the Legislative Council are elected according to the Basic Law. However, both the Central Government and the SAR Government saw fit to degrade the status of Legislative Council Members by excluding us from the discussion. And they were even unwilling to make arrangements for a meeting with Members, forcing our Honourable colleagues to become uninvited guests. Apart from not showing respect to the Legislative Council, they were actually taking the lead to negate its status which is established by the Basic Law. The people cannot help asking the Central officials, and they cannot help asking Mr TUNG: What were the reasons? Why were you so afraid of public opinions? Why were you so afraid of public opinion representatives? Why did you not have the courage to meet us even in a short meeting? Why could you meet with only those who have similar views and beliefs as yours? Are you going to call it a consultation? Why did you think that selective listening was conducive to the development of Hong Kong?

In fact, as we all know, Mr TUNG is not sensing the urgency of the people. Instead, he was sensing the urgency of those groups that could assist his Administration. He was so afraid that if the constitutional reform issue should drag on to September, the election prospects of such political groups would be affected. However, Mr TUNG absolutely could not, and I think he should not, sacrifice the opportunity for the people of Hong Kong to discuss this major issue of constitutional development just for the interests of some political groups. Such a "black-box operation" approach of the Government in hastily submitting the report will definitely lead to the strong reaction of the people. This was illustrated by the mass march on 11 April. If the Government does not change this attitude, there will be even greater reactions on 1 July as well as the election on 12 September. Does the Government like to see such strong reactions?

Of course, the Government does have its reasons for operating in a "black box", because by adopting this approach, they could fabricate public opinions. As of today, different opinion polls all show that more than half of the people support introducing universal suffrage in 2007 and 2008. But this was not reflected in the report of the three-member Task Force. Secretary Stephen LAM thought that the Government did not just consider figures in its deliberation. Right. I agree that when we discuss the issue of constitutional development, we should not just discuss the figures. But I feel that we should by no means treat

such voices of the majority as if they were non-existent, nor should we fabricate some public opinions and say that they were the views of the people.

In fact, the three-member Task Force had only met with 86 organizations, and received some 600 submissions. The figures seem to be large in number. However, in comparison with all the people of Hong Kong, what percentage do such figures constitute? Why can such numbers of people decide the constitutional development of Hong Kong in future?

Furthermore, many local pro-democracy organizations share our view, and indicated in their submissions that universal suffrage should be introduced in 2007 and 2008, that the timing is right. Why was this not reflected in the nine principles? A biased report which accepted pro-government views fully and excluded all dissenting views was considered an important document suitable for deciding the future constitutional development of Hong Kong. If the nine factors are espoused as nine hurdles, we may well feel easier because this is an optimistic way of describing them. As a result of the Government's efforts in distorting public opinions, the so-called nine principles have been inverted. Some people think that these nine principles are in fact nine hurdles. But I think this is a relatively optimistic description, because you still stand a chance of overcoming them. But my worst worry is, these are not nine hurdles, but nine portions of poison for killing democracy. People can be killed by poison, and once a person is killed, he could not be brought back to life again. Therefore, I think insofar as this issue is concerned, the most important point is our hope that the Central Authorities will not accept these nine hurdles or nine portions of poison, because we do not hope that our democratic constitutional reform could not survive and could not develop.

As for the nine principles, many colleagues have put forward a lot of views on some of them. However, I would like to discuss several points among the nine factors. One of them is the report's allusion to need of considering the interests of different sectors of society. I think this is what a democratic system seeks to achieve, that is, we must take care of the interests of different sectors of society before we can call it democracy. In fact, as we now look at the composition of this Council, we find that it is an undemocratic system, therefore many of the public opinions and the interests of different sectors of society cannot be reflected. We can see that many of the workers' rights are being

exploited, and many aspirations of the grass-roots people cannot be satisfied. Why? It is because of the existence of the elections of functional constituencies. In our functional constituencies, where do most of the elects come from? Most of them are representatives of "bosses", representatives of large consortia and representatives of interested parties. As a result, the aspirations of us, grassroots and the general public, cannot be satisfied and addressed. Why should that happen? Simply because it cannot take care of the interests of different sectors of society. Therefore, if we say that we want to take care of the interests of different sectors of society, why do we not introduce universal suffrage? Why can we not develop and move toward a normal democratic system? If some people think that their own interests cannot be taken care of, why do they not come forward to participate in this election? Election is a good method. What is the method of a democratic election by universal suffrage? The method is, if any sector feels that its interests are not protected, then please come forward to take part in the election! It is as simple as that. Why can we not do it?

Madam President, in regard to the whole process of constitutional reform, democracy is another issue that some people may worry about. They think that democracy may lead to populism and welfarism, which will hamper the operation of the capitalistic system. Madam President, in fact this is an issue frequently discussed. However, let us look at it this way: Universal suffrage prevails in many Western countries now, and all such countries have adopted the democratic system, has strong populism or heavy welfarism emerged in many such countries? Is this the case with many other Western countries as we see them? In fact, a lot of examples can show us the truth, why should we be so afraid of such things? In fact, an open system should allow the people to choose their own social systems. As long as we do not advocate terrorism which is terrible and would lead to murders and arsons, we indeed can have many choices of social system after having conducted some joint discussions and studies. If a community is open enough for democratic discussions, we think that it is not necessary for us to be excessively worried because everyone does not wish to see society move down a dead alley or towards extinction. Everyone hopes that society can move towards prosperity and stability, and the democratic system exactly ensures all these to happen.

Madam President, today, we just feel that the Chief Executive has incessantly surrendered our "high degree of autonomy". If the "high degree of

autonomy" is the design and principle of the main institution of the Hong Kong SAR, I hope the Chief Executive will not violate this principle. I hope the Chief Executive can withdraw these nine principles, so that our constitutional reform towards democracy could materialize.

Madam President, I so submit.

MISS MARGARET NG: Madam President, I thank the Honourable Frederick FUNG for moving this debate. Decisions are being made by the Chief Executive and the National People's Congress Standing Committee (NPCSC) affecting Hong Kong's fundamental interests, one after another with unprecedented swiftness. Yet, no due process is being followed or even considered. No opportunity is given to the Hong Kong public to make a representation before irrevocable steps are taken. But for the motion this evening, this Council, elected to represent the residents of the Hong Kong Special Administrative Region (HKSAR) under the Basic Law, will have been deprived of any participation in these momentous processes. It will be an abdication of responsibilities and an insult to our offices which history will not forgive.

Yesterday, the Article 45 Concern Group (Concern Group), of which I am a member, issued its Opinion No. 3 as a matter of urgency because it recognized the vital importance of the events which are taking place. In my speech, I shall incorporate as much of this Opinion as time allows me, for I endorse the views stated there wholeheartedly.

The recent Interpretation of the NPCSC promulgated on 6 April 2004 raises important constitutional issues which go to the heart of "one country, two systems".

The Interpretation requires the Chief Executive to make a report to the NPCSC as regards whether there is a need to amend the methods of selecting the Chief Executive and forming the Legislative Council. Further, it also requires the NPCSC to make a "determination" in accordance with the actual situation in the HKSAR and the principle of gradual and orderly progress under Articles 45 and 68 of the Basic Law.

On 15 April, the Chief Executive submitted a report to the NPCSC, having endorsed the first and second reports of the Constitutional Development Task Force (the Task Force). In his report, the Chief Executive stated that in his view, the methods of selecting the Chief Executive and forming the Legislative Council should be amended. He also set out nine factors to which he said "we ought to have regard" in considering how the methods should be changed.

The NPCSC is now poised to make its decision in response to the Chief Executive's report. Because of this, the Concern Group's Opinion No. 3 focuses on this aspect of the Interpretation, and does so in the context of four matters: (1) its scope; (2) its constitutionality; (3) the importance of constitutional self-restraint; and (4) the need for procedural safeguards.

In our opinion, this power of "determination" has to be carefully scrutinized. This is not a power which is actually provided for in any provision of the Basic Law. Whenever the Basic Law gives a power or role to the NPCSC, that role or power is actually spelt out and circumscribed. See, for example, Articles 17 and 18.

Even taking the Interpretation at its face value, what the NPCSC is required to determine is simply whether there is a need to amend the methods, not anything else; in particular, not what amendments to make or not to make. The determination is to be made in the light of the actual situation in the HKSAR and according to the principle of gradual and orderly progress.

This point is an important one. When the Chief Executive in his report requests the NPCSC to determine whether the method "may be amended", he is not referring to any particular proposal. He is simply asking for a determination of the need for amending the methods. A determination to that effect will give the green light as required by the Interpretation to set in motion the processes within the HKSAR.

This is clear also from the recommendation of the second report of the Task Force which is accepted by the Chief Executive.

In short, the Interpretation should not be used as an instrument to put fetters on the HKSAR which are not found in the Basic Law and thereby denude

it of its ability to make the decisions which form part of the "high degree of autonomy" promised in the Joint Declaration and given to it under the Basic Law. Nor should it be used as an umbrella for introducing political fetters under the guise of legal or further legal interpretations.

I will deal with the constitutionality of the Interpretation itself briefly. May I refer Honourable Members to the opinion of the Concern Group for the detailed arguments, copies of which I have provided to Members already.

The point is not simply whether the NPCSC, under the Chinese Constitution, has the power to interpret, supplement or even, within certain limits, to amend the laws of the People's Republic of China. The point is whether any purported exercise of the power is consistent with the constitutional scheme mandated by the Basic Law. Under Article 158, the NPCSC has the legal power to "interpret" the Basic Law. However, the amendment of the Basic Law is dealt with under Article 159, and the power of amendment is vested in the National People's Congress (NPC), not in the NPCSC.

In fact, Article 159 goes on to provide that no amendment to the Basic Law shall contravene the established basic policies of the People's Republic of China regarding Hong Kong. This is a limitation which is contained, not in the Chinese Constitution, but in the Basic Law.

This means that the NPC has, by an act of constitutional self-restraint in the form of Article 159, limited its own power of amendment. It has done so presumably because it wishes to provide a constitutional guarantee (and thus to ensure Hong Kong people and the rest of the world) that those basic policies, enshrined in an internationally legally binding treaty, will not be unilaterally changed. Among those basic principles is authorizing the HKSAR to exercise a high degree of autonomy.

This also means that the NPC, which is the highest organ of state power under the Chinese Constitution, has limited the powers of its own NPCSC. Thus, we cannot simply look at what powers the NPCSC has under the Chinese Constitution in relation to Chinese laws in general, without referring to such limitations as may be contained in the Basic Law. To treat the Basic Law just like any other mainland Chinese law is to ignore the fundamental principles of "one country, two systems" mandated under Article 31 of the Chinese Constitution.

The importance of constitutional self-restraint on the part of the Central Authorities cannot be overestimated. "One country, two systems" cannot exist unless the sovereign power is prudent in the exercise of power. Because the People's Republic of China is a unitary state, the Central Authorities have a reservoir of power which can be used to protect and enhance the "high degree of autonomy" promised to the HKSAR. It can also be used to destroy it. That is why Article 20 empowers the Central Authorities to give "other powers" to the HKSAR, that is, more powers than already specifically given. What it does not envisage is the taking away of powers already given as a part of the established basic principles of the People's Republic of China regarding Hong Kong.

Any indiscriminate exercise of power by the NPCSC will only result in the confusion of systems, the rule of law in the HKSAR being undermined, and "one country, two systems" being put at risk of becoming "one country, one system". The safeguards expressly given within the provisions of the Basic Law will become uncertain and will take on a different meaning as and when they are "interpreted" by the NPCSC.

The "legal realist" might well say that it would not make the slightest difference whether we are right or wrong in thinking that the Interpretation had added prerequisites, or that the NPCSC had purported to give itself a power of "determination" not found in the Basic Law. The "legal realist" might well indeed say that it does not matter what we think: The Interpretation must be taken as a given and that even if it is challenged, it is inconceivable that the NPCSC will rule against itself or that the NPC will countermand the NPCSC's ruling.

We are only too painfully aware of the political realities, but as lawyers committed to upholding the rule of law, we take the existence and limits of constitutional power seriously and are duty-bound to express our honest opinion if we think that those limits have been transgressed, or if the power has been exercised without due regard to the need for constitutional self-restraint or proper procedural safeguards. It is important to distinguish between interpretation and amendment (as the Basic Law does), and between the interpretation proper and what is sought to be imposed by way of "explanation" or by any other means which does not in itself have the force of law.

We all have a stake in the success of "one country, two systems". Constitutional and procedural safeguards are needed and this will require the taking of the following steps (among others):

- (a) to establish through mutual discussion and thorough consultation within the HKSAR the principles and rules governing the NPCSC's exercise of the power to interpret the Basic Law, having regard to "one country, two systems", Hong Kong's "high degree of autonomy" and keeping Hong Kong's previous systems unchanged for 50 years, including the rule of law under the common law system;
- (b) to establish through mutual discussion and thorough consultation the procedure to be adopted to give Hong Kong people the opportunity to be heard before the NPCSC decides whether or not an interpretation should be made, and if it is to be made, on the draft interpretation itself;
- (c) to establish through consultation with the HKSAR the procedure and format of the report of the Chief Executive to the NPCSC and of the scope and limits of any "determination" of the NPCSC so as to maintain the greatest degree of transparency and accountability, and especially, a procedure should be established for Hong Kong residents to require the Chief Executive to make a report if there is a need to change, but he fails to do so.

Madam President, we in the Concern Group regret that the Interpretation was made without any of the above steps being taken or even considered. In our views, meetings to explain the Interpretation after the event are no substitute. We call for more regular and open channels for dialogue between the Central Authorities and all sectors of the HKSAR, regardless of political conviction.

MS EMILY LAU (in Cantonese): Madam President, I thank Mr Frederick FUNG for proposing this motion, and I also thank you for allowing us to debate on it.

Since I took office as a Member of the Legislative Council in 1991, I have never taken part in a debate consequential to a motion on adjournment proposed under Rule 16(1) and (2) of the Rules of Procedure. Madam President, as you clearly know, the Rules of Procedure empower you to permit Members to raise issues of urgent importance for debate without notice. Certainly, as there is this

provision in the Rules of Procedures, it can be invoked but I have never ever invoked it before. Tonight, there is a need to invoke this provision of the Rules of Procedure, so that we can debate an issue which we all consider to be of great urgency and importance. However, there is not the right atmosphere in the Chamber. Why?

Madam President, similar to our debate on the Budget yesterday, the reason is that this Council is in no position to influence the result. Members left after making their speeches, and some left even without giving a speech. Madam President, let us look at another provision of the Rules of Procedure. Rule 29(1) provides that Members who wish to move a motion for debate shall give notice no less than 12 clear days before. Over the years, we have played by this rule. Certainly, there is a reason for this provision to exist. It is there to let other people know the topic for debate, so that everyone can prepare for it.

Frankly speaking, I often ask colleagues not to engage in too many debates. I have been making this point since 1991. I said that rare things are precious and so, it is best for only one or two debates to be conducted each month, but they can be more heated ones. But never mind, because I am in the minority; and there are now two debates every week. Madam President, you may agree that sometimes the topics of our debate are just a bit better than trivialities, and even for these motions, we are required to give notice no less than 12 clear days before. But why, for this topic of great urgency and importance under debate today, a notice of 12 clear days cannot be given? In fact, Mr Frederick FUNG has already given notice to move a motion for debate on 5 May. But if the debate is conducted on 5 May, everything would become spent by then. What kind of society do we now live in?

In 30 days, that is, within the month between 26 March and 26 April, there could be a call for the interpretation of the Basic Law and then a report was submitted to the NPCSC in respect of the interpretation of the Basic Law. I trust many Hong Kong people know that it is very, very likely for the NPCSC to announce on the 25th or 26th of this month that there will be no universal suffrage in 2007 and 2008. In fact, this view of the NPCSC is no secret at all. But at a speed as fast as a thunderbolt, that is, within just one month, and without consultation and when nothing is available, four procedures were completed in a row, thus precluding us from giving a notice of no less than 12 clear days under

Rule 29(1) of the Rules of Procedure. As a result, this debate can only be conducted under Rule 16(2). What sort of a world is this?

Madam President, I trust those who drafted this Rule 16(2) — I do not know who they are — would not have dreamt that this rule of the Rules of Procedure will be invoked for a debate on the most important motion in the history of Hong Kong. I think this is indeed ridiculous.

Madam President, some people are minded to wield power, neglecting justice and acting obstinately. This, we all know. But they acted so fast that even this Council and Hong Kong people did not have a chance to think, a chance to express their views. Worse still, the people were informed only after a decision had been made; and our government officials — I do not wish to hurl personal attacks at them but I must say that they do not have the slightest sense of shame — could still ask for public support. What is there for us to support? They said that it would not be wide of the mark but they did not know what exactly it was about and yet, they were still asking the people to support it. No wonder some people telephoned the radio stations, saying that the accountable principal officials had given away our "high degree of autonomy".

Madam President, last year my visit to Taiwan was criticized by many people, but I still said that the "high degree of autonomy" was not finished. But I am very worried that a couple of days later, I might have to say that it is dead for good. Today, I was supposed to attend a symposium on Taiwan at the University of Hong Kong, but at 11.00 am they called to advise the cancellation of the symposium because some of the speakers had to make a trip to Shenzhen. There is no problem with it, and the symposium is rescheduled on next Tuesday. But what does it mean to us, or what does Taiwan mean to Hong Kong? I really do not wish to think about it. But I am worried that come Tuesday when I am at the University of Hong Kong, I would be saying that our "high degree of autonomy" is dead. But while it is finished, it does not mean that Hong Kong is also finished. Madam President, I never think that democracy, freedom and the rule of law will descend from heaven. I also understand that some years ago, the Central Government still exercised some measure of restraint, as also mentioned by Miss Margaret NG earlier on. But those days of restraint are gone. I do not understand why the Central Government had been so tensed up and frightened that after the 1 July March, it had to withdraw the public security

legislation (because Mr James TIEN and the Liberal Party did not support it). And there were the District Councils elections in November in which the Democratic Alliance for Betterment of Hong Kong (DAB) suffered a crushing defeat and another march on 1 January in which some 100 000 people took part. Is it because of these that it must so harshly destroy the "high degree of autonomy" and Hong Kong people's confidence in the Central Authorities? How dear is the price?

Madam President, this has revealed that the Basic Law does not count. Annex II provides for the ways to make amendments to the elections to the legislature. A mechanism is already in place, and it is provided that the amendment be reported to the NPCSC for the record. But now, it has turned out that the amendment should be approved of by the Central Authorities instead of being reported for the record. Director LU Ping has said before that this would be decided by Hong Kong on its own, but his words just do not count now. So, regarding the remarks made by QIAO Xiaoyang, HU Jintao, WEN Jiabao or anyone else, many Hong Kong people think that they will not really count. What is written in law? All that is written in the Basic Law simply does not count. Why? It is because what is written down today can be amended tomorrow and can be interpreted the day after tomorrow. All this is calling a stag a horse. What we must do now is to cure a dead horse as if it is alive.

Madam President, I am really very angry. I am angry because while the Central Government has evidently assumed full control over the Hong Kong Government, it still seeks to destroy "one country, two systems", "a high degree of autonomy" and "Hong Kong people ruling Hong Kong" with a heavy hand. In just 30 days, within such a short period of 30 days, so many things were done. Even for some trivialities, the SAR Government usually considers it necessary to conduct rounds and rounds of consultation. But for this matter, it could be dealt with so expeditiously. Members can pretend that as if nothing has happened, but we must not think that the people of Hong Kong are as stupid as such.

Madam President, some people may think that after it is announced on Monday that there will be no universal suffrage in 2007 and 2008 and as it is unknown as to whether there will be universal suffrage in the future, there will be no problem with the elections. I do not think that this matter will come to an end. It will never go away. Madam President, we support that we should fight on in a peaceful, rational and non-violent manner. But we can also see

that the people, or perhaps more people, will resort to civil disobedience in order to express their angers, to express their resentments and to show that they do not understand why some people have given away the future of Hong Kong.

In fact, many things are making progress in the Mainland and some are even progressing at a faster speed than we are in Hong Kong. Madam President, during the past year or two, we could see that mainland officials had to step down immediately when they had committed mistakes. Insofar as constitutional reform is concerned, do Hong Kong officials have the courage to come out and say that they have given away the future of Hong Kong and so, they should no longer hold such prestigious and generously-remunerated positions and should no longer remain in office? Can we learn from the mainland officials?

Tonight, Madam President, I cannot and do not have the ability to reflect the angers of Hong Kong people. I would not say that I feel helpless, because it is meaningless to feel helpless. More often than not, I will tell the people that we must resolutely fight on. However, some people have done something which are totally unreasonable. In just one month they have made a monumental decision, the most important decision in the history of Hong Kong. Over and over again the people are not consulted, and the people are only informed of the decision as such. What do they make of Hong Kong people? Why should we tolerate all this?

Madam President, this debate tonight has given us the opportunity to express our views. But when will there be an opportunity for the 6 million-odd Hong Kong people to express their angers, to lay accusations? I really very much hope that government officials will not be so shameless. If what they have done is a disservice to their conscience, a disservice to Hong Kong people, and a disservice to the next generation, then they should do one other thing — step down! I think in our life, we should not aim only at occupying a position and receiving a fat salary. It is most important that what we do must be true to our conscience. I hope government officials will later explain to the 6 million-odd Hong Kong people why so many decisions were made in such a short period of four weeks without consulting Hong Kong people, decisions which have destroyed "one country, two systems" and "a high degree of autonomy" and yet, these officials can remain in office.

Finally, I urge Hong Kong people not to feel demoralized. From day one we know only too well that Hong Kong people must fight on. We cannot rely

on the grace of other people. Nor can we rely on the sympathy of other people. Hong Kong people will astound the world over and over again, because we will exercise strict self-restraint and we will fight for our future responsibly. Madam President, I hope that the Central Government will not say on Sunday or Monday something that will be very shocking and infuriating to Hong Kong people. At this critical juncture, I hope the Central Government will put a stop to all this before it is too late and will not do anything that makes Hong Kong people think that "a high degree of autonomy" is finished.

MR ANDREW WONG (in Cantonese): Madam President, I can say that I fully agree with the analysis of Article 45 Concern Group as presented by Miss Margaret NG earlier. On this interpretation of the Basic Law, I think even though the NPCSC does have the power legally to interpret the Basic Law because the NPCSC is given this power under Article 62(4) of the Constitution and Article 158 of the Basic Law, that is an entirely unwise move. Therefore, right from the beginning of the disputes over the interpretation of the Basic Law, I joined other Members in a signature petition and I am, therefore, named a democrat. I must emphasize that I do not belong to any political party or faction. On every issue, as long as I think I can join hands with some people, I will naturally express my views disregarding whether I hold a supportive or opposition view, and I will never abstain in the vote. I will simply speak my mind. So, there is now a new term, the "Pan-democrats", in the media. I am not sure if it has anything to do with "Pan-blue" or "Pan-green". However, I must state in unequivocal terms that I do not belong to any political party or faction. On this issue, I think the current approach is entirely unwise.

Madam President, I started to communicate with members of the public by ICQ on 1 March, and I have since collated information purely relating to constitutional development and the interpretation of the Basic Law. There is a huge stack of such information in a dozen pages. I have engaged in this activity for one month only as there was a fortnight's holiday. I cannot read out the contents, though I very much wish to, as it may take a long time. All I can say is that a substantial part of it is my opinions and Members can read them by downloading from my website.

Today, I only wish to make two points. One concerns the third paragraph of the interpretation of the Basic Law. Most of my views are the same as those of Miss Margaret NG, but there may still be some differences. I

do not agree that a report should first be submitted and discussion can start only after obtaining the approval of the NPCSC. I think there is no such provision in Annex I and so, I disagree with that. But disregarding whether that is correct or not, the third paragraph says, "The Chief Executive of the Hong Kong Special Administrative Region shall make a report to the Standing Committee of the National People's Congress as regards whether there is a need to make an amendment; and the Standing Committee of the National People's Congress shall, in accordance with the provisions of Articles 45 and 68 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, make a determination in the light of the actual situation in the Hong Kong Special Administrative Region and in accordance with the principle of gradual and orderly progress." That is, the NPCSC shall determine whether there is such need.

What is my question? My question is: If the interpretation by the NPCSC in the third paragraph is correct, assuming that it is correct, then what do those lines quoted by me just now actually mean? To put it in another way, is it a must for the NPCSC to read the report submitted by the Chief Executive which sets out the proposals before the NPCSC can determine whether there is a need to make an amendment in accordance with the two principles mentioned in Articles 45 and 68 and in the light of the actual situation of Hong Kong? And is it a must for the proposal on amendment to adhere to a gradual and orderly progress? If no proposal is submitted at all, I do not know what criteria the NPCSC will adopt a making a determination as to whether there is a need to make an amendment.

Simply enough, if, for instance, my son has grown up and wants to get married, he asks me if he can get married, and if I said that he must obtain my consent before he can do so, I would then ask my son to arrange for me to meet with my future daughter-in-law before I can make a decision. I would say: If I have not even met my future daughter-in-law, how can you marry her? Were I a father as domineering as such, that is, if my son must seek my consent before he can get married, then I would certainly ask to meet with my "daughter-in-law" first.

If there is not a proposal, I think the submission of this report which spells out nine principles is, as I said in my reply in the ICQ and rather than describing it as superfluous, basically an instance of self-protection by setting out limits to restrict room for manoeuvre which has in turn tied our own hands. So, I think

this report basically does not meet the requirement in the third paragraph, unless we request the NPCSC to make it clear that the interpretation of the Basic Law must be initiated by the NPCSC and that its approval must be sought before we can kick start discussion and submit proposals.

The second point that I wish to make has been discussed at length by Dr LAW Chi-kwong. Yet, I still wish to particularly speak on the several practical factors to be taken into account as stated in the sixth principle. These factors include firstly, public awareness of political participation; secondly, political talent; and thirdly, the maturity of political groups. Madam President, I have presented opinions that are more academic in this Council before, and I would like to repeat them today. Friedrich HAYEK was a well-known economist and also a well-known philosopher on law and politics, if I may say so. In his reputable works he said that democracy aims at universal suffrage. He said that there are generally three arguments but in his view, the first argument could not hold water. According to him, the argument that freedoms can be protected only under a democratic system did not stand and so, we should not rely on it. Why? It is because the majority may suppress the minority and so, a society where the majority has the say may still be suppressive and may deprive its people of freedoms and hence, freedoms cannot necessarily be protected. But with regard to the other two arguments, HAYEK cited the views of two other academics, one of whom is Alexis De TOCQUEVILLE, the French historian who wrote *Democracy in America*. In the view of Alexis De TOCQUEVILLE, only when there is universal suffrage, that is, only when the ruler is elected by the people by way of universal suffrage that public awareness of political participation will increase and public knowledge of participation in public affairs will increase. What does this mean? It is because under such circumstances, it will be impossible for the people to put up any pretext. For example, the people may say that they were coaxed last time, but they will have responsibility for it, or they will have to bear responsibility for being indifferent to political participation. But if the people are not given the right to make a choice, they will never mature. Madam President, this is like teaching a small child. If we always take them under our wings, protect them and cover up for them, they will never grow up. This is a very important point.

By the same token, it is only with universal suffrage that the organizations formed by these people will mature, because they can have a say. So, when the candidates returned by these people who have a say form political groups and make decisions which will ultimately affect the general public, these people's

awareness of political participation will increase. So will their knowledge of participation in public affairs. The political organizations will also improve their ability of governance. All this is putting the cart before the horse. If the people are not allowed universal suffrage, their awareness of political participation will never be raised, and there will never be mature political organizations and there will never be political talents, unless the political organizations are merely "small circles" and the political talents know nothing but to lick the boots of others. These people will certainly say that there are talents, but the people returned by these people will be unreliable. The thrust of the question is that if universal suffrage is not implemented and if powers are not given to the people, the people will never mature.

I can state in express terms that I do not agree with this report. But basically, the nine factors in the report are copied from the second report of the three-member Constitutional Development Task Force. I entirely agree with the contents of its first report, just that I have some misgivings about the point that the interpretation of the Basic Law should be initiated by the NPCSC. But concerning the second report, I can say that nothing in it is agreeable to me.

I hope that today, as you, Madam President, has said, will give us an opportunity to make clear our views and to put them on record, so that our descendants can see clearly who talk sense today. Only when a system underpinned by the freedom of speech is in place that the Government will have the opportunity to expeditiously rectify its mistakes, because if it is subsequently proven that my remarks today are correct whereas those of the Government are not, I hope the Government can then learn from its mistakes and immediately right its wrongs.

Thank you, Madam President.

MS AUDREY EU (in Cantonese): Madam President, first of all, I would like to thank Mr Frederick FUNG, and I would also like to thank the President for allowing us to debate on this very important question in this Chamber today.

Some people may ask, "What is the use of holding a debate? Maybe we should instead accept the reality." My response is, first, what actually is the reality? Madam President, the reality is, Hong Kong right now is facing a very critical problem. The three-member Task Force has also mentioned this

problem in its Second Report. Paragraph 3.27 says, ".....in reality the executive authorities and the legislature are respectively taken up by people of different backgrounds and perspectives; the executive authorities and the legislature often are able to 'regulate' (that is to act as a mutual check) but are not able to 'co-ordinate' (that is to fully complement) each other. This has had an adverse effect on the executive-led system and administrative efficiency." The report also mentions that only by carrying out the executive-led system could the administrative power be implemented. From this, we can see that the Government strongly hopes that it can have an executive-led and highly efficient government. However, under the present situation and system, this is absolutely impossible. Let us imagine, even if we say that the number of voters, which is 800, in the election of the Chief Executive is too small, then it is expanded by 800 voters to make it 1 600 or even to 3 000 voters. But his electorate is returned by 160 000 voters. How can he have any popular support? How can the executive-led system be implemented? In the Legislative Council Election to be held this September, half of the Members will be returned by some 3 million voters, while the other half will be voted by less than 300 000. In spite of this, the latter could hamper the work of the former half of Members who will be elected by 3 million voters. Under such a system, it is simply impossible for us to request them to co-ordinate with each other. It will just be wishful thinking. You said that we could not attain the goal in a single stride, and we cannot have universal suffrage. Then, I hope everyone can adopt a more realistic attitude, face the reality and see how we can solve the problem before us. It is useless to patch up in a piecemeal fashion.

Madam President, my second response to the suggestion of facing the reality is, I think high-handedness does not represent the complete truth. Some people say that, "How do we know what you say is the truth? I keep on saying that I want to pursue the truth. But why is what I have said the truth?" Madam President, the truth comes not from my mouth, it is in the Basic Law. Articles 45 and 68 spell out the truth, that the ultimate aim is universal suffrage. This shall apply to the Legislative Council, and this shall apply to the selection of the Chief Executive. Basic Law has already mentioned this ideal, I believe this is also the ideal of the Central Government, and should be the ideal of the Central Authorities. The present problem is, they said that we Hong Kong people are not mature enough, "not good enough", so we have not been able to attain this ideal. Then they presented the nine factors, explaining why we have not been able to attain the ideal. I strongly agree with what Dr LAW Chi-kwong has said,

and I also strongly agree with what Mr Andrew WONG has said just now. In yesterday's Budget debate, I already pointed out, Madam President, that I feel the situation is similar to what a Chinese saying describes, "The problem maker is shameless in having the courage to be the first one to file a complaint." This Government owns all the resources, but it could not do well in its own public policies. On the population policy alone, Chief Secretary for Administration Donald TSANG is now in the Chamber. The Report of the Task Force on Population Policy was completed last year, and it should be reviewed one year later. However, we have heard of nothing after the delivery of the report. Maybe his plate is filled up by the constitutional development. For ordinary political parties, organizations, individuals and Members, how can they have the resources to conduct such policy research? The Budget tells us the present situation, but how shall we treat the long-term figures regarding the ageing population, the quality of the population, education, health care and welfare, and so on? No, nothing at all. Now you reverse the rationale and say that Hong Kong is not yet mature to have universal suffrage. May I ask the present Government, the present ruling team, on what basis they could prove that they have the right credentials to say that they are mature enough? I agree with Mr Andrew WONG on the point that, as long as they do not let the people vote in elections by universal suffrage, and as long as they do not let political parties participate in the Administration, the people will never mature.

Madam President, sometimes the people may ask a second question. Which is more important: democracy, or the people's livelihood and the economy? Madam President, democracy, the people's livelihood and the economy are equally important. However, democracy in fact is the prerequisite because if we do not have a democratic political system, we cannot ensure that the Government will attach significance to the people's livelihood and public opinions. Therefore, it is like a tree, and the system is the trunk. We must first sort out the system before we could start discussing problems about branches, leaves, flowers and fruits. Before us now is a very significant problem, because this will affect the fate of Hong Kong in the next 10 or 20 years, and it is not just about the political systems of 2007 and 2008. However, despite our appeals over a very long period, this Government is still reluctant to initiate the discussion on constitutional development. And then surprising enough, it started to talk about patriotism in the beginning of the year, then within a month, it hoped to cast a framework on constitutional development in great haste. I feel very sorry indeed to see the Government taking such an approach.

Madam President, on the question of today, I would like to speak on a few points. First, whether it is constitutional or unconstitutional for the NPCSC to interpret the Basic Law? The people sometimes may say, "you often say that the NPCSC does have the power to interpret laws, to interpret the Basic Law, but when it does so, why do you say that it has acted unreasonably or it is unconstitutional for it to do so?" Mr Andrew WONG has also mentioned this issue just now. Of course, according to the Constitution of China, the NPCSC has the power to interpret laws, the Constitution. Article 158 of the Basic Law also stipulates that the power of interpretation of the Basic Law shall be vested in the NPCSC. Therefore, in terms of power, we agree that it does have this power. However, what does "one country, two systems" mean? What are the core meanings of "one country, two systems" *per se*? Why do we have "one country, two systems"? Why is it not "one country, one system"? Its meaning is that, the country will exercise self-restraint over Hong Kong. It authorizes Hong Kong to exercise a "high degree of autonomy", and this is not a "high degree of autonomy" which it can take back anytime it likes. It is not the case that it has the absolute power and so after it has given us some of the power it can take it back anytime later on. This has been stated in the Basic Law, it is the "high degree of autonomy" according to the provisions of the Basic Law, and the conferred power cannot be taken back easily. Even when we come to the part on amendment to the Basic Law in Article 159, it is also a manifestation of self-restraint in that the country could amend the Basic Law at anytime it likes, it does possess the absolute power, but why are there so many provisos in Article 159, and there is even a provision which stipulates that no amendment should exceed the country's established basic principles and policies regarding Hong Kong, not exceeding the established basic principles and policies of "one country, two systems"? This is a manifestation of self-restraint, not to mention the interpretation of the Basic Law.

The Deputy Secretary General, Mr QIAO Xiaoyang, said that the recent interpretation would be one plus one equals one, or it would be just an attempt to make the hand imprint deeper so as to make a clear impression. In fact, anyone with a rational mind can tell that this so-called interpretation actually is amendment. Indeed, the Constitution of China does allow supplementary enactment of laws. However, under "one country, two systems", if we want to safeguard the system of the Basic Law of Hong Kong, it cannot exercise such a power so casually. It is most saddening to me when I heard a small number of people from the legal sector — fortunately just a small number of them — say that we did not understand the Constitution of China, and that was why we made

such comments. This is really a dangerous viewpoint. The Basic Law of Hong Kong is enacted to safeguard the implementation of the common law system in Hong Kong. So they said that we opposed the interpretation, as lawyers we opposed the interpretation, just because we only knew the common law. This is really an incorrect way of thinking. Since the Basic Law safeguards the implementation of common law in Hong Kong, and under the Basic Law, the Central Authorities should exercise self-restraint, so it should not amend the Basic Law under such circumstances. Anyone with a rational mind can tell that it is making amendments. All of a sudden, the several words of "if there is a need" have been expanded into a whole paragraph, and there are three items in the interpretation. Several words are interpreted into a whole paragraph, and then they tell us they are the same, and then a report of the Chief Executive was produced, and then a confirmed report from the NPCSC,

Madam President, another point I would like to make is about the scope of interpretation. I absolutely agree with what Mr Andrew WONG has said just now that, if the scope of interpretation just covers the origin, then the several words of "if there is a need" is the complete scope, and no more than that. As such, all that the report of the Chief Executive should say is whether there is a need to make amendment, and then the NPCSC should give the "green light" once it confirms that there is a need to make amendment, and should not go beyond this point to specify other factors or conditions, because if it does, it is interpreting the interpretation, and it will be a NPCSC interpretation that is not conforming to the right procedures. I strongly hope and implore the NPCSC not to interpret the interpretation unconstitutional either this Saturday or next Monday.

Madam President, another point I would like to speak on is the procedure. During the one whole month from 26 March when the NPCSC announced its intention of issuing an interpretation of the Basic Law to next Monday when it will indicate its endorsement of the report of the Chief Executive, there has been an absence, a complete absence of a due procedure. This is a major event, even if this is just an interpretation of the Basic Law, not amending it, it is still a major event. It is really impossible for China, such a large country, to do such a thing to Hong Kong, a city with a "high degree of autonomy", in a month entirely in a "black-box" operation. I believe Chief Secretary Donald TSANG will, in his reply later, definitely say that they have already conducted a consultation and they have met with how many people and organizations, have received how

many submissions, including the one submitted by our Article 45 Concern Group (Concern Group). The consultation conducted by them was completed before the interpretation. Their report, that is the one with the relevant principles, together with their Second Report were completed on 4 April, the Children's Day, and the interpretation was promulgated on 6 April. When they drafted the report, they had no prior knowledge of the details of the interpretation. Therefore, when they said they had consulted the people or Members of the Legislative Council on matters related to the interpretation, or on the nine factors contained in the report of the Chief Executive, they were just pulling the legs of the kids. I really cannot understand why something like this could still happen in our society in this day and age, why it could be accomplished in such a short time without any consultation. Neither is this an urgent matter, nor the lack of time to do it. This is an issue which we have been raising for many years and have been saying that it is very important and should be done the earlier the better, and the better the earlier. But all along, they said there was still a lot of time to do it, and then all of a sudden they finished everything in one month's time.

Madam President, on the question of procedure and our suggestions, Miss Margaret NG, when she spoke in English earlier, has actually elaborated three major suggestions contained in the Opinion No. 3 of the Concern Group, and I am not repeating them here in Chinese.

Madam President, lastly, I would like to say that it involves not only the political systems of 2007 and 2008 because the so-called nine factors proposed in the report of the Chief Executive, the way in which the NPCSC has written its determination or resolution, and the whole process, this process in this past month will in fact constitute a precedent, and it is a very bad, most bad precedent. It is because this precedent will be followed in subsequent constitutional reforms in future. This will also convey a very bad message, that is, some Hong Kong people may think that it is immature for us to introduce universal suffrage in 2007 and 2008, then maybe we can do it in 2012 or 2017! However, this will never, never happen because the Central Authorities will not tell you, though we do not allow you to introduce universal suffrage today, we may not allow it in the next five or 10 years as well. Therefore, once every Chief Executive comes into office, the first thing the people will ask him is when he will submit his report; how his report will be written and how we should proceed with constitutional reforms. We hope to resolve this problem as soon as possible, so that we can ease our worries and focus our discussions on some other policies,

other issues, because there are many issues that have to be addressed in Hong Kong. However, the issue has been handled in the worst manner because every future Chief Executive will have to tackle this problem once he assumes his office. I really do not understand why the Central Authorities will think that this is a wise option. This is really dealing a heavy blow to the community of Hong Kong, a heavy blow to a "high degree of autonomy" and a heavy blow to "one country, two systems". In addition, it divides the people of Hong Kong, eroding Hong Kong people's confidence in both the Central Authorities and the SAR Government.

Madam President, on the issue of constitutional reform, the Central Government could actually have done better. I just hope the Central Government can, just as Ms Emily LAU said, put a stop to all this before it is too late. But the chances are very slim. Yet, both Ms Emily LAU and I hope that Hong Kong people will not give up, will not despair because I believe Hong Kong people will know how to strive for the ideal stipulated in Articles 45 and 68, the ideal of universal suffrage, and Hong Kong people will know how to strive for it. I hope they will register as voters and remember how to vote in the election.

Thank you, Madam President.

MR TAM YIU-CHUNG (in Cantonese): Well, regarding this adjournment debate tonight, some people said that there is not the right atmosphere or the debate is not given much weight. The reason is simple enough. It is because this topic has been repeatedly discussed by the relevant panel and so, Madam President, when you gave permission to this adjournment debate, I must say that I disagreed with it. Yet, I have not expressed my disagreement openly, for I understand that when you, Madam President, made a decision, we should respect it, and this, I think, is a convention.

The NPCSC endorsed a resolution on the interpretation of Article 7 of Annex I and Article III of Annex II to the Basic Law on 6 April, clarifying the legislative process required for the purpose of constitutional development in Hong Kong. Last week, the Chief Executive submitted a report to the NPCSC in accordance with the resolution, requesting determination by the NPCSC that the methods for the selection of the Chief Executive and for forming the

Legislative Council in 2007 and 2008 respectively can be amended and hence officially kicking start locomotive of constitutional development in Hong Kong.

Over the past three months, the Constitutional Development Task Force of the SAR Government has taken a myriad of measures to extensively consult the views of all sectors of the community, based on which two reports have been compiled and a conclusion drawn that the methods for selecting the Chief Executive in 2007 and for forming the Legislative Council in 2008 should be amended. The whole process has been open and transparent. The report made by the Chief Executive to the NPCSC is based on the results of consultations conducted by the Task Force. Therefore, in unequivocally stating the need to make amendment to Hong Kong's political system, the report has reflected the general aspirations of the Hong Kong community. I also expressed support for this request at yesterday's meeting in Shenzhen.

Any changes to the future constitutional system of Hong Kong must strictly comply with the principles laid down in the Basic Law, and this requirement is indisputable. It is stated both in the Chief Executive's report and the second report of the Constitutional Development Task Force that in considering how methods for selecting the Chief Executive in 2007 and for forming the Legislative Council in 2008 should be determined, it is necessary to have regard for nine factors. These factors are set out to give play to the principles laid down in the Basic Law, including "one country, two systems", "Hong Kong people ruling Hong Kong", "a high degree of autonomy", and "gradual and orderly progress in the light of the actual situation" insofar as constitutional development is concerned. These nine factors have incorporated and stressed the principles of the Basic Law and at the same time reflected the public's opinions on and expectations of constitutional development. The existence of these factors is a fact, and they cannot be ignored as if they do not exist. However, some people take the view that these factors are meant to impose hurdles and create barriers for constitutional development. I must say I do not subscribe to this view.

Regarding our position on universal suffrage, the Democratic Alliance for Betterment of Hong Kong (DAB) has since 1997 written into our party platform the notion that we will strive for universal suffrage. We expressly advocate a review of the development of Hong Kong's constitutional structure before 2007, and we will strive for the return of the Chief Executive of the following term by universal suffrage as well as the return of all seats of the Legislative Council by

universal suffrage of proportional representation. Being a political organization actively participating in elections, we have clearly stated that these are our goals. At yesterday's meeting in Shenzhen, I also expressed this position; but at the same time, we agree with the need to comprehensively consult the public on the future constitutional development in Hong Kong, in order to listen to views from all sides and to forge a consensus in society. We will make ongoing efforts to create favourable conditions for universal suffrage in accordance with the principles and procedures stipulated in the Basic Law.

The DAB hopes that the NPCSC will endorse the Chief Executive's report early and determine that the methods of elections can be amended, so that we can start substantive discussions on concrete amendments concerning the future constitutional development. From the opinions collected by the Task Force, views on the pace of constitutional reform are still diverse in the community of Hong Kong. On the one hand, many public opinions have called for universal suffrage as soon as possible, but on the other, many people have expressed concern over immediate implementation of universal suffrage on a full scale. Recently, I have heard another opinion and that is, some people hope that the disputes over constitutional development can come to an end early, so that all sides, including the Government and the community, can focus on economic development and solutions to livelihood problems.

We, therefore, hope that all sectors of the community can strictly observe the principles and procedures stipulated in the Basic Law as well as the determination of the NPCSC, holding rational discussions on the various options of constitutional development and eventually coming up with an option which is acceptable to all and which can balance the interests of all strata.

Thank you, Madam President.

MR MICHAEL MAK (in Cantonese): Madam President, together with two other Members, Mr Frederick FUNG and Mr WONG Sing-chi, I managed to go to Shenzhen this morning and met with LI Fei, Vice-Chairman of the National People's Congress Legislative Affairs Commission, to express our views. Last night, I was contacted by officials from the Liaison Office of the Central People's Government, who tried to lobby me to cancel our trip to the north, saying that there would be negative impact on my bid for re-election should I go ahead with my gatecrashing plan. After an in-depth consideration, however, I

decided not to waver because of the analysis of the so-called voting behaviour. Instead, I replied resolutely that even I, as a representative of my voters, might be detained — in the sense that either my home visit permit or myself might be detained — because of this morning's action, I will not hesitate to faithfully reflect the people's views to the Central Government through a lawful, logical and reasonable channel. In particular, we disapprove of the black-box approach taken by the Chief Executive in preparing this report. It is a great pity that two Members, Ms Cyd HO and Mr James TO, could not make it across the boundary. At the same time, we failed to meet with QIAO Xiaoyang, Deputy Secretary-General of the NPCSC. Instead, we were received by LI Fei, Vice-Chairman of the National People's Congress Legislative Affairs Commission in the end.

We should not blame the Central Government for ignoring the views of Members of the pro-democracy camp because even Mr TUNG Chee-hwa, as Chief Executive of the Hong Kong Special Administrative Region (SAR), has chosen to ignore the requests made by the public on numerous key issues. Subsequent to its attempt to bulldoze the enactment of legislation on Article 23 of the Basic Law last year, the Government has recently made another attempt to bypass this Council on matters of constitutional development and, without consulting the people of Hong Kong, produced a report like this.

Without publicly consulting the people of Hong Kong and this Council, the Chief Executive submitted the "Report on whether there is a need to amend the methods for selecting the Chief Executive of the Hong Kong Special Administrative Region in 2007 and for forming the Legislative Council of the Hong Kong Special Administrative Region in 2008" to WU Bangguo, Chairman of the NPCSC on 15 April. The Second Report of the Constitutional Development Task Force (the Task Force) was submitted to the Chief Executive on 14 April, just one day before the submission of the Chief Executive's report. The Secretary for Constitutional Affairs was appointed by the Chief Executive to hurriedly deliver the Chief Executive's report to Beijing on 15 April. It was most amazing that the Chief Executive could manage to digest the Second Report within a day, or less than a day, and produce his own report. Our previous impression about the slow motion of the Chief Executive was thus completely changed. I hope the general public in Hong Kong will remember that they must change their impression of the Chief Executive, particularly after the publication of this report. Would he give us the same impression we have gained in the past couple of years when he deals with other issues? Yet, I am a pretty worried.

Madam President, given his manner of work, how can he truly, and full reflect the genuine opinions, position and values of the people of Hong Kong on important subjects and matters?

Constitutional development is closely related to the well-being of the entire community. By cutting the Gordian knot, the Chief Executive has completely bypassed this Council and deprived the public of their rights to participation in constitutional discussion. Deputy Secretary-General of the NPCSC, QIAO Xiaoyang, was in Shenzhen these two days to meet with people from various sectors of the territory. Madam President, he had made it clear that he was to meet with people from various sectors. We are certainly one of these people, and we certainly are representative. Many of the 60 Members in this Council have attended the meeting. Yet I trust they have not attended the meeting in their capacity as Members of this Council. This is most strange. Despite the claim that the purpose of the meeting is to listen to views from various sectors, they did not attend the meeting as representatives of this Council. I have no idea what they represent. I finally found out the reasons after making the trip with Mr Frederick FUNG today. We were told that we had been represented by the Chief Secretary for Administration. I wonder how the Chief Secretary could possibly represent us in the constitutional or other frameworks. We were chosen by the public as their representatives; yet we were publicly rejected. I was heart-broken to learn that we had been labelled as "gatecrashers". How could I do that? I was merely trying to enter my own country. I was in possession of a valid home visit permit! I am a Chinese too! It has been years since the reunification of Hong Kong with the People's Republic of China. Why are we not qualified to return to our home country? Although three of us managed to go back, why could the other Members not enter the Mainland to reflect their views? Moreover, why were other Members not invited? They owe us an explanation.

For this reason, I told LI Fei that he had acted in a very foolish manner, and that he had impressed the general public, the media and us that he had deliberately rejected us. Actually, I was very sincere to be co-operative, and hoped he could give us a report. It was also my wish that I could accept the report as far as possible. He did not want the voices of opposition to be too loud, did he? How could it be claimed that he was sincere when he had refused to meet with us for even a short while? It was said that Mr QIAO and Mr LI were quite sincere in meeting us. This is because I was told by officials from the Liaison Office yesterday that Mr QIAO was sincere in meeting us but, owing

to problems with the arrangement, he could not meet us in Shenzhen today. We clearly told Mr LI today to bear us five minutes to meet, or even just have a handshake, with Qr XIAO. Nevertheless, our request saw no avail eventually.

Madam President, I have asked several times what it means by "sensing the urgency of the people and thinking in the way the people think", as we were frequently told by the Chief Executive. Sometimes, I really felt disheartened by the Chief Executive's seemingly maturity and cool-headedness. Despite what he has promised, what he has done is completely worthless. He has often acted in such a self-contradictory manner. Constitutional development is the best example of the urgency of the people. It is the wish of the people that they can elect their own Chief Executive and their Legislative Council by casting their own votes. Yet the Chief Executive has chosen to reject and refuse to listen to their views. Failing completely to respond to the possibility of returning the Chief Executive and the Legislative Council by universal suffrage in 2007 and 2008, the report submitted by the Chief Executive has even imposed nine hurdles. Madam President, there are altogether nine additional hurdles!

One of the nine factors is to pay heed to the views of the Central Authorities. Where in the Basic Law is it stipulated that the views of the Central Authorities must be heeded? The other day, a Member stated in a meeting held by the Panel on Constitutional Affairs that the nine principles can all be found in the Basic Law. I greatly admired Mr SZETO Wah for it was he who rebutted the statement and criticized the Member for being utterly ridiculous. Mr SZETO Wah, if given a chance, I hope you can say it again to let me savour how you rebuked that statement.

The report has also stated that the substantive power of appointment of the Chief Executive by the Central Authorities must not be affected. At the same time, executive-led governance, led by the Chief Executive, must be consolidated. In other words, development must progress "step by step" and that "the pace should not be too fast". Subsequently, hurdles were secretly erected one after another. The Chief Executive has also mentioned the need to, taking into account the actual situation, consider the aspirations of the public and examine such other factors as the economic development, social condition, civic awareness of taking part in politics, and so on. Nevertheless, the fact that the report contains not a single word about the public's aspirations for universal

suffrage does illustrate that it has failed entirely to faithfully reflect Hong Kong's actual situation to the Central Authorities.

Since 1982, Hong Kong has held seven elections for the District Councils, five for the Urban Council and the Regional Council, and four for the Legislative Council. In the District Council elections held on 23 November last year, the voting rate rose sharply by more than 8% to 44.06%, up from 35.82% in 1999, with the number of voters reaching 1.06 million. In addition, Hong Kong has fully met the requirements for the introduction of universal suffrage in many aspects such as economic development, education levels, the rule of law system, social harmony, information flow, and political culture. Moreover, Hong Kong possesses candidates capable of administering Hong Kong. So, why did the Chief Executive not reflect this actual situation in the report?

I have always maintained that the number of people who took to the streets during the 1 July march last year is 1 million. They have voiced out very clearly their request for universal suffrage, and for the Government to return the political power to the people. In the District Council elections held last year, 1.06 million people cast their votes. This year, 100 000 people took to the streets on New Year's Day; 20 000 people joined the 11 April rally. People joining these marches have all made a similar request for democracy. I have to tell Members the fact that despite the sun and rain, we will take to the streets as planned. I would like to urge Members to take actions to show their determination to others, including the public, on 1 July. I do not expect any surprise in the report to be published on the 26th. It is simply impossible that we would be told universal suffrage might be introduced in 2007 and 2008. Mr WONG Yuk-man once said we might have to wait until 2047 before there is a chance for universal suffrage to be introduced. By that time, his son would have become a middle-age man.

I hope QIAO Xiaoyang, Deputy Secretary-General of the NPCSC, in addition to the three-member Task Force led by the Chief Secretary for Administration, can hear our voices through this debate. It is a great pity that, for reasons unknown to me, other Members are nowhere to be found here in this Chamber. I guess Members should share their ideas. Right? I do want to listen to their views. I would love to listen to the ridiculous remarks made by the Member mentioned before. I really want to ask him where in the Basic Law can the nine principles be found.

Madam President, I would like to thank Mr Frederick FUNG for giving us an opportunity to express our views.

MR LEE CHEUK-YAN (in Cantonese): Madam President, today, we are here to debate a motion of urgency. This shows how rapidly things have happened during the past month. Announcement on the interpretation of the Basic Law on 26 March, interpretation of the Basic Law on 6 April, submission of its second report by the three-member Task Force to Mr TUNG on 14 April, and Mr TUNG's submission of his report on 15 April. Then the NPCSC will hold discussions on 25 and 26 April. From the interpretation of the Basic Law to Mr TUNG's report setting out the nine barriers, all has happened within just one month, and the NPCSC will immediately hold discussion next week. Things have happened at an astonishing speed. Sometimes I will think about why things were done so quickly. I very much agree with Mr Michael MAK who said earlier that Mr TUNG is not a man of fast work. I remember clearly that when Mr TUNG talked to us and when I brought up the issue of democracy, he would invariably say that it should proceed slowly. He said that democracy should proceed slowly. But could it be that the strangling of democracy must be fast? What exactly has happened? I think Mr TUNG obviously is not possessed. Actually, the Central Authorities are possessed. Why do the Central Authorities have to act so fast?

I remember that after the 1 July March, the Central Authorities expressed great concern and after that, there was a new phenomenon and that is, Mr TUNG has to step aside as the Central Authorities have since assumed the leading role. Having assumed the leading role, they looked back on why they had lost the battle of Article 23 legislation — it was a battle from the angle of the Central Authorities. I think they have drawn two conclusions: Firstly, the matter had been dragged on for too long and this had given public opinions the opportunity to gather strength, thus leading to a march by 500 000 people or 1 million people — the numbers claimed by different sides are meaningless — resulting in Article 23 legislation being overwhelmed. I think this is their first conclusion.

The second conclusion is that being fierce and harsh only will get them nowhere. Apart from being fierce and harsh, some measure of pacification is also necessary. While adopting harsh policies, they must appear to be gentle and kind, and they must soothe the public with sweet talk. So, looking back on

the past month or so, I absolutely think that they have adopted this strategy. First, they must act and make decisions swiftly and that is why everything had to be completed within one month. You "chop" here, and I "chop" there and then you "chop" again, seeking to solve the problem with swift and ruthless actions. Then, the smart part is that an explanation was given after the "chopping" to tell you why you were "chopped". Not a single word was said before the "chopping". There was no consultation. An explanation was given only after the "chopping", and this is smart. Besides, since a harsh and stern approach did not work last time, some sweet talk is also necessary apart from harshness and sternness, and that is why communication between the Central Authorities and Hong Kong people evidently began to increase in the past month. However, for each such instance of communication, communication came only after all the "chopping" and after certain rights had been taken away. This is apparently a policy adopted by the Central Authorities towards Hong Kong now.

What has happened over the past month makes me think of a movie recently. But I must state that I have not watched this movie. It is "The Passion of the Christ". I know what it is about even though I have not watched it. As Members may know, it is about the suffering of Jesus Christ as recorded in the *Bible*. I think what has happened in Hong Kong recently is a repetition of "The Passion of the Christ". As Members may know, the protagonist, Jesus Christ, is a Galilean. By whom the Galileans were betrayed ultimately? It was the Israelis who suggested to crucify Jesus, and who were the powerful elite of the Israelis? The Pharisees. The Pharisees handed Jesus to King Herod who said that he could not make a decision to crucify Jesus and so, Jesus was handed to Pilate. Then Pilate said that it was you who wanted to crucify Jesus and I shall wash my hands, for it was you who wanted to crucify him. Finally, Jesus was crucified.

The situation in Hong Kong is actually the same. If we consider democracy as Jesus, the Pharisees in Hong Kong are the elites at the centre of power. What do the elites at the centre of power say every day? They say, "crucify it". Apart from this, and according to what is written in the *Bible*, apart from saying "crucify him", the Israelis also said that they had no king but Ceasar. The Pharisees in Hong Kong said, "crucify it" and "we have no master but the Central Authorities"; and they keep on shouting. But their reason for crucifying it is actually very ridiculous. TSANG Hin-chi said that chickens cannot be forced to lay eggs and if they are forced to lay eggs, they will die. I have no idea how chickens lay eggs. Nor have I ever forced any chicken to lay

eggs. I wonder when TSANG Hin-chi has forced chickens to lay eggs. We are human beings, and we know only too well the course of pregnancy. That is, a baby is born after a 10-month pregnancy. If the baby is forcibly held back from natural delivery, the baby will die and so will the mother who bears it. This is the crisis we now face in Hong Kong. If Hong Kong does not have democracy and if we do not allow the natural birth of democracy, democracy will die. In that case, could its mother, Hong Kong, be spared from death? At present, the Government cannot in the least secure the trust of the people in its governance. If this persists, it would be difficult to solve the very serious problem of governance simply by patching things up here and there. If we forcibly deter its birth, we would eventually have ourselves killed as a result of it becoming bloated inside us.

Another Pharisee is David AKERS-JONES whom we have not seen for a long time. He came out suddenly and said that Hong Kong could not be made a laboratory for democracy. Madam President, I wish to tell Sir David that Hong Kong has long been a laboratory. We have allowed TUNG Chee-hwa who was returned by "small-circle elections" to experiment on us for six years and alas, the experiment will continue for another four years, making it a total of 10 years. No one has said that this is an experiment, but universal suffrage and democracy are said to be experiments. Now that the experiment has proven that he is getting nowhere. But when we propose democracy since he is proven to be getting nowhere, democracy is said to be an experiment.

Another Pharisee, CHAN Wing-kee, opined that the Basic Law provides that everything shall remain unchanged for 50 years and it has only been several years now. I really do not know how he would interpret gradual and orderly progress. Then he said let us proceed step by step. Does it mean that we will have to wait for 50 years? Is it that the ultimate goal of universal suffrage will be achieved only after 50 years? If you tell the people that the ultimate goal of universal suffrage will realize 50 years later, everyone will consider this ridiculous. Now we know that the undertakings of the Central Authorities are a sham. It is not our wish to see that people be given the impression that the undertakings of the Central Authorities are but a sham.

Some time ago a delegate to the Chinese People's Political Consultation Conference, CHAN Chun-tung, said that representatives of the business community are lacking in the political arena. Indeed, representatives of the

business community are lacking in the political arena, because since they are already in control of Hong Kong, it is unnecessary for them to be represented. So, why should the business community participate in politics and why should they engage in politics? The entire political system is basically favourable to the business community. If it is hoped that there will be representatives of the business community in the political arena, the only way is to conduct direct elections right away. Only when direct elections are implemented will there be representatives of the business community. They have money, so why should they worry about not finding any talents?

So, it is very clear that Hong Kong will eventually be killed by these Pharisees. King Herod was only a puppet who had little use. All he knows is to pass the buck to the Central Authorities. It is also easy to play the role of Pilate too, for he was not the one who wanted to crucify Jesus. It was the Pharisees and the Israelis who wanted to crucify Jesus. He could "wash his hands" and said that he had nothing to do with it, for his hands were not stained with the blood of Jesus. By the same token, he can say that the blood of Hong Kong's crucified democracy is not in his hands, for it is the elites at the centre of power in Hong Kong who did it.

So, this scenario of Hong Kong now is one to betray Hong Kong and to betray democracy. But I still cannot decide who should be Judas. But having listened to Mr TAM Yiu-chung's speech, I would say that the Democratic Alliance for Betterment of Hong Kong (DAB) is Judas and in saying so, I have already shown due respect to him. The DAB has betrayed democracy. They consider themselves apostles of democracy because it is written in their party platform that they definitely support the strive for universal suffrage in 2007 and 2008. But recently, the DAB has only been making such remarks as Hong Kong people should be consulted, or a consensus should be reached among all sectors of the community. Indeed, their objective has obviously been blurred. Therefore, they are surely Judas. The name Judas is already carved on the forehead of the DAB. So, it is clear that Hong Kong will be killed by Judas, by the Pharisees and by King Herod, and this is the situation of Hong Kong.

But let us not forget the story of "The Passion of the Christ". Jesus Christ came back to life three days later and the tomb was empty. I think Members should give some thoughts to it. While Hong Kong is facing this scenario, I do not think that Hong Kong is hopeless. It is most important that we believe in one thing, that is, not all Hong Kong people are Pharisees. We

must place trust in Hong Kong people, particularly as we see that many people stood up on 1 July for their own rights and for justice. These people are our hope. They are our foundation. Today, I would like to make an appeal to Hong Kong people. While we said explicitly earlier that TUNG Chee-hwa has set nine barriers and even though he has set nine barriers or nine times of nine barriers, that is, 81 barriers, let us pay no attention to them. It is because at all times and over the decades, Hong Kong people have been overcoming hurdles as we are now. What sort of situation have we not overcome before? All in all, democracy is our goal. Let us overcome the hurdles and charge ahead to cross the "mills barriers". I believe Hong Kong can finally achieve democracy.

Moreover, I also wish to make an appeal to the Central Authorities here. We agree on one point and that is, the Central Authorities do have the power to do this, and this is indisputable. Nonetheless, the Central Authorities have made undertakings. The Central Authorities have pledged that there will be "one country, two systems". Now, all we hope is that the Central Authorities, when considering whether to exercise their power, will bear in mind their undertaking of "one country, two systems". Besides, when exercising this power, they must be reasonable and civilized. They must not foul. They must not act shamelessly and resort to black-box operation, neglecting everything and making explanations only after the "killings". I do not know whether or not QIAO Xiaoyang will make another visit to Hong Kong next week. If he will, I will be very afraid because that would not be a good sign. If he is not coming, then I will be relieved. I wonder if the Chief Secretary for Administration can tell me if he is coming or not. He usually comes when he has "killed" something. If he is really coming next Monday, does it mean that a decision is already made in respect of the 25th and 26th and that they are already prepared to "kill" something, and they come to Hong Kong only to attend to our wound after the "chopping"? We need no one to attend to our wound. All we hope is that we are not "chopped" by anybody. So, I hope Deputy Secretary-General QIAO and the Central Authorities will truly respect the wish of Hong Kong people and give Hong Kong people an opportunity, an opportunity to improve the governance of Hong Kong. I hope they will not interfere and will not "chop" us down. Thank you, Madam President.

MR SZETO WAH (in Cantonese): Madam President, the interpretation of the Basic Law came as swiftly and suddenly as a thunderbolt. The Chief Executive

has practically applied what he has learned, for his report on the methods for selecting the Chief Executive in 2007 and for forming the Legislative Council in 2008 was also submitted to the NPCSC at lightning speed. The NPCSC has also acknowledged the report in the same manner. Over a period of time recently, things have happened like thundering and lightning, as if we were on the eve of a violent thunderstorm. Why has all this happened? The thundering and lightning are meant to scare Hong Kong people out of their wits, so that they would be so terrified that they would not know what to do. When no one actually knew what it was all about, things were finalized, dashing all hopes for universal suffrage and nipping discussions on constitutional reform in the bud. This has strangled the development of democracy in Hong Kong. More importantly, this has saved the royalists from having to expose their true colours in the discussion and hence to "die a hero for the Party" and be abandoned by voters in the Legislative Council elections in September.

The NPCSC has only required the Chief Executive to submit a report on whether there is a need to make an amendment to the methods of the elections. But while the Chief Executive considers that the methods should be amended, he has "beefed up" his report by adding nine factors. In fact, his purpose is to negate his claim that the methods should be amended made in the front with the nine factors at the back. The claim that the methods should be amended, so to speak, is only a pretence.

If the methods should be amended, how should they be amended? Given the limits of these nine factors, there is no hope for universal suffrage. If the composition of the Election Committee which returns the Chief Executive is amended from 800 members to 801 members or the number of directly-elected seats of the Legislative Council is amended from 30 seats to 31 seats, is this considered an amendment? Is this considered gradual and orderly progress? I trust such a proposal would not be endorsed by a two-third majority of the Legislative Council. However, the fourth point of the NPCSC's interpretation has already provided some leeway as it is provided that under such circumstance, that is, if the proposal is not passed, the original methods of election will be followed. In a nutshell, constitutional development will remain *in situ* and everything will stick to the old rut. They would say, "Not that we do not allow an amendment. Just that you do not endorse it and so, let us stick to the old way." This is my projection of the future development.

The first of the nine factors reads, "The HKSAR, in examining the direction and pace of its constitutional development, must pay heed to the views of the Central Authorities". I think the Chief Executive, before putting forward these nine factors, has already paid heed to the views of the Central Authorities. For given his level of political wisdom, he could not have thought of such limits.

The third factor reads, "No proposed amendments shall affect the substantive power of appointment of the Chief Executive by the Central Authorities". What does it mean by substantive power of appointment? It means this: "Do not return anyone whom I will not consider for appointment. The elect must be hand-picked by me before the election, so that I will not have to exercise my right to veto the result after the election." As such substantive power of appointment prevails, Hong Kong people are deprived of their substantive right to election.

The fourth factor reads, "Any proposed amendments must aim at consolidating the executive-led system headed by the Chief Executive and must not deviate from this principle of design". The word "executive-led" is not found in the entire Basic Law. What sort of system is it? To put it plainly, this factor is saying that the Legislative Council returned by the new proposal cannot have sufficient powers to check the Chief Executive and that it can only be a weak, window-dressing structure dominated by the royalists. This is the way to consolidate the "executive-led" system and to guarantee the "executive-led" system.

The sixth factor mentions "understanding on the part of the public of 'one country, two systems' and the Basic Law, public awareness on political participation, the maturity of political talent and political groups", and so on. How should their maturity be assessed? Now that there are language benchmark tests for teachers. Should we also hold a benchmark examination on political awareness or a benchmark examination on political reform?

The seventh and the eighth factors provide for the following: "enable different sectors of society to be represented", "to participate in politics through various channels" and "consideration be given to the interests of different sectors of society". All these are tantamount to announcing the eternal existence of functional constituency seats in the Legislative Council.

The ninth factor reads, "Any proposed amendments must not bring about any adverse effect to the systems of economy, monetary affairs, public finance and others as prescribed in the Basic Law". Does the word "others" cover too wide a scope? Does it sweepingly cover all the systems? How should an effect be assessed to be adverse or otherwise? Who should make the assessment?

These nine factors are nine giant mountains in the way of the development of democracy in Hong Kong. In the folk legend about "Yu Gong" (愚公), Yu Gong only had to remove two mountains. So, Hong Kong people must at least have determination and perseverance 4.5 times as much of those of Yu Gong, in order to face up to our destiny and to take destiny into our hands.

PRESIDENT (in Cantonese): Members, I should have told you an hour ago that we must finish all the business on the agenda today, come what may. Otherwise, many meetings would be affected if this meeting should continue tomorrow, in which case the normal proceedings of other panels and committees of the Legislative Council would be disrupted. For this reason, we will have to stay a bit longer here tonight, because there are still a number of Members who wish to speak.

MS CYD HO (in Cantonese): Madam President, we have bothered you so much tonight by keeping you here for so long to keep us company in our discussion. I do wish you good health.

After the interpretation of the Basic Law by the NPCSC, the Central Authorities have obtained the power to initiate constitutional reform. This is not written in any of the provisions of the Basic Law. It is a new thing derived from the interpretation of the Basic Law, created out of nothing. Now there is also the Chief Executive's report, that is, the Chief Executive shall submit a report to the Central Authorities for them to make a determination before a decision will be made on whether to initiate democratic constitutional reform. In the Basic Law there is also not such requirement for kicking start the process. This is a very important matter and yet, it happened in an extremely hasty manner. Insofar as this report is concerned, from 6 April when the NPCSC announced the need for its existence to 14 April when it was formally born and printed, there were only eight days, and this report, which consists of 1 500

words only, has decided on the many barriers to Hong Kong's democratic constitutional reform in the future.

In fact, the entire consultation on constitutional reform has spanned a very short time. In January when the Chief Executive delivered the policy address, he proposed out of the blue to implement democratic constitutional reform. The three-member team started its work on 7 January and already completed its first report in mid-March. On 26 March the interpretation of the Basic Law was announced and on 6 April the Basic Law was actually interpreted. Before 6 April, we had not the slightest idea what law would be interpreted. Nor did we know the contents of the interpretation. Then on 14 April, there were already a second report and the Chief Executive's report. These procedures are many times worse than those of the Article 23 legislation. But precisely because things had happened so quickly that public attention was not given any chance to converge. I believe this is the wish of the SAR Government and the Central Authorities. They hope that with procedures conducted as fast as such, the people would be struck by these barriers, just like a sudden peal of thunder leaves no time for one to cover the ears — a description most frequently heard tonight.

Within such a tight timeframe, how can an instrument with far-reaching impact on Hong Kong be completed in such a short time? Madam President, it is most enraging that we did have plenty of time for this in the first place, and during your office as President of the Legislative Council, you have listened to many motion debates urging the Government to implement democratic constitutional reforms. Ms Emily LAU proposes a motion in this connection every year, and Mr LEUNG Yiu-chung also proposes to amend the Basic Law every year. The Government, however, has not heard us. There was even one occasion when the former Secretary for Constitutional Affairs, Mr Michael SUEN, said that reform would be introduced in October, but the matter was simply shelved in the end. The brake was applied urgently. The brake was stomped on, but by whom? No one knows.

Last time when we met with the Chief Executive, he said gleefully that after the interpretation of the Basic Law on 6 April, he heard many voices urging him to proceed at faster speed. Finally, he did act very quickly for he had written these 1 500 words in 14 days. I really found it very strange as to why within these eight days, he suddenly heard these voices, voices from nowhere, and then he could be as fast as such. But over the past six years, he simply did not hear anything. Is this the best evidence of his listening only to one side?

Or a decision was already reached on this report and so, the report could actually be written in less than eight days? Did the Chief Executive listen to the people around him or did he listen to the Central Authorities or has he been taking dictation from somebody, writing whatever he had been told?

Madam President, this report cannot represent Hong Kong people. First, Mr TUNG was not elected by us "one person, one vote". He had 712 nominations. He did not obtain any vote in the last election, for they were merely nominations. But since this has happened, should he, in compiling this report in eight days, observe the least bit of ethic by making public the report for approval by the people? Chief Secretary Donald TSANG also promised us that his second report would be published openly for public discussion and consultation before its submission to the Central Authorities. But what happened ultimately? Can Chief Secretary TSANG later speak on this previous undertaking and tell us why things have developed to such a sorry state? You dared not speak your mind, and this is more infuriating to Hong Kong people. Earlier on when Mr LEE Cheuk-yan talked about Judas, I thought he was referring to Chief Secretary Donald TSANG. To uphold the least bit of morality, they should publish this report for approval by Hong Kong people. It must go through an approving process, so that we can see if there is any misprint and if there is any mistake in its contents. After consultation, and with the agreement of the people, the report can then be submitted; if the people disagree with it, efforts should be made to improve it.

Insofar as the process of interpretation is concerned, the Chief Executive is not confined to writing only one report. He can write two, three or four reports. But when we met with the Chief Executive on that day, he turned us down almost instantly. So did Chief Secretary Donald TSANG. They said that several months were sufficient for consultation, and it had never occurred to them that they were wrong. Chief Secretary, do you remember that when you read the shadow policy address of the Democratic Party last year, you also spotted some wrongly written characters? Why were you so confident that you think you can fully represent Hong Kong people in compiling that report in a process as fast as such for submission to the Chief Executive who will then submit it to the Central Authorities?

The process of consultation on the Task Force's report is not any better. Right from the outset, limits were set in respect of principles and legal issues.

As a result, the targets of consultation and the number of people being consulted are grossly insufficient. So far, it has only met with 86 organizations and received 600-odd submissions. This is an extremely, extremely, extremely small number. These organizations may claim that they have many members and that they represent many people. But Chief Secretary, let us not deceive ourselves as well as others. Many people joined some organizations only to enroll in some courses or because these organizations offer book coupons at cheaper price and offer a variety of discounts, rather than subscribing to the political stance of an organization. Therefore, if the several committee members and leaders of these organizations are said to be representing tens of thousands of members, let us not deceive ourselves and let us not deceive Hong Kong people.

In the early part of his report the Chief Executive gave an account of facts. Then he made a remark which, I believe, Members will not disagree. He said that he considered that the methods for selecting the Chief Executive in 2007 and for forming the Legislative Council in 2008 should be amended, so as to enable Hong Kong's constitutional development to move forward. Regarding "move forward", I hope its meaning is really to move forward, not to move backward. But how fast should we move forward? One will feel bitterly disappointed after reading the nine factors set out in the subsequent part. It is because these nine factors are actually walls, and each of these walls is higher than the preceding one. They are even higher than the barriers of Annexes I and II to the Basic Law. Annexes I and II already provide for a procedure involving many parties and requiring agreement from three sides before the mechanism of democratic constitutional reform can be triggered.

With the interpretation of the Basic Law and determination by the Central Authorities, coupled with the nine factors, the "hurdles" are indeed growing in number. How were these nine factors formulated? How were they summed up? Were they summed up after taking on board the views of those 86 organizations and the 600-odd submissions? Does the Chief Secretary know that opinion polls have actually been showing that over 60% of the people support dual elections by universal suffrage in 2007 and 2008? Regarding this view held by over 60% of people, where in the Chief Executive's report is it reflected? These nine factors are in fact a drag on universal suffrage and they have expressed many reservations too. Why can the view held by 40% of people or less take up such a large part of the report? On the contrary, all that is relevant to the view in support of dual elections by universal suffrage is the several words under the sixth point, that is, "considering public opinions".

This is far too less compared with this report consisting of 1 500 words. Not only does it show that the Government listens only to one side. It is more of a gross distortion of public opinion.

Madam President, I wish to particularly speak on the sixth and seventh points. On the sixth point, the Chief Secretary has in fact discussed it at greater length in his report. He said that political organizations have not yet matured. Whose fault is it? The SAR Government has made great efforts to prevent political organizations from becoming mature. In the Chief Executive Election Ordinance, there is one provision over which we have argued for a long time and that is, the Chief Executive must not have any affiliation with political parties. Even though he is a member of a political party, he must leave as soon as he is elected. The Government has recovered powers when the Municipal Councils were scrapped. As a result, a venue where political talents could be nurtured has disappeared. As the powers are again taken back and centralized, the position of the District Councils is very undesirable indeed. Madam President, I have recently engaged in the work of District Councils and I know only recently that an officer who is a civil servant sits beside the Chairman to advise the Chairman from time to time on how things should be done and how a conclusion should be drawn.

Madam President, if someone who is a civil servant sits beside you today to advise you on how you should make a ruling and how to work, I think you would very much dislike it. The Government very much wishes to nurture its supporters to become political talents and it seeks to do so through the appointment system. But sorry! It is not going to work. Normally, people with calibre would disdain to lick the boots of other people. Those who survive by licking the boots of other people are mostly incompetent. It is very difficult to expect a person to have independent thinking and be subservient at the same time. No wonder it is always the same group of appointees when the SAR Government identifies candidates for appointment to advisory and statutory bodies. Not that we have no smart people in Hong Kong. But the Government understands only too well that the appointees must be subservient.

Madam President, on the question of maturity, two months ago a member of the public was still telling me not to be so harsh on the Chief Executive, saying that the Chief Executive, being a businessman, just does not know the ropes. But Madam President, he has been the Chief Executive for almost seven years, and I told this member of the public that if his son has studied in school for

six years and if he is still in primary one and has not graduated from primary studies, I believe he would also fly into a rage. Yes, we have high expectations of our children, but we can be so tolerant to someone who affects our living, the economy and the people's livelihood day and night. But the Government said conversely that our political organizations are not mature enough to take democracy forward. We have a Chief Executive who has not matured after seven years in office, governing Hong Kong through an undemocratic mechanism. As the slang goes, the SAR Government is the angel and the devil.

Madam President, on the point about "participate in politics through various channels" under the seventh factor, this is indeed an indirect way to ensure that functional constituencies will be maintained. Functional constituencies are in conflict with universal and equal election, unless the Government can reintroduce Chris PATTEN's approach of 30 functional constituencies and giving each voter two votes and hence achieving universal and equal suffrage in a quantitative sense. But will the Government do this? I am afraid not. I think even if less than 30 seats are taken up by the democrats in the Legislative Council in 2004, the Government will still enact legislation expeditiously to further tighten the composition of the electorate of functional constituencies, making it more difficult for democracy to progress.

All these one-off attempts to impede democratic constitutional reforms in the future by exercise of autocratic powers will not have the support of the people. The interpretation of the Basic Law may forcibly impose a new meaning onto the provisions, but it cannot address the current crisis of governance. Nor can it address public discontent. The exercise of autocratic powers will only create a stronger rebound, for the fundamental problem of governance in Hong Kong is precisely the result of the Chief Executive not being returned by election based on universal suffrage and the Chief Executive not bothering to be accountable to the public. The so-called accountable principal officials are accountable only to the Chief Executive to the neglect of public opinions, akin to the attitude adopted by the Task Force in preparing the report on constitutional reform. As a result, the gap between the Government and the people is growing wider. The Government will finally alienate itself from the people, making governance impossible. Mr TAM Yiu-chung said earlier that it is better to concentrate our efforts on the economy and the people's livelihood. Can Members not come to the conclusion that the various problems concerning the economy and the people's livelihood which have plunged the people into suffering and misery are precisely the result of our defective political system?

Madam President, the eyes of the people are discerning. We will conduct our own referendum using our votes in September to tell the Government that we support universal suffrage.

MR MARTIN LEE (in Cantonese): Madam President, I was extremely pleased when I saw the Joint Declaration for the first time on 26 September 1984, because I believed it was going to work. I also had faith in the concepts of "one country, two systems", "Hong Kong people ruling Hong Kong" and "a high degree of autonomy". So, I decided to stay in Hong Kong to take part in politics. Later, I was appointed as a member of the Basic Law Drafting Committee and elected to this Council. I made it clear at that time that it would be possible, though not easy, for the assurances made in the Joint Declaration to be honoured. It would all depend on what the "Hong Kong people" refer to in the expression "Hong Kong people ruling Hong Kong". I commented at that time there would be hope if the Chief Executive was to be elected by Hong Kong people and be accountable to the Legislative Council, which should in turn be elected by Hong Kong people. There would be a problem, however, if the Chief Executive was to be appointed by Beijing, instead of being elected by us. How can a person appointed by Beijing without the mandate of the people be expected to stand by us when there are clashes between the Central Authorities and the Hong Kong Special Administrative Region (SAR)?

It is a pity that these words of mine have now come true. This person was handpicked by JIANG Zemin after a handshake. After assuming office as the Chief Executive for five years, he had his tenure extended for another five years after another handshake. Actually, the formulation of the Basic Law was not easy. There were a lot of tedious disputes. Nevertheless, having eventually been put down in words, the Basic Law was able to give us a goal. This goal has actually brought us disappointment because when I saw the Joint Declaration for the first time, I was convinced that we could see the Chief Executive elected by universal suffrage on 1 July 1997. I also thought Members of the Legislative Council would be elected in the same way from that day onward. Right, the Joint Declaration did not explicitly state the election method. However, it was stated very clearly in the Joint Declaration that Hong Kong was going to practise the capitalist system, not the socialist system practised on the Mainland. I thus asked myself this question: In so many countries and places in this world where the capitalist system is practised and electoral systems are implemented, which one of them is not practising the

"one-person, one-vote" electoral system? I thus concluded that everything would be fine. However, things did not turn out to be perfectly fine. The Basic Law was promulgated on 4 April 1990, precisely 10 months after the 4 June incident. Given the leadership of the Central Authorities was determined to keep a tight grip on its policy towards Hong Kong, democracy was postponed for 10 years with the promulgation of the Basic Law. As Members can see, Ji Pengfei clearly stated in his speech in proposing the draft of the Basic Law on 28 March 1990 that Hong Kong's development of democracy would be restrained by the Basic Law for only 10 years. Now, we have been told that we have to slow down. Let us look at the origin of the nine factors spelt out in the Chief Executive's report. They have actually come from nine subparagraphs in paragraph 5.23, that is, the summary of the Second Report of the Constitutional Development Task Force. Actually, I disagree with the name of the Task Force. I think it should be called the "Constitutional Suffocation Task Force" instead of "Constitutional Development Task Force". I have yet another question: Why are the nine factors determined? They were actually intended to pave the way for the NPCSC. Once the nine factors are accepted, we can no longer say that we are disallowed from introducing universal suffrage in 2007 and 2008. Instead, whenever universal suffrage is put on the agenda in future, these nine factors, or hurdles, will step in. Can these hurdles be overcome?

We need not look too far. Let us look at the first factor, as other factors have already been cited by a number of Members. According to the first factor, the SAR, in examining the direction and pace — note the word "examine" — of its constitutional development, must pay heed to the views of the Central Authorities. To illustrate my point, staff members serving us would be considered examining a plan should they wish to formulate one. In other words, everyone in the SAR must pay heed to the views of the Central Authorities during the "examination" process. I have really been lucky because I was not allowed to go to Beijing. Otherwise, what can I do? If the views of the Central Authorities have to be heeded during "examination", will there be any scope for further discussion? I do not understand why it is necessary to list eight more factors? What are their purpose? Is the factor mentioned just now not enough?

Hong Kong people actually do not like Dr Raymond WU very much. However, I greatly share a remark made by him years ago. He said should the Democratic Party keep winning elections, democracy would forever be barred

from Hong Kong. However, should the Democratic Alliance for Betterment of Hong Kong win the next election, Hong Kong would have democracy. The fact is just as simple as that.

We have noticed from the NPCSC's recent interpretation that the process has turned from three steps into five steps. As the first step, the Chief Executive is to submit a report. However, he is merely required to state in the report whether there is a need to amend the methods for selecting the Chief Executive and for forming the Legislative Council. I fully share the view of the Article 45 Concern Group, that this is already enough. Has the Chief Executive already performed his task by submitting a report to say that an amendment is needed? Why did he choose to erect the nine hurdles? Why did he restrict himself, restrict the development?

Frankly speaking, I must ask, "Is this the idea of the Central Authorities, the Chief Executive or the smart members of the three-member Task Force?" Perhaps the answer can be found in page two of the Chief Executive's report. The report begins by saying that "In considering how the methods for selecting the Chief Executive in 2007 and for forming the Legislative Council in 2008 should be determined" — sorry, I have read the part at the back — it should be page two — "In December 2003, during my duty visit to Beijing, President HU Jintao informed me of the serious concerns and principled position of the Central Authorities regarding Hong Kong's constitutional development". In other words, the Chief Executive got instructions from President HU in December last year. President HU has made clear his views, principle and position regarding this issue. In the second paragraph, it reads "On 7 January this year, the HKSAR Government established the Constitutional Development Task Force to consult the relevant departments of the Central Authorities". Look, the Task Force followed in the footsteps of the Chief Executive in listening to the views of the relevant departments of the Central Authorities. The report then goes on to say that "In February this year, the Task Force visited Beijing and met with the representatives of the Hong Kong and Macao Affairs Office of the State Council and the Legislative Affairs Commission of the NPCSC to discuss issues relating to constitutional development". Three discussions have been held within three months. It can easily be figured out that such a brilliant idea did not come from the three members of the Task Force; they have merely acted according to someone's instructions. Even if the instructions were not conveyed word by word, they are put down in writing after the Task Force finds out what is in someone's mind.

It is obvious that the Central Authorities did not wish to be a target of criticisms and wanted the Chief Executive to personally make the proposal. The Chief Executive, not being a fool, did not want to be a target of criticisms either. Finally, he came up with the idea that the Task Force should make the proposal. This is so simple. May I ask why the three smart members of the Task Force should be willing to play the role of a lackey? Some people have even suggested that one had to be a downright lackey if he had to be one. Perhaps the expression "lackey" does not sound nice, Chief Secretary for Administration Donald TSANG uttered a much more pleasing word "tool" by accident the other day. Why would he want to be a "tool"? Why can the Chief Secretary not stand on the side of the people of the Hong Kong, or on the side of the vast majority of the public? Just write a fair report to reflect the aspirations of the vast majority of the public for democracy and submit it to the Chief Executive. In addition, he should strive to lobby the Chief Executive to convey the aspirations of Hong Kong people to Beijing and lobby the senior members of the NPCSC. Only in doing so will there be hope for democracy in Hong Kong. This is not impossible! We can make it! Only that they have failed to do so. They just stood opposite to the people of Hong Kong by proposing nine hurdles to stifle the development of democracy in Hong Kong.

The suggestion of directly electing the Chief Executive in 2007 and all Members of this Council in 2008 has been criticized for being too ambitious, seeking to achieve the goal in one step. This is outrageous. What does "too ambitious" imply? Has the critic read history? Compared to the final draft, the present version of the Basic Law, the process proposed in Annexes I and II to the second draft promulgated by the Basic Law Drafting Committee in February 1989 was even slower. According to the proposal, universal suffrage would only be introduced for electing the fourth-term Chief Executive in 2012, and electing the Legislative Council in 2011. Why has the process subsequently been brought forward? It was because drafting and consultation were brought to a standstill due to the 4 June incident. The relevant work resumed in December 1989 after DENG Xiaoping remarked that the drafting of the Basic Law had to be completed in five years. At that time, only 18 Hong Kong members remained on the Basic Law Drafting Committee, because Mr SZETO Wah and I had ceased to work on it, while Bishop KWONG and Mr Louis CHA had even resigned. In a letter addressed to the Central Authorities, 11 remaining members put forward their request for speeding up democratization and abolishing the separate voting system. I really appreciate their efforts because those members dared not do anything like that before. Only Mr

SZETO Wah and I would do anything like that previously. The efforts made by the 11 members, out of the original 18, finally paid off. It has now been brought one term earlier, as is stipulated in the Basic Law. People criticizing the proposal of electing the Chief Executive in 2007 and all members of this Legislative Council in 2008 by universal suffrage for being too ambitious must be blind. Or they have deliberately refused to read the second draft of the Basic Law. I can lend it to them if they do not have it.

Madam President, the Basic Law was actually based on the Joint Declaration, though the Joint Declaration was not quoted in the Basic Law. In the preamble to the Basic Law, it is stated, "The basic policies of the People's Republic of China regarding Hong Kong have been elaborated by the Chinese Government in the Sino-British Joint Declaration". Concepts mentioned in the Joint Declaration, such as "one country, two systems", "Hong Kong people ruling Hong Kong" and "a high degree of autonomy", are actually the most central principles of the Basic Law. I see that the nine factors proposed by the Chief Executive have not included "Hong Kong people ruling Hong Kong" and "a high degree of autonomy". May I ask the three Secretaries of Departments why they have been so careless as to forget including the two principles in the nine factors? This is really outrageous! According to Mr Michael MAK, he was told upon his arrival at Shenzhen by Mr LI Fei that he thought it was considered not necessary, according to the mainland system, to invite Members of this Council to the Mainland because they thought Chief Secretary Donald TSANG could already represent the entire Legislative Council. Too bad! In that case, the Chief Secretary would have become our representative. That the nine factors have been written into the report means that the Legislative Council endorse the nine factors. It was most fortunate that three Members of this Council did successfully cross the boundary. Otherwise, other people would have thought they were the views of this Council.

This is very aggravating, Madam President, but what can we do? I know there are tremendous difficulties because their "superiors" might want them to put the nine factors in writing. Now that the nine factors have been put on the record, they will certainly be confirmed. Nevertheless, there is always hope in this world. Like some Members in this Council, I still hold some hope. I hope the NPCSC can see that the actual situation is unlike the one reflected by the Secretaries of Departments. We hope the NPCSC will eventually hear our voices. I also hope the NPCSC can, after reading the press reports, make a timely turn by assuring us that the SAR Government will be allowed to amend

the methods for selecting the Chief Executive in 2007 and forming this Council in 2008, instead of confirming the nine redundant factors, or the nine factors of betrayal, proposed in the report.

Thank you, Madam President.

MR WONG SING-CHI (in Cantonese): Madam President, in today's debate, we all have before us a copy of the Chief Executive's report to the NPCSC on whether there is a need to amend the method for forming the Legislative Council of the Hong Kong Special Administrative Region (SAR). Obviously, the title of report is the "Report on whether there is a need to amend", not "Report on how to amend". However, in this report, we like the conclusion contained in a sentence in page three, "I consider that the methods for selecting the Chief Executive in 2007 and for forming the Legislative Council in 2008 should be amended, so as to enable Hong Kong's constitutional development to move forward." I am most delighted, and find that actually our Chief Executive really wants Hong Kong's constitutional development to move forward. Therefore, the Chief Executive says, "If you want Hong Kong's constitutional development to move forward, then you have to let me do it faster. Make it snappy!" To this sentence alone, I believe, Hong Kong people will not have any objection because Hong Kong people really want to have some breakthroughs in 2007 and 2008, so as to realize our aspirations for direct elections of the Chief Executive and the Legislative Council by universal suffrage, which we have been dreaming for fruition.

However, what is most unexpected is, soon after this conclusion, there come "nine major ghosts", that is, "nine very big ghosts". Not only are there the nine "ghosts", but there is an additional ghost, the tenth ghost, that is, "as fast as the movement of the ghost" — they submitted the report as fast as "the movement of the ghost". The conclusion that it is necessary to change the methods for selecting the Chief Executive in 2007 and for forming the Legislative Council in 2008 was obviously only a candy, but it was sugar-coated. These "nine major ghosts" are the poison under the sugar coating, which the Chief Executive presented to Hong Kong and said, "Just take it. No questions. Remain silent, just take it!" Obviously, if someone is forcing Hong Kong people to take the sugar-coated poison, this is the best evidence of betraying Hong Kong people. The sugar coating is the claim that it is necessary to amend

the political system of Hong Kong in 2007 and 2008, but the poison at the core of it is telling the people of Hong Kong that: No election by universal suffrage; you cannot choose your own Chief Executive, nor can you elect your full Legislative Council by universal suffrage. Is such a situation not betraying the progress of democratization as well as the high degree of autonomy of the people of Hong Kong?

I also read item (vi), which was mentioned by many Honourable colleagues earlier. One of the sentences is particularly full of insight, which says in effect, the maturity of political talent and political groups is one of the factors for considering whether elections by universal suffrage should be allowed. The implications are: the maturity of political talent and political groups has not reached the level that is good enough for holding elections for both the Chief Executive and the Legislative Council by universal suffrage. To whom is this description referring? It is actually referring to the group of accountability officials under our accountability system. Does it mean that? Of course, if it really means that, we would support it. Are the political groups not mature as well? If this is referring to such people as TSANG Hin-chi and Raymond WU, NPCSC members, we are also supportive. If it is describing these people as not political talent, then very obviously we need to choose some other people to replace such people to govern Hong Kong, and our need for democracy is even stronger, and we need to let our people choose our Government, choose our own Legislative Council through elections. We can no longer allow this group of politically immature people and immature political groups to govern us. However, if it is not referring to this group of people, and if the group of people being referred to are not really immature, and they have actually matured, and they are some high-calibre political talents and members of political groups — if this is the case, then our need for elections by universal suffrage is even stronger because I strongly believe that, through the votes of Hong Kong people, we can easily identify some political talents and members of political groups who are much more mature, who can perform much better than the existing senior government officials and those politicians, the so-called NPC Deputies.

As revealed in many commentaries, we can see how good the opinions put forward by such a group of people and such NPC Deputies, as well as the effectiveness of their work. These senior officials always have to come forward and apologize, and their work is often criticized as inappropriate. The group of

NPC Deputies, after making some public remarks, can make Hong Kong people angry and agitated, getting all steamed up. May I ask if this group of political talents and senior officials still have the capability to govern us?

If Hong Kong people are still not allowed to proceed with elections by universal suffrage, if we are still not allowed to select our own Chief Executive, not allowed to vote in a direct election to choose our own Legislative Councillors, I can see there is only one objective in it, namely, to deprive Hong Kong people of our democratic rights and allow these mediocre people to continue governing Hong Kong. If this should go on, with such a practice and such a stance, they can easily betray Hong Kong people. If this should go on, "Hong Kong people ruling Hong Kong" will become "Hong Kong people selling Hong Kong". We do not want to see "Hong Kong people selling Hong Kong", and we want to have "Hong Kong people ruling Hong Kong", and we hope to have the right to elect our own Chief Executive and that Hong Kong people can vote and choose our own Legislative Councillors through a one-person-one-vote election in Hong Kong. As the Chief Executive has already surrendered the rights of "Hong Kong people ruling Hong Kong" and "a high degree of autonomy" to some other people, we Hong Kong people must unite together to reclaim the rights of "Hong Kong people ruling Hong Kong" and "a high degree of autonomy". In future, we must continue to fight for our democracy agenda, we must continue to voice our opinions and we must carry on with our movement. Most important of all, we must use our votes to reclaim our power of governance, our rights in the Legislative Council Election in the coming September. We must exercise our rights through the process of the Legislative Council Election.

Of course, as we Hong Kong people cannot have any expectations on the Chief Executive of Hong Kong as well as the Hong Kong Government, we hope the Central Authorities can, having given us such preferential treatment as CEPA and the Individual Visit Scheme, also give us the rights to elect our Chief Executive democratically and to elect our Legislative Council by universal suffrage respectively in 2007 and 2008. Thank you, Madam President.

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

MR NG LEUNG-SING (in Cantonese): Madam President, I am going to attend another panel meeting in this Chamber at half past eight tomorrow. But still, I respect and understand the decision of the President. I know it was a hard decision for the President on the conduct of this debate. I have thus made some preparations to show my support to the decision of the President. However, I have to state my personal opinion first, that is, I consider this debate not urgent in nature. The reasons are as follow:

First, the Standing Committee of the National People's Congress (NPCSC) determined whether the methods for selecting the Chief Executive and for forming of the Legislative Council in the year 2007 and 2008 need to be amended in the light of the actual situation in the Hong Kong Special Administrative Region (SAR) and the principle of "gradual and orderly progress". This is a realization of the NPCSC exercising its constitutional power under the law. No matter what conclusion the NPCSC has drawn, it has done so to fulfil its responsibility.

Second, the report submitted by the Chief Executive to the NPCSC together with the report of the Constitutional Development Task Force has adequately reflected the divergence of views of different sectors of the community — though some people might not agree to this — views have been reflected indeed. These reports have also concluded in detail and comprehensively the factors for consideration.

Third, the subject we are now debating has been covered by a similar discussion held by the Panel on Constitutional Affairs of the Legislative Council, in which different views have long since been sufficiently reflected. During the past period, there has been comprehensive discussion in the community and government consultation in respect of the entire constitutional development. Therefore, I find no justification, even from the views I have just heard from the many Members, that any new, specific and constructive opinions should be put forth for discussion by this Council as a matter of urgency. I think today's debate is merely a gesture that is unrealistic.

Moreover, as the representatives of the people of the SAR, one must respect and fully reflect the divergence of views instead of stressing the infallibility of his/hers, freely claiming oneself to be representing the views of the public and even all the people of Hong Kong. Recently, a person who has been in Hong Kong for quite a long time and has undertaken quite a number of positions in the past criticized that it was "overweening conceit". Earlier, a

Member, at one point having claimed to be representing all the people of Hong Kong, corrected the slip of tongue later clarifying that the reference was not to the views of all the people of Hong Kong. No matter how the views are reflected and what kind of news value is created, there can be no changing of the reality that Hong Kong society has divergent views instead of single opinion on its constitutional development.

Madam President, I think society has entered an endless debate over this issue, and there is increasing division. An unequivocal conclusion should thus be drawn as soon as possible. It should state that we should not proceed at too fast a pace to introduce universal suffrage in 2007 and 2008, so as to let the community concentrate more of its effort on economic development. Investors can thus rest assured of the prospects, more job opportunities can be created in different sectors, and thus members of the community will be employed and make a living, enabling the public to live and work in contentment.

I so submit.

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

(No Member indicated a wish to speak)

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, I have to thank the many Members who have frankly expressed their opinions tonight. Before the debate concludes, I would like to respond to them in three respects.

Firstly, I would like to talk about the relationship between the Basic Law and the nine points of views, the nine factors raised by the Constitutional Development Task Force (the Task Force). Secondly, I would like to focus on the matters related to political groups. Thirdly, I wish to take this opportunity to talk about the relationship among the interpretation of the Basic Law, the Basic Law and the judicial system, and the system of rule of law in Hong Kong.

The Task Force has no authority and no intention to add any conditions to the Basic Law. The nine factors set out in the Second Report of the Task Force

are based completely on the provisions and concepts in the Basic Law. Regarding point (i), that is the Central Authorities have constitutional powers and responsibilities to oversee and determine constitutional development in the SAR, we mentioned that we must pay heed to the views of the Central Authorities. This point is based on Article 31 and Article 62 of the Constitution of the People's Republic of China, prescribing that the setting up of the SAR and the systems to be followed by the SAR should be decided by the Central Authorities. There are other provisions in the Basic Law which are related to this respect. Article 1 of the Basic Law stipulates the establishment of the SAR. Article 12 stipulates that the SAR comes directly under the Central People's Government; while Article 2 states that the legislative, final adjudication and independent judicial power we can exercise in Hong Kong should be exercised under authorization. Annex I to the Basic Law, as well as Annex II, and the interpretation by the Standing Committee of the National People's Congress (NPCSC) on the relevant provisions set out in Annex I and Annex II support point (i).

On point (ii), we said that amendments to provisions in the Basic Law must not be lightly contemplated. Amendments to the design and principle of the political structure prescribed in the Basic Law must not be lightly contemplated. In fact, the position of the SAR Government and the Central Government is to follow the principle stipulated in the Basic Law: amendment must not be lightly contemplated. Why? Because the complete set of concepts of "Hong Kong people ruling Hong Kong", "high degree of autonomy" and "one country, two systems" must be understood in its entirety. In the '80s, when the Basic Law was promulgated, it was formulated in accordance with a State policy stated in the Joint Declaration to enable the Central Authorities to resume its exercise of sovereignty over Hong Kong. This entire set of system includes systems on economy, human rights, Judiciary and systems to safeguard other systems. This is a set of system focus on entirety design, which amendments must not be lightly contemplated. However, we proposed that amendments to the two current electoral methods should be considered in the light of this political system.

On point (iii), the power of appointment the Central Authorities has on the appointment of the Chief Executive is substantive, which is stipulated clearly in Article 43 and Article 45 of the Basic Law.

Point (iv) is on the executive-led system. Madam President, I consider Mr CHEUNG Man-kwong's remarks too strong. The application of the

executive-led principle under a political system is not confined to socialistic systems or systems of this type. Many advanced societies around the world have adopted the executive-led system. Besides, the executive-led system is part of the original system in Hong Kong that has proven to be effective.

In Note 6 to paragraph 5.11 of our Second Report, we have set out more than 10 provisions in the Basic Law which state clearly how the executive-led system is realized in the Basic Law. For example, most of the bills, as well as budgets are introduced by the executive authorities, to be examined and approved by the Legislative Council. This is how the principle of co-operation and co-ordination between the executive authorities and the legislature is implemented under the executive-led principle.

As for point (v), that is, the development must progress in a gradual and orderly manner step by step, and the pace should not be too fast. After listening to the views of different sectors of the community, we arrived at the conclusion on this factor or this point of view. This is also the view presented to us by many different groups, reflecting their perspective and normal understanding of "gradual and orderly progress". Certainly, this gradual and orderly progress is prescribed in Article 45 and Article 68 of the Basic Law.

Point (vi) is on the actual situation. We set out that in considering the actual situation, public opinions must be taken into account, but we also have to consider other factors. As a responsible government and a responsible council, were we to consider whether there should be amendment to the two electoral methods one day, such factors should carry significant weight. The development of political groups in Hong Kong is one of these factors, while whether there is an adequate number of political participants and political talents is also one.

On point (vii), it is stated that any proposed amendments must enable different sectors of society to be represented in the political structure, and to participate in politics through various channels. This point originates from the address by Ji Pengfei, Chairman of the Basic Law Drafting Committee, delivered on 28 March 1990 in submitting the draft of the Basic Law to the National People's Congress (NPC). Point (viii) and point (ix) are also originated from this address. However, it does not mean that the functional constituencies will continue to exist as they do now forever. In fact, on another occasion, we made it clear that all the seats of the Legislative Council would

ultimately be returned by universal suffrage. This is a requirement prescribed in the Basic Law and we will observe this. However, the reality before us now is that in the existing legislature, 30 seats are returned by different functional constituencies. In the past few months, a number of groups and representatives have indicated to us that they consider the seats now returned by functional constituency elections should be maintained at this stage. Therefore, in considering whatever proposals, we have to face up to the reality. The reality is that Members returned by direct elections, parties supporting direct elections, Members returned by functional constituency elections and the organizations they represent should come together to strive for a consensus in respect of these two aspects. Only by doing so can we promote constitutional reform and proposals on constitutional development. We have only presented the reason and the reality.

As I have just said, point (viii) states that any proposals should ensure that consideration would continue to be given to the interests of different sectors of society.

Point (ix) states that any proposals must not bring about adverse effect on the systems of economy, monetary affairs, public finance and other systems as stated in the Basic Law. This has also been mentioned in the address by JI Pengfei, the Chairman of the Basic Law Drafting Committee in the year 1990. I thus have to make it clear to all Members that all the nine factors we have set out are based on the provisions and concepts prescribed in the Basic Law. Regarding the address of Chairman JI Pengfei, under the common law system we are now practising, judgements of court can be regarded as part of the legislative intent.

Madam President, next I would talk about political talents and political groups. Though Mr Andrew CHENG is not in the Chamber now, he put forth some opinions earlier, and queried whether the Government had laid the burden at the doorsteps of political parties and political groups by setting out these justifications. I must say we have no intention to do so. In fact, we are just explaining the historical factor and reality in Hong Kong. For various kinds of reasons, our development in constitutional elections and systems for political participation started relatively late. It was not until the year 1985 that the election of the legislature had been launched. I think Members may recall that rarely any groups were referred to as political parties in the '80s and early '90s, and the term was mentioned more frequently only in recent years. However, from the point of view of colleagues in the Government, it is crystal clear that the

positive development of our political system must be supported by both hardware and software. Alteration in the electoral methods is the hardware, while the development of political groups and training of political talents is the software. Therefore, we hope that after the NPCSC has made a decision on the report of the Chief Executive, we may study the room for change and innovative development of the electoral systems prescribed under the existing political system, so as to enable people aspiring to run in the elections and participate in politics to serve society and the public. In pursuing this project, everyone, the Government, political groups and political parties, and candidates prepared to participate in politics, have to carry responsibilities. I hope that every one of them will have the room to continue to make innovative development.

Madam President, I would like to talk about the interpretation of the Basic Law. The power of the NPCSC to give interpretation on laws, its power to interpret the Basic Law, is part of our constitutional system, and is the constitutional foundation of the Basic Law. The interpretation of the NPCSC is not creating something out of nothing. The NPC does have the power to determine the political system in Hong Kong, which is founded on Article 62 of the Constitution. In fact, the NPC has on two occasions given an interpretation on the Basic Law for Hong Kong. The first time was in 1996. The NPC gave an interpretation on the application of the Chinese Nationality Law in Hong Kong, allowing Hong Kong people emigrated overseas to return to Hong Kong, continue to use foreign identification documents as travel documents, and apply for the HKSAR Passport and keep their permanent right of abode. The second time the NPC gave an interpretation on the Basic Law was in 1999, which had helped Hong Kong resolve the problem on the right of abode. Controversy had been aroused, of course, but the community at large in Hong Kong supported the interpretation.

This time, the NPC's interpretation has provided a set of clear legal procedures in respect of amendment to the two electoral methods for us to follow. Moreover, it is unequivocally stipulated in Article 158 para 1 of the Basic Law that the power of interpretation of the Basic Law shall be vested in the NPC. In Article 158 para 2, it is also clearly prescribed that courts of Hong Kong are authorized to interpret the Basic Law in adjudicating cases. The power of legislative interpretation vested in the NPCSC is parallel with the power of judicial interpretation exercisable by the Courts of the SAR. That the Central Authorities have authorized Courts in Hong Kong to exercise the power of

judicial interpretation has not undermined its power to give legislative interpretation on the Basic Law. Moreover, owing to the unique constitutional status of Hong Kong, where the power of final adjudication is vested with the Courts, the final adjudication of all cases should be concluded in Hong Kong. No cases will ever be brought to Beijing for adjudication. In the light of this arrangement, the power of final adjudication and final interpretation on common law applies to Hong Kong and legislation introduced by Hong Kong itself is confined to the Court of Final Appeal in Hong Kong. The power of the Court of Final Appeal in this respect and its judicial power are not affected by the NPCSC's power of legislative interpretation. The final adjudication made by the Court of Final Appeal is always respected. Even in the year 1999, when the NPCSC gave its interpretation on the Basic Law, the adjudication made in January 1999 on the thousands of people remained intact; those people were still allowed continued abode in Hong Kong. I thus hope to hear no more claims from Members saying the NPCSC's interpretation will deal a blow to the rule of law in Hong Kong and undermine the judicial independence of Hong Kong. Remarks of this kind are arbitrarily confusing the right and wrong indeed. It has been proved in the past six and seven years that the judicial system and system of rule of law in Hong Kong have been healthy, that they can safeguard the interests of Hong Kong people, safeguard the freedom and human rights of Hong Kong people, and safeguard the different systems in Hong Kong. Madam President, my remarks aim only to reflect to this Council the reality in Hong Kong.

Finally, I would like to reiterate two basic issues to Members. In handling issues related to political development, we should pay close attention to two concerns if we wish to see progress. Firstly, universal suffrage is our ultimate goal. Every Member in this Chamber acknowledges this goal. This is our common goal that no single person can hijack. This is our common ideal. What we need to debate and study in the community, and inside and outside the legislature is the pace and method for achieving this goal. Secondly, no political parties, political groups and groups participating in politics can for all the time remain unchanged, adhering to its steel-like stance. Politics is an art of striving for consensus. We have to make a collective effort to find a way out for Hong Kong. Achieving consensus is no easy task, and the Government and Members both have to undertake the responsibility. The greater the challenge, the greater effort we would have to make collectively.

Madam President, I so submit.

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, I thank Mr Frederick FUNG for giving me and my colleagues one more opportunity to reiterate our views on the Second Report of the Constitutional Development Task Force (the Task Force) and the Chief Executive's report to the Standing Committee of the National People's Congress (NPCSC) as regards whether there is a need to amend the methods for selecting the Chief Executive in 2007 and for forming the Legislative Council in 2008.

Firstly, the main objective of the Chief Executive's submission of a report to the NPCSC is to request the NPCSC to determine that there is a need to amend the methods for selecting the Chief Executive in 2007 and for forming the Legislative Council in 2008. In other words, it is a mechanism to "activate" amendment of the Annexes to the Basic Law. In terms of constitutional development, it is a positive, vital and necessary step. We firmly believe that it is the mainstream consensus in the community of the Special Administrative Region (SAR). Many of the Members here have requested the Government to expeditiously commence the constitutional development work and the consultation work on specific options. The Chief Executive's report has precisely responded to these aspirations.

Secondly, I would like to talk about consultation work. Since its establishment on 7 January this year, the Task Force has collected the views of different sectors of the community on the relevant issues of principle and legislative process relating to constitutional development through various channels such as face-to-face interviews, seminars, e-mails, submissions, and so on. The views collected by us were all available for public inspection and submitted to the NPCSC. I can say that we have done an extensive and comprehensive consultation in this area. On this basis, the Task Force has written the Second Report, summarizing our views on the issue of principle, stating our observations on the actual situation, and proposing that the Chief Executive request the NPCSC to determine the amendment of the two electoral methods. The Chief Executive has accepted the report and the recommendations of the Task Force, and decided to submit a report to the NPCSC.

The Chief Executive's report was based on the report of the Task Force. Both reports were built on ample public opinions collected through comprehensive consultation of different sectors of the community in the last three

months. Some Members complained that we had not first proposed the report for public consultation. It is unfair to say so because it takes effect for cause.

Thirdly, the nine factors stated in the Chief Executive's report are originated from the summary of the Second Report of the Task Force. As I clarified in the constitutional affairs panel meeting last week, none of these factors is a precondition or a prerequisite. These factors are formed by simply putting together the views of both Hong Kong people and the Central Authorities. These are factors we should have regard in considering specific options. They aim to help different sectors of the community propose their specific options. Any option that has regard to more of these factors will stand a better chance of inducing a consensus.

Earlier on, Ms Emily LAU and Mr Martin LEE delivered most vehement speeches. For many years, I have admired their devotion to fighting for democracy and universal suffrage in Hong Kong. As regards universal suffrage being the ultimate goal of constitutional development in Hong Kong, nobody in Hong Kong will question it. However, both of them continued to rebuke the SAR Government and the Task Force for forfeiting the basic policies of "one country, two systems" and "Hong Kong people ruling Hong Kong". Their criticisms were indeed excessive. I dare say they are unreasonable, paying no attention to the provisions clearly prescribed in the Basic Law and the legislative intent, giving up the "one country" in "one country, two systems", and turning "a high degree of autonomy" into "absolute autonomy". Pursuant to the Basic Law, the Central Authorities have constitutional powers and responsibilities to oversee and determine constitutional development in the SAR. It is already clearly written in Chapter Three and Chapter Five of the Second Report of the Task Force. I need not go into details here. These two Members are very intelligent. Yet, I hope they will neither keenly misinterpret the meanings of "one country, two systems" and "a high degree of autonomy", nor exaggerate the issues, in order to insult or slander the Task Force. The three of us can take it. However, using misinterpreted grounds and abusive language to stir up the negative feelings of the public against the Government and the Central Authorities will not only mislead the public, but also jeopardize the understanding and consensus between the Central Authorities and Hong Kong people in respect of constitutional development. This Hong Kong cannot take it. I hope these two Members will acquit themselves in dignity in the interest of Hong Kong.

Madam President, again I hope Members can handle the issue of constitutional development with a positive and constructive attitude. I also hope that in the future I can join all Members, including Ms LAU and Mr LEE, in our efforts to promote the constitutional development of the SAR. Thank you.

PRESIDENT (in Cantonese): Mr Frederick FUNG, please reply.

MR FREDERICK FUNG (in Cantonese): Madam President, as this motion on adjournment was not moved for debate purposes, I do not intend to respond to Honourable colleagues remarks. However, Howard said today that both Mr James TIEN and Mr IP Kwok-him had stated in the newspapers that they did not consider it necessary for pro-democracy Members to repeat their views because they had all expressed their views on different occasions. I feel that Members have either underestimated the formal meetings of this Council, or overestimated other occasions. Of course, the occasions I referred to exclude those Members have attended as Delegates of the Chinese People's Political Consultative Conference (CPPCC) or Deputies to the National People's Congress (NPC). This is because, on those occasions, such as in the meetings with QIAO Xiaoyang today and yesterday, Members can meet face-to-face with a person who has decision-making power, and has taken part in making decisions or drafting documents in the Standing Committee of the National People's Congress (NPCSC) to express their own ideas. Certainly, those occasions are more likely to be important than the present one. Even in today's meeting with Mr LI Fei, we were told that Chief Secretary Donald TSANG's report was considered to have reflected our views on Hong Kong's political system. As such, we can express our views only in an indirect manner, whereas those Members can put forward their views direct. As the Liberal Party or the Democratic Alliance for Betterment of Hong Kong (DAB) might have their own representatives on the CPPCC or NPC, they might opt to make several trips to Shenzhen to join in the discussion. Therefore, they might consider today's occasion unimportant. As Members of the Legislative Council, we find it most important for us to elaborate our views on this report in this formal meeting held by this Council on Wednesday. Moreover, we are obligated to do so.

I would like to respond briefly to the views of the Chief Secretary for Administration and the Secretary for Constitutional Affairs. Secretary Stephen

LAM did mention the power of interpreting the Basic Law. According to the Constitution, the Central Authorities are empowered to interpret the Basic Law. Actually, we have never doubted such power of the Central Authorities. But why should the Basic Law be interpreted? Is there any difference before and after interpretation? There will be no problem if the interpretation this time is intended merely to explain the procedure. In theory, according to the Basic Law, the procedure involves three steps. If there is a need to amend the election methods in 2007 and 2008, such amendments must be made with the endorsement of a two-thirds majority of all the Members of the Legislative Council and the consent of the Chief Executive, and they shall be reported to the Central Authorities for approval or the record. It will not make any difference to me if these three steps remain unchanged after the interpretation. However, two more steps are now added. No matter how hard Members try, they will definitely not find them in the Basic Law. What are they precisely? First, the Chief Executive has to submit a report. Second, consent of the NPCSC must be obtained before Hong Kong can activate the mechanism. From the words written in black and white and according to my knowledge of Chinese language, these two steps are additional. While I agree that the Central Authorities have the power to do so because the power of final decision definitely rests with the Central Authorities. But when should the Central Authorities step in? For the sake of gaining approval, we will have to invite the Central Authorities, formally or informally, to join in our discussion. After going through all the procedures in Hong Kong, we will submit our request to the Central Authorities for final approval or record. However, this is not the case now. The Central Authorities have, right from the beginning, formally interfered in the so-called activation mechanism. As this mechanism, previously not found in the Basic Law, did not appear until after the interpretation of the Basic Law, it was described as a sheer fabrication out of nothing.

Having dwelt a lot on the nine factors, the Secretary has even associated them with certain provisions of the Basic Law and the Constitution, as well as some of the remarks made by Mr JI Pengfei. We must observe these factors if they are binding, that is to say, factor (iii) is tantamount to Articles 43 and 45 of the Basic Law, even though this is not explicitly stated. Since this factor was mentioned in previous speeches delivered by Mr JI Pengfei in the NPC, and those speeches must be referred to, we have no choice but to refer to them, even this is not explicitly stated. The problem should then end if this is the case. If

all factors are relevant to the Basic Law or Mr JI Pengfei's words as carried in the Basic Law, it makes no difference whether or not the nine factors are put down in words.

But is it true that there is no difference at all? The answer is not. For instance, factor (v) states that development towards the ultimate aim of universal suffrage "must progress in an gradual and orderly manner". This is stated clearly in the Basic Law too. However, "step by step" and "the pace should not be too fast" are not found in the Basic Law. In other words, the pace for "gradual and orderly" process has been adjusted by stating what is considered to be too fast or too slow, and what is meant by "should not be too fast". But what does "too fast" mean? Normally, one step represents the fastest speed; it is definitely too fast. How about two steps? Probably not that fast. Three steps? Not too fast. How about 10 steps? Definitely not too fast. People have an impression that one step is definitely not allowed. But why must this be put down in writing if the Basic Law has not done so? This is not a requirement of the Basic Law. In my opinion, the Secretary should pay attention to these wordings, and he must not say "no".

The Chief Secretary for Administration said that the nine factors are not binding because they are considered to be a regulation. It is only that it might be necessary to pay attention to these factors in the interest of gaining approval. However, we find a sentence in page four of the document before the nine factors are explained worrying. It reads, "須顧及下列因素 (we should have regard to the following factors)". I hope I get it right. The Chinese word "須" means "must" or "have to". In other words, the nine factors must be taken in consideration. Such being the case, how can we say the factors are not binding? In particular, the NPCSC has now given its endorsement and consent. Things said to be not binding will become binding after approval has been given by the NPCSC unless the NPCSC, after giving its approval, states that the nine factors should be used as reference, or non-binding guidelines. Otherwise, once approval is given and the mechanism activated, the nine factors will be approved and become binding. I believe we will feel more at ease if Chief Secretary Donald TSANG can publicly say it again, when the NPCSC's approval is given next Monday, that the nine factors, merely meant to serve as guidance or reference, are not binding.

Madam President, I would like to sum up several main points in respect of the entire issue. Actually, the problems are not plenty. I think there are two

main points. First, consultation. We have only found out today after meeting with Mr LI that China has omitted the Legislative Council in its consultative system. Of course, people were talking about the NPC and the CPPCC. As there is no legislature in other provinces and cities, the Legislative Council is not included. If this problem has truly been identified on this occasion, should the Government of the Hong Kong Special Administrative Region (SAR) remind or propose to the Central Government to consider including this Council or Members of this Council in its central consultative mechanism when carrying out consultation in future? Second, we were told by Mr LI Fei that this Council was considered to be part of the SAR Government for consultation purposes. As such, this Council was considered to have been consulted in the SAR Government's report submitted. If this is truly the understanding of Mr LI, I really have to challenge whether the Government has consulted this Council in compiling this report.

The Government might have conducted a consultation before the submission of this report, because the entire report is backed up by the consultation result. Judging from the efforts made by the NPCSC in carrying out consultation, I feel that the NPCSC has done a better job than we have. They had not only carried out consultation immediately after Hong Kong's submission of the report in mid-April, but also held numerous rounds of consultation during the same day. We have seen different people lining up in Hong Kong for a trip to Shenzhen to deliberate, discuss and listen to opinions. After listening to views, they returned to the NPCSC for discussion. Members going to Shenzhen over the last couple of days, such as Mr TAM Yiu-chung, Mr James TIEN and a number of party leaders who are now sitting here in this Chamber, are also CPPCC Delegates and NPC Deputies. Have they expressed their views in Hong Kong? Have they expressed their views in this Council? Have their views been recorded in the Government's report? The answers to these questions are all in the affirmative. So, why must the NPCSC listen to their views again? This is because they are CPPCC Delegates and NPC Deputies. Yet, we are Members of the Legislative Council. We have often boasted that Hong Kong's political system, particularly our consultation system, is more open and better than that of the Mainland. If the method used by the former British colonial government is followed, we should have conducted a better consultation. It is simply unreasonable that we have performed worse than the Mainland this time around. Even if it is not necessarily better, it should not be worse. However, it is obvious that we have performed worse

than the Mainland, because they have affirmed the report. I have stated on numerous similar occasions that some Members of this Council are NPC Deputies and the CPPCC Delegates. They are able to meet the policy-makers face to face and tell them their opinions once again.

Owing to certain institutional problems, several Members have to "gatecrash" the boundary — both after the interpretation and this time. We have actually not "gatecrashed" the boundary, though everyone believed we did. We all carried with us lawful identity cards and home visit permits, how can our action be described as "gatecrashing"? In theory, our entry into the Mainland was lawful. Our exit should thus be lawful too. Well, it does not matter to me even if we are called "gatecrashers". Why would something like this happen? I think all members of the community may face a similar situation. Let us imagine a scenario in which discussion is being held on rent increases in housing estates. After discussing with Frederick FUNG, residents naturally want to further discuss the matter with the responsible estate manager, preferably with the chief manager or the Director of Department because he is going to determine the amount of rent. Since this report is going to be discussed by the NPCSC, Members naturally wish to discuss the matter with the policy makers. Every time we gatecrashed the boundary, arrangements were made for us to discuss with the representatives of the Central People's Government Liaison Office in the Hong Kong SAR or Mr LI Fei, but not a key responsible official. I found this worrying at the very beginning. Why is it that minor concessions would be made every time only after we have attempted to gatecrash the boundary? In particular, we met with the representatives of the Central People's Government Liaison Office two weeks ago. In spite of that, Members of this Council, or the 22 pro-democracy Members of this Council, were not consulted in the latest round of consultation. This is worrying indeed. Yet, we have seen newspapers hailing the first meeting between representatives of the Central People's Government Liaison Office and pro-democracy Members as a good sign, saying that this was unprecedented in 15 years and that the door was finally open. This time, the door is closed again. Was the opening of the door last time a strategy or a policy? I feel that we need a policy, not a strategy. It should be taken as a policy, not a strategy designed to deal with consultation held for the sake of resolving the "gatecrashing" issue, if the Central Government still sees Hong Kong people, Members of the Legislative Council, and people representing public opinions as its consultation targets. To achieve this, the policy should be institutionalized. Should the Central Government fail to do this, we might need to make "gatecrashing" attempts again and again. Then we

might meet CAO Erbao today, LI Fei tomorrow, and QIAO Xiaoyang the day after tomorrow. I wonder whether we will finally have a chance to meet with the Chinese President one day.

Then there comes another problem with decision-making. What decision will the NPCSC make on Sunday and Monday? After listening to the speeches delivered by the majority of Members, I guess the NPCSC is going to decide on the mechanism. In addition to endorsing the nine factors listed in the Chief Executive's report, there is a need to activate the mechanism too. Even if the nine factors are not stated, it does not mean they will disappear. As long as they are relevant to the Basic Law and the remarks of Mr JI Pengfei, they will be there to stay, only that they might be expressed in other manners and wordings. I feel that wordings not mentioned in the Basic Law are now added. They will be set into motion by the NPCSC through its mechanism. More and more Hong Kong people will thus believe the Central Government and the SAR Government have put before them a blank sheet of paper for them to fill in the things they want — they can thus make suggestions on any mechanisms, constitutional reforms, positions, attitudes, or anything. In this way, Hong Kong will see a more vibrant political debate atmosphere. People will lose interest in expressing their ideas if there are more and more constraints. So what should be done? For the purpose of promoting this atmosphere, the number of constraints has to be reduced. Only in doing so can the public be encouraged to speak their minds.

Lastly, I would like to tell Members what Secretary Stephen LAM once told me. I was told that as two political issues had now been resolved, Hong Kong would see fewer political disputes in the future, and we could concentrate our efforts on improving the economy. What were the two political issues to which the Secretary referred? One is universal suffrage, and the other, Article 23 of the Basic Law. Let us put aside Article 23 of the Basic Law today. I agree with the introduction of universal suffrage. When could universal suffrage be introduced if the issue is not resolved? When will the SAR Government and the Central Government cease to be harassed by this problem? The answer is the day when universal suffrage is finally introduced. By then, there will be no more demands for universal suffrage.

I think there should be no evasion of this issue. The question of when universal suffrage will be introduced will be asked again, and again. In addition to repeating the same question, there might be marches, voting, and so on. Even if the Government keeps on employing a delaying tactic, term in term

out, it will eventually find that there are calls for universal suffrage every term. I tell them even if the matter is delayed for a decade, the same group of people will still remain, only that a couple of Members might have retired by then. Is it possible for the matter to drag on for two decades? I can tell Members that the second generation of the Hong Kong Association for Democracy and People's Livelihood, the Democratic Party, the DAB and the Liberal Party will emerge. Though the numbers of successors might differ, they will still think in more or less the same way as we do. Even a decade will not bring such a tremendous difference. I do not believe people considered to be "stupid" today will turn "clever" a decade later. The same group of people will remain, though we have always been criticized as being not talented.

Therefore, I hope all of us can consider what will happen a decade later. Although you might not take up office as Bureau Directors, and incumbent Bureau Directors might have been promoted and transferred to other offices, or have even retired, the difference will still be very small in a decade.

I would like to reiterate that I hope the Government can expeditiously forward the views expressed by us today — whether in the form of tape recordings, video tapes or documents — to the NPCSC by Sunday, to ensure that they are informed of the speeches delivered by us today in this formal meeting of the Legislative Council of the SAR Government. Lastly, I have to emphasize two points: First, to ensure consultation is properly carried out in future; second, I hope the NPCSC will endorse the activation of the mechanism only. At the same time, it should strive to reduce the number of other constraints to enable more people to come forward to join in the discussion and express their views on the constitutional reform proposals to be released in the next couple of years, so as to enable the whole discussion process to be conducted in a more vibrant manner. Thank you, Madam President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That this Council do now adjourn. Will those in favour please raise their hands?

(No hands raised)

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

(Members raised their hands)

PRESIDENT (in Cantonese): I think the question is not agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections and by the Election Committee, who are present. I declare the motion negatived.

MOTIONS

PRESIDENT (in Cantonese): Motion. Proposed resolution under the Interpretation and General Clauses Ordinance to amend the Merchant Shipping (Local Vessels) (Certification and Licensing) Regulation and the Merchant Shipping (Local Vessels) (Typhoon Shelters) Regulation.

PROPOSED RESOLUTION UNDER THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): Madam President, I move that two Regulations under the Merchant Shipping (Local Vessels) Ordinance, namely the Merchant Shipping (Local Vessels) (Certification and Licensing) Regulation (Certification and Licensing Regulation) and the Merchant Shipping (Local Vessels) (Typhoon Shelters) Regulation (Typhoon Shelters Regulation) be amended. The proposed amendments have been set out on the Agenda.

First of all, I would like to thank Ms Miriam LAU, Chairman of the Subcommittee on Subsidiary Legislation (the Subcommittee) and its members, Mr WONG Yung-kan and Mr SIN Chung-kai. They have given us constructive views on the draft Regulations. In response to their suggestions, we have made amendments to the two Regulations. The amendments as set out in the resolution are also supported by the Subcommittee.

The Certification and Licensing Regulation provides for a documentation system for local vessels and sets out matters relating to the certificate of ownership, full licence, temporary licence and permission for laid-up vessels. The Typhoon Shelters Regulation aims at ensuring the effective management of typhoon shelters. It sets out requirements for using typhoon shelters, including

the types of vessels permitted to enter typhoon shelters and vessel anchoring positions, and so on.

In respect of the Certification and Licensing Regulation, we propose to amend section 55 to define more clearly its scope of application. According to the existing section 55 of the Regulation, the Government and public officers will be given immunity from liability in respect of any loss or damage suffered by any person as a result of any error or omission made in good faith and in the ordinary course of performing any function under the Regulation. In examining the Regulation, the Subcommittee considered that the scope of this section was too wide. We therefore propose to amend section 55 to limit its application only to errors or omissions in the information as to ownership of or interests in a local vessel made in good faith in the ordinary performance of functions relating to vessel documents. These vessel documents include the certificate of ownership, full licence, temporary licence, and permission for a laid-up vessel. The provision also states clearly that these documents are issued, granted, renewed or endorsed for the purposes of the Merchant Shipping (Local Vessels) Ordinance only. Except for the purposes of the Ordinance, the information in the document shall not be taken as making representation as to who owns, or has any interest in the vessel.

In addition, the resolution will also amend sections 19, 23 and 26 of the Certification and Licensing Regulation. The Director of Marine will be expressly required to notify applicants of the reasons for his actions under these sections so as to enhance transparency. Moreover, the resolution will also make a few technical amendments to enhance clarity and consistency between the Chinese and English versions of the Regulation.

As regards the Typhoon Shelters Regulation, the resolution will add an appeal provision to section 4(6) to (8) to enable aggrieved persons to appeal to the Administrative Appeals Board.

The amendments reflect the discussion and consensus reached at the Subcommittee. I urge Members to support the amendments.

Thank you, Madam President and Members for giving me their ears at this early hours of 12.25 am.

The Secretary for Economic Development and Labour moved the following motion:

"RESOLVED that -

(a) the Merchant Shipping (Local Vessels) (Certification and Licensing) Regulation, published in the Gazette as Legal Notice No. 27 of 2004 and laid on the table of the Legislative Council on 3 March 2004, be amended -

(i) in section 2(1), by adding -

"length overall" (總長度), in relation to a local vessel, means the distance between the foreside of the foremost fixed permanent structure and the aftside of the aftermost fixed permanent structure of the vessel;"

(ii) in section 6(3)(a), by repealing "有效";

(iii) in section 10(4)(a)(v), by adding "of the vessel" after "construction";

(iv) in section 19, by adding -

"(8) If the Director refuses to issue or renew a temporary licence, he shall notify the applicant of the refusal and the reasons therefor.";

(v) in section 21, by adding -

"(4) A permission for a laid-up vessel shall be in such form as the Director may determine.";

(vi) in section 23 -

(A) by renumbering subsections (5) and (6) as subsections (6) and (7) respectively;

(B) by adding –

"(5) If the Director refuses an application under subsection (2), he shall notify the applicant of the refusal and the reasons therefor.";

(C) in subsection (7), by repealing "(5)" and substituting "(6)";

(vii) in section 26, by adding –

"(5) If the Director refuses an application under subsection (2), he shall notify the applicant of the refusal and the reasons therefor.";

(viii) in section 49(2), by adding "有關" before "船隻";

(ix) in section 54(1)(a), by adding "書面" after "作出的";

(x) by repealing section 55 and substituting –

"55. Certificate of ownership, etc. not to be relied on for other purposes

(1) A certificate of ownership, full licence, temporary licence, permission for a laid-up vessel or any other document issued, granted, renewed or endorsed under the provisions of this Regulation or section 66 of the Ordinance is issued, granted, renewed or endorsed for the purposes of the Ordinance only.

(2) Despite any information as to ownership of or interest in a local vessel contained in a document referred to in

subsection (1) in respect of the vessel, the document shall not be taken as making, for any purpose otherwise than of the Ordinance, a representation as to who owns, or has any interest in, the vessel.

(3) No action shall lie against the Government, the Director or any other officer in respect of any loss or damage suffered by any person as a result of any error or omission in the information as to ownership of or interest in a local vessel contained in a document referred to in subsection (1) in respect of the vessel, if the error or omission was made in good faith and in the ordinary course of the performance of any function relating to the document.";

- (b) the Merchant Shipping (Local Vessels)(Typhoon Shelters) Regulation, published in the Gazette as Legal Notice No. 28 of 2004 and laid on the table of the Legislative Council on 3 March 2004, be amended –
- (i) by renumbering sections 11 and 12 as sections 12 and 13 respectively;
- (ii) by adding –

"11. Appeals

(1) Any person aggrieved by the exercise of the power conferred on the Director under section 4(6), (7) or (8) may appeal to the Administrative Appeals Board.

(2) An appeal under subsection (1) shall be made within 14 days after an endorsement is made or a direction is given by virtue of the exercise of the power under section 4(6), (7) or (8).

(3) An appeal made under subsection (1) shall not affect the operation of the endorsement or the direction prior to the determination of the appeal.";

(iii) in the Schedule, within the square brackets, by repealing "11" and substituting "12"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by the Secretary for Economic Development and Labour be passed.

MS MIRIAM LAU (in Cantonese): Madam President, a Subcommittee was set up by the House Committee to examine two Regulations made under section 89 of the Merchant Shipping (Local Vessels) Ordinance (Cap. 548) (the Ordinance), namely the Merchant Shipping (Local Vessels) (Certification and Licensing) Regulation (the LV(C&L) Regulation) and the Merchant Shipping (Local Vessels) (Typhoon Shelters) Regulation (the LV(TS) Regulation).

As Chairman of the Subcommittee, I would like to highlight the deliberations of the Subcommittee.

In general, the Subcommittee supports the enactment of the two Regulations and the introduction of certain amendments to make the Regulations clearer and more comprehensive.

The LV(C&L) Regulation provides for the certification and licensing of local vessels and other related matters, such as restrictions on the maximum number of passengers, restrictions on the use of pleasure vessels and the requirement for vessels to carry competent coxswains and engine operators.

The LV(TS) Regulation provides for the regulation and control of local vessels in typhoon shelters, including such matters as types of vessels that can enter typhoon shelters and the anchoring of local vessels.

Insofar as the LV(C&L) Regulation is concerned, a number of concerns have been raised by the Subcommittee, including:

- (1) ways to determine the passenger carrying capacity and the manning scales for different types of vessels; and
- (2) examining the reasons for the proposal of giving immunity to public offices from being held legally responsible for infringement of rights in the course of performing any function under the relevant Regulation and the scope of immunity.

As regards the permission given to different types of vessels to carry passengers, the Subcommittee noted that a Code of Practice stipulating the technical and safety standards in respect of the design, construction, maintenance and inspection of local vessels would be issued in accordance with section 8 of the Ordinance. Unless the Director of Marine is satisfied that a local vessel is built and maintained in accordance with the relevant regulations and the standards adopted in the Code, the vessel would not be permitted to carry passengers.

Insofar as the manning scales are concerned, the Administration advises that a safe manning scale for local vessels will be worked out for vessel owners/operators for the safe operation of their vessels.

Section 55 of the LV(C&L) Regulation grants immunity from civil action to the Government, departmental heads and officers in respect of any loss or damage suffered by any person as a result of any error or omission that was made in good faith and in the ordinary course of the performance of any function under the Regulation.

The Subcommittee considers the scope of immunity too wide. It also holds that the general public may not be aware that a certificate of ownership issued under the Regulation is not intended to be an evidence of title.

After discussion, the Administration agreed to amend section 55. After amendment, the immunity-related provision will apply only to the normal performance of any function relating to the vessel documents rather than covering the performance of all functions under the LV(C&L) Regulation. The amended provision will clearly state that the documents are issued, granted, renewed or endorsed purely for the purpose of implementing the Ordinance. Other than for the purposes of this Ordinance, information contained in the documents should not be taken as certificate of ownership of a vessel or any interest of the vessel.

To assist a person who is aggrieved by a decision made by the Director of Marine under section 19, 23 or 26 in lodging an appeal against the decision to the Administrative Appeals Board, the Administration has agreed to add an amendment provision to provide for an express provision requiring the Director to notify the applicant of the refusal and the reasons for refusing an application under the abovementioned provisions.

In relation to the LV(TS) Regulation, the Subcommittee notes that the existing typhoon shelters in Hong Kong are designed and constructed for use by local vessels with length overall up to 30.4 m or 50 m (depending on the design of different typhoon shelters). The Subcommittee holds the view that since the number of over-length vessels has been on the rise, the Administration should look into this matter and provide vessels exceeding 50 m in length with suitable mooring facilities. In addition, the Administration should consider giving permission to vessels of this type to enter or stay in typhoon shelters to ensure the safety of vessels and crew members during typhoons. In designing future typhoon shelters, the Administration should also take this factor into account for the purpose of providing vessels of different types with suitable facilities.

The Administration has also advised that no vessel with length overall exceeding 50 m or permitted to carry dangerous goods will be issued an operating licence unless their proposed typhoon mooring arrangements have been approved by the Director of Marine. The Administration has also advised that new mooring areas will be actively explored, so as to offer more choices of typhoon mooring arrangements for the operators of such vessels. The Administration has undertaken to report on the progress of the work within this Legislative Session to the Panel on Economic Services.

At the request of members of the Subcommittee, the Administration has agreed that appeal provisions be added to section 4(6) to (8) of the LV(TS) Regulation to provide aggrieved persons with a channel to appeal to the Administrative Appeals Board.

The Subcommittee supports all the amendments proposed by the Administration to the two Regulations. These amendments have served to reflect the outcomes of discussion between the Subcommittee and the Administration. Thank you, Madam President.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): Secretary for Economic Development and Labour, do you need to reply?

(The Secretary for Economic Development and Labour indicated no wish to reply)

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by the Secretary for Economic Development and Labour be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

NEXT MEETING

PRESIDENT (in Cantonese): I now adjourn the Council until 2.30 pm on Wednesday, 28 April 2004.

Adjourned accordingly at twenty-seven minutes to One o'clock in the morning.