

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 2 June 2004

The Council met 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 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 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.

DR THE HONOURABLE YEUNG SUM

THE HONOURABLE LAU CHIN-SHEK, J.P.

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 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 LAU PING-CHEUNG

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

MEMBERS ABSENT:

THE HONOURABLE NG LEUNG-SING, J.P.

THE HONOURABLE HUI CHEUNG-CHING, J.P.

THE HONOURABLE CHAN KWOK-KEUNG, J.P.

THE HONOURABLE CHAN YUEN-HAN, J.P.

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

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

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

THE HONOURABLE IP KWOK-HIM, J.P.

THE HONOURABLE MA FUNG-KWOK, J.P.

PUBLIC OFFICERS ATTENDING:

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

DR THE HONOURABLE YEOH ENG-KIONG, J.P.
SECRETARY FOR HEALTH, WELFARE AND FOOD

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

CLERKS IN ATTENDANCE:

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

MS PAULINE NG MAN-WAH, ASSISTANT SECRETARY GENERAL

MR RAY CHAN YUM-MOU, ASSISTANT SECRETARY GENERAL

TABLING OF PAPERS

Subsidiary Legislation/Instruments	<i>L.N. No.</i>
Probation of Offenders (Approved Institution) (Consolidation) (Amendment) Order 2004	100/2004
Deposit Protection Scheme Ordinance (7 of 2004) (Commencement) Notice 2004	101/2004
Fixed Penalty (Criminal Proceedings) (Amendment) Regulation 2004.....	103/2004
Declaration of Change of Titles (Civil Engineering Department, Territory Development Department, Director of Civil Engineering and Director of Territory Development) Notice 2004.....	104/2004
Legal Tender Notes Issue Ordinance (Amendment of Schedule) Notice 2004	105/2004

Other Papers

No. 89 — Audited Statement of Accounts of the Director of Social Welfare Incorporated together with the Director of Audit's Report for the year ended 31 March 2003

Special Report of the Select Committee to inquire into the handling of the Severe Acute Respiratory Syndrome outbreak by the Government and the Hospital Authority — Unauthorized Disclosure of Information

ORAL ANSWERS TO QUESTIONS

PRESIDENT (in Cantonese): Questions. First question.

Remunerations Offered to Unskilled Workers by Service Contractors of Public Bodies and Public Corporations

1. **MR JAMES TO** (in Cantonese): *Madam President, on 6 May this year, the Financial Services and the Treasury Bureau issued guidelines to require that, when procuring services that involve the employment of a large number of unskilled workers, government departments and trading funds should ensure that the remunerations offered to these workers by contractors are not lower than at the market rates. Regarding the extension of such measure to public bodies and public corporations, as classified by the Home Affairs Bureau, will the Government inform this Council whether:*

- (a) *it knows the number and the total value of service contracts that involved the employment of a large number of unskilled workers awarded by each public body and public corporation in each of the past three years, and the total numbers of unskilled workers involved;*
- (b) *it knows the remuneration currently offered to unskilled workers by service contractors of these institutions, and how it compares to that of similar posts in the market; and*
- (c) *it will propose to public bodies and public corporations that they should follow the Government's practice of stipulating in service contracts that service contractors shall offer unskilled workers remuneration not lower than at the market rates?*

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

- (a) The first part of the question seeks information on service contracts involving the employment of a large number of unskilled workers awarded by the public bodies and public corporations in the past three years. A public body is defined in section 3, Cap. 1 of the Law of Hong Kong. By this definition, a public body includes the Executive Council, the Legislative Council, any District Council, any other urban, rural or Municipal Council, any department of the

Government and any undertaking by or of the Government. It therefore includes any public corporation established through legislative proceedings and operated on commercial principles. According to the information provided by the Home Affairs Bureau, there are more than 200 public bodies and public corporations. Their operations fall within the ambits of different Policy Bureaux, involving a wide range of policy areas. For example, public bodies include such statutory bodies as the Hospital Authority, the Hong Kong Trade Development Council, the Consumer Council and the Vocational Training Council. As for public corporations, they include the Airport Authority, the Management Board of the Kowloon-Canton Railway Corporation (KCRC), the Board of Directors of the Hong Kong Science and Technology Parks Corporation, the Board of the Ocean Park Corporation and the Board of the Urban Renewal Authority (URA). Generally speaking, public bodies other than government departments, including public corporations, have their own procurement policies, contract approval procedures and authority for awarding contracts. They are not subject to the Government's Stores and Procurement Regulations. Nor do they need the approval of the Central Tender Board or its subsidiary tender boards before awarding service contracts. We do not therefore know the number and total value of service contracts involving the employment of a large number of unskilled workers awarded by each public body in each of the past three years, and the total numbers of unskilled workers involved.

- (b) The second part of the question seeks information on the remuneration currently offered to unskilled workers by service contractors of the public bodies and public corporations. As mentioned earlier, the procurement activities of public bodies other than government departments are not subject to the Government's Stores and Procurement Regulations. These public bodies do not need to obtain the approval of the Central Tender Board or its subsidiary tender boards before they award contracts. We do not therefore have details of these contracts. Hence we are not able to provide figures of the remuneration offered to unskilled workers by service contractors of these public bodies and public corporations or compare the remuneration with the market rates.

- (c) The third part of the question is about whether the Government will propose to public bodies and public corporations that they should follow the Government's practice of stipulating in service contracts that service contractors should offer unskilled workers remuneration not lower than at the market rates. As mentioned earlier, public bodies and public corporations that are not government departments come under various policy areas of different Policy Bureaux. They have their own terms of reference and modes of operation. Some public bodies are governed by law and are accountable to their boards of directors, and some have to operate on commercial principles. As regards their procurement policy, public bodies need to decide on their own contract conditions according to their actual circumstances and needs. It is undesirable for the Government to intervene. Moreover, the Quarterly Reports of Wage and Payroll Statistics published by the Census and Statistics Department provides information on wage levels of different industries/occupations. The Government has also announced the new requirements for government procurement. Public bodies can make reference to these in the light of the actual circumstances.

MR JAMES TO (in Cantonese): *Madam President, a couple of years ago, the then Financial Secretary, Mr Donald TSANG, issued a letter to nearly 20 public corporations, including the KCRC and the URA (formerly known as the Land Development Corporation) mentioned here, and asked them to review and examine whether the wages of their employees are higher than at the market rates. My supplementary question is: The Government is now reluctant to set wages not lower than at the market rates for workers employed by public corporations mainly because these corporations are not governed by procurement regulations. Such being the case, why was it possible for the Financial Secretary to ask these corporations to review wages in this respect a couple of years ago? Is it true that the Government only cares about the remunerations of senior staff while in total neglect of the grass-roots employees, refusing to deal with their wages? Is the Government being self-contradictory?*

PRESIDENT (in Cantonese): Which Secretary is to answer this question? Secretary for Financial Services and the Treasury.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, I do not have the document issued by Mr Donald TSANG when he was Financial Secretary, as mentioned by Mr James TO earlier. However, I have in hand a copy of a letter issued in 2003 by the Director of Administration to various Directors of Bureau and Permanent Secretaries. Broadly speaking, it was stated in the letter that the Government did not want to regulate the public bodies in every matter. For this reason, apart from the issue of guidelines on some senior administrative staff with respect to remuneration, the boards of directors and administrative staff of these public bodies will be allowed to deal with the remunerations of other employees on their own. This policy was formulated on 28 March 2003.

MR JAMES TO (in Cantonese): *Madam President, my supplementary question is: Such being the case, is it true that the Government regulates the remunerations of staff of higher levels only and merely hopes that the remunerations of grass-roots staff will not be lower than at the market rates? Is the Government being self-contradictory and ignoring the grass-roots staff?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, I do not think the Government is being self-contradictory. It is merely implementing the "small government" policy through operating more in line with the actual situation by administrative means. In other words, not all matters and remunerations are regulated by the Government.

MS LI FUNG-YING (in Cantonese): *Madam President, in replying to the third part of the question, the Secretary has pointed out in a straightforward manner that it is undesirable for the Government to intervene. May I ask the Secretary whether the Government, being the de facto employer of some public bodies and faced with such unfair and unreasonable contracts, remunerations and treatment, is still adhering to its policy of not intervening and turning a blind eye on the matter?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, as pointed out in my reply earlier, public bodies

operate in such a manner that they have to report to their respective boards of directors and Policy Bureaux. After the issue of the Government's guidelines on 6 May and the extensive media coverage, I believe many public bodies are already aware of the Government's policy and able to access abundant information. As far as I know, the Housing Department has announced that it will follow the Government's policy. Of course, we welcome its move of following the policy of the Government as a model employer. If the Government has to give instructions to every Policy Bureau, public body and public corporation, the scope involved may not be confined to labour only. We must therefore exercise extreme caution in this respect.

MR ANDREW CHENG (in Cantonese): *Madam President, it was mentioned in the third part of the main reply that public corporations involved different policy areas. However, government departments also involve different policy areas. This reply therefore appears to be unacceptable. I hope the Secretary can give us an explanation. Actually, what we are talking about is a labour policy that seeks to protect the working dignity of wage earners. It does not make any sense talking about different policy areas. Based on this labour policy, why can the Government not give equal treatment by realizing the spirit of this policy in the Government as well as public bodies?*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): I would like to thank Mr CHENG for his supplementary question. The Government cannot decide the staff remunerations on behalf of all organizations. As an employer, the Government does have its own policy. For instance, the Government as an employer has its own policy of determining the entry salary points according to the nature of work and the average rate of the market. As pointed out by Secretary Frederick MA earlier, many public bodies actually operate on commercial principles. Although some of these public bodies are wholly owned by the Government, they have to determine their own wages since they operate on commercial principles. They are not strictly required to follow the Government's policy.

The scope of the issues related to the labour policy is extremely wide. Mr CHENG may ask whether it is necessary for the Government to issue instructions to private organizations, in addition to public bodies, by specifying the levels of minimum wages, and so on. With the President's permission, I

can talk about the labour policy and minimum wages, for these issues have a far-reaching impact on our labour market and society. Members have expressed a diversity of views on this issue in a number of debates previously conducted in this Council. I believe such an important topic should be discussed jointly by employees, employers and the Government for purposes of forging a consensus. Without a consensus, it will be hard to implement anything.

MR LEE CHEUK-YAN (in Cantonese): *Madam President, I do not wish to entangle myself with the issue of whether the Government is being self-contradictory, I would rather pursue the second best option — I would like to request the Government to promise issuing a letter to all public bodies and public corporations to inform them of the new policy currently adopted by the Government in the hope that they can make reference to this standard of good employer. After a period of time, the Government should make enquiries with them to see if they have made reference to the Government's practice in determining minimum wages or wages close to the market rates. I do not wish to argue with the Secretary on the issue discussed earlier anymore. I just want to know the answer to this question: Will the Government actually do this? If the Government is unwilling to do this, there is nothing else we can discuss; if it is willing to do so, we hope we can do something.*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, I think Mr LEE has just made an excellent suggestion. As mentioned by me earlier, although many public bodies should have already noted this after the issue of instruction by the Government on 6 May and extensive coverage by the media, I will still write to public bodies reminding them of the instruction issued by the Government, given the excellent suggestion made by Mr LEE. Of course, the public bodies can decide on their own whether or not to follow.

MR LEE CHEUK-YAN (in Cantonese): *Madam President, the Secretary has not responded to the second part of my excellent suggestion concerning whether the Government will make enquiries with the public bodies three or six months after the issue of the letter whether a new policy has been adopted and a new decision made with reference to the Government's policy?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, the Government may be mistaken by public bodies as pressurizing them should it do something like this. It will therefore be better to allow their boards of directors to make the decision. After receiving the letter issued by the Government to the public bodies, their boards of directors, being responsible bodies, will respond accordingly.

MR CHAN KAM-LAM (in Cantonese): *Madam President, the replies given by the two Secretaries are not entirely satisfactory because it is only natural for the Government as a good employer to protect the remunerations of the workers or departmental staff employed by it to perform outsourced work. Should the Government ignore those areas falling outside its scope, people may have the impression that the Government, albeit being a good employer, is not a good Government. I therefore hope the Government can consider bringing this issue to the Labour Advisory Board (LAB) for discussion, because this issue has arisen out of the extremely low wages (just around \$2,000) offered by contractors. This is unacceptable in the present-day society. Will the Government discuss in the LAD the possibility of setting minimum wages for occupations or services where there is excessive exploitation?*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): I would like to thank Mr CHAN for his supplementary question. As mentioned by Mr CHAN, the Government cannot determine wages for all organizations. As also mentioned by me earlier too, this subject has been debated repeatedly in this Council, but a consensus has yet to be reached. I believe the Government should leave such matters to individual organizations for consideration. However, I do agree that such subjects actually involve three parties, namely employees, employers and the Government. The implementation of certain proposals, such as the setting of minimum wages for individual trades and occupations as proposed by Mr CHAN just now, will have far-reaching impact. I thus agree that detail discussion is warranted. I believe the LAB is a suitable venue. I am pleased to forward this matter to the LAB for discussion.

PRESIDENT (in Cantonese): We have spent more than 18 minutes on this question. Last supplementary question.

MR TAM YIU-CHUNG (in Cantonese): *Madam President, the Secretary mentioned in part (a) of the main reply that there are more than 200 public bodies and public corporations, and their operations fall within the ambits of different Policy Bureaux. Can the Secretary collect information on the wages of the non-skilled workers employed by these 200-odd public bodies and public corporations for submission to this Council?*

PRESIDENT (in Cantonese): Which Secretary will answer this question?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, regarding the suggestion made by Mr TAM, I have to discuss it with my colleagues back in the office because it may take some time to collect such information. I wonder what follow-up action can be taken after the acquisition of such information by Mr TAM. Should Mr TAM insist on doing this, we will have to spend a lot of manpower and resources, involving not only the Government but also public bodies. As public bodies operate on an individual basis, they can ignore our request. As this task will involve a lot of resources of the Government and public bodies, I therefore wish to know more about this request made by Mr TAM and the follow-up to be taken upon the acquisition of such information.

MR TAM YIU-CHUNG (in Cantonese): *Madam President, I would like to clarify my supplementary question. I request such information because it will help us know more about the wages of the non-skilled workers employed by public bodies. I believe time is not an issue. The Government may wish to submit the information it has collected to this Council.*

PRESIDENT (in Cantonese): Secretary, do you have anything to add?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, I think I have to spend some time to collect the relevant information. (Appendix I)

PRESIDENT (in Cantonese): Second question.

Provision of Medical Services to People on Lantau

2. **MR CHEUNG MAN-KWONG** (in Cantonese): *Madam President, as early as 1998, the Administration reserved a site at Tai Ho, Lantau for the construction of the North Lantau Hospital and forecast that the project would be completed in 2007. However, the project has not yet been implemented. Regarding the provision of medical services to people on Lantau, will the Government inform this Council:*

- (a) *of the reasons for not yet implementing the North Lantau Hospital construction project, together with a detailed list of the relevant work performed in the past six years by the government departments concerned, as well as the latest estimated project completion date;*
- (b) *of the respective projected numbers of residents and transient population on Lantau (including tourists and outsiders working there) as well as their sum at the end of each of the next five years; and*
- (c) *whether it will provide 24-hour emergency medical services on Lantau to cope with the demand before the commissioning of the said Hospital; if so, of the time when such services will start; if not, the reasons for that?*

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

- (a) The Government has in the past reserved a site at Tai Ho for construction of a hospital. Subsequently, Hong Kong's overall population growth turned out to be slower than expected. There were also decisions to introduce projects that would affect the development and land use of North Lantau in recent years, such as the Hong Kong-Zhuhai-Macao Bridge and the North Lantau Value Added Logistics Park. In view of these developments, earlier this year the Government established the Lantau Economic and

Infrastructural Development Coordination Task Force (the Task Force), headed by the Financial Secretary, to comprehensively review the planning and development of Lantau, and to formulate a planning blueprint to ensure that the various projects would be implemented in a co-ordinated and balanced manner. Consequently, the remaining development and planning of Tung Chung New Town, including the choice of the North Lantau Hospital's site, has to be reviewed as well. The Task Force is formulating a Lantau Development Concept Plan, and is planning to consult the public on the various proposals in the Plan. The Task Force has initially identified Tai Ho, including the site originally earmarked for the North Lantau Hospital, to be the site for developing a Value Added Logistics Park to reinforce Hong Kong's status as the premier international logistics hub in Asia. In the course of reviewing the remaining development of the Tung Chung New Town, another site will be identified for the North Lantau Hospital. Subject to public views on the Concept Plan, the review on the remaining developments in the Tung Chung New Town is preliminarily envisaged to be completed in 2007. Afterwards, land formation works for various developments in the new town, including that for the hospital, will proceed.

Meanwhile, we have attempted to identify alternative sites in the existing Tung Chung New Town for construction of the North Lantau Hospital. Two sites have initially been identified. After we have made a preliminary choice on the preferred site, we will conduct feasibility studies and public consultation. If the preferred site is found feasible and acceptable to the public, we will be able to commence works on the North Lantau Hospital earlier. It normally takes four to five years to design, build and commission a new acute hospital after a final decision has been made on the choice of the site provided that the land formation has been completed.

- (b) According to the population projection prepared by the Planning Department, the projected population for Lantau for the next five years are set out in the Annex attached to the reply.
- (c) At present, accident and emergency services for residents of North Lantau is provided for by the Princess Margaret Hospital. There is

direct land transport network and public transport linking North Lantau and the Kwai Tsing District. Patients who are in serious condition may use ambulance service for delivery to the Princess Margaret Hospital for treatment.

We have to consider various factors in deciding whether to provide 24-hour emergency medical service, including whether the usage rate justifies the resources devoted to such purpose, and whether there is sufficient support from other specialties such as surgery, trauma and intensive care. According to the data collected by the Hospital Authority (HA), the average number of Lantau residents using accident and emergency service of all public acute hospitals and triaged as critical or emergency categories per day is 1.2. In view of the low usage rate, we have no immediate plan to introduce 24-hour emergency medical service in North Lantau. However, the HA is in close liaison with the residents of North Lantau and are identifying areas where the general out-patient clinic service can be improved to better meet the needs of the residents.

Annex

According to the population projection prepared by the Planning Department, the population of Lantau^{Note 1} in the next five years is as follows:

<i>Year</i>	<i>Population</i> ^{Note 2}			<i>Employment</i> ^{Note 3}
	<i>North Lantau New Town</i>	<i>Rural Lantau</i>	<i>Lantau Total</i>	
2004	54 200	30 300	84 500	n.a.
2005	61 300	30 800	92 100	n.a.
2006	68 200	31 200	99 400	82 204
2007	69 800	31 700	101 500	n.a.
2008	70 300	31 900	102 200	n.a.

The Planning Department has no projected figures on tourists for Lantau.

Note 1 Including Chek Lap Kok International Airport

Note 2 The figure includes Usual Residents and Mobile Residents but not tourists or workers.

Usual Residents comprise all Hong Kong Permanent Residents who have stayed in Hong Kong for at least three months during the either six-month periods before or after the reference moment, regardless of their whereabouts at the reference moment and Hong Kong Non-permanent Residents who are in Hong Kong at the reference moment.

Mobile Residents are Hong Kong Permanent Residents who have spent one to less than three months during the either six-month periods before or after the reference moment, regardless of their whereabouts at the reference moment.

Note 3 Only the projected employment figures for the year 2006 is available.

MR CHEUNG MAN-KWONG (in Cantonese): *Madam President, the development of Lantau New Town started in 1992, and residents began to move into Tung Chung in 1997. However, up to now, there have been no "traces" of a hospital there. According to the reply of the Government, the North Lantau Hospital will not be completed until 2012 at the soonest, meaning a lapse of 17 years in total. At present, it will take local residents as long as 33 minutes to travel by ambulance to the Accident and Emergency Department of Princess Margaret Hospital. Will the Government please inform this Council whether it has already forgotten the residents of Lantau? There have been no hospital and no 24-hour accident and emergency service, so how can the residents' lives and health be protected? Has the Government been fair to them?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): *Madam President, generally speaking, as far as hospital planning is concerned, we will consider the construction of a hospital in a place only when the local population has reached 200 000. Hospital services are provided through Hospital Clusters. Direct transport by land is available to local residents of North Lantau who wish to seek treatment in Princess Margaret Hospital, and paramedical personnel on ambulances can also provide prompt emergency treatment to residents when necessary.*

MR ALBERT CHAN (in Cantonese): *Madam President, perhaps because the Secretary is so well-off that he cannot quite appreciate the hardship of the common masses. If a resident of Tung Chung travels by taxi to Princess Margaret Hospital for medical services, he will have to pay a fare of more than \$200, and if he wishes to travel there by ambulance, he will have to wait a very long time. Since there is no bus going back to Tung Chung, some of those having consulted a doctor at Princess Margaret Hospital have to stay there overnight until the resumption of bus services the following morning. Maybe, the Secretary is totally unaware of the people's plight.*

I wish to ask the Secretary a question. In the past two years, I have held quite a number of meetings with the HA, asking it to set up 24-hour emergency medical service in Tung Chung and to provide some specified specialist services there. In its written reply to me, the HA said that it would actively study and

consider my proposals. But, in his reply today, the Secretary simply says, "We have no immediate plan." Has the Secretary in fact ruled out the HA's plan? Or, was the HA actually trying to cheat a Legislative Council Member? In regard to the HA's plan to operate 24-hour emergency medical service at Tung Chung Clinic, can the Secretary tell us whether the plan will be halted as he has mentioned, or whether it is still under consideration and study?

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, I do not have the information mentioned by Mr Albert CHAN. I wonder if he can supply the information to me for follow-up actions. Anyway, generally speaking, we will hold discussions with the HA on the development of services provided by us. I just wonder when the incidents described by Mr Albert CHAN took place, because the HA has taken over the out-patient services of the Department of Health only very recently. For this reason, we must review our overall medical services and determine how we should develop public medical services in the short run, before the availability of a hospital. It must be mentioned that private medical services are also available at Tung Chung, so we must find out what treatment services for the residents should be considered reasonable. All will have to depend on overall resources.

MS CYD HO (in Cantonese): *Madam President, since Lantau is so far away from Princess Margaret Hospital, will the authorities consider any compromise between general in-patient services (covering all specialties) and those of a clinic, taking into account the conditions and needs of local residents, with a view to providing short-term in-patient services for common diseases, so that the residents can receive appropriate treatment, and community-based medical services can be provided before the local population reaches 200 000?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, the proposal of Ms Cyd HO is a very appropriate one. I also see the need to do so. I have already started to hold discussions with the HA on how best to cater for the needs of North Lantau residents in the meantime, in the interim to the construction of a hospital. We are currently reviewing this with them, and there will be gradual improvement to the medical services there.

MR ALBERT HO (in Cantonese): *Madam President, there is no doubt that under the existing government planning standards, a general hospital will be constructed in a place only when the local population reaches 200 000. But the point is that Lantau is a strategic development area far away from the urban areas. Besides, the local population should be no less than 100 000 now, and in the next couple of years, the occupation of one more housing estate — at least one more — will take place. We now have to wait until 2012 before a hospital can be completed — the Government says that the review will not be completed until 2007, and actual construction will take five years, so the year will be 2012. The Government must not ignore the population increase in the run-up to 2012.*

Madam President, another point is that an airport is located over there. Many visitors come to Hong Kong by air. In case a visitor is sick, he may have to be rushed to hospital immediately upon arrival at the airport. There will also be the Hong Kong Disneyland, which will attract hundreds and thousands of visitors every day. There are so many factors, so why is there still such delay until 2012? Why is there still such inflexibility? In regard to the planning for such a strategic development area, do we actually need to consider any special factors before we can cater for its needs?

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, as I have mentioned just now, there must be a local population of 200 000, not 100 000, before the planning of a hospital can be considered. In other words, generally speaking, it is considered that only a population of 200 000 can ensure the cost-effectiveness of constructing a hospital. We agree that the circumstances on Lantau are different from those in other places, which is why we are actively exploring what facilities can be provided in the interim and whether it is possible to construct a hospital in North Lantau at an earlier time. In conjunction with the Planning Department, we are trying actively to identify suitable sites. In Tai Ho, many of the land formation works have not been completed, so it will not be a suitable site if a hospital has to be constructed urgently. We are therefore examining those sites in Tung Chung where land formation works have been completed, and determine whether any one of them is suitable. If a suitable site can be identified, a feasibility study will be conducted and the public consulted. After all this, depending on the outcome of the feasibility study, we will apply to the Finance Committee for funding for the construction works.

MR ALBERT HO (in Cantonese): *Actually, in asking my supplementary question, I meant to ask the Secretary whether, in view of the special factors mentioned by me, the construction of the hospital would be completed before 2012. I want to ask this question because on the basis of what the Secretary mentioned — five more years from 2007 — the hospital will not be completed until 2012.*

PRESIDENT (in Cantonese): Secretary, do you have anything to add?

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, I have nothing to add.

DR LO WING-LOK (in Cantonese): *Madam President, we can see from the experience in recent years that some areas are equipped with medium-sized hospitals, but the utilization rates of even these hospitals have been on the low side despite the fact that the local population has reached 200 000. Some of these hospitals need to restructure themselves, and in some cases, some specialties, such as obstetrics, cannot be offered. If the population size of North Lantau is to remain at the level of 100 000 to 150 000, will the Government still go ahead with the construction of a hospital there. If yes, what will be the size of the hospital? What types of services will it provide? Does the Secretary have any tentative ideas?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, this may be discussed further in the relevant panel. But my tentative reply is that under the special circumstances referred to, the hospital to be constructed should not be a conventional general hospital. As rightly pointed out by Dr LO, many of the specialty services are in fact under-utilized. But the development of hospital services has by now reached the stage of community-based services, many of which are not in-patient in nature. The most important point is that specialty services can be provided to tackle emergency cases. Therefore, we can actually proceed slowly with the adoption of different modes of service provision. We need not operate a conventional 24-hour acute general hospital right at the very beginning. Instead, we can design a hospital that can be opened in phases. There is no need to open all departments of a hospital at the same time. The departments to be opened should be designed on the basis of patient demand and cost-effectiveness. We

will also adopt this pattern for the development of medical services in North Lantau.

MR SIN CHUNG-KAI (in Cantonese): *As a matter of fact, I have also discussed this issue with the Deputy Secretary for Health, Welfare and Food. The biggest problem, and the crux of it, is that, as pointed out by Mr Albert CHAN, in the small hours after midnight, say, 2 am or 3 am, a local resident wishing to go to hospital will have to hire a taxi at a cost of more than \$200. And, after seeking treatment, he must stay in the hospital until 6 am or 7 am before there are any buses to take him home. If he does not want to stay in the hospital, he must take a taxi again, which means that he will have to pay a total fare of \$500 to \$600 for the round trip. This is a big problem for the local residents.*

The system of triage has already been implemented in the Accident and Emergency Departments of many hospitals, and the Secretary should be aware of this. Accident and emergency cases are classified into different categories. It may well be very costly to establish a full-scale accident and emergency department on Lantau, and the utilization rate may not be very high either. However, is it possible, in the very near future, to provide accident and emergency services in Tung Chung based largely on the triage system, so as to cater for the needs of residents, especially during the period from midnight to 7 am? It is hoped that this proposal can be implemented more expeditiously, because it can at least cater for the needs of residents during this period of the day.

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, we also agree that the provision of medical services in North Lantau should be reviewed. But when it comes to the design of services, in-depth discussions with the HA are required. As for the proposal on triage clinics, the main problem is that triage is not supposed to be conducted by patients, but by medical personnel. Very often, a patient at the Accident and Emergency Department simply does not know how he will be classified under the triage system. As a result, if critical patients cannot be given the services they need, there will be many complaints, and the lives of patients will also be endangered. This is precisely the problem, because generally speaking, even if there is only one case, if there is an average of one critical case or urgent case, then, if accident and emergency services are provided, patients will not know

whether their conditions are critical, nor will they know how they will be classified under the triage system. Therefore, if any accident and emergency services are to be provided, they must be full-scale.

PRESIDENT (in Cantonese): We have spent 18 minutes on this question. Last supplementary question.

DR RAYMOND HO (in Cantonese): *Madam President, according to the Secretary, the overall population growth of Hong Kong has slackened, so the plan of constructing a hospital in North Lantau has also been slowed down. Since the Hong Kong-Zhuhai-Macao Bridge will be completed four to five years later and also in view of the coming of large numbers of individual visitors from the Mainland, will the Government consider the provision of quality private hospital services as part of the new hospital project, so as to export Hong Kong's medical services to the Mainland, increase the revenue of the HA and expedite the new hospital project?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, under our general policy, public hospitals are meant to provide services to members of the public, and private medical services are to be provided by the market. However, we may consider the possibility of exploring the idea with private hospitals and medical practitioners to see if they are interested in co-operating with public hospitals. It is possible to adopt this mode of operation, but for the time being, we have no plans to develop private medical services in public hospitals.

PRESIDENT (in Cantonese): Third question.

Central Reclamation Phase III

3. **MR MARTIN LEE** (in Cantonese): *Madam President, will the Government inform this Council:*

- (a) *of the number of claims for compensation received so far in respect of the Central Reclamation Phase III (CRIII), as well as the nature*

and amount of each claim, and the percentage of the amount in relation to the value of the contract concerned;

- (b) whether it will undertake not to allow the redevelopment or conversion of the buildings on the existing waterfront into high-rise buildings upon completion of the reclamation project and construction of the new waterfront; if so, of the details of the undertaking; if not, the reasons for that; and*
- (c) whether it will consider holding an open competition in respect of the design of the above new waterfront and appointing private sector organizations to manage the new reclamation area; if so, of the details; if not, the reasons for that?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese):

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

- (a) The main contract of the CRIII works was awarded to the Leighton — China State — Van Oord Joint Venture (the Contractor) on 10 February 2003 with an awarded contract sum of \$3,790 million. Pending the outcome of the CRIII judicial review, the Government suspended the scheduled marine piling and reclamation works under the CRIII contract from 28 September 2003 to 9 March 2004. In addition, the marine works had been disturbed by a green group. The Contractor submitted on 17 April 2004 a consolidated claim, the contents of which concerned the delay and the related expenditure resulting from the suspension of works. According to the preliminary information provided by the Contractor, the amount claimed is estimated to be \$280 million, which is about 7% of the awarded contract sum. The Territory Development Department has asked the Contractor to provide detailed information and justifications, and will consider and process the claim in accordance with the established procedures.
- (b) Developments in the existing Central waterfront are covered by the approved Central District (Extension) Outline Zoning Plan (OZP). The OZP has clearly stipulated the land use, development restrictions and building height restrictions regarding any new developments or redevelopments.

- (c) The open space of the future Central waterfront will be developed into a vibrant and accessible waterfront promenade for the enjoyment of citizens and tourists alike. The newly formed Harbour-front Enhancement Committee (HEC) will advise the Government on the planning, land use and development of the existing and future harbour-front. Members of the public are welcome to give their views to the HEC on areas including the design of the Central waterfront promenade, the best implementation method and the management issues, including the proposal on private sector participation.

MR MARTIN LEE (in Cantonese): *Madam President, the Secretary did not answer part (b) of the question. In this part of the question I asked the Government whether it would undertake not to build high-rise buildings there. All the Government said was that the developments were covered by the OZP and so, there are already restrictions in the OZP. But, Madam President, even though the developments are covered by the OZP, amendments can still be made and they can be made very easily. After amendment, a three-storey building could be redeveloped into a thirty-storey building. So, let me now give the Government one more chance. I would like to ask the Secretary once again whether he would undertake not to redevelop buildings in this area into high-rise buildings upon completion of the works. If the Secretary does not give us this undertaking, then he would be telling this Council and the public that the Government would again collude with major property developers and build high-rise buildings at the open space of the new waterfront in future to destroy the landscape of the Victoria Harbour. Does it wish to see retired Judge LI Fook-sean taking to the streets again?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Madam President, as we all know, Hong Kong is a society where the rule of law prevails, and we often emphasize the great importance to the rule of law. Since there is law which requires our compliance, we must handle the matter in accordance with the legal procedures. At present, we provide outline zoning plans for all land use. As Mr LEE said earlier, we have to go through detailed legal procedures and a decision is made in consultation with the organizations concerned. If amendments are necessary, they should be made in accordance with the legal procedures. I trust Mr Martin LEE understands this better than

anyone else. Under the Town Planning Ordinance, there are adequate provisions making stipulations in this respect. Any amendment to land use or building restrictions has to go through established statutory procedures and requires public participation. Moreover, all such requests have to be considered by the Town Planning Board (TPB). The TPB will then make public the proposal to facilitate public participation in the discussion. On the other hand, there are also statutory procedures for the public to raise objection to the proposal, in which case the proposal will be submitted to the TPB for its decision only after the validity or otherwise of the opposing view is ascertained. But the consent of the Chief Executive in Council is required ultimately. All these procedures are open. Everyone can put forward his or her view on the proposal. But certainly, he or she must have a justifiable reason and the reason will be made known to all, so that they can participate in the discussion process. It means that things cannot be dealt with behind closed doors and there is no question of any amendment being made without the knowledge of anyone. This is an open process. That is why we stated very clearly in the main reply that restrictions have already been stipulated. The restrictions are imposed not only on new buildings. Redeveloped buildings are also subject to the same building height restrictions and are not allowed to exceed the prescribed limits. Certainly, Mr LEE asked about the situation when there is a request for revision of these restrictions. But as I said just now, such a case is extremely rare, and even if it does happen, there are those safeguards mentioned by me earlier.

MR MARTIN LEE (in Cantonese): *To put it simply, the Secretary is unwilling to give us an undertaking, is he not?*

PRESIDENT (in Cantonese): Secretary, do you have anything to add?

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Madam President, I must say that it is not a question of whether I can make an undertaking here. The case is that there are legal procedures and stipulations. My undertaking does not have a part to play. Even if I make an undertaking here, it is still necessary for such matters to be handled according to the legal procedures. Therefore, it is not a question of whether or not I can make an undertaking. The fact is that statutory provisions and established procedures are already in place to ensure that such cases do not occur.

MR WONG SING-CHI (in Cantonese): *Madam President, the harbour is, in fact, an asset of Hong Kong people. Now, the Government has made up its mind to continue with reclamation and has only given a reply in its documents that it will invite public participation in thinking about or considering the use of the land at the Victoria Harbour, and discussion will commence only after the completion of the reclamation works. While the HEC provides an open forum, but according to its agenda, the CRIII appears to have been excluded from the scope of its discussion. Will the authorities consider incorporating the CRIII into the scope of discussion, so that members of the public can truly take part in the discussion, rather than just chanting the slogan of "allowing public participation" which is nothing more than empty talk?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Madam President, I thank Mr WONG Sing-chi for his supplementary question. However, I think Members know very clearly that the CRIII has encountered many problems and has actually been discussed in the Legislative Council for many times and for years. It was approved by the Legislative Council not in this year, but a few years ago, and we have successfully sought funding approval for this project. So, after the court proceedings (there have been several court proceedings), the legitimacy of this project has been affirmed now. The project is currently in progress, and we cannot discuss whether or not we should do it or how to do it now. In fact, the coverage of this project and everything pertaining to it have fully satisfied the test set by the Court of Final Appeal, that is, the minimum reclamation option. Therefore, part of the works are already in progress. As for the newly formed HEC, it actually plays an active role too. For example, in the development of the waterfront promenade in future, the HEC will be responsible for studying what facilities should be provided and how the developments can become more satisfactory, or in respect of management, how we can draw on overseas experience to facilitate more effective implementation in Hong Kong in order to make the promenade more easily accessible. Many people have said that while they can see the harbour, the harbour is not accessible, for there are many barriers surrounding it. So, we will ask the HEC to give us advice and in future, we may even seek funding approval from the Legislative Council in order to carry out some minor works to enable the people to access the waterfront more easily. This is the way to truly return the harbour to the people.

MR WONG SING-CHI (in Cantonese): *Madam President, the Secretary has not answered my question. The Secretary said that the HEC would not discuss this reclamation project. Does it mean that the pledge of harbour-front enhancement will remain as empty talk? Is that what he means? The Secretary has not answered this part of my question.*

PRESIDENT (in Cantonese): Secretary, do you have anything to add?

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Madam President, I have nothing much to add. In fact, I have made it clear that this project is already in progress and so, we will not consult the HEC in respect of this reclamation project. However, the HEC will be consulted on issues relating to land use and management in future.

MISS CHOY SO-YUK (in Cantonese): *Madam President, the Secretary's reply earlier is very pleasing to the ears, because apart from returning the harbour to the people, there will also be a very nice waterfront promenade. But I would like to ask the Secretary this: Apart from the planned waterfront promenade, another 4 hectares of land will be reclaimed and on this piece of land, three small pumping stations will be constructed and a berth will also be developed for use by the People's Liberation Army. Given that there are 4 hectares of land for other uses outside the waterfront promenade, is the situation not the same because the people still cannot reach the waterfront due to these barriers? How could this be returning the harbour to the people in any sense?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Madam President, I believe it is necessary to explain the reclamation project and the relevant land use in detail to Miss CHOY So-yuk some other time. As I have repeatedly said here and on various public occasions, after the completion of the reclamation works, the Central-Wai Chai Bypass will be constructed underground, not above ground. The waterfront promenade will be built at ground level. The land for the pumping stations and so on will also be provided below ground, and above them there will be an open space. So, the waterfront promenade mentioned by us now can directly access the waterfront. As for the land to be constructed as a berth for the People's Liberation Army, our intention is only to leave it as an open space. No building will be constructed there, so

that when there is a need for vessels to anchor there, the place can be used as a berth. The land there will remain as an open space to form part of the promenade. We have yet decided as to how the promenade and other facilities will be handled. Certainly, we already have some ideas but we very much hope that the public can participate in the process and the HEC can give us better suggestions.

DR RAYMOND HO (in Cantonese): *Madam President, works had been suspended due to a judicial review lodged after the commencement of the CRIII works. Now, the contractor has submitted a claim for \$280 million as compensation. Has the Government considered asking the contractor to make general adjustments to the specific programme of works initially proposed, in order to reduce the amount of compensation claimed? It is because the loss may not be too excessive after such adjustments are made.*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): *Madam President, the contractor certainly has their own reasons to submit a claim for compensation. But the entire contract covers a period as long as over four years. As for the proposal made by Dr HO just now, I believe similar methods will be proposed during our negotiations with the contractor in order to settle the case. However, as the procedure for claiming compensation has not yet commenced, we are in the course of checking and verifying information with the contractor. So, we can report to Members on any progress made in future. We will consider this matter in this direction.*

MR ALBERT HO (in Cantonese): *Madam President, in fact, I would like to follow up the question asked by Mr Martin LEE earlier. That is, what will be the Government's position if the contractor applies for amendment of the approved OZP for the relevant developments in future? If the contractor requests making amendments to the OZP to the effect that the buildings will be redeveloped into high-rise buildings, the Secretary certainly has no power to stop them from triggering the town planning procedure and apply for such amendment. We fully appreciate this point. My question is: Will he, being the Bureau Director, oppose such application on behalf of the Government in the course of the hearing conducted by the TPB? When the proposal is submitted to the Executive Council, will he, being an accountable Bureau Director, suggest the*

Chief Executive and other Members of the Executive Council not to approve similar applications for construction of high-rise buildings at the waterfront?

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Madam President, I very much thank Mr Albert HO for putting the question in this way. Had the question been asked in this way earlier on, it would have been much easier for me to give a reply. Certainly, the relevant procedure is not to be triggered by me, but by other parties. After the procedure is triggered, we can certainly take our own position. This is our view in principle.

MR ALBERT HO (in Cantonese): *What is the view of the Secretary? Can the Secretary clarify his view?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Madam President, our view is that the height of the building should not be further increased. Given that there are already restrictions on height, and these restrictions are actually no different from the standards on which we have all along insisted, we therefore maintain that the buildings cannot exceed the standards of height as prescribed in the approved OZP.

MS AUDREY EU (in Cantonese): *Madam President, in part (a) of the main reply the Secretary mentioned that the contract of the CRIII was signed on 10 February 2003. I would like to ask the Secretary this: Did he receive any request or notification from any organization before this date of an impending judicial review? If he did receive such notification or if he was aware of such possibility, why did he still proceed to sign the contract with the contractor, namely, Leighton — China State — Van Oord Joint Venture?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Madam President, I was not responsible for the contract matters. As far as I know, on the part of the TPB, the possibility similar to that suggested by Ms Audrey EU was raised at a meeting. But as far as I understand it, that was raised at a meeting. Perhaps as it was not handled by the same officer, not

much information had been given. As I was not personally involved in anything in this regard, I cannot give a definite answer of "yes" or "no" here.

MS AUDREY EU (in Cantonese): *Madam President, since the Secretary said that he could not give us a definite answer, can I ask the Secretary to provide supplementary information in writing after the meeting, in order to clearly explain the situation then? That is, before the said date, was the Secretary or government official responsible for signing this contract aware of an impending judicial review or did any organization inform them of it?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Madam President, I have to go back and look into this. If there are facts that can be provided in reply to the Member's question, I will certainly give a reply in writing. (Appendix II)

PRESIDENT (in Cantonese): We have spent more than 17 minutes on this question. Last supplementary question now.

MISS CHOY SO-YUK (in Cantonese): *Madam President, the Secretary mentioned earlier the other 4 hectares of reclaimed land to be used for pumping stations. I wish to ask the Secretary this: Under the Protection of the Harbour Ordinance, reclamation will proceed only when there is a need. Since the Secretary said that the pumping stations will be constructed underground, then why is it necessary to reclaim such a large area of land? According to the Secretary's description, the place will not become a waterfront promenade, but a huge waterfront square. Does the Secretary consider it necessary to build such a large waterfront square measuring several hectares of land?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Madam President, as I said earlier, I must find an opportunity to talk to Miss CHOY So-yuk, so that we can better co-ordinate our views based on our respective understandings of the situation, particularly in respect of information on figures. We do know that there are controversies among some environmentalists as to whether or not the extent of reclamation is the minimum.

I hope to take this opportunity to reiterate that the Government has conducted the test of "overriding public need" in accordance with the criteria set by the Court of Final Appeal and has completed the review of the CRIII works. According to our findings, the CRIII has satisfied the test of "overriding public need" and there is no room for further reduction in the extent of reclamation. The report of the review was submitted to the Legislative Council on 28 April 2004 and has been uploaded onto the website of the Housing, Planning and Lands Bureau under Our Harbour Front for public information. This is open information. We have completed all the work and confirmed that the extent of reclamation is the minimum.

PRESIDENT (in Cantonese): Fourth question.

Development Proposal for Sham Chung

4. **DR YEUNG SUM** (in Cantonese): *Madam President, it has been reported that a real estate developer has submitted to the Chief Executive's Office a development proposal for Sham Chung, which has subsequently been forwarded to the Tourism Commission for action. The Commission has sought and received the views of the Environment, Transport and Works Bureau, the Home Affairs Bureau, the Lands Department and the Planning Department on the proposal. In this connection, will the Government inform this Council:*

- (a) *of the views of the above bureaux and government departments, and the details of the follow-up actions taken by the Commission;*
- (b) *whether it will consider including Sham Chung in the outline zoning plan, or designating the area as a site of special scientific interest or a conservation area; if so, of the details of its consideration; if not, the justifications for that; and*
- (c) *of the number of proposals submitted by real estate developers to the Chief Executive's Office in the past three years, together with the details of such proposals, including the developers involved, the locations, sizes and intended land uses of the sites concerned, the responsible government departments and the reasons for submitting such proposals to the Chief Executive's Office?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS
(in Cantonese): Madam President,

- (a) Last November, the Tourism Commission received a development proposal for Sham Chung from a private developer referred to it by the Chief Executive's Office. Following the usual practice, the Tourism Commission consulted the relevant bureaux/departments, including the Housing, Planning and Lands Bureau, the Environment, Transport and Works Bureau, the Planning Department, the Lands Department, the Agriculture, Fisheries and Conservation Department (AFCD) and the Tai Po District Office, on the proposal. The bureaux/departments mainly indicated in their response that all proposals had to comply with the existing requirements. They also pointed out the issues that needed to be addressed (such as the impacts on the environment, biodiversity, habitats and traffic) should the developer wish to further pursue the proposal, as well as the steps to be taken for taking forward the proposal, including the land exchange or lease modification procedures depending on the content of the proposal.

The Tourism Commission had reflected the views of the relevant bureaux/departments in its reply to the developer last December. Since the proposal was still conceptual in nature, the Tourism Commission did not comment on its feasibility in the reply. Up to now, the Tourism Commission has not received any response from the developer, and hence no further follow-up action has been taken.

- (b) At present, Sham Chung is not included in any statutory outline zoning plan. According to the findings of past studies and the information obtained from the latest ecological surveys conducted by the AFCD, the ecological value of Sham Chung hinges mainly on its wetland habitats that support a rich diversity of insects and some freshwater fish. Sham Chung is also one of the 10 sites or so where the endemic Hong Kong Paradise fish have been recorded. The AFCD's preliminary view is that the ecologically important part of the site could be zoned as "Conservation Area" or "Coastal Protection Area" to conserve the existing habitats. The AFCD will follow up with the Planning Department on the matter.

Generally speaking, if an area is to be included in a statutory outline zoning plan, the Town Planning Board (TPB) shall prepare a draft plan in accordance with the Town Planning Ordinance taking into account the relevant study findings and the views of professional departments. When the draft plan is ready, the TPB shall make it available for public inspection as required by the Town Planning Ordinance. It shall conduct a hearing for objections, if any, received and consider whether any amendments to the draft plan are required. Subsequent to the publication of the draft plan and the completion of the public objection procedure, the TPB shall submit the draft plan to the Chief Executive in Council for approval.

- (c) The Chief Executive's Office does not have the statistics on the number of proposals submitted by real estate developers in the past three years. According to the established procedure, letters received are referred to relevant departments for follow-up action.

DR YEUNG SUM (in Cantonese): *Madam President, may I ask the Secretary, given that the real estate developer submitted the development proposal to the Chief Executive's Office instead of the government departments, if this is somewhat unusual? Would the Secretary worry that the relationship between some real estate developers and the Chief Executive may make it possible to turn the land they have acquired in the New Territories into profitable development projects?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): *Madam President, I think when any person in the Government has received the letter concerned, there is a well-established procedure in the Government to handle such matter and the matter cannot be decided by a single person or an office alone. The developers must make an application when they wish to change the land use and they must act according to the related legislation such as the Town Planning Ordinance. The project concerned can only commence when applications for land exchange or lease modification have been submitted to the Lands Department.*

MR ANDREW WONG (in Cantonese): *Madam President, may I ask the Secretary whether she has ever been to Sham Chung? In addition, the last part*

of the main reply has some very amazing words, that is, "The Chief Executive's Office does not have the statistics on the number of proposals submitted by real estate developers in the past three years." It says there are no statistics, but it also says "submitted", so what does it mean? Does it mean that something has been submitted but there are no statistics or does it mean that nothing has been submitted?

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS
(in Cantonese): Madam President, it means that there are no statistics.

PRESIDENT (in Cantonese): Secretary, Mr Andrew WONG has also asked you whether you have ever been to Sham Chung.

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS
(in Cantonese): I have been there many times and the newspapers have also reported that. *(Laughter)* As a matter of fact, as early as in the mid-1990s, I visited the place which was not easily accessible, for there were no road links and it would take more than an hour's walk to reach there. At that time, it was a wetland in Shap Sze Heung and one had to wade through the mud to reach there. Of course, we can also get a ferry and go there from Sam Pui Chau. Now the pier has also become quite a controversial issue for it needs repair. Many environmentalists are quite worried. So I went there recently to see if the pier needed repairs.

MR ABRAHAM SHEK (in Cantonese): *Madam President, may I ask the Secretary, with respect to privately-owned land in the New Territories, what the Government's policy is in undertaking such work? Will the Government either resume the land or co-operate with the private sector developers? What is the conservation policy at present?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS
(in Cantonese): Madam President, last year we proposed a review of the natural conservation policy and the most important thing is to find out what in the

opinion of the community is the best way to carry out ecological conservation on privately-owned land. We have explained the difficulties confronting the Government. If all such privately-owned land is to be resumed at a price offered by the Government, according to our rough estimates, it would entail a huge sum of money, to the tune of over \$20 billion. Of course, some people would not agree to that, for if land acquisition is to be carried out by the developers, the price to be paid may even be greater. But this procedure is a requirement in law. So when we proposed the review of the natural conservation policy, we could see that a lot of private land might have a great ecological value, but for many reasons, some people thought that land with great ecological value could not be developed, so they would think up all sorts of ways to destroy it. That is most unfortunate. So in this review we stress that for land with a great ecological value, we would encourage private sector participation and when circumstances permit, part of the land can be developed, hoping that proceeds from development can be used to conserve the land. We have recently completed the relevant consultation exercise and gathered a lot of information. We hope that both the public and private sectors can work together and sign agreements with the owners to manage the land in question. This will also increase the number of conservation sites (Appendix 1). In addition, we also hope that green groups can take part in the work and provide their expertise in conservation.

Members may still recall the lawsuit about Sha Lo Tung. I took part in it very actively at that time, and the lawsuit was won by us. Now that 10 years have passed, Sha Lo Tung has not become any better and it remains a deserted place. Whenever it comes to the time when people visit their ancestors' graves there, hill fires may happen. If we can enable co-operation between the public and private sectors with respect to these private lands, that will be a win-win solution and we think that will be a better alternative in natural conservation. Given the limited resources of the Government, if work is carried out by the Government alone, it can never take good care of so many lots of private land which have great ecological value. The Government is also unable to prevent destruction of the lands before they are developed. The message we want to strike home is that the greater the ecological value of a piece of land, the greater chances it will come under government effort to effect co-operation between the public and private sectors. We will also work to enhance the development potentials of such land.

MR LAU KONG-WAH (in Cantonese): *Madam President, we have been promoting eco-tours in the Tolo Harbour, and Sham Chung is one such place in the area. It is a very beautiful place and I have been there several times. However, it seems that the Secretary has dwelt only on protection and development issues in her main reply. Coastal Protection Areas are a very good example in that they can ensure preservation and development into tourist attractions. On the place Sham Chung, the Secretary said that a development proposal has been received, and that is conceptual in nature. May I ask what kind of conceptual proposal it is? Besides, the Secretary also mentioned that the AFCD and the Lands Department will follow up, may I know what kinds of follow-up actions are being taken?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): I think there are two aspects to the answer to this question. First, despite the fact that a developer has proposed a conceptual plan, the plan has yet to be realized as a commercial project; and as we have not sought consent to disclose any details of it, so I am afraid the contents of the proposal cannot be disclosed at present. Second, the AFCD and the Lands Department will study whether or not Sham Chung has any significant ecological value and whether the ecologically important part of the site could be zoned as "Conservation Area" or "Coastal Protection Area". This is the kind of work we will undertake within the Government and that has nothing to do with the proposal. We are just looking at it from a conservation perspective to determine whether there is a need for such and which part should be zoned as a Conservation Area or a Coastal Protection Area.

If anyone has been to Sham Chung, he will know that the place is huge. The part near the sea is wetland and that in fact is an important place. Besides, it has a few small rivers, or streams rather. And we are studying their ecological value from several aspects.

MR WONG SING-CHI (in Cantonese): *Madam President, the Secretary mentioned in part (b) of her main reply that "At present, Sham Chung is not included in any statutory outline zoning plan". She also said that the Government is presently considering the issues again. The Secretary also said that the AFCD's preliminary view is that the ecologically important part of the*

site could be zoned as "Conservation Area". She said that some time ago the Government had only announced that there were 12 places in Hong Kong of great ecological value. However, Sham Chung is not yet included in any zoning plan. I believe there are still many places in Hong Kong which are potential conservation areas like Sham Chung but they have not been announced as such by the Government. May I ask the Government how these potential conservation areas will be handled? The Secretary said that studies are being made and that efforts will be made to prevent the place from being destroyed before any development is undertaken. However, now the Government has not announced where these places are and so we do not know. May I ask the Government what methods it has to ensure those potential conservation areas which have not yet been announced and zoned as such can truly be protected rather than being destructed?

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): First, I would like to correct one point and that is, we have not made any official announcement on the places which should be accorded priority in conservation. It is because the subject is still under consultation. We have received a lot of views and presently these are at the final stages of analysis and discussion. From the perspective of conservation, many people would think that every plot of farmland or every hill would have to be conserved, but with limited resources, no place, country or city can ever afford to do it this way, so a conservation plan with priorities must be devised.

In this consultation, we have adopted a scientific approach to analysis. First, we would look at the biodiversity of the place, and second, we would determine if its ecological value is special (Appendix 1). In other words, we would look at the habitat and biodiversity. This is a very simple points system and it is compiled after taking reference from the biodiversity indices of many overseas countries and the United Nations. We will have to do this first before we can rank all the places in Hong Kong with ecological value systematically (Appendix 1). As for those places not on the list, that does not mean that they have no value at all. It is only because, purely from management terms, we must first take care of places with a greater urgency and value for conservation.

In this way, we can do justice to those places in urgent need of conservation, for we can really concentrate our efforts on them. However, as I

have said, many green groups strongly oppose our making the list public, for they fear that once the list is made public, people will pour lime solution or set fire to these sites. So that is a really contradictory situation. On the one hand, we wish the public to know what places should be conserved, but on the other, we are giving the landowners a message in that the value of the land in question does not merely lie in building houses on top of it. If that is a piece of land with ecological value, the Government will give a priority to handling it. With respect to the plan to forge co-operation between the public and private sectors, we would let the owners enjoy a priority. Taking into account the property market as it is, we think that we could do that for a few years to come, for land in those places is not in hot demand. So we are left with some room to manoeuvre. So we hope to work out a plan expeditiously, and we hope that this incentive will induce more people to undertake conservation and regard it as worthwhile work.

PRESIDENT (in Cantonese): We have spent more than 17 minutes on this question. Last supplementary question.

MISS CHOY SO-YUK (in Cantonese): *Madam President, the Secretary said in part (b) of the main reply that the AFCD thought that the ecologically important part of Sham Chung could be zoned as "Conservation Area" or "Coastal Protection Area". May I ask whether or not there is any overlap in the development plan which the AFCD has in mind and the development proposal which the developer has submitted? If there is no overlap, what can be done to ensure that the development will not affect the Conservation Area? If there is overlap, what can be done to ensure the preservation of the Conservation Area?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): Madam President, when we consider the Conservation Area, just as I have mentioned, the important area of this site is the wetland and Sham Chung also has some streams together their adjacent land. As to whether there is any overlap with the private sector development proposal, I would not see it as a problem. For if there is any overlap, the overlapped area cannot be developed. That is simple enough. The developer has to apply for development. If the project will cause damage to the Conservation Area, then it will not pass our environmental impact assessment.

MISS CHOY SO-YUK (in Cantonese): *Madam President, the Secretary has not answered my supplementary question. If there is no overlap, what can be done to ensure that the development will not affect the Conservation Area which is zoned by the Government for preservation?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): *Madam President, if there is no overlap, then when we undertake the environmental impact assessment for the entire development project (Appendix 1), we would certainly require the developer not to do anything to affect the nearby ecology in their operation. In fact and with respect to the conservation policy in general, we have to consider these questions. If we designate a very large piece of land as Conservation Area but we do not do anything concrete to conserve it and if we do not have the resources for it, then the piece of land will gradually be damaged. If we can make part of the land economically productive and then use the income to improve the conservation of other places on the site, then this will be a win-win solution. In this way, Sham Chung is no exception. No matter what proposal is submitted, we will make sure that this can be done before we approve of the proposal.*

PRESIDENT (in Cantonese): *Fifth question.*

Appointments of Members of Equal Opportunities Commission

5. **MR ALBERT HO** (in Cantonese): *Madam President, regarding the appointments of members of the Equal Opportunities Commission (EOC), will the Government inform this Council:*

- (a) *since the authorities have stipulated that the term of office of non-official members of advisory or statutory bodies should not be more than six years and each person should not serve as a member on more than six boards or committees, of the incumbent EOC members who have been appointed for more than six years and those who are serving on more than six boards or committees, and the justifications for the Government's deviation from the above stipulation in appointing them;*

- (b) *whether it has assessed the impact of last month's appointments of EOC members on the reputation of EOC; if it has, of the assessment results; if not, the reasons for that; and*
- (c) *whether it has any plans to appoint persons belonging to the ethnic minorities as EOC members, to tie in with the policy against racial discrimination?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President,

- (a) At present, there are some 500 advisory and statutory bodies in Hong Kong, comprising various advisory committees, public bodies, appeal boards and public corporations, and so on. The Government's existing policy of appointing chairpersons and members to advisory and statutory bodies is primarily based on the merit principle. It will make the most suitable appointment having regard to the functions and needs of the bodies. Regarding the appointments to statutory bodies, they must be made according to the provisions set out in relevant legislation. We will also take into account public opinion and expectations on the work of advisory and statutory bodies so as to ensure that the composition of these bodies can reflect the views of different sectors as far as practicable. In general, the Government will endeavour to ensure that the composition of advisory and statutory bodies can fully reflect the views and opinion of people from different strata and sectors of the society.

In addition, the "six-year rule" and the "six-board rule" are the guiding principles which have been adopted by bureaux in making appointments of non-official members to advisory and statutory bodies in the public sector.

The "six-year rule" refers to the principle that, as a general rule, a non-official member of an advisory or statutory body should not serve more than six years in any one capacity. This ensures a healthy turnover of members and provision of opportunities to more people to serve the community through appointments to boards/committees.

Regarding the "six-board rule", it provides that, as a general rule, a person should not serve as a member on more than six boards/committees. This is to ensure that a non-official member does not take on more than he or she can practically handle. Besides, it also provides opportunities to more people to serve the community through appointments to boards/committees.

Appointments of non-official members to advisory and statutory bodies should, where necessary and appropriate, taking into account the needs of the body, rather than strictly following administrative guidelines. Given the diverse needs of such bodies, bureaux should have the flexibility to identify candidates (including the flexibility not to comply fully with the "six-year rule" and the "six-board rule"). However, any exception to the above principles should be reasonable and proportionate to the special circumstances of the case.

The seven members recently reappointed to the Equal Opportunities Commission (EOC) have served as its members for more than six years.

Although these seven members have served on the EOC for over six years, their reappointment will facilitate the work of the independent panel and allow us time to implement the recommendations of the independent panel to restore the credibility of the EOC before a new round of appointment is considered.

Furthermore, the EOC is conducting two reviews: one is on its organizational and management structure while the other, conducted by three independent persons, is on its human resources management policies. Apart from the seven reappointed members, there are eight other members of which seven have joined the EOC for about one year only. Retaining some experienced members under the present circumstances will be useful to the reviews.

On the other hand, one of the 15 incumbent EOC members is serving on more than six boards/committees.

I understand that Members are very concerned about the EOC and its composition. I trust that the seven reappointed members accepted the reappointments because they believed that their experience in serving on the EOC over the years will facilitate the accomplishment of the current reviews and the implementation of recommendations of the independent panel to restore the credibility of the EOC.

We agree that the "six-year rule" and the "six-board rule" should be applied as the guiding principles in making appointments of non-official members to advisory and statutory bodies. The reappointment of the seven members, though not in compliance with the "six-year rule", is necessary and reasonable taking into account the above justifications. In addition, as the inquiry and reviews relating to the EOC will be completed within the year, the reappointments are for a one-year term only. In normal circumstances, we will strictly comply with the "six-year rule".

- (b) Before making the decision to reappoint the seven members, the Administration has fully considered all the relevant factors and impact, including the fact that the work of the independent panel and the two important internal reviews on the EOC are in progress, and so on. The best way to uphold the reputation of the EOC is to draw on the experience of these experienced members in the completion of the above important tasks and the implementation of relevant recommendations.
- (c) At present, there is one non-Chinese member serving on the EOC. We will consider appointing more members of different ethnic groups to tie in with the development of our policy against racial discrimination.

MR ALBERT HO (in Cantonese): *Madam President, in the recent meetings with the Panel on Home Affairs, the Government has in fact reiterated its efforts in complying with the "two-six policy". But to our very disappointment, the Government has broken the promise on the above pretext. I have to ask the Secretary specifically. Among the seven reappointed members, one of them is closely related to the incident leading to the resignation of the former Chairman. Stepping out of line in his behavior, his remarks always make us feel that the*

image of the EOC will be adversely affected. In making such a decision, has the Government actually considered that it would not help achieve the aim of restoring but will only seriously injure the credibility of the EOC?

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, the terms of reference of the independent panel includes investigating the incident which affects the credibility of the EOC. Before the independent panel has completed any report and drawn any conclusion, it is not appropriate for us to comment on whether any individual person should be held responsible.

MS EMILY LAU (in Cantonese): *Madam President, the Government itself has not observed the guiding principles of "six-year rule" and the "six-board rule" in making appointments, thus affecting the Government's own credibility. Facing the question of why these seven members were reappointed contrary to the guiding principle of "six-year rule", the Secretary replied that they would help the EOC complete reviews of the independent panel and implement the recommendations of the panel. Madam President, I really do not understand how they are going to provide assistance. Does it mean that the independent panel may not be able to get any assistance if they do not do anything? Besides, we have no idea what recommendations the independent panel may propose in the future. Does it mean that the relevant recommendations cannot be implemented without these seven members? Why has the Government repeatedly asserted compliance with the guiding principles and yet gone back on its words? Not to mention maintaining the credibility of the EOC, how does the Government maintain its own credibility?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, the seven reappointees have been serving on the EOC for quite some time. Some of them have even been serving since its establishment. They are therefore very familiar with the EOC operation. First of all, the EOC will still be very busy after the commencement of the investigation by the independent panel and assistance in the investigation work is needed. Moreover, there are two important reviews under way: one being the review of human resources and the other being the review of its administrative structure and personnel system. Such kind of work must be very strenuous. Appointing new members into the EOC at this juncture would cause the EOC and its new members certain

difficulties. As the investigation relating to the EOC and various reviews will be completed in a year, we opine that reappointing those seven experienced members for a year would be most appropriate to the current situation of the EOC. This would allow the incumbents to assist the EOC in completing the ongoing reviews and implementing the independent panel's recommendations on restoring the credibility of the EOC. In other words, once the independent panel has proposed its recommendations, we will be able to implement them immediately. This is more conducive to the smooth operation of the EOC and the independent panel. Of course, we strongly agree to applying the "six-year rule" and the "six-board rule" as the guiding principles in appointing non-official members of the advisory and statutory bodies. Under normal circumstances, we will strictly observe the guiding principle of the "six-year rule".

MR MICHAEL MAK (in Cantonese): *Madam President, according to the Secretary, one of the EOC members is serving on more than six boards/committees. Will the Secretary inform us, because we want to know, the name of this EOC member as well as his great contributions justifying his eligibility to sit on more than six boards/committees?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): *Madam President, among the EOC members, there is one member who is serving on more than six boards/committees. Since she is a District Council member, she is appointed as member of the Area Committee of her constituency. That is why she is serving on more than six boards/committees. She is Ms Jessie YU Sau-chu.*

MS AUDREY EU (in Cantonese): *Madam President, I would like to raise a question with respect to part (c) of the Secretary's main reply. Part (c) mentions that more members from different ethnic groups will be appointed to tie in with the development of the Government's policy against racial discrimination. May I ask the Secretary to elaborate whether the Government has in place any policy on the appointment of more members from different ethnic groups to join not just the EOC but all other boards in addition to the EOC in order to tie in with the policy against racial discrimination? Or do you mean you expect the EOC will be responsible for enforcing the law against racial discrimination, therefore your reply is only applicable to the EOC, meaning that the EOC will consider appointing more members from different ethnic groups? If the latter is*

the case, Madam President, as I have learnt from the main reply to the sixth question that the Government will conduct public consultation in this respect, will the Government state clearly whether it is inclined to empowering the EOC to enforce the law against racial discrimination after the enactment of legislation?

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, I would like to thank Ms Audrey EU for her supplementary question. As a matter of fact, the answers to the two questions raised by her are affirmative. First of all, in appointing non-official members for advisory and statutory bodies, the Government will certainly listen to all opinions with a view to hearing voices from each sector. If a board or an advisory body is involved in matters concerning the racial harmony of various ethnic groups, we will definitely consider appointing more representatives from the sectors concerned to join these advisory and statutory bodies. The other interpretation is also correct. If we take a look at the sixth question that follows, we can see that, in the consultative process concerning a bill on anti-racial discrimination, the Government will raise two options: either setting up an enforcement division within the EOC or setting up a commission to deal with racial discrimination. For both options, we will consider appointing people from different ethnic groups to join the commission concerned to ensure that voices of various sectors are heard.

MS AUDREY EU (in Cantonese): *Madam President, I would like to seek clarification concerning the Secretary's reply to the first part of my supplementary question. Does he mean that the Government has now formulated a policy on the appointment of people from different ethnic groups no matter whether the work of the commission concerned is involved in anti-racial discrimination because this is a government measure to develop anti-racial discrimination policy? Or does he mean that the Government will only appoint people from different ethnic groups when the commission is involved in the work against racial discrimination? I would like the Secretary to clarify the first part of his reply.*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, as regards the first part of my reply, both interpretations are correct. In other

words, concerning the current guiding principles in making appointments to advisory and statutory bodies or organizations, there is no stipulation that each ethnic group must be equally or commonly represented. But when a board/committee is involved in issues or policies relevant to different ethnic groups, we should provide opportunities for the free expression of views so as to listen to every opinion. At present, however, we will only formulate the guiding principles of "six-board rule" and "six-year rule". We also wish to add a principle enabling the ratio of female members to be over 30% (Appendix 2). There are altogether only three principles as mentioned above. Although we already have three principles, it does not mean that we cannot add one more principle on equal representation of all ethnic groups. In our consultative document, we welcome suggestions in this respect from various sectors.

PRESIDENT (in Cantonese): We have spent more than 17 minutes on this question. Last supplementary question.

DR LUI MING-WAH (in Cantonese): *Madam President, I do not quite understand the Secretary's logic. Will he please elaborate? He said that the appointment of those seven members was based on two main reasons, that is, to help the EOC complete the ongoing review and to implement various recommendations put forward by the independent panel on restoring the credibility of the EOC. However, since the investigation is due to complete within this year, the term of office is therefore fixed at one year. If the review is just completed after one year, how can the members help implement various recommendations put forward by the independent panel on restoring the credibility of the EOC?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, I would like to thank Dr LUI Ming-wah for his supplementary question. My reply to the question is as follows. As regards the re-composition of membership, since the term of office for the existing members is one year only, we will be able by next year to reappoint members who can better tie in with, maintain and uphold the credibility of the EOC according to the recommendations proposed by the independent panel if its report can be submitted within one year.

DR LUI MING-WAH (in Cantonese): *Madam President, the Secretary has not answered my question. If the term of office is only one year, how can the members assist in the implementation of recommendations proposed by the independent panel on restoring the credibility of the EOC? Since the members have spent one year's time on the review and would have left the office after one year, how can they implement the recommendations?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): *Madam President, they can provide background information when the review is under way because most of them have already been members since the establishment of the EOC. Therefore, their profound knowledge of the history and the circumstances surrounding the incident will contribute greatly to the investigation and to the exploration of the causal relation in general.*

PRESIDENT (in Cantonese): *Last oral question.*

Legislative Proposals for Racial Discrimination Law

6. **MS AUDREY EU**: *Madam President, it was reported that the Home Affairs Bureau indicated in May this year that it would postpone the publication of the consultation paper on the legislative proposals for the racial discrimination law. In this connection, will the Government inform this Council:*

- (a) of the specific reasons for postponing the publication of the above consultation paper; and*
- (b) when it will publish the consultation paper and introduce the relevant bill into the Legislative Council?*

SECRETARY FOR HOME AFFAIRS: *Madam President, the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) applies to the People's Republic of China and is, by extension, applicable to the Hong Kong Special Administrative Region (SAR). The ICERD provides that States Parties should prohibit and eliminate racial discrimination in all its forms*

and guarantee the right of everyone, without distinction as to race, colour, descent, or national or ethnic origin, to equality before the law.

The Hong Kong Bill of Rights Ordinance prohibits all forms of discrimination, including racial discrimination, in the public sector, but we do not yet have legislation which prohibits all forms of racial discrimination on the part of private individuals or organizations. The SAR has the obligation to implement the ICERD and has the responsibility to prevent and eliminate racial discrimination. Against this background, the SAR Government agreed to legislate against racial discrimination in June 2003 and undertook to publish a consultation paper on the legislative proposals for the racial discrimination law to canvass public views.

Since the announcement of the above decision, the Home Affairs Bureau has been actively preparing the groundwork for legislation and has made good progress. Now, I would like to brief Members on the situation.

In December last year, we submitted the drafting instructions on the proposed bill to the Department of Justice. We have also been working on the draft of the consultation paper, and meeting and exchanging views with interested bodies.

With the public's heightened awareness of equal opportunities, the community at large will not object to legislating against racial discrimination. According to a public opinion poll conducted in March, we found that about 60% of the respondents were in favour of legislating against racial discrimination.

The proposed consultation document will put forward detailed legislative proposals, specifying acts of racial discrimination which will be regarded as illegal. It is proposed that the bill should cover six types of discrimination:

- (i) direct racial discrimination;
- (ii) indirect racial discrimination;
- (iii) discrimination on the basis of the race or ethnic origin of the spouse or a relative of a person;
- (iv) discrimination by way of victimization;

- (v) racial harassment; and
- (vi) racial vilification.

Besides, it is proposed that, under the bill, protection against racial discrimination should cover the following fields:

- (i) employment;
- (ii) education;
- (iii) goods, facilities, services and premises;
- (iv) advisory and statutory bodies;
- (v) pupillage and tenancy in barristers' chambers;
- (vi) clubs; and
- (vii) the Government.

Regarding the question of which body should be responsible for the implementation if the bill is endorsed, the consultation document will put forward two options: first, it is proposed that the relevant legislation be implemented by the Equal Opportunities Commission; second, an alternative is to set up a Commission for Racial Equality to take up the relevant work. We welcome different views from all sectors of society during the public consultation period.

After giving an outline of the background, I would like to reply to the question raised by the Honourable Audrey EU as follows:

- (a) The contents of the bill, such as the scope of the bill, general exceptions from anti-discrimination provisions, implementation body and whether discriminatory treatment experienced by new arrivals from the Mainland should be defined as a form of racial discrimination, and so on, are still rather controversial.

In the run-up to the Legislative Council election, it is expected that public attention will be focused on election activities and will

inevitably be distracted from discussions on the legislation against racial discrimination. In addition, we do not want to see discussions on the legislative proposals politicized amid the increasingly heated election campaigns.

In view of the above, the Administration has decided to postpone the consultation until after the Legislative Council election in September.

- (b) We will publish the consultation paper after the Legislative Council election in September for public consultation for three months. We hope to introduce the relevant bill into the Legislative Council during the 2004-05 legislative year.

MS AUDREY EU (in Cantonese): *Madam President, I would like to ask the Secretary a question in relation to the ninth paragraph in the Chinese version of the main reply, that is, the part in reply to part (a) of the main question on new arrivals from the Mainland. Madam President, last year, when I moved the relevant motion debate, a Member from the Democratic Alliance for Betterment of Hong Kong specifically moved an amendment with the intention of removing new arrivals from the Mainland from the motion. Yet, on seeking further clarification with the Secretary, they withdrew the amendment, because the stance of the Government then was racial discrimination should cover new arrivals from the Mainland. However, after the motion had been passed, it was reported in the press that the Government seemed to have made a volte-face or engaged the "backward gear". Now the Government points out in part (a) of the ninth paragraph in the Chinese version of the main reply that the issues "are still rather controversial". Does this mean that the Government has already changed its stance to think that racial discrimination should not cover new arrivals from the Mainland? Then the Secretary also mentioned his worry that the consultation might be politicized. Does the Secretary worry that the Government's action in making a volte-face might become a highly prominent issue in the election, so it has decided to postpone the consultation?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, the proposed legislation is only intended to protect all Hong Kong people against racial discrimination. Therefore, new arrivals from the Mainland having

settled in Hong Kong are no exception. However, we know most of the new arrivals from the Mainland belong to the Han race of the Chinese people, who are of the same race as most of the local population, which also mainly consists of the Han race. If new arrivals from the Mainland are subject to any discrimination just because they are new to Hong Kong, this is a kind of social discrimination, instead of racial discrimination. As such, it will not fall within the ambit of the bill. Of course, we shall listen to the views of the public in this regard. But the public should also note that we have not included any provisions to stipulate that the acts of discrimination suffered by new arrivals from the Mainland are not within the scope of the bill. We anticipate that, whether this sort of acts of discrimination is regarded as racial discrimination will ultimately be decided by the Court. And when the Court considers such cases, it will take all sorts of justifications into consideration, including the stance of the Government, and relevant precedents both in Hong Kong and the international community.

With regard to the question raised by Ms Audrey EU on whether the Government has made a volte-face, I can tell Honourable Members that the Government has really made a volte-face. This is because in the past the Government considered the discrimination faced by new arrivals from the Mainland as racial discrimination according to an international discrimination case in which Irish Travellers were subject to discrimination. However, on a detailed study of the case, that is the case of the Irish Travellers, as well as other cases, we found that there are marked differences between the case of the Irish Travellers and the background of new arrivals from the Mainland. As such, we think new arrivals from the Mainland should not be covered by the bill. The definition of racial discrimination in the bill is based on the acts of discrimination due to race, colour, descent, national or ethnic origin, which is the same as the definition contained in Article 1 of ICERD. Our definition is formulated according to this definition, not that we have incorporated some other definitions.

MS AUDREY EU (in Cantonese): *The Secretary has not answered my supplementary question. I was precisely asking whether the Government worried that, the fact that it had made a volte-face may evolve into a politicized factor, so it had postponed the consultation in order to avoid making it an issue during the election period.*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, just as I have said, the action taken by the Government in making a volte-face is in fact making the appropriate change to cater for the needs of society, and to meet the requirements of the people. Therefore, there is no problem in this aspect. If the question is on whether the Government worries that the issue may become too politicized because the Government has made a volte-face, I can tell Honourable Members that I as the Secretary for Home Affairs consider my prime task is to formulate a law that is widely acceptable to the people; and my second task is to make sure that the legislation can pass through the Legislative Council. These are my greatest concerns, whereas the fear that the Government might be criticized for having made a volte-face is not.

MISS MARGARET NG (in Cantonese): *Madam President, I also wish to follow up this part. The Secretary mentioned in the main reply that formulating legislation against racial discrimination is our international obligation. Now, may I ask the Secretary to explain what his meaning of "politicized" is? Will certain incidents involving new arrivals from the Mainland force certain political parties to support certain issues or will such incidents force certain parties oppose certain issues? Is this his meaning? If not, what is the meaning of "politicized" as he said?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, although the findings of certain surveys and the motion debate conducted in the Legislative Council last year indicated that there is an enhanced level of support for legislating against racial discrimination both in society and the Legislative Council, and we may say that we have a consensus on this premise or the general direction, the proposed bill may still be quite controversial. A controversy could arise from the scope of coverage, the contents and exemption clauses of the legislation, and so on. In order to ensure that the public can have a focused, rational and comprehensive discussion on the consultation paper, we have finally decided to postpone the consultation until after the Legislative Council election in September.

MISS MARGARET NG (in Cantonese): *Madam President, the Secretary has utterly not answered my question. I hope that the Secretary can explain what "politicized" means. Will the Government force certain political parties to*

support some issues, or force certain political parties to oppose some issues? But the Secretary has definitely not answered my question.

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, in the past, the Government had introduced certain major policies before elections, and eventually such policies were politicized. For example, when the Urban Renewal Authority Bill was introduced, issues such as the resumption of land and compensation had become politicized just because the elections were around the corner.

MISS MARGARET NG (in Cantonese): *Madam President, I am sorry, I still hope that the Secretary can explain what "politicized" means, what is considered "politicized". In particular, will it target on certain political parties, or will it force certain political parties to support or oppose something?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, as far as I know, governments of other places will also choose not to introduce controversial bills before major elections. We feel that we need to have calm and rational discussions. Our prime task is to ensure that bills can pass through the Legislative Council smoothly.

MS EMILY LAU (in Cantonese): *Madam President, I believe the Secretary also knows that the issue of eliminating discrimination is also a cause of concern to several committees of the United Nations. Recently, the United Nations Committee on Economic, Social and Cultural Rights has held a meeting to discuss some preliminary issues, and there is even a committee which specifically deals with racial discrimination. Now, the Secretary has made a volte-face. May I ask if it was the United Nations which had asked the Secretary to make a volte-face? If not, how can the Secretary explain this to the United Nations and the international community?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, I have mentioned making a volte-face earlier, but I did not mean to say that we shall not proceed with legislating against racial discrimination. I do not mean making a volte-face in this regard. By volte-face, I mean when the relevant

motion debate was conducted in the Legislative Council last year, the Government was of the opinion that new arrivals from the Mainland should be covered by the bill; but subsequently we found that they should not be covered after having made more detailed studies as well as making reference to precedents in other bills and legislation. Therefore, the Government has only made a volte-face in this regard. However, from the longer-term perspective of legislation, the Government will uphold its consistent approach and will definitely enact law to ensure that racial discrimination will not exist in Hong Kong.

MS EMILY LAU (in Cantonese): *Madam President, my supplementary question is of course raised in respect of making a volte-face in regard to new arrivals from the Mainland. May I ask the Secretary if the relevant volte-face made in response to instructions from the United Nations? If not, how can the Hong Kong Government explain this to the international community?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): *Madam President, it is not a case of anyone instructing the Government to make a volte-face, or not to make a volte-face. It is precisely because the Government had made reference to some past precedents of the United Nations before it came to such a conclusion.*

MR MARTIN LEE (in Cantonese): *Madam President, if the discussion on eliminating racial discrimination is considered politicized, how can its extent of politicization be compared to the discussion on the dual elections by universal suffrage? Even the issue of dual elections by universal suffrage can be brought up before the election, why can we not discuss the issue of discrimination? Is it simply because the Secretary wishes to save the embarrassment of the DAB, as the DAB does not wish to protect the new arrivals from the Mainland against discrimination, thereby enabling the minority of Han race people to discriminate against the majority of Han race people who come to Hong Kong from the Mainland?*

MR JASPER TSANG (in Cantonese): *Mr Martin LEE's remarks are directed against the DAB. I would like to ask the President to make a ruling on whether it is appropriate for such a remark to be made during Question Time?*

MR MARTIN LEE (in Cantonese): *Yes, my remark is in fact made on the basis of a previous remark made by Ms Audrey EU when she mentioned the DAB.*

PRESIDENT (in Cantonese): I would like to ask Mr Martin LEE to think carefully how best to put this supplementary question. In fact, it is not necessary for you to specify which political party you are referring to because this is the Legislative Council.

MR MARTIN LEE (in Cantonese): *Fine, then I shall withdraw my remark about the DAB. I just say it is a certain political party.*

PRESIDENT (in Cantonese): Good. *(Laughter)*

MR MARTIN LEE (in Cantonese): *Actually everyone knows which political party I am referring to. (Laughter)*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, by "politicized", we are not saying any political party protecting the stance of other political parties or something like that. In fact, we are just hoping that the entire community can calmly engage in a focused and rational discussion.

MR MARTIN LEE (in Cantonese): *Madam President, the first part of my supplementary question is, the most politicized discussion is actually the one on dual elections by universal suffrage. Why can such an issue be discussed now, but not the one on the issue of discrimination?*

PRESIDENT (in Cantonese): Secretary for Home Affairs, do you have anything to add?

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, I do not have anything to add.

PRESIDENT (in Cantonese): We have spent more than 17 minutes on this question. Last supplementary question.

MR JAMES TO (in Cantonese): *Madam President, I would also like to follow up this point. What Mr Martin LEE has mentioned are the dual elections by universal suffrage. But is it the judgement of the Secretary that the mention by Third Report of the Constitutional Development Task Force of our future political reforms is not politicized, but a discussion on the elimination of racial discrimination is very politicized? As an election involves the judgement and choice of different political values, why will it make us feel particularly politicized if it is introduced now? Or ultimately, is the situation like this: After careful assessment of the situation, it is felt that such a subject may have some marginal impact on a certain political party, or even very significant impact in certain districts, so regardless of whether this is a politicized issue, it is better not to conduct the consultation now?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, the decision was made not for protecting the interest of any political party. Our task is to formulate a set of laws that is widely acceptable in the community of Hong Kong and to ensure that the legislation can pass through the Legislative Council smoothly.

PRESIDENT (in Cantonese): Oral question time ends here.

WRITTEN ANSWERS TO QUESTIONS

Smart Identity Card with Free e-Cert Digital Certificate

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

- (a) *of the total number of smart identity cards which have been issued since the commencement of the Hong Kong Smart Identity Card Replacement Exercise and, among them, the number of those*

provided with an e-Cert digital certificate which is free for the first year;

- (b) of the total costs to the Post Office for providing such free offer, including those for account administration and renewal promotion; and*
- (c) whether the Administration has any means of tracking the usage rate of the e-Cert; if so, of the rate to date; and the expected renewal rate for the e-Cert after expiry of the free offer?*

SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY:

Madam President,

- (a) The Immigration Department issued, as at 15 May 2004, 1.34 million smart identity cards, of which 310 000 have been embedded with e-Certs which are free for use in the first year of issue.
- (b) The total direct cost to the Hongkong Post for providing the first year free e-Certs during the four-year identity card replacement exercise is estimated to be \$55.2 million, of which \$22.3 million would be spent on maintenance of related computer systems, \$15.7 million on customer services including account administration, and \$17.2 million on promotional activities. An additional \$12.6 million would be spent on the provision of hardware facilities.
- (c) On-line transactions are basically matters between transacting parties, such as businesses and citizens. We do not have any means to keep track of these transactions.

Given that the renewal of the e-Certs is voluntary and that the first year of free service has not expired, we have no reliable basis to predict the rate of renewal of the e-Certs. Our strategy, however, is that the one-year free offer will help to build up a critical mass of e-Cert users. We hope that this can provide the incentive for the industry to develop more applications and services, and in turn encourage greater usage and renewal of e-Certs in due course.

Prohibition of Installation of Video Display Units in Vehicles

8. **MR ANDREW CHENG** (in Chinese): *Madam President, section 37 of the Road Traffic (Construction and Maintenance of Vehicles) Regulations prohibits any person from installing any visual display unit which enables the display of television programmes or stored visual images at any point of a motor vehicle visible to the driver whilst in the driving seat. In this connection, will the Government inform this Council of the following in the past two years:*

- (a) the annual numbers of traffic accidents which occurred while the drivers concerned were watching television programmes or stored visual images shown on such equipment;*
- (b) the annual numbers of vehicle owners prosecuted for breaching the above stipulation; and*
- (c) whether it has publicized the above stipulation among vehicle owners; if so, of the details of the publicity work; if not, whether it will consider launching such a publicity campaign?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Chinese): *Madam President, we do not have the statistics of traffic accidents in which the drivers concerned were using television or video equipment inside the vehicles.*

In 2002 and 2003, three vehicle owners were prosecuted each year for contravening Regulation 37 of the Road Traffic (Construction and Maintenance of Vehicles) Regulations involving video equipment installation inside vehicles.

We do not have specific publicity programmes for this particular prohibition. However, in our road safety publicity programmes, we have been reminding drivers to pay full attention to the traffic conditions on the road and to stay alert of vehicular and pedestrian movements in the vicinity. We will include the restriction on the installation of in-vehicle television or video equipment in future publicity activities.

Steel Gates at Entrances to Public Housing Estates

9. **MR JAMES TIEN** (in Chinese): *Madam President, it is reported that recently the steel gate at the entrance to the lobby of Tin Yee House in Tin Ping Estate, Sheung Shui suddenly collapsed and injured a female resident. Although a member of the relevant District Council had already informed the Housing Department (HD) in 2000 that defects were found in the design of the hinges of the steel gate at the entrance to the blocks in that housing estate, the HD did not follow up the issue when the flats of that housing estate were sold under the Tenants Purchase Scheme (TPS) in 2002. Moreover, after the occurrence of a number of incidents relating to the steel gates at the entrances to the blocks of various public housing estates last year, the HD said that it would examine the steel gates in all public housing estates in Hong Kong. In this connection, will the Government inform this Council:*

- (a) why the HD had not followed up the issue;*
- (b) whether it had examined the steel gates at the entrances to the blocks of that housing estate before the above steel gate incident in Tin Ping Estate; and*
- (c) whether the steel gate in the incident mentioned in part (b) had been installed before or after the sale of the flats of the housing estate concerned by the HD; if it had been installed before the sale, of the party responsible for its repair and maintenance?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Chinese): Madam President, before answering the Honourable Member's question, I have to clarify a few factual points.

Tin Ping Estate was offered for sale under the TPS in February 2000. Tin Ping Estate Owners' Corporation (OC) was formed in November 2000. Estate management was handed over to the OC in April 2002.

According to records, the HD had not received any suggestions or complaints from District Council members or other persons in 2000 regarding the design of the hinges of the main entrance gates of the housing blocks in Tin Ping Estate. No problem in the operation of the gates had been detected during regular repairs and maintenance either.

In view of the accidents involving the main entrance gates of individual public housing estates last year, the HD dispatched special teams of professional technical staff to inspect the main entrance gates of public housing estates under its management. As Tin Ping Estate was managed by the OC, it was not on the HD's inspection list. Notwithstanding, the HD had recommended to the OC and its property management agency a series of measures to enhance the safety of main entrance gates for reference.

My reply to the three-part question raised by the Honourable Member is as follows:

- (a) Before handing over to the Tin Ping Estate OC, estate management of Tin Ping Estate was undertaken by the HD. Estate management staff and security guards checked the working condition of the gates during their daily patrol. Contractors also conducted comprehensive inspections and maintenance once every three months. Following a gate collapse accident caused by defective hinge screws in Tin Ping Estate in June 2001, the HD promptly instructed the contractor to check all main entrance gates in the estate and replace any defective screws to ensure that the gates were in safe working condition. In July 2001, the HD reported in detail the follow-up actions it had undertaken to the management committee of the Tin Ping Estate OC. Up to April 2002 when estate management was handed over from the HD to the OC, all main entrance gates were in good working condition. No further action was required.
- (b) Since handover of estate management duties, the HD was no longer responsible for carrying out inspections for the main entrance gates in Tin Ping Estate. All estate management functions including inspection and maintenance of the facilities in Tin Ping Estate are under the charge of the management agency engaged by the OC. According to the property management agency, all main entrance gates in the Estate were inspected at the end of last year.
- (c) Like other estate facilities, the main entrance gates were installed by the HD before Tin Ping Estate was put on sale under the TPS. As mentioned above, estate management was handed over to Tin Ping Estate OC in April 2002. The responsibility of carrying out timely

and regular maintenance for all facilities to ensure their proper functioning therefore rests with the management agency engaged by the OC. Moreover, upon the sale of the Estate under the TPS, the HD has injected \$14,000 per flat into a Maintenance Fund to enable the OC to replace and upgrade estate facilities having regard to actual needs. Following the gate collapse incident, representatives of the HD reiterated the importance of stepping up routine inspection and maintenance at a recent meeting of the management committee of the OC. The management committee, after considering the enhancement measures for main entrance gates adopted in the HD's housing estates, has resolved to carry out similar enhancement works for all main entrance gates in the Estate as soon as possible.

Business Operating Environment Index

10. **MR AMBROSE LAU** (in Chinese): *Madam President, it is reported that the Business Operating Environment (BOE) Index for local small and medium sized enterprises (SMEs) recently published by the Hong Kong Productivity Council (HKPC) reveals a drop in the BOE Index for the services industry. Moreover, most of the enterprises in the services industry are pessimistic about their business prospects. In this connection, will the Government inform this Council:*

- (a) *whether it knows the reasons for the drop in the above Index; and*
- (b) *of the short-term and long-term measures to restore the confidence of the services industry in the economic outlook?*

SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY (in Chinese): Madam President, since 1998, the HKPC has been conducting quarterly telephone surveys on the BOE Index* for SMEs to gauge the views of Hong Kong's SMEs on market opportunity, financial and investment situation, operating costs, human resources and risk assessment in the coming quarter, for reference by the business sector.

* Index = % of respondents holding a positive outlook - % of respondents holding a negative outlook

- (a) The survey for the second quarter was conducted in April this year. A total of 566 SMEs were interviewed, of which 310 came from the services sector and 256 from the manufacturing sector. The results show a drop in the overall BOE Index for SMEs for the second quarter as compared to the preceding quarter. For the services sector, which includes trade, retail and wholesale, logistics and business services, the overall BOE Index is 12.1%, recording a decrease of 8 percentage points. Although the overall Index has dropped, all major industries still reported positive scores for their respective BOE Indexes, indicating that SMEs remained optimistic about the business environment.

According to the HKPC's survey report, the drop in the overall BOE Index mainly reflects the cautious attitude of SMEs in the services or manufacturing sectors towards their business prospects and market opportunities. The contributing factors can be summarized as follows:

- (i) Seasonal factor — With the implementation of the Mainland/Hong Kong Closer Economic Partnership Arrangement (CEPA) and the relaxation of the Individual Visit Scheme for mainland residents, together with signs of recovery of the Hong Kong economy and the hot sale season of the Chinese New Year, the Index hit a record high in the first quarter of this year. However, following the market's absorption of such favourable factors and, as is usual after the Chinese New Year, the consumer market became relatively quiet, SMEs (particularly the retail and wholesale industry) lowered their expectations on the market opportunity for the second quarter.
- (ii) Interest rate — In the second quarter, more SMEs were concerned about a possible increase in lending rate arising from the economic recovery in the United States and therefore have lowered their expectations on the financial and investment situation.
- (iii) Cost — The operating cost index for the second quarter recorded a decrease as SMEs anticipated a rise in operating

cost as a result of expected increase in rental and freight forwarding cost.

- (b) The survey found that nearly 80% of SMEs in the services or manufacturing sectors have an increased confidence in the economic outlook of Hong Kong in 2004 and 30% indicated that they would increase their commercial investment. This can be attributed to the business opportunities arising from, and the preferential treatment offered under CEPA. Besides, 50% of SMEs anticipated growth in business volume in the coming 12 months with expected average increase of 3.1%. It can be seen from the above that SMEs are optimistic in their economic outlook.

Hong Kong is an open economy. External factors may have an impact on the expectations of SMEs in the services or manufacturing sectors regarding their economic outlook of Hong Kong. Nevertheless, the Government of the Special Administrative Region has been committed to improving the business environment and simplifying and streamlining relevant regulations and procedures. A Subgroup on Business Facilitation has been established under the Economic and Employment Council chaired by the Financial Secretary. The objective of the Subgroup is to develop and oversee a programme to review in a more systematic way the aforementioned areas from a user's perspective, with a view to formulating effective measures to facilitate business operations. Moreover, resources have been allocated by the Government to step up training of talents in the services sector through measures such as the launching of the Workplace English Campaign, the Skills Upgrading Scheme and the Continuing Education Fund. In addition, the Professional Services Development Assistance Scheme has been established with an allocation of \$100 million to provide the sector with financial support to embark on projects which aim at increasing competitiveness and enhancing the standard of professional services. Besides, the implementation of four SME funding schemes with a total commitment of \$7.5 billion has rendered assistance to SMEs in obtaining loans, enhancing productivity, improving the quality of human resources, expanding

their markets and improving overall competitiveness. The Government will continue to consolidate commercial and industrial support services and provide enterprises with a better business environment and greater room to facilitate their continuous development.

Reducing Size of Government

11. **MR NG LEUNG-SING** (in Chinese): *Madam President, in his 2003 policy address, the Chief Executive stated that in the course of cutting spending, the Government "will make full use of this opportunity to reduce the size of government, redefining its responsibilities, re-prioritize the provision of public services and give full play to market forces."* In this connection, will the Government inform this Council:

- (a) *of the specific efforts it has made so far to redefine its responsibilities and re-prioritize the provision of public services, as well as the results achieved; and*
- (b) *whether it has comprehensively assessed the types of public services which can be provided by the market and the arrangements to be made in respect of such services to give full play to market forces; if it has, of the assessment results as well as the details and the timetable of the relevant arrangements; if not, the reasons for that?*

FINANCIAL SECRETARY (in Chinese): Madam President, as part of the government-wide drive to reduce expenditure and restore a balanced budget, all Directors of Bureaux and Controlling Officers have been critically reviewing how best to make use of the limited financial resources to achieve their policy objectives in an efficient, effective and economical manner.

Through the continuous efforts of departments to streamline and re-engineer their operations and mode of service delivery, supported by two rounds of voluntary retirement schemes launched in 2000 and 2003 respectively and the implementation of a civil service recruitment freeze with effect from

April 2003, the total civil service establishment had been reduced from around 198 000 in early 2000 to under 170 600 as at 31 March 2004 and is forecast in the 2004-05 Estimates to further reduce to around 166 500 as at 31 March 2005.

In terms of the Government's operating and consolidated expenditure for 2004-05, the current estimates have been contained at the same levels as forecast in the previous Budget in March 2003, that is, \$212.2 billion and \$258.7 billion respectively, notwithstanding the tremendous pressures brought about by the outbreak of SARS, threat of avian flu, and so on, and the consequential calls for more expenditure.

As set out in the Controlling Officers' Reports in the 2004-05 Estimates of Expenditure, some initiatives to revisit the role of the Government or to re-prioritize include:

- (i) the incorporation of the Civil Service Training and Development Institute into the Civil Service Bureau on 1 April 2004;
- (ii) the hiving off of some rehabilitation service units (day activity centres, sheltered workshops, hostels for the mentally handicapped, and so on) under the Social Welfare Department to non-government organizations;
- (iii) the merging and downsizing of the Civil Engineering Department and the Territory Development Department in July 2004; and
- (iv) the proposed merging of the Information Technology Services Department with the IT-related divisions of the Communications and Technology Branch of the Commerce, Industry and Technology Bureau to streamline the government structure for delivering the IT function and strengthen support for IT development in Hong Kong.

Other than critically reviewing expenditure items of a recurrent nature, Directors of Bureaux and Controlling Officers are also expected to deliberate on the scope of enhancing private sector participation in the delivery of major infrastructure projects. Projects under consideration include for example the *in situ* reprovisioning of Sha Tin water treatment works. The Leisure and

Cultural Services Department is also taking forward a pilot scheme to develop and operate new leisure and cultural facilities by the private sector in Kwun Tong and Tseung Kwan O respectively.

Monitoring of Hotels

12. **MR HOWARD YOUNG** (in Chinese): *Madam President, it is reported that recently a hotel allegedly failed to provide accommodation for more than 10 travel agents as scheduled after receiving their deposits. The travel agents concerned suffered losses as a result, and jointly reported the alleged fraud to the police. In this connection, will the Government inform this Council:*

- (a) *whether it knows the number of existing hotels in Hong Kong which are not members of the Hong Kong Hotels Association (HKHA) or the Federation of Hong Kong Hotel Owners (FHKHO);*
- (b) *how it will monitor the hotels mentioned in part (a) in order to avoid a similar occurrence and protect the interests of travel agents and consumers; and*
- (c) *whether it will consider requiring all hotels to be registered with corporations with credibility before operation, and to provide proof of financial soundness before the issuance or renewal of their licence; if it will, of the details of the requirement; if not, the reasons for that?*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Chinese): Madam President,

- (a) At present, there are 97 licensed hotels in Hong Kong. The HKHA has 78 members, all of whom are hotel operators. They join the HKHA by application. The FHKHO has 42 members, comprising hotel developers or hotel holding companies. Members join the FHKHO by invitation.

- (b) The recent incident was an isolated case involving a contractual dispute between the hotel and the travel agents. Such contractual disputes can occur in any business transactions. According to the Travel Industry Council of Hong Kong (TIC), the case has been settled between the parties concerned. We do not consider it appropriate for the Government to intervene in the commercial arrangements between hoteliers and travel agents.

The Government regulates hotels through the licensing system under the Hotel and Guesthouse Accommodation Ordinance (HAGAO). The requirements under this Ordinance cover fire and building safety, health and hygiene issues.

In respect of consumer protection, the TIC requires travel agents operating inbound tours to secure confirmed hotel or guesthouse accommodation bookings before the group tours arrive in Hong Kong. Travel agents which fail to comply with the requirement will face disciplinary action by the TIC. In serious cases, this might result in suspension of the TIC membership. This in turn will automatically result in suspension of the travel agent's licence by the Registrar of Travel Agents under the Travel Agents Ordinance.

The TIC, the HKHA and the FHKHO follow closely the published Good Business Practice to deal with hotel reservation problems between hoteliers and travel agents to ensure appropriate accommodation arrangements for visitors.

- (c) The legislative intent of the HAGAO is to protect the safety of visitors through a licensing regime to ensure hotels and guesthouses comply with the requirements on building and fire safety, health and hygiene.

The regulatory provisions of the above Ordinance do not require the relevant hotels and guesthouses to register with any organizations with credibility or to provide proof of financial soundness. The policy objectives are to protect the safety of hotels and guesthouses occupiers while keeping the necessary legislative and regulatory measures to the minimum so as to alleviate the burden of operators in complying with the licensing requirements.

Recruitment Exercise Conducted by Immigration Department

13. **MR LEUNG FU-WAH** (in Chinese): *Madam President, I have received complaint from a member of the public alleging that the Immigration Department (ImmD) failed to treat all applicants fairly in the recruitment exercise for Immigration Assistants conducted last year. In this connection, will the Government inform this Council whether:*

- (a) *in screening applicants for further consideration, the ImmD had imposed on some applicants additional requirements which were not listed in the recruitment advertisement (such as working experience of three years or more for applicants whose educational qualifications were below university level); if it had, of the additional requirements imposed and whether it has assessed the fairness of such practice;*
- (b) *the ImmD has laid down guidelines to deal with cases in which most applicants possess educational qualifications higher than the minimum requirements; if it has, of the details of the guidelines;*
- (c) *the ImmD has implemented measures to ensure recruitment is conducted in a fair, open and just manner; and*
- (d) *in the light of changes in the labour market in recent years, the ImmD has reviewed the entry requirements for all ranks; if it has, of the results of the review; if not, the reasons for that?*

SECRETARY FOR SECURITY (in Chinese): Madam President,

- (a) The ImmD conducted a recruitment exercise for Immigration Assistants at the end of last year. The basic entry requirements listed in the recruitment advertisement were as follows:
 - (i) grade E or above in five subjects, including Chinese Language and English Language (Syllabus B), in the Hong Kong Certificate of Education Examination (HKCEE), or equivalent;

- (ii) to pass a physical fitness test; and
- (iii) ability to speak fluent Cantonese.

More than 18 000 applications were received. Generally speaking, applicants meeting the basic entry requirements should be able to perform the duties of an Immigration Assistant. However, given the large number of applicants and the likelihood that higher academic qualifications or more working experience would enable the applicants concerned to better carry out the duties of an Immigration Assistant, the ImmD decided to conduct an initial screening of the applications based on these two criteria with a view to selecting suitable applicants for interview so that the recruitment exercise can be completed in good time. This would allow the new recruits to finish their induction training in September so that they can assist in handling the large number of incoming visitors during the Golden Week in early October. As a matter of fact, private sector organizations also normally screen applicants based on their academic attainment and working experience before short-listing suitable candidates for interview during recruitment exercise. After screening, over 11 000 applicants were short-listed by the ImmD for initial assessment interview.

The screening criteria relating to academic qualifications and working experience are specific and objective. They are relevant to whether the applicants can discharge the duties of an Immigrant Assistant efficiently and were equally applied across the board (disabled applicants were exempted). The criteria are accordingly fair and just. As the requirement of an initial screening and its detailed criteria much depend on the response to the recruitment exercise, the criteria concerned are not spelt out in the recruitment advertisement.

- (b) The Government has laid down internal guidelines for civil service recruitment exercises. If there is a large number of applicants, an initial screening based on appropriate and objective criteria may be conducted with a view to completing the recruitment exercise in

good time. According to the guidelines, in drawing up the initial screening criteria, heads of departments should ensure that the criteria are:

- (i) objective, specific and directly related to the effective and efficient performance of duties in the rank;
 - (ii) not linked to qualifications that may not accurately reflect the current proficiencies of candidates in terms of their ability to meet the inherent job requirements. These proficiencies should be assessed afresh in the selection process;
 - (iii) non-discriminatory in respect of disability, sex, marital status, pregnancy, family status, race, sexual orientation and age; and
 - (iv) not applicable to disabled candidates.
- (c) The ImmD follows the established recruitment and assessment procedures laid down by the Government when conducting recruitment exercises. Appropriate and objective methods are adopted in the selection process based on the principle of open and fair competition. Taking the recent recruitment of Immigration Assistants as an example, the ImmD set up recruitment boards to conduct the selection. These boards, consisting of experienced Senior Immigration Officers and Immigration Officers who are requested to declare interests where appropriate, assessed comprehensively the abilities and performance of all applicants who had passed the initial screening which had taken the form of physical fitness test, group discussions and selection interviews. To ensure that the recruitment procedures and results are fair and just, the assessment procedures and the work of the responsible officers were monitored by officers of higher ranks, with the final selection results as well as the assessment reports of the applicants vetted and approved by an Assistant Director. The ImmD also allows applicants to inspect their personal data, including the results of their physical fitness tests and the interview assessment reports, in accordance with the Personal Data (Privacy) Ordinance.

- (d) In the light of the rising educational standard of applicants and the operational needs of the immigration service, the ImmD reviewed the entry requirements of various ranks under its purview in 2002. Following the approval of the Civil Service Bureau, the minimum academic requirement for an Immigration Assistant was raised from completion of Secondary Three studies to Grade E or above in five HKCEE subjects. The minimum academic requirement for an Immigration Officer was raised from Grade C or above in Chinese Language and English Language (Syllabus B) as well as Grade E or above in three other HKCEE subjects, to Grade E or above in two Hong Kong Advanced Level Examination subjects and Grade C or above in three HKCEE subjects, as well as Grade E or above in Chinese Language and English Language (Syllabus B). The ImmD will review the relevant entry requirements from time to time taking into account social development and the operational needs of various ranks to ensure that they keep up with changing needs.

Demand and Supply of Niches

14. **MR FREDERICK FUNG** (in Chinese): *Madam President, regarding the demand and supply of niches for placing the ashes of the deceased, will the Government inform this Council:*

- (a) *of the number of applications received by the Food and Environmental Hygiene Department (FEHD) for placing the ashes of the deceased in the niches of columbaria managed by the FEHD in each of the past three years, the average waiting time of each application and the fees involved;*
- (b) *whether the demand and supply of public niches are reviewed regularly; if so, of the time and result of the last review; if not, the reasons for that; and*
- (c) *of the current legislation and measures for regulating the operation of columbaria in private premises?*

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

- (a) The number of applications received for niches at columbaria managed by the FEHD for each of the past three years is as follows:

<i>Year</i>	<i>Number of applications</i>
2001	2 831
2002	5 702
2003	5 559

The fees for niches provided by the FEHD are as follows:

	<i>Standard Niche</i>	<i>Large Niche</i>
Urban area	\$2,800	\$3,600
New Territories	\$3,000	\$4,000

The FEHD releases 30 new niches daily for public application, a supply that is sufficient in meeting the current demand for public niches. Upon receipt of applications for new niches, the FEHD will issue a letter of approval for allocation to the applicants within three working days. The applicants may then obtain a new niche within one month from the issue of the letter. For applications to use occupied niches, the allocation time varies subject to the availability of niches in the applicants' preferred columbaria.

- (b) The FEHD has been closely monitoring the availability of niches at its columbaria. Private cemeteries and other organizations also provide niches for the public. At present, the FEHD and other organizations are providing sufficient number of niches to meet the public's need. However, the FEHD has plans at hand to provide more niches in its columbaria in anticipation of an increase in demand.
- (c) Given our primary policy concern in the provision and management of columbaria being public health, and that the storage of bone ashes does not pose any risks in that regard, the Government does not impose legislative or other controls on the operation of private columbaria.

Interpretation of Basic Law by Standing Committee of the National People's Congress

15. **MR MARTIN LEE** (in Chinese): *Madam President, regarding the interpretation by the Standing Committee of the National People's Congress (NPCSC) of Article 7 of Annex I and Article III of Annex II to the Basic Law and its decision on issues relating to the methods for selecting the Chief Executive in the year 2007 and for forming the Legislative Council in the year 2008, will the Government inform this Council:*

- (a) *when the Chief Executive was aware of the above interpretation and decision and their contents, and when he read the texts of the relevant interpretation and decision;*
- (b) *whether the Chief Executive had communicated with the officials of the Central Authorities before submitting the report to the NPCSC on whether there is a need to amend the above two methods; if so, of the names and ranks of the officials involved and the contents of the communications; and*
- (c) *whether the Chief Executive had urged the Central Government or the NPCSC not to interpret the provisions of the Basic Law too readily, and not to rule out at this stage the selection of Chief Executive in the year 2007 and the election of all Legislative Council Members in the year 2008 by universal suffrage without fully seeking the views of the people of Hong Kong on constitutional reform beforehand?*

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Chinese): Madam President, regarding the first part of the question, the meeting of the Chairman and Vice-Chairmen of the NPCSC announced on 26 March that the draft interpretation of Article 7 of Annex I and Article III of Annex II to the Basic Law would be considered at the meeting of the NPCSC between 2 and 6 April. A few days before 26 March, the Central Authorities informed the Chief Executive that the relevant issue would be included in the agenda of the NPCSC's meeting. On 6 April (that is, the day on which the draft interpretation was put to the NPCSC to vote), the Chief Executive received a copy of the interpretation passed by the NPCSC.

On 19 April, the meeting of the NPCSC's Chairman and Vice-Chairmen decided that the report on constitutional development submitted by the Chief Executive would be included in the agenda of the NPCSC's meeting, and be discussed on 25 and 26 April. On 26 April, the NPCSC reached a decision on the methods for selecting the Chief Executive in 2007 and for forming the Legislative Council in 2008. The Chief Executive received a copy of the NPCSC's decision on the same day.

Regarding the second part of the question, last December, when the Chief Executive visited Beijing on his duty visit, he reported to the leaders of the Central Authorities the aspirations of Hong Kong people with regard to constitutional development, and indicated that constitutional development was an important issue which the Government of the Hong Kong Special Administrative Region would need to address. The Central Authorities expressed their serious concern about this matter. The Chief Executive announced the establishment of the Constitutional Development Task Force in the policy address in January 2004.

The decision of recommending to the NPCSC, in accordance with the NPCSC's interpretation on 6 April, that the methods for selecting the Chief Executive in 2007 and for forming the Legislative Council in 2008 should be amended was made by the Chief Executive after considering fully the public views collected by the Task Force in the last few months.

Regarding the third part of the question, it is entirely legal and constitutional for the NPCSC to exercise its power under the Constitution and the Basic Law to give an interpretation on the relevant provisions of the Basic Law. On 8 April, during a meeting with various sectors of the community in Hong Kong, the NPCSC's Deputy Secretary-General, Mr QIAO Xiaoyang, reiterated that the NPCSC had been extremely cautious and serious in exercising its power of interpretation. The power would not be used lightly, and would only be exercised when it was fully justifiable to do so. He said that the NPCSC's interpretation would help put an end to the disputes in the Hong Kong community on the relevant provisions of the Basic Law, and provide us with a clear set of legislative procedures in furthering the constitutional development of Hong Kong.

Before making its interpretation and decision, the NPCSC had considered fully the first and second reports of the Task Force. These two reports (together with their annexes) reflected fully the different views expressed by

various sectors of the Hong Kong community to the Task Force. While some were supportive of implementing universal suffrage in 2007 and 2008, there were also views which considered that 2007 and 2008 would not be the opportune time for introducing universal suffrage. Furthermore, Mr QIAO and others had met with representatives of the Hong Kong community in Shenzhen to listen to their views in person. As a matter of fact, in the NPCSC's decision published on 26 April, it was mentioned that the NPCSC was, in the course of the examination, fully aware of the recent concerns of the Hong Kong society about the methods for selecting the Chief Executive and for forming the Legislative Council after the year 2007.

Manpower of Radiographic Technician or Radiographer Grades

16. **MR MICHAEL MAK** (in Chinese): *Madam President, will the Government inform this Council:*

- (a) *the respective numbers of staff of the Radiographic Technician or Radiographer grades employed by the Department of Health (DH) and the Hospital Authority (HA) as at the end of each of the past six years, with a breakdown of the figures by their ranks;*
- (b) *the numbers of new and known patients serviced by the HA Radiographers in each of the past six years, and the average waiting time of patients; and*
- (c) *the number of staff of the above two grades permitted to retire early under the two rounds of Voluntary Retirement Scheme and the Voluntary Early Retirement Scheme implemented by the Government and the HA respectively, and whether recruitment will be held by the authorities concerned to fill the vacancies?*

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

- (a) The number of Radiographers and Radiographic Technicians employed by the HA and the DH respectively, together with a breakdown by rank, as at the end of the past six financial years are given in the two tables below:

Number of Radiographers employed by the HA

<i>Grade/Rank</i>	<i>March 1999</i>	<i>March 2000</i>	<i>March 2001</i>	<i>March 2002</i>	<i>March 2003</i>	<i>March 2004</i>
Diagnostic Radiographer Grade						
Senior Diagnostic Radiographer/Department Manager	57	55	53	52	50	46
Diagnostic Radiographer I	375	375	373	373	370	364
Diagnostic Radiographer II	204	203	233	239	236	250
Graduate Diagnostic Radiographer					23	26
Sub-total	636	633	659	664	679	686
Therapeutic Radiographer Grade						
Senior Therapeutic Radiographer/Department Manager	19	19	18	18	18	17
Therapeutic Radiographer I	63	63	63	63	63	62
Therapeutic Radiographer II	57	56	58	63	63	60
Graduate Therapeutic Radiographer					2	6
Sub-total	139	138	139	144	146	145
Total	775	771	798	808	825	831

Note: there is no radiographic technician under the employment of the HA.

Number of Radiographers and Radiographic Technicians employed by the DH

<i>Grade/Rank</i>	<i>March 1999</i>	<i>March 2000</i>	<i>March 2001</i>	<i>March 2002</i>	<i>March 2003</i>	<i>March 2004</i>
Radiographer Grade						
Senior Radiographer	2	2	2	2	2	2
Radiographer I	12	10	10	12	12	12
Radiographer II	18	17	16	14	13	12
Contract Radiographer	0	6	4	9	9	12
Sub-total	32	35	32	37	36	38
Radiographic Technician Grade						
Senior Radiographic Technician	5	4	4	1	1	1
Radiographic Technician	8	8	7	6	5	5
Sub-total	13	12	11	7	6	6
Total	45	47	43	44	42	44

- (b) Radiographers employed by the HA are deployed in both in-patient and out-patient settings. While the Therapeutic Radiographers mainly serve patients in the Oncology specialty, Diagnostic Radiographers are dispersed in Acute and Emergency Departments, general and specialist out-patient clinics and in different specialties. For management purposes, radiographers are required to keep records of the services provided, but the HA does not routinely collate information on the total number of patients served by radiographers across the entire organization.
- (c) The number of staff of the Radiographer grades in the HA, who have been permitted to retire early under the two rounds of the Government's Voluntary Retirement Scheme and the HA's Voluntary Early Retirement Programme, are shown in the table below:

<i>Post</i>	<i>Civil servants in the HA</i>	<i>HA employees</i>	<i>Total</i>
Diagnostic Radiographer	9	9	18
Therapeutic Radiographer	1	3	4
Total	10	12	22

The HA will monitor closely the needs for radiographic service and recruit replacements for the posts vacated by the retirees, if necessary. Subject to the actual wastage in the remainder of the current financial year, the preliminary projection of the HA is that it will recruit seven radiographers at the entry ranks in 2004-05.

As for the Radiographers and Radiographic Technicians working in the DH, a total of two Radiographers and four Radiographic Technicians have been permitted to retire early under the two rounds of the Government's Voluntary Retirement Scheme. Under the rules of the Scheme, the DH is required to delete the same number of posts in the relevant grades from the establishment after the departure of the staff concerned.

Illegal Immigrants Committing Crimes in South Lantau

17. **MR ALBERT CHAN** (in Chinese): *Madam President, I have recently received a number of complaints alleging that in recent years, some mainland*

people stole the local fishermen's boats and engaged in other criminal activities at places near the South Lantau coast after entering the Hong Kong waters illegally by boat. In this connection, will the Government inform this Council:

- (a) *of the total number of crimes in South Lantau reported to the authorities over the past three years which were allegedly committed by illegal immigrants, together with a breakdown by categories of crimes;*
- (b) *of the current respective lengths of time normally required for the police to arrive at the scene by sea and on land after receiving crime reports from South Lantau residents; and*
- (c) *whether it has measures and sufficient police manpower to curb the crimes committed by illegal immigrants in South Lantau?*

SECRETARY FOR SECURITY (in Chinese): Madam President,

- (a) Statistics on reported cases of crime involving illegal immigrants in the southern part of Lantau Island from January 2002 to April 2004 are set out in the table below:

<i>Year</i>	<i>Offence</i>	<i>No. of Reported Cases</i>
2002	Burglary	6
	Theft	1
2003	Wounding	4
	Illegal Possession of Firearm	3
	Theft from Vessel	4
2004 (January to April)	Breach of Deportation Order	1

- (b) It has always been the objective of the Police Force to respond to reports as expeditiously as possible. This applies throughout Hong Kong, including the southern part of Lantau Island. The exact response time varies in each case, depending on such factors as traffic condition, whether the person making the report has provided the police with an accurate and precise location.

- (c) The Police Force adopts a three-pronged approach in tackling the problem of illegal immigrants and related crimes, including prevention of unauthorized entry, detection of those who evade border control and combating crime. The Commissioner of Police keeps the crime situation under close review in various parts of Hong Kong, including the southern part of Lantau Island, to ensure the deployment of an appropriate number of officers and suitable resources to meet local needs.

Hong Kong Housing Authority's Customer Service Centre at Lok Fu

18. **DR RAYMOND HO** (in Chinese): *Madam President, it has been reported that in the Hong Kong Housing Authority (HA) Customer Service Centre at Lok Fu, only the Public Rental Housing Applications Section on the second floor is still in operation, while most of the other three floors have been left vacant. In this connection, will the Government inform this Council whether it knows:*

- (a) *the total vacant areas and the gross yearly rental value of such areas on the basis of market rent;*
- (b) *the duration of and the reasons for the vacancy; and*
- (c) *the ways the HA will resolve the above vacancy problem?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Chinese):
Madam President, my reply to the three-part question is as follows:

- (a) The four-storey HA Customer Service Centre at Lok Fu has a total internal floor area of 15 900 sq m. It is now used as the offices for the HA's various activities: on the ground floor is the Business Opportunity Centre of the Commercial Properties Sub-division; on the first floor is the office of the Allocation Section; on the second floor is the office for the Home Assistance Loan Scheme, the Home Ownership Scheme (HOS) Secondary Market Scheme, and so on; and on the third floor are the offices of the Commercial Properties Sub-division and the Allocation Section. At present, the first and

third floors are being fully utilized while parts of the ground and second floors, with an area of 1 870 sq m in total, are vacant. The estimated annual rental value is about \$1.57 million. Besides, utilization of the Customer Reception Hall on the second floor, measuring 492 sq m, is on the low side.

- (b) The space left vacant at the moment was originally used for the sale of HOS flats, including a Showflat Pavilion on the ground floor, and a HOS flat exhibition hall and a flat selection room on the second floor. Since the Government announced cessation of the sale of HOS flats in November 2002, these facilities have been closed.
- (c) For better utilization of resources, the Housing Department (HD) rearranged the use of the Centre upon cessation of HOS sale, including converting part of the HOS show flat area into the Business Opportunity Centre.

In view of changes in housing policy and the HA's decision to divest its retail and car-parking facilities in this financial year, the HD started to explore the future use of the Centre around the middle of last year and has formulated a number of options for further action. In considering the future use of the Centre, the HD's major principles are "optimizing use of resources" and "convenience of the public". Well located and easily accessible by public transport, the Centre is an ideal place for serving applicants for public rental housing. One of the options under consideration is to keep the office of the Allocation Section on the first floor while leasing the remaining floors to other government departments through the Government Property Agency. Another option is to relocate all offices in the Centre and then lease the Centre as a whole to other government departments. A further option is to relocate some existing HD's offices now scattered in various districts to the Centre, especially those in estate shopping centres which will be divested.

After discussion with the HD on the issue, the Government Property Agency has advised that the option of the HD keeping one floor for its own use is not practicable. The HD is now actively following up the remaining options.

Redevelopment of Prince of Wales Hospital

19. **MS EMILY LAU** (in Chinese): *Madam President, it has been reported that the Administration plans to redevelop the Prince of Wales Hospital (PWH), which was commissioned in 1984. In this connection, will the executive authorities inform this Council:*

- (a) *of the designed lifespan of the PWH;*
- (b) *of the reasons for the Administration's plan to redevelop the PWH, and whether they relate to the design of the building, the construction materials used or the workmanship; if so, of the details concerned; and*
- (c) *as regards whether to proceed with the options of redeveloping the PWH or of renovating it, whether the relevant authorities have compared the pros and cons of these two options in terms of the capital and recurrent expenditure involved, cost-effectiveness, environmental impact, duration of the project, as well as the implications on patients and the teaching activities of the Medicine Faculty of The Chinese University of Hong Kong; if so, of the detailed comparison results; if not, whether they will make such a comparison before implementing the redevelopment plan, and consult the Legislative Council, relevant District Councils and members of the public on the redevelopment plan?*

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

- (a) The design life of the PWH buildings, like many other buildings, is more than 50 years, subject to normal usage and proper maintenance.
- (b) and (c)

The Government and the Hospital Authority (HA) have assessed the capacity of the PWH in meeting future service demand and have

agreed in-principle to the redevelopment of the hospital due to the reasons explained below.

The PWH was designed in the 1970s. Since then the mode of hospital operation has undergone changes. Space provision in the hospital is inadequate to meet service needs and the problem will be more acute with increase in population of the New Territories East cluster in the future. Its Gross Floor Area per bed provision for hospital operations is below the average of modern secondary acute general hospitals constructed in recent years. The addition and alteration works conducted over the years to meet service needs have resulted in related or even the same services being scattered over different locations in the hospital, hampering operational efficiency.

Although the existing general condition of the hospital buildings is satisfactory, particularly intensive and heavy usage in the past has accelerated deterioration of finishes, fixtures and other installations of the hospital and shortened their lifespan. Some of the building services installations are approaching the end of their serviceable life and are beyond economic repair.

The defects in building condition and the problem of deterioration of building services installations can be rectified by refurbishment. However, there are also limitations to the extent of improvement that refurbishment can bring about. We have assessed whether refurbishment or redevelopment of the PWH is a better option. Based on a preliminary feasibility study we are advised that redevelopment is a more cost-effective option, taking into consideration the extent of improvement that the two options would bring about, the time needed and social costs such as the disruption that would be caused to service provision, and the inconvenience to be suffered by patients. Refurbishment cannot solve the problem of insufficient space to meet service needs. Realignment of existing hospital services is hardly feasible due to constraints imposed by the existing structural frame and infrastructural provisions of the buildings. In addition, a major refurbishment project would require service suspension and decanting and would disrupt the operation of the hospital as well as teaching by The Chinese University of Hong Kong. There would also be much

environmental nuisance to patients in the course of refurbishment. In fact, continuous heavy usage of the PWH makes it impossible for any major refurbishment to be carried out.

In comparison, redevelopment would not require service suspension and would not affect teaching. The environmental nuisance caused would be much less since the construction would take place in sites outside the existing hospital buildings. Upon redevelopment, there will be adequate clinical space and facility provisions for the hospital to meet present-day standards and future needs.

Notwithstanding the advantages of redevelopment apparent to us at this stage, we will conduct further studies on the cost-effectiveness of a refurbishment programme *vis-a-vis* redevelopment, and will also look into how best to carry out the redevelopment or refurbishment programme that we eventually decide upon to ensure that public funds are appropriately used. We will consult the District Council and the Legislative Council when detailed plans are available.

Ridership of West Rail and East Rail

20. **MR LAU KONG-WAH** (in Chinese): *Madam President, regarding the ridership of West Rail (WR) and East Rail (ER), will the Government inform this Council:*

- (a) *of the reasons for the current lower-than-expected ridership for WR;*
- (b) *of the percentage of cross-boundary passenger trips taken with ER in the total number of such trips by public transport in each of the past three years; and*
- (c) *whether it knows the measures the Kowloon-Canton Railway Corporation (KCRC) will take to increase the ridership for WR and ER?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS
(in Chinese): Madam President,

- (a) since its opening on 20 December 2003, the average daily patronage of WR is about 100 000 to 110 000. This is below the KCRC's forecast when the Corporation decided to build WR in 1995-96. The main reasons are:
- (i) slower population growth in the North West New Territories (NWNT). The current population of NWNT is 1.04 million, which is 130 000 less than the KCRC's population assumption;
 - (ii) adjustment to property development programme along WR stations due to the stagnant property market in the past few years. As a result, a substantial catchment population has yet to be formed and WR stations are less convenient to residents in the existing residential areas in the NWNT;
 - (iii) lower traffic demand due to the economic downturn and relatively high unemployment rate in the past few years; and
 - (iv) traffic congestion along Castle Peak Road and Tuen Mun Road is significantly relieved after the opening of Route 3 for franchised buses.
- (b) The figure of cross-boundary passenger trips taken with ER as a percentage of the total number of cross-boundary passenger trips by all land-based public transport services in each of the past three years is as follows:

<i>Year</i>	<i>Percentage</i>
2001	86%
2002	83%
2003	76%

- (c) The following measures are being introduced/planned by the KCRC to boost the ridership of its ER and WR services:

ER/Cross-boundary Services

To improve competitiveness of ER cross-boundary passenger service, KCRC has been offering a 20% discount to travel agents

buying 1 000 or more Lo Wu tickets in a month since April 2004. Moreover, the KCRC is undertaking a Lo Wu Station Improvement Project, which is currently 90% complete, to enhance the comfort and convenience of passengers.

In order to boost the patronage of ER domestic passenger service, the KCRC has extended the Second Trip Discount Scheme to the end of September 2004, which offers a 20% discount to passengers who take a second trip on the ER domestic line on the same day. In addition, ER passengers enjoy a \$1 fare discount when interchanging with green minibus route 21K, 79K and bus route 701. The Corporation also provides bonus point redemption programmes and organizes regular promotional activities.

WR

The KCRC is taking a number of steps to enhance WR's competitiveness, connectivity and interchange with Light Rail and other transport modes.

In terms of fares, the KCRC has taken the following measures:

- (i) 20% discount for WR trips between the NWNT and urban areas and 10% discount for other WR trips;
- (ii) with effect from 1 May 2004, passengers holding Octopus cards who interchange with the Mass Transit Railway (MTR) or WR at Nam Cheong or Mei Foo Station enjoy a \$1.2 discount on the second leg of their journeys;
- (iii) starting from 15 May 2004, WR passengers can enjoy free interchange with the route 95K green minibus, which runs between the WR Tsuen Wan West Station and the MTR Tsuen Wan Station;
- (iv) there are interchange fare discounts for 22 franchised bus routes and eight green minibus routes; and

- (v) WR passengers transferring from taxi in the NWNT can enjoy a special fare discount of \$2.

The KCRC will continue to discuss with green minibus and franchised bus operators with a view to further improving WR's connectivity.

The KCRC is also making efforts to facilitate pedestrian and motorist access to WR stations. A discounted park-and-ride parking scheme is provided at Kam Sheung Road Station. In the longer run, the KCRC will consider building additional footbridges and staircases to enhance passenger accessibility to the stations.

Statistics show that ridership is higher on weekends and holidays. Promotion programmes in the coming months to encourage passengers to take WR to the New Territories for fun and leisure have been set in train by the KCRC.

MOTIONS

PRESIDENT (in Cantonese): Motions. Two proposed resolutions under the Mutual Legal Assistance in Criminal Matters Ordinance.

First motion: Approving the Mutual Legal Assistance in Criminal Matters (Ukraine) Order.

PROPOSED RESOLUTION UNDER THE MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS ORDINANCE

SECRETARY FOR SECURITY (in Cantonese): Madam President, I move that the resolution to make the Mutual Legal Assistance in Criminal Matters (Ukraine) Order be passed. I shall move another resolution to make the Mutual Legal Assistance in Criminal Matters (Singapore) Order in a short while.

The Hong Kong Special Administrative Region (SAR) is fully committed to international co-operation in combatting serious crime. In this connection, we have embarked on a programme to establish a network of bilateral agreements with other jurisdictions on mutual legal assistance in criminal matters. These agreements enhance international co-operation in the fight

against transnational crime. Including Ukraine and Singapore, we have so far signed 15 agreements on mutual legal assistance in criminal matters with other jurisdictions.

The Mutual Legal Assistance in Criminal Matters Ordinance (the Ordinance) provides the necessary statutory framework for implementing mutual legal assistance agreements by providing statutory powers for the provision of assistance to overseas jurisdictions in the investigation and prosecution of criminal offences, which includes the taking of evidence, search and seizure, production of material, transfer of persons to give evidence and confiscation of the proceeds of crime.

Pursuant to section 4(2) of the Ordinance, the Chief Executive in Council has made two Orders to implement the bilateral agreements for mutual legal assistance in criminal matters with Ukraine and Singapore. These two Orders apply the Ordinance between Hong Kong and Ukraine, and Hong Kong and Singapore respectively thus allowing procedures in this Ordinance to be used to satisfy requests for assistance under the agreements. The Orders are substantially in conformity with the provisions in the Ordinance. Modifications to some of the provisions of the Ordinance have however been made by the Orders to reflect the mutual legal assistance practices of our negotiating partners. These are necessary to enable Hong Kong to comply with its obligations in these agreements. Such modifications are summarized in Schedule 1 to each of the Orders.

The Legislative Council set up a subcommittee to scrutinize the two Orders in February this year. The Subcommittee has completed the examination of the Orders in two meetings. I would like to thank the Chairman, the Honourable James TO, and other members of the Subcommittee for their careful scrutiny of the Orders and their support of our submission of the Orders to the Legislative Council for approval.

At the Subcommittee meetings, members have made enquiries about the interpretation and application of a number of specific articles of the Orders. Issues discussed at the Subcommittee meetings include the compulsory powers to be invoked for the execution of requests for location of persons, the definition of proceeds from crime, the confidentiality obligation, and so on. The Administration has responded to these enquiries in detail at the meetings. The Subcommittee's deliberations on these issues are summarized in its report submitted to the House Committee on 23 April 2004.

During the scrutiny of the scope of assistance under one of the Orders, we have explained to members of the Subcommittee that the legislation governing the provision of legal assistance varies from jurisdiction to jurisdiction. The scope of assistance that can be rendered by different jurisdictions is not the same. The bilateral agreement signed between two jurisdictions will set out clearly the scope of assistance which the contracting parties are obliged to provide. The contracting parties however have discretion to provide assistance outside the scope of the agreement if their own law empowers them to do so. Members have asked how the SAR Government would handle requests for assistance outside the scope of the bilateral agreement signed with a foreign jurisdiction if the requesting jurisdiction cannot reciprocate under similar circumstances because of the limitations in its law. I would like to emphasize that "reciprocity" is the underlying principle for the entire programme of mutual legal assistance in criminal matters. The SAR Government will carefully consider requests outside the scope of the agreements with foreign jurisdictions on a case-by-case basis, and we will attach great importance to the principle of reciprocity in the process.

To strengthen our co-operation with other jurisdictions in criminal justice and international law enforcement, it is essential that the two Orders be made to enable the relevant bilateral agreements to be brought into force.

I now invite Members to approve the making of the Mutual Legal Assistance in Criminal Matters (Ukraine) Order. I shall in a moment move the resolution to make the Mutual Legal Assistance in Criminal Matters (Singapore) Order.

Thank you, Madam President.

The Secretary for Security moved the following motion:

"RESOLVED that the Mutual Legal Assistance in Criminal Matters (Ukraine) Order, made by the Chief Executive in Council on 9 December 2003, be approved."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved the Secretary for Security be passed.

MR JAMES TO: Madam President, in my capacity as Chairman of the Subcommittee on the Mutual Legal Assistance in Criminal Matters (Ukraine) Order and the Mutual Legal Assistance in Criminal Matters (Singapore) Order, I wish to report on the Subcommittee's deliberations on the two Orders.

The Subcommittee has examined the Ukraine Order and the Singapore Order, and compared their provisions with the model agreement on mutual legal assistance in criminal matters. While the Subcommittee has no objection to the substance of the two Orders, members have sought clarification on certain provisions in the bilateral agreements signed with Ukraine and Singapore.

On the Ukraine Order, the Subcommittee has asked the Administration to clarify whether the reference to "legislation" in Article 9(5)(a) and (b) of the Agreement will have the effect of confining the claims of privileges to cases where there are statutes in the Requested Party and Requesting Party which permit a witness to decline to give evidence. Members have asked whether the Article, in the way it is drafted, can adequately cover all privileges recognized in Hong Kong.

According to the Administration, the "claims of privileges" referred to in Article 9(5) are covered by section 10(7) and (10) of the Mutual Legal Assistance in Criminal Matters Ordinance (the Ordinance) which set out the general circumstances where a person who is required to give evidence, for the purpose of a criminal matter in a place outside Hong Kong, is not compellable to give evidence. The Administration considers that section 10(10) of the Ordinance already covers the common law privileges recognized in Hong Kong.

The Subcommittee has also asked about the limits in law for Hong Kong to render legal assistance to a foreign jurisdiction, and whether compulsory measures, such as that provided under section 33 of the Telecommunications Ordinance, will be used to satisfy a request for location and identification of persons and articles.

The Administration has advised that only rarely will compulsory measures be employed to execute a request to locate a person. In those rare cases, the compulsory powers used will be those under the Ordinance. As regards the power to intercept communications under section 33 of the Telecommunications Ordinance, it can only be invoked if the Chief Executive considers that public interests so require.

In response to members' concern that Hong Kong may be requested under Article 19(1) and (2) of the Agreement to trace proceeds which are outside the definition of "proceeds" in the laws of Hong Kong, the Administration has confirmed that the Requested Party is only required to take action in respect of "proceeds" within the meaning of its law.

The Administration has further advised that the measures permitted by the laws of Hong Kong for discharging the obligations under Article 19(2) are already set out in section 27 of the Ordinance.

As regards the Singapore Order, the Subcommittee has noted that the Singapore law does not allow transfer of persons in custody to a foreign jurisdiction to provide assistance. This is therefore not included in the Agreement. It would be up to Hong Kong to decide, in a particular case, whether to provide assistance to Singapore, by allowing Hong Kong prisoners to travel to Singapore to provide assistance, under section 23 of the Ordinance.

The Subcommittee has also noted that the Agreement is silent on taxation offences, as Singapore cannot provide legal assistance in this respect. It would be up to Hong Kong to decide in a particular case whether it would assist Singapore if a request is received. Members have asked the Administration to confirm, when moving the motion to seek the Council's approval for the Singapore Order, that it will attach great importance to the principle of reciprocity when considering whether to accede to requests for mutual legal assistance from foreign jurisdictions which fall outside the scope of the agreements.

Madam President, with these remarks, the Subcommittee supports the resolutions to make the Mutual Legal Assistance in Criminal Matters (Ukraine) Order and the Mutual Legal Assistance in Criminal Matters (Singapore) Order.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): Secretary for Security, do you need to reply?

(The Secretary for Security indicated that he did not wish to reply)

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by the Secretary for Security, 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.

PRESIDENT (in Cantonese): Second motion: Approving the Mutual Assistance in Criminal Matters (Singapore) Order.

PROPOSED RESOLUTION UNDER THE MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS ORDINANCE

SECRETARY FOR SECURITY (in Cantonese): Madam President, I move that the resolution to make the Mutual Legal Assistance in Criminal Matters (Singapore) Order be passed by the Legislative Council.

In moving the resolution to make the Mutual Legal Assistance in Criminal Matters (Ukraine) Order earlier, I have explained the importance of making the Order on mutual legal assistance in criminal matters.

I now invite Members to approve the making of the Mutual Legal Assistance in Criminal Matters (Singapore) Order.

Thank you, Madam President.

The Secretary for Security moved the following motion:

"RESOLVED that the Mutual Legal Assistance in Criminal Matters (Singapore) Order, made by the Chief Executive in Council on 9 December 2003, be approved."

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by the Secretary for Security, be passed.

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

MEMBERS' MOTIONS

PRESIDENT (in Cantonese): Members' motions. Two motions with no legislative effect. I have accepted the recommendations of the House Committee with respect to the time limit on speeches by Members. I am obliged to direct any Member speaking in excess of the specified time to discontinue.

First motion: Urging the Government to defend freedom of the press and freedom of speech.

URGING THE GOVERNMENT TO DEFEND FREEDOM OF THE PRESS AND FREEDOM OF SPEECH

MR ALBERT CHAN (in Cantonese): Madam President, I move that the motion, as printed on the Agenda, be passed.

Hong Kong is now facing a critical moment; there has been a feeling that a severe winter is approaching in the political arena. The chilling of the air and the cold winds blown from the north have brought Hong Kong people a sense of chill and the fear that white terror will soon befall us.

Recently, Hong Kong has been subject to the most severe political pressure since the reunification in 1997. Three well-known and most popular talk show hosts were one after another forced to take themselves off the air under pressure. Their departure symbolizes that freedom of speech in Hong Kong has been subject to unprecedented suppression and threats. TUNG Chee-hwa's governance over the past seven years has not only devastated the economy, but also impeded democratization, dealt a blow to the rule of law, and even compromised freedom of the press and freedom of speech, the very elements underpinning the survival of Hong Kong. At this critical moment, this Council must issue a strong signal, that under no circumstances can freedom of speech and freedom of the press in Hong Kong be infringed. Any force threatening such freedoms in Hong Kong must be greeted with head-on blows.

That every human is equal in enjoying freedom of speech was first proclaimed in the French Declaration of the Rights of Man and of the Citizen in 1789. It reads, "Free communication of ideas and opinions is one of the most precious human rights, all citizens may therefore speak, write and publish freely". This marked an important milestone in the defence of freedom of speech over the past several centuries.

In Hong Kong, both the Basic Law and the Hong Kong Bill of Rights Ordinance contain provisions for the protection of freedom of speech. The three veteran hosts, namely Albert CHENG, Raymond WONG Yuk-man and Allen LEE, are all highly respected and greatly influential characters with strong

will. Having worked in the media for more than two decades, Albert CHENG and Raymond WONG have weathered numerous storms. They should not have retreated so easily. Having taken part in politics for more than two decades, Allen LEE has witnessed many "big scenes" and will not give up his own rights easily. However, the three hosts have quitted hosting the most popular radio programmes one after another in a matter of only one month. This is definitely not a coincidence.

Apart from his company having been splashed with paint, Albert CHENG wept in agony in announcing his decision to go off the air, saying that without adequate protection for his personal safety, he would not attend meetings held by this Council. He even refused to attend a subsequent meeting of the Panel on Home Affairs.

Despite the fact that Raymond WONG had repeatedly mentioned in his programme "Close Encounter of the Political Kind" that he had received anonymous letters of threat from patriots, he still managed to take it calmly. However, he had been seen in extreme panic with both his hands and feet shaking badly days before he took himself off the air. His whereabouts is still unknown.

After substituting as the talk show host, Allen LEE came under pressure from various sides, including Chinese officials and the Central Authorities. Later, he even received a telephone call late at night from a former Chinese official by the surname of "CHENG", previously mistaken to be "CHEN". After a hard struggle, Allen LEE was forced to quit hosting the programme "Teacup in a Storm".

These three men of strong will were obviously pressurized by all sides, including incumbent and former officials of the Chinese side and representatives of plutocracy. There is also the possibility of triad pressure that led to the loss of these three most popular talk show hosts.

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

Our present-day Hong Kong resembles Shanghai city and Kunming in the '30s and the '40s, when the people there were under the control of three

combined forces — Qing Bang¹, financial magnates and the Kuomintang government. People and the media dissatisfied with the corruptive Kuomintang were seriously threatened as a result of the combination and collusion of these three forces. It is hard to imagine that the Communist Party, the political party that overthrew Kuomintang, could have created a similar atmosphere in Hong Kong. This is indeed extremely frightening.

During the period between the '30s and the '40s, a leading academic, an outstanding scholar and a well-known journalist were assassinated one after the other. They included SHI Liangcai, Director of the newspaper *Shen Bao*, LI Gongpu and WEN Yiduo.

Hong Kong is presently controlled by three forces, namely the Central and Hong Kong Governments, plutocrats, and "patriotic" triads. These three forces have collaborated in an attempt to control the operation of the community and political development, and even control the media. In a bid to control the bloodline of Hong Kong, they have now formed themselves into a tyrannical and high-handed "non-sacred coalition".

There is no way that Hong Kong can compromise in the face of this "non-sacred coalition"; more so for the Legislative Council because the very survival of Hong Kong is underpinned by the freedom of speech. With the collapse of such freedom, Hong Kong will be led to extermination like Shanghai in the '40s.

Albert CHENG, Raymond WONG and Allen LEE are intellectuals. They must be familiar with the history mentioned by me earlier. They must have known that they are under the threats of the mighty power or will be subject to such threats. They must have sensed that there will be serious consequences in the end should they insist not to retreat. Even their family members may be involved too.

Today, a number of leftist Members have adopted an indifferent attitude towards the unusual threats confronting the three comperes. They have even gone so far as to make scornful remarks, saying the three hosts' decision to go off the air is merely timid behaviour.

¹ A secret society founded by CHEN Yuan (陳園) toward the last years of the Qing Dynasty.

What is more, it is bitterly disappointing and sad to note that some members of the media and critics have made sarcastic remarks in teasing the talk show hosts. One cannot help feeling the fickleness of the world and human relationship. Journalists should feel deeply affected as if they had gone through the experiences themselves. However, it is unfortunate that editorials and the media have not questioned and condemned the motives and acts of the evil power compelling the decision made by the three hosts who have been forced to take themselves off the air. On the contrary, they have been critical and have resorted to teasing, ridicule and verbal abuse. At present, the media has largely come under the control of plutocrats and magnates gradually as a tool to serve the "non-sacred coalition". With its degradation, the media will at the end of the day be used as a tool by those in power, magnates and triad forces. The remark made by SHI Liangcai that "both newspapers and human beings should have integrity" can be said to be non-existent in present-day Hong Kong.

With reference to the Commercial Radio, there is history of the leftists being hostile to the radio station and its hosts. Such hatred is indeed a continuation of history. During a riot triggered by the leftists in the '60s, LAM Bun's merciless criticism aroused hatred in the leftist and he was eventually burned to death. I believe the hatred of the leftists towards the Commercial Radio is still very intense.

The recent comments by the Commercial Radio on the administration and the ruling of the Communist Party are unfavourable to the Communist Party, and even more unfavourable to the incompetent administration of TUNG Chee-hwa. Signs indicating the intention of the leftists and the royalists to force the talk show hosts to go off the air can be found too.

I would like to express my deep regret for the Government's indifference towards the importance of defending freedom of speech. During the Council meeting attended by Allen LEE, a government representative made a surprising remark that he had no knowledge of the fact that those talk show hosts had been pressurized by Chinese officials intent on influencing them. Our Government resembles the three monkeys, each covering their eyes, ears and mouth. This is precisely the attitude adopted by the Hong Kong Government in handling the pressurization of media.

Pursuing freedom of the press and freedom of speech has been an important part of human history, even before the Communist Party came into

power. In 1735, when America was ruled by Britain, printer of the *New York Weekly Journal*, John Peter ZENGER, was charged with libel for his publication of an article unfavourable to a Governor sent from Britain. In his summation to the jury, ZENGER said and I quote, "You, gentlemen of the jury, have the right to look with your own eyes! Listen with your own ears! To make a responsible ruling on the lives, freedom or properties of your compatriots with your intuitive knowledge and understanding! The question before the Court and you, gentlemen of the jury, is not the cause of a poor printer, nor of New York alone. It may, in its consequence, affect every freeman that lives under on the main of America. It is the cause of liberty. And I make no doubt but your upright conduct, this day, will have laid a noble foundation for securing to ourselves, our posterity, and our neighbors, that to which the laws of our country have given us a right — the liberty both of exposing and opposing arbitrary power (in these parts of the world, at least) by speaking and writing the truth!"

Today is an important moment for Hong Kong people and representatives of public opinion to, in this holy and solemn Chamber, express their determination to defend freedom of the press and freedom of speech.

Thank you, Madam Deputy. I beg to move.

Mr Albert CHAN moved the following motion: (Translation)

"That, as hosts of personal-view programmes have recently successively told the media that they are under pressure, and individual hosts have even taken themselves off the air, this Council expresses grave concern about this and is worried that freedom of the press and freedom of speech in Hong Kong are at stake; this Council urges the Government to take measures to defend such freedoms."

DEPUTY PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr Albert CHAN be passed.

DEPUTY PRESIDENT (in Cantonese): Mr LAU Kong-wah will move an amendment to this motion. Mr Andrew CHENG and Mr Tommy CHEUNG will respectively move an amendment to Mr LAU Kong-wah's amendment. The amendments have been printed on the Agenda. The motion and the amendments will be debated together in a joint debate.

I will first call upon Mr LAU Kong-wah to speak and move his amendment to the motion. Then, I will call upon Mr Andrew CHENG and Mr Tommy CHEUNG to speak, but no amendments are to be moved at this stage.

I now call upon Mr LAU Kong-wah to speak and move his amendment.

MR LAU KONG-WAH (in Cantonese): Madam Deputy, I move that Mr Albert CHAN's motion be amended, as printed on the Agenda.

Madam Deputy, freedom has been and will continue to be the most precious thing in Hong Kong. The Democratic Alliance for Betterment of Hong Kong (DAB) strongly insists that the freedom of speech and of the press must be protected. In particular, the comments made by people holding diversified views must be defended. This is also the spirit of the motion moved by Mr Albert CHAN today.

The DAB has reservations about an expression in the original motion, that this Council is "worried that freedom of the press and freedom of speech in Hong Kong are at stake". We disagree that the recent incidents have led to less freedom of speech. Nevertheless, we can sense that there is such a worry among the people of Hong Kong. This is understandable and deserves our attention. For this reason, the DAB has proposed an amendment to request the Government to expeditiously find out the truth of these incidents, for only in doing so can the storm calm down. I believe the public at large should know in their minds what had actually happened as the true story unfolded over the past two days.

I find the attendance of Mr Allen LEE at the Council meeting very useful. He indicated that the words of praise of his wife and daughter by Mr CHENG were crucial to his decision. However, the matter has now been clarified by Mr CHENG. Several figures in town, including the President, have had contact with Mr CHENG. They all share the view that there is nothing unusual. Insofar as Mr Allen LEE is concerned, however, praises were interpreted as threats. His reaction was obviously over-sensitive, groundless and excessively suspicious. Choosing to take a break temporarily will obviously be helpful to the health of Mr Allen LEE in such a psychological state. It is true that people who cannot stand heat cannot stay in the kitchen indeed. Now it is proved that the kitchen is still that hot; yet the previous chef is no longer there. The incident, arbitrarily described by some people as white terror, has ended up being turned into a "white joke".

On the contrary, I worry that some people are trying to create "gray terror" by exaggerating trivial matters in an incomprehensible manner to create rumours and stir up disturbances and fears. Such a pessimism can indeed create a very terrible effect! All realistic and reasonable people in their right mind will curb the spread of this atmosphere.

As regards the other two famous comperes, Mr Raymond WONG was beaten up on the street, whereas Mr Albert CHENG's company was splashed with red paint. Whatever the reasons behind them all, Members of this Council, regardless of their political affiliation, should seriously condemn such acts. All acts of violence will not be tolerated. Although the two hosts did not come before this Council to tell the truth last week, some people kept releasing messages of "gray terror" to stir up confusions. For these reasons, we hold that an independent commission should be set up to conduct an in-depth inquiry into these three incidents and give the public a comprehensive and impartial explanation. This is one of the highlights of our proposed amendment.

Following these incidents, the opposition camp has started to stir up disturbance, resorted to exaggeration and poured oil on the fire by connecting some occasional incidents, such as the removal of placards on the streets, defacement of banners, pushing and shoving on the streets, and even the smearing of offices with faeces, in order to assert that there are political threats in Hong Kong. Actually, what I mentioned earlier and the incidents witnessed by the opposition camp are nothing strange to us. We can cite numerous similar examples too. But unlike them, we will not fake sentimentality to seek sympathy. In the face of such incidents, the best approach is for Members, regardless of their political affiliation, to join hands in condemnation for any such acts will never be tolerated in Hong Kong.

Actually, there were previous examples of faking sentimentality to seek sympathy. Before the reunification, some people capitalized on public worry by foretelling that Mr Martin LEE would be made a martyr after 1997; Mr SZETO Wah once said that he could not possibly return once he left Hong Kong; and Ms Emily LAU told her friends to visit her in Beijing's Qincheng Prison after 1997. There were some members of the public who believed all this to be true, but what has really happened? Mr Martin LEE is still leading a long life healthily; Mr SZETO Wah can still travel safely; and Ms Emily LAU has nothing to worry about food and clothing. Taking all these matters into joint account, one cannot help questioning whether the act of faking sentimentality to

seek sympathy is used to pave the way for elections? If this is the case, how does it differ from the incident in which CHEN Shui-bian was hit by a bullet? It will turn into a dangerous game should the candidates refrain from pursuing the truth and stop acting in a right-minded and rational manner for the sake of soliciting votes. This is intolerable to the people of Hong Kong. Yet, I trust the people of Hong Kong are very sensible. They will be able to make a more accurate judgment when they have gained a better understanding of the truth.

In the light of these incidents, Radio Television Hong Kong (RTHK) and Commercial Radio have separately launched new slogans recently. The slogan of RTHK is: "中間分明，思想互動" (standing in the middle and thinking in an interactive manner), whereas the slogan of Commercial Radio is "處變不驚，繼續揚聲" (stay calm in the face of upheaval and make our voices heard). I very much support the views and positions of the two radio stations. Be it RTHK's emphasis on "the middle approach" or Commercial Radio's determination to "make voices heard", they all seek to enable different voices to be expressed freely. Radio phone-in programmes of this sort are important in Hong Kong for they provide room for the free expression of opinions. Therefore, they must be retained and promoted. At the same time, we need to understand that they are meant to be an instrument for the public, not for private individuals. An extremely important basis is that different voices must be enabled to interact with one another. People disagreeing with the views of the hosts should be allowed to continue voicing their opinions to keep the interactive process going. No line should be drawn on the basis of the position of the hosts — only the hosts can speak their minds freely and people disagreeing with their views will be criticized. While the comperes address themselves as "celebrity hosts", people contradicting them are described as "talking nonsense". Privatization of the freedom of speech is really a big irony of the freedom *per se*.

The changes experienced by phone-in programmes over the past couple of years were somewhat worrying. Some radio programme hosts treated their audience in the same way even though they were hosting programmes at different time slots and of different styles: members of the audience disagreeing with the views of the hosts will often be verbally abused, have their lines cut, or subject to personal attack. Even after the callers had hung up their phone, the hosts could still continue with their verbal attacks for one whole hour. This explains why many people disagreeing with the views of the hosts have some misgivings about phoning into the programmes. A talk show host has complained that his speech has been suffocated, yet some members of the public disagreeing with his views

have been suffocated a long time ago. A talk show host has complained that he feels exhausted both mentally and physically, yet some members of the public disagreeing with his views have been exhausted both mentally and physically after being tortured by him. A talk show host has also complained of the possibility of a "chilling effect". Actually, members of the public disagreeing with his views have already been "chilled" a long time ago.

Madam Deputy, recently, I have had an opportunity of having some dharma talks with the abbot of a Buddhist monastery on Buddha's Birthday for two hours. One of the questions I asked him was: "How can human beings be trouble-free?" He gave his response to me in a Buddhist verse: "Be able to see through things; and be able to lay them down". I believe Hong Kong people will be disturbed by the incident. However, if we can all look at the truth clearly and stay calm, we will be able to "see through the incident" easily. Likewise, we call on all members of the community to put aside their established views and listen to the views of others. In doing so, they will realize that there is bound to be confrontation of different viewpoints in all political debates, not for the sake of suppressing opponents, but for the sake of learning from one another and filtering one's will power and wishes in a rational manner. In striving for democracy, we pursue not only figures of democracy, but also the spirit of democracy. I wish the scope for freedom of speech in Hong Kong can still be maintained and protected in future.

I would also like to dedicate the Buddhist verse "be able to see through things; and be able to lay them down" to the three radio programme hosts. Moreover, I sincerely hope they can enjoy peace of their souls in addition to taking a good rest.

Thank you, Madam Deputy.

Mr LAU Kong-wah moved the following amendment: (Translation)

"To delete "this Council expresses grave concern about this and is" after "individual hosts have even taken themselves off the air," and substitute with "and some members of the public are"; to delete ";" after "at stake" and substitute with ", "; to add "expresses grave concern about this and" after "this Council"; to add "expeditiously find out the truth of these incidents and" after "urges the Government to"; and to add "to keep ensuring that members of the media are free from threats of violence, so as" after "take measures"."

DEPUTY PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr LAU Kong-wah to Mr Albert CHAN's motion, be passed.

MR ANDREW CHENG (in Cantonese): Recently, Madam Deputy, two hosts of phone-in programmes, namely "Teacup in a Storm" and "Close Encounter of the Political Kind", Albert CHENG and Raymond WONG Yuk-man, put themselves off the air one after another. At the same time, NG Chi-sum, a former host of RTHK's phone-in programme "Talkabout", was transferred from the programme to another as a temporary substitute. Later, Allen LEE, a previous host of "Teacup in a Storm", quitted the programme again after a comeback.

Coincidentally, the three programmes, namely "Teacup in a Storm", "Close Encounter of the Political Kind" and "Talkabout", are popular phone-in programmes in Hong Kong. They give the public at large an opportunity to phone in to the programmes to talk about the ills of our time, express themselves freely, present their personal opinions, and even strongly criticize government policies. Through the airwaves, such phone-in programmes enable Hong Kong people to have their voices heard and allow them to practise and experience for themselves freedom of speech. Meanwhile, Albert CHENG and Raymond WONG, who have put themselves off the air successively, NG Chi-sum, who has been transferred from his programme, and Allen LEE, who has offered to quit on his own initiative, are all outspoken hosts known for their relatively vehement rhetoric and their sharp and insightful analysis of the ills of our time.

Madam Deputy, programmes of this kind are popular among the public probably because they attack the Government more often. This explains why I read from the newspapers and magazines earlier that JIANG Zemin, Chairman of the Central Military Commission of the Communist Party of China, once criticized without citing names in an internal meeting the hosts of such phone-in programmes. It was reported that JIANG Zemin had once described the verbal attacks made by those talk show hosts as insane. Will JIANG Zemin's fierce attack be the major reason causing the talk show hosts to go off the air? Is it possible that JIANG Zemin launched such a fierce attack because someone has had a heart-to-heart talk with the Central Authorities and someone will "act" when the Central Authorities "gives a verbal instruction" for the talk show hosts to go off the air? All this can only be verified by history. Even CHENG

Shousan, a retired official of the Hong Kong and Macao Affairs Office of the Ministry of Foreign Affairs, publicly expressed in a press conference the discontent of mainland retired officials about such phone-in programmes in Hong Kong, criticizing that only opponents of the Government can have their telephone calls put through to these phone-in programmes, while supporters of the Government can never have their calls put through. According to the practice of the mainland official circle, incumbent and even retired officials seldom express their personal opinions on public occasions. Their opinions represent mostly the views of the Government. Was the message not already very clear when CHENG told Allen LEE on the telephone that he wanted to talk about his phone-in programme? Should the media be turned from a mouthpiece of the people to that of the Government, and should members of the media be turned from being bold in criticizing political affairs to keeping their mouths shut, newspapers, radio stations and television stations will simply become yesmen. The foundation of freedom of speech we treasure so much will be torn down completely. This is downright white terror.

However, as the event unfolds, we can see the personal safety of the hosts of such phone-in programmes being subject to harassment, threats and even threats of violence. What is more, as told by Mr Allen LEE in the Panel on Home Affairs of this Council, some people (including people of the Mainland's senior hierarchy) have phoned him persistently in an attempt to influence his hosting of phone-in programmes. Worried that his family members and himself would be harassed or threatened, he finally quitted his hosting job. Such an extremely leftist political pressure is indeed intolerable. Hong Kong can simply not tolerate such harassment and threats of violence that affect personal safety. Our Government is obliged to investigate thoroughly who are responsible for such acts and take every measure to ensure members of the media, as well as their families and every citizen, are free from political harassment or threats of violence of this kind. In doing so, not only can the freedom of the press and freedom of speech be protected, public worries can be dispelled too.

Madam Deputy, it is simply inappropriate of the Government of the Hong Kong Special Administrative Region (SAR) to merely consult individuals and then make a telephone call to a mainland department to say a few words of greeting and, after being told that the Mainland had not given such instructions, put the matter to an end hastily and then make such comments as Hong Kong enjoys freedom of speech before the "microphone" in an attempt to create a false impression of peace and prosperity. When mainland officials at various levels

can, without being instructed by the Central Authorities, push the entire state machinery to interfere in freedom of speech in Hong Kong, why can the SAR Government not state it more explicitly before the public that the freedom of speech and freedom of the press, the underpinnings of Hong Kong's success, must under no circumstances be damaged? At the same time, why has it not been stated clearly that the SAR Government will do everything possible to protect such freedom in Hong Kong, including thoroughly investigating the truth of the incident, and emphasized again that acts of interference with the freedom of speech by any form of harassment or threats of violence are illegal and that people breaking the law will be punished and not be tolerated by law? Why can the SAR Government not ask the Central Government to make a relevant declaration and assist in its investigation to enable the Central Authorities to express clearly their message in respect of freedom of speech and of the press?

Madam Deputy, during the period between 27 May and 31 May, the Democratic Party successfully telephoned and interviewed 561 members of the public through the interactive voice processing system. The findings of the survey show that more than 60% of the respondents believed that political pressure was the reason behind the departure, transfer or resignation of the hosts of such phone-in programmes; and more than 60% of the respondents worried that the freedom of speech in Hong Kong was being suppressed. In addition, more than 55% of the respondents felt that the series of incidents involving the departure of talk show hosts had reflected the intention of the Central Government to tighten freedom of speech in Hong Kong, while more than 55% of the respondents believed the incidents would affect public confidence in "one country, two systems". The survey has also indicated that more than 70% of the respondents felt that Hong Kong people should continue making telephone calls to radio programmes to comment on current affairs. Moreover, half of the respondents hoped that the Central Authorities could stop pressurizing the media.

Madam Deputy, in the face of political pressure for tightening freedom of speech, we can still see that more than 70% of the respondents maintained the view that Hong Kong people should continue making telephone calls to radio programmes to comment on current affairs. Moreover, half of the respondents hoped that the Central Authorities could stop pressurizing the media. All this points to the fact that Hong Kong people cherish the freedom of speech dearly. It is impossible for the SAR Government and the Central Government to make another attempt to distance themselves from and even betray public opinion for this is a disguised attempt of conniving at acts of damaging the freedom of speech and of the press.

The Democratic Party supports the wordings of the motion proposed by Mr Albert CHAN today. In the light of the wordings of Mr LAU Kong-wah's amendment and in view of the development and gravity of the incident, I will propose some supplementary wordings of amendment on behalf of the Democratic Party later by adding "members of the public at large are worried that freedom of the press and freedom of speech in Hong Kong are at stake" and "ensure members of the press and their families are free from harassment instead of merely threats of violence". I hope Members will support my amendment. Thank you, Madam Deputy.

MR TOMMY CHEUNG (in Cantonese): Madam Deputy, early last month, a well-known radio programme compere, Albert CHENG, took the lead to pre-record in a tape to inform his audience in his phone-in programme of his decision to temporarily take himself off the air for the reasons that the "political environment has made him feel suffocated" and "his friends have betrayed their political beliefs". Eleven days later, another host of a late afternoon phone-in programme, Raymond WONG Yuk-man, also announced his decision to "stay off the air" through a fax read out by a guest host in the programme on the grounds that he "needs a break for he feels exhausted both physically and mentally", and hastily left Hong Kong afterwards.

In addition, two weeks after he had stood in for "Tai Pan"² to host his programme, Allen LEE, widely known as "Fei Gao", sought to leave on the grounds that he could not speak his mind freely and that he did not want to criticize his friends he had known for years. Then a mystery surrounding his harassment by a mysterious telephone call came to light afterwards. However, following the exposure of the identity of the caller, the general public has been able to grasp more information on the truth to judge whether the freedom of speech has been suppressed. Whether the claims made by these three talk show hosts that they were subject to pressure are groundless or imaginary, should such public suspicions be allowed to continue, the people may feel that freedom of speech in Hong Kong is truly at stake. The confidence of the general public in Hong Kong's social and economic prospects will definitely be undermined, and the harmony and stability of our society will be further affected too.

² "Tai Pan" is the nickname of Albert CHENG

For these reasons, the Liberal Party agrees that, in the event of claims of threats, intimidation or even harassment, our law enforcement officers, particularly police officers, should maintain a high degree of vigilance by gaining an understanding of the situation promptly and conducting thorough investigations. Moreover, adequate and appropriate protection has to be provided to the victims to assure them, and even the public, that the Government will handle such cases seriously and protect the safety of all the people involved. Under no circumstances will anyone be allowed to prevent others from speaking by way of intimidation. At the same time, the victims should maintain contact with the police and provide all relevant information as far as possible to assist the law enforcement agencies in enforcing law.

In order to dispel public worries, it is essential for the senior hierarchy of the Government to clarify and demonstrate its determination to protect the freedom of speech. The issue of a statement by the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region (SAR), the clarification by the senior level of the SAR Government of its position, the personal inquiry made by Mr TUNG with the Central Authorities on the incidents, and the clear indication given by the relevant department that "one country, two systems", "Hong Kong people ruling Hong Kong" and "a high degree of autonomy" will be protected are all perfectly appropriate.

The Liberal Party basically agrees with the drafting of the amendment proposed by Mr LAU Kong-wah, though it is felt that the amendment has not gone far enough. Therefore, I will further propose an amendment later in the hope that the SAR Government can, apart from taking the initiative to clarify its position and reiterate its determination to defend the freedom of speech, take measures to smooth out the worries of various sectors. Should public sentiment remain tense because of the failure to dispel public worries, Hong Kong's overall social environment and its newly recovering economy will definitely be subject to adverse impact.

The Liberal Party has always been determined to protect freedom of speech and of the press in Hong Kong and believed Hong Kong's success is underpinned by such freedom, which must under no circumstances be reduced and damaged. This has been stated very clearly in our platform. However, we would like to point out that, despite the decision by a number of widely-known radio hosts to go off the air, we have not seen the creation of any "chilling effect" in the community which will otherwise turn the entire community into dead silence. On the contrary, the incident has attracted intense

public attention. With their extensive coverage, various major media have sought to uncover the truth behind the action of the talk show hosts to go off the air.

More importantly, members of the public can still make different judgments and express their personal opinions on the matter. We have not seen the three new replacements being restricted or exercising self-censorship in expressing their views. The fact that 400 academics have signed and issued a joint statement expressing their worries about the matter has all the more reflected that we still fully enjoy freedom of speech and the right of expressing ideas. The fact that the room for freedom of speech has not thus been limited does reflect that Hong Kong is still a pluralistic society in terms of speech.

As such, we call on the general public to express their concern and work jointly to continue supporting the freedom of speech and freedom of the press that we have always enjoyed in Hong Kong, instead of throwing themselves into disarray. The more the public show their concern and care, the better they can ensure this civil right is free from infringement.

Madam Deputy, I so submit.

MR LEUNG YIU-CHUNG (in Cantonese): Madam Deputy, three famous radio talk show hosts have taken themselves off the air one after the other within a month. One of them said that he had been threatened by violence and disappeared abruptly. The other one indicated his reluctance to host any radio programme again for fear that his family would be harassed and rejected by their friends. Some people opine that it is their personal choice and has nothing to do with the freedom of speech. But I cannot help asking: Why is it that those involved in the incident are famous talk show hosts who, being the most influential people in society, had been criticizing the Government in the most vigorous way? Does the incident target on those who are most outspoken so as to achieve a chilling effect among the critics and curb criticisms against the Government until all such dissident voices have died down? Maybe as some people said, the suppression of the freedom of speech has pinched Hong Kong people's nerves, prompting them to pull themselves together for more challenges to the core values of society in the future. In any case, I think the departure of talk show hosts is just the tip of the iceberg. If the Government continues to adopt a pessimistic approach instead of making efforts to curb acts against the freedom of speech, I am very much worried that Hong Kong society will be subject to more serious damage.

I believe people living in Hong Kong know how precious the freedom of speech is. It is particularly true when the Government is always at an advantageous position. If the people want to protect themselves and monitor the Government, the only way is to criticize government policies and express their dissatisfaction. This will strike a responsive chord among the people who will then strive for improvement in a concerted effort. On the contrary, however, if the freedom of speech is threatened, it will lead to a vicious cycle in which the checks and balance role of the public will be undermined and government policies will be implemented without public support, thus seriously and adversely affecting the people's livelihood. So we are of the view that whenever there is a sign of suppression of free speech, we must stay alert and prevent the situation from worsening.

It has been about three weeks since the incident concerning the radio programme hosts taking themselves off the air. The Government of the Hong Kong Special Administrative Region (SAR), due to the repeated pressure from the critics, made a statement only last week to stress the importance of freedom of speech to Hong Kong. However, the statement came too late and the reaction was much too slow. The crux of the matter is that it is not just a personal dispute like some people said. Rather, the most worrying aspect is that a more complicated political issue may be involved. Just as Prof KUAN Hsin-chi of The Chinese University of Hong Kong has said, this is an organized and planned disposition aimed at suppressing freedom of speech. Of course, we hope that this is not true. In fact, the spread of various rumors after Albert CHENG's departure and the evidence given by Allen LEE in this Council a few days ago have made us feel that this is really a complicated and serious problem. We also opine that the Government should vigorously investigate into the case because the problem involves freedom of speech. Unfortunately, various comments by the police have made us feel that either the Government or the police is trying to underplay the issue instead of focusing on the task of tackling it.

As the public keep questioning whether the departure of talk show hosts has any connection with the Government, we feel that intimidation of famous hosts and strangling of anti-government views can be "exonerated" and, therefore, underplayed as long as such act is beneficial to the Government. If this is the case, it will give a wrong signal, that any incident which the Government regards as politically correct can be dealt with in a perfunctory

manner. Does it not spell the end of the rule of law for Hong Kong? So, we have to point out one thing, that is, the more the Government tries "dillydallying" to reduce the scope of impact, the greater the damage it will do to Hong Kong. There is a saying that Hong Kong society is engulfed in white terror today. It may be exaggerating. But if the Government continues to connive at attempts to suppress free speech, we really cannot rule out the emergence of white terror in Hong Kong.

Some people hold the view that the three commentators took themselves off the air because of personal reasons and the public should not be over-sensitive. However, let us come to think about what happened in the past when some influential political dissidents were often forced to disappear. These events can be easily seen in both ancient and modern times, particularly when an autocratic regime is in power. We, of course, do not hope that Hong Kong will develop in this way. Nor do we hope that the situation in Hong Kong will become so serious. However, insofar as the present situation is concerned, it is probable that the situation of Hong Kong will worsen in that direction if unchecked. We therefore think that if the Government does not take timely measures to curb it, not only will Hong Kong's freedom of speech be undermined, society as a whole will also regress to a closed society.

There is definitely no evidence to show that the Government has any intention to stifle freedom of speech as what an autocratic government used to do. But the regime of such country will not be so stupid as to arrest the dissidents in the name of the government. Usually, threats are made by their own secret agents affiliated with some underground terrorist organizations. Some people may opine that I am raising alarmist talk. However, even if this does not occur today, we cannot guarantee that it will not happen in the future. The fact that such problem does not occur today does not mean that Hong Kong will not develop along this trend in the future. A businessman who often offers comments on the political issues of Hong Kong advocated in a radio programme on 1 May that Hong Kong should set up its own intelligence service. We cannot help asking: As the Central Government is responsible for the defence and foreign affairs of Hong Kong, what is the purpose of setting up our own intelligence service? Is it used for suppressing the dissidents?

Furthermore, I wish to point out that I definitely agree with Mr LAU Kong-wah's amendment, that continuous efforts should be made to ensure

members of the media are free from threats of violence. However, the departure of the hosts is more than a gagging of the media. It is also a form of threats of violence, thus the scope of impact can be extremely wide. For instance, there were complaints recently that some employers had requested their staff to provide information on their family members who are voters, and that some Hong Kong people working on the Mainland were asked to vote for a particular political party. Although these threats are not lethal, they certainly create some intangible pressure in a society of freedom of speech.

Madam Deputy, it is not at all easy for Hong Kong to walk away from the corruptive colonial rule typical of the '60s. We are really reluctant to see the freedom of our next generation suppressed. Living under our present social system, we greatly hope that those in power can be a bit more tolerant, allowing the community of Hong Kong more room.

Madam Deputy, I so submit.

MR LAU CHIN-SHEK (in Cantonese): Madam Deputy, we believe the Central Government will not do anything to injure the interests of Hong Kong. At the same time, I also believe that Hong Kong people are equally concerned about the departure of three famous radio programme hosts and the freedom of speech in Hong Kong. Precisely because the Central Government will not do anything to injure the interests of Hong Kong, I trust that the Central Government will not employ such an inferior tactic, so it should clearly advise those who think they are "executing the heavenly wishes" not to do anything to undermine the freedom of speech in Hong Kong. Freedom of expression is precisely the core value of Hong Kong. Madam Deputy, I wish to remind those in power: the result will be just the opposite if they try to suppress dissident views in order not to hear any unwelcomed voices.

Let us imagine that even the freedom of speech in Hong Kong is gagged and not a bird's cheep is heard as if it is in the tranquillity of the night, the silence can still be shattered by one single voice of conscience like a shocking thunder pinching the soul of each human being.

Madam Deputy, I have emphasized time and again that the preciousness of Hong Kong lies in its pluralism, forbearance, freedom of speech, and free expression of opinions, which are essential to the maintenance of a pluralistic and

tolerant society. Each and every one of us has the responsibility to step forward bravely to uphold the core values of Hong Kong. Thank you.

DR YEUNG SUM (in Cantonese): Madam Deputy, freedom is like air. Without air, we will suffocate and cannot survive. If Hong Kong is devoid of freedom, particularly the freedom of speech, freedom of information and freedom of the press, Hong Kong will become lifeless and development will be difficult.

I remember that many years ago, while we supported the reunification of Hong Kong with the Motherland on the one hand, we also raised various concerns over the situation after the reunification on the other. We were concerned about whether the Hong Kong Alliance in Support of Patriotic Democratic Movements in China could continue to operate normally; whether Hong Kong people could continue to enjoy the right to procession and demonstration, to enjoy the freedom of speech by being allowed to express different political views and criticize the Government, and to have a fair, open and impartial electoral system; whether the media could continue to enjoy the freedom of the press and editorial independence, and so on. We raised these concerns because we believe that human rights, freedom, the rule of law, equality and justice are the cornerstones of Hong Kong's sustained development and success. Even though we do not have a fully democratic system in Hong Kong, we must resolutely defend these fundamental human rights and freedoms. In fact, at that time, a vast majority of Hong Kong people were worried and concerned that human rights and freedom in Hong Kong would be suppressed and restricted after the return of sovereignty to China. It was under such circumstances that confidence crises emerged and a large number of people emigrated to foreign countries.

In response to the concerns of Hong Kong people, the Central Government proposed "one country, two systems", "Hong Kong people ruling Hong Kong" and "a high degree of autonomy". During the first five years after the reunification, despite a deteriorating human rights situation in Hong Kong, the Central Government still exercised self-restraint, for it had not too actively and conspicuously effected political interference and it had not suppressed the freedom of speech in Hong Kong. Nor had it meddled with the local affairs of Hong Kong. So, we had even been criticized for being haunted by groundless fears.

However, shortly after the start of the second five-year period after the reunification, we felt an unprecedented low pressure in politics. First, there were the contentions about patriotism which were written, directed and performed by central officials and another interpretation of the Basic Law by the Standing Committee of the National People's Congress (NPCSC). Then, there was the NPCSC's political decision on 26 April which vetoed the elections of the Chief Executive and all Members of the Legislative Council by universal suffrage in 2007 and 2008. The entire decision-making process was swift and resolute, and the views of the Hong Kong people were not in the least consulted.

Recently, members of the public telephoned "phone-in" radio programmes and said that mainland officials had asked their friends in Hong Kong to vote for the pro-government candidates in September this year. They had even proposed that each such vote would be rewarded \$300 and asked the voter to take photograph of the ballot as the evidence. Moreover, famous hosts of radio "phone-in" programmes, Albert CHENG and Raymond WONG, had taken themselves off the air. Another radio host of Radio Television Hong Kong, NG Chi-sum, was taken out of the "phone-in" programme originally hosted by him. Then there was Allen LEE resigning from hosting a "phone-in" programme of Commercial Radio and subsequently resigning from office as a local Deputy to the NPC. Mr Allen LEE even stated openly at a meeting of the Legislative Council Panel on Home Affairs that he had ceased to host that phone-in radio programme because he could not tolerate continuous telephone calls from his friends in the Mainland trying to exert influence on his hosting of the programme, and he was worried about the safety of his family members.

Obviously, the concerns raised by us years ago have begun to draw near to us and our concerns are no longer groundless fears. Those extreme-leftists in the Central Government have begun to employ the political means and autocratic tactics which they customarily use in the Mainland to interfere with the internal affairs of Hong Kong, particularly the election of the Legislative Council in September and the freedom of speech and freedom of the press in Hong Kong. That they have done so is undoubtedly putting "one country, two systems" and "a high degree of autonomy" in jeopardy. This has also seriously undermined the cornerstones of the success of Hong Kong. In using the entire state machinery to suppress the democrats, do they intend to equate the relationship between the Central Government and Hong Kong people aspiring for democracy with "contradictions between ourselves and the enemy", rather than "internal contradictions"? Is this approach going too far? Is it worthwhile to adopt such an approach?

Freedom of information is an important pillar of Hong Kong's position as an international financial centre. Seeing direct political interference from the Central Authorities in the autonomy of Hong Kong, some friends from overseas countries have begun to worry about ruthless political interference from the Central Authorities in the freedom of information in Hong Kong's financial system. Come to imagine this. If the prices of listed stocks are subject to political interference and manipulation, what impact would it create on Hong Kong's position as an international financial centre? Excessive interference from the Central Authorities in the freedom of information, freedom of speech and freedom of the press in Hong Kong will undermine the autonomy of Hong Kong and also seriously affect the international reputation of Hong Kong.

We may have heard friends in the middle class mentioning consideration of emigration due to the recent pressure in politics. It is because they are worried that "one country, two systems" and "a high degree of autonomy" have already been seriously impacted and hence the fundamental freedom of speech and freedom of the press will be denied protection. Although the Central Government has continued to offer opportunities for economic co-operation to all sectors in Hong Kong, hoping to inspire confidence in Hong Kong people in the Central Authorities, these efforts will only be fruitless because such fundamental rights as "a high degree of autonomy", freedom of speech and freedom of the press, and so on, have already taken root deeply in the heart of every Hong Kong people. These are also regarded as the basic values of Hong Kong people. Hong Kong people will not yield to pressure easily for the sake of economic benefits.

That the Central Government has suppressed Hong Kong and interfered in the local affairs in such a way will only lead to a situation where no one will emerge the winner ultimately, which will not be conducive to the stability and sustained development of Hong Kong. Nor will it be conducive to the convergence of China with the international community. Here, the Democratic Party urges the Central Government to think twice and exercise self-restraint. In fact, the position of the Hong Kong Special Administrative Region (SAR) *vis-à-vis* the Central Government is like a mantis trying to stop a chariot. When the chariot bears down on the mantis, Members can imagine soon the mantis will have to yield defeat. If the Central Government does not exercise self-restraint but continues to interfere with the affairs of the SAR, in particular the freedom of speech and freedom of the press, we can see that the future of "one country, two systems" and "a high degree of autonomy" will be gloomy. At this critical

moment, I hope the Central Government can stop before it is too late and exercise self-restraint in order to provide ample room to Hong Kong people. Meanwhile, it can make use of this opportunity to fully give play to "one country, two systems" and "a high degree of autonomy", thereby providing safeguards for the future of Hong Kong and enabling Hong Kong to play its part to contribute to the country.

Thank you, Madam Deputy.

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

MR AMBROSE LAU (in Cantonese): Madam Deputy, regarding the recent incidents of famous talk show hosts taking themselves off the air which are of concern to the community, the Hong Kong Progressive Alliance (HKPA) considers that firstly, the freedom of the press and freedom of speech are two of the universally recognized principles. They are also vital elements that enable Hong Kong to remain vibrant and dynamic. The Government and all sectors of the community have the right and duty to defend the freedom of speech and freedom of the press and should not tolerate the least bit of damage to them. Secondly, do these incidents of famous talk show hosts going off the air mean that the freedom of the press and freedom of speech are at stake? We must conduct concrete analysis and must not act on unsubstantiated evidence, pushing ourselves into a state of panic. We must not concoct stories arbitrarily, confuse right and wrong, induce division in society and create a mood of melancholy. All these are not beneficial to defending the freedom of the press and freedom of speech. Worse still, they will seriously undermine the integrity of the press in Hong Kong and jeopardize the mutual trust and good relationship between the Hong Kong Special Administrative Region and the Central Authorities.

Madam Deputy, first of all, I have to explain the position of the HKPA on the freedom of the press and freedom of speech. The HKPA considers that the Basic Law provides for the enjoyment of the freedom of the press and freedom of speech by Hong Kong people. No one can narrow the room for the freedom of the press and freedom of speech of Hong Kong people. Article 16 of the Hong Kong Bill of Rights in the Hong Kong Bill of Rights Ordinance enacted to implement the International Covenant on Civil and Political Rights provided that, "(1) Everyone shall have the right to hold opinions without interference. (2)

Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice. (3) The exercise of the rights provided for in paragraph (2) of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary — (a) for respect of the rights or reputations of others; or (b) for the protection of national security or of public order (*ordre public*), or of public health or morals." Please pay attention to, first, the Bill of Rights stresses that everyone enjoys the freedom of the press and freedom of speech, not that only several top radio programme hosts enjoy such rights; second, the exercise of the freedom of the press and freedom of speech carries with it special duties and responsibilities.

From the two points as stated above, we can see that the essence of the freedom of speech is this: Although I disagree with what you have said, I pledge to defend to the death your right to speak. Some people opined that the incidents of famous talk show hosts quitting the airwaves signify the narrowing of the freedom of speech in Hong Kong, and they went even further to say that the freedom of speech is dead in Hong Kong. If the freedom of speech in Hong Kong is entrusted to a few famous talk show hosts, such a view simply cannot hold water.

Madam Deputy, even some time ago we still heard rumours flying everywhere about the reasons of these hosts taking themselves off the air, painting a bewildering picture and plunging the people into sheer puzzlement. The situation is like that described by poet LI Bai in one of his poems: "Amid dimming mist and surging waves, so hard to seek". The two talk show hosts who first took themselves off the air have not explained the truth to the public. On the other hand, the Commissioner of Police, LEE Ming-kwai, openly stated on 28 May that the police had, based on the press reports and other information, contacted a number of people, including university professors, members of parliamentary assemblies, members of political parties, and so on, hoping that they could provide information on the cases concerned. Nevertheless, the police have only obtained conjectural, hypothetical information and personal views. No substantive information has been gathered.

Conjectural and hypothetical information and personal views obviously cannot be taken as the evidence of the freedom of the press and freedom of

speech in Hong Kong being threatened. Regarding the incident in which Mr Allen LEE received a mysterious telephone call several days ago and subsequently felt that the safety of his wife and daughter was at stake, the truth has been revealed recently. A telephone call which was meant to reminisce about the past was nevertheless taken as an "ominous midnight call" which started a huge uproar in society, alleging the Central Authorities of interfering with the freedom of speech in Hong Kong. In fact, the freedom of speech in Hong Kong is protected by the Basic Law and fully respected by the Central Authorities. The allegation that the Central Authorities are narrowing the room for free speech in Hong Kong is simply unfounded.

Madam Deputy, I so submit.

MISS MARGARET NG: Madam Deputy, the story Allen LEE told a Panel of this Council last week demonstrates how vulnerable freedom of speech in Hong Kong has become.

Allen LEE is no radical, rebel or dissident. On the contrary, he has extremely good relations with influential people in Beijing. Yet, when he took up the talk show, "Teacup in a Storm", and started to discuss political development and the forthcoming election in September with callers, the pressure began. Beijing officials told him their displeasure. Intermediaries persuaded him to stop. Articles were published in the *China Daily* criticizing him. The straw which finally broke the camel's back was a late-night telephone call from a stranger who claimed to be a former Chinese government official and to have met him years ago, who said he once sat next to his wife and complimented on her and on his daughter. This alarmed him enough to give up hosting the show after long hours of soul-searching. As he told the Legislative Council, he did not want to allow things to develop to a stage whereby his wife's peace and quiet might be disturbed.

He told the Panel that in his opinion, it was not the top leadership's idea that such methods should be used to make him shut up, but when the leadership made clear that a democratic landslide in the September election would not be countenanced, those under them felt that they have to stop it from happening by hook or by crook.

Days later, the caller identified himself as a Mr CHENG Shousan and made a public statement to the effect that he was merely looking up an "old

friend" and did not intend to intimidate. Intention is open to inference, but the hard facts are that he was indeed a senior Chinese official and that he called out of the blue and asked to discuss the talk show. This was not an "old friend" making a social call as most people would understand it.

This is a clear case of interference with freedom of speech. Yet, there is nothing a person can do about it. Allen LEE was criticized for not reporting matters to the police. As to this, his reply was that the police would only think that he was a fool, as there was nothing so crude as to constitute criminal intimidation. He was proved right soon enough: this was more or less the response of the Commissioner of Police when asked by the press to comment. Allen LEE has to resolve his own dilemma: to be defiant and continue, or to head off the risk and step down. He chose the latter because when the system could offer him no help, he could only rely on self-help.

Madam Deputy, why has the system failed to protect Allen LEE's freedom of speech? The crux of the matter was Beijing's express wish and tacit permission for its people to use whatever means to achieve it. Meanwhile, the Government of the Hong Kong Special Administrative Region (SAR) is treated as if it does not exist. A proper SAR Government would have put up a forceful case that the Legislative Council election is Hong Kong's internal affairs, not a matter for Beijing's intervention. A proper SAR Government would have taken a strong stance on everyone's right to free speech which must be respected by everyone else. Tactics of the kind used on Allen LEE would have been unhesitatingly condemned and deplored. No government or state organ which has any regard for speech freedom could permit such tactics. A clear promise would have been made to investigate.

Yet, there was deafening silence from Beijing and from the SAR Government for days. The elegant Ms LIU Yandong, director of the Communist Party's United Front Work Department, said that freedom of speech is protected under the Basic Law, as one of our Honourable friends has just stated at some length. But mere lip service is meaningless. All this only gives credence to Allen LEE's statement that what he had to content with was "the Northern Giant".

Against "the Northern Giant", Hong Kong people are utterly vulnerable. But there is a price to pay, and it is that unless Beijing openly disavows permission and takes steps to stop these tactics, it can no longer be said that it

does not intervene in Hong Kong affairs, or that freedom of speech is still guaranteed under the principle of "one country, two systems".

Madam Deputy, freedom of speech is Hong Kong's most valuable asset — essential to our civic society and our pro-market economy. Any suggestion of its erosion must be taken seriously, not played down, or worse still, derided. For once we lose our freedom of speech, it will only be a matter of time before we lose every other right and freedom.

MS AUDREY EU (in Cantonese): Madam Deputy, recently, the political controversies caused by three famous radio talk show hosts successively going off the air have aroused concern in the community about the gradual narrowing of the freedom of speech in Hong Kong. Today, whether through the media or contacts with people on the street or from chats with friends around us, it is not difficult to find that the Hong Kong community is shrouded in an atmosphere of depression. Regarding the political development in recent months, the people feel helpless. They are even worried that Hong Kong is gradually moving towards the "one system" as practised in the Mainland. Some political figures or the media have made sarcastic remarks, criticizing that the hosts were acting on unsubstantiated evidence, that their fears were imaginary and that their reactions were over-sensitive. They said that the hosts were weak in character and had failed to play their roles faithfully in their respective posts. Some people even called a stag a horse, alleging that the three famous talk show hosts had a political objective and that they were deliberately creating a false impression of the freedom of speech being suppressed by the Central Authorities.

Those people who made such remarks seek to remove the suspicions on the Central Authorities, and it is evident that they have no regard to the hosts involved and their family members. To these people, absolving the powers that be from their responsibilities is far more important than standing up for the freedom of speech in Hong Kong. But obviously, they have seriously detached from the wish of the people.

The three most influential hosts of radio programmes have taken themselves off the air one after another. Added to this is the Central Authorities vigorously creating public opinions to advocate "the ruling of Hong Kong by patriots". Then there is the Standing Committee of the National

People's Congress (NPCSC) swiftly and resolutely rejecting universal suffrage in 2007 and 2008 through its interpretation of the Basic Law on 6 April and its decision on 26 April. More recently there are central officials alleging that some people are taking Hong Kong down the road of independence. Obviously, the Central Authorities are gradually tightening its control over politics and speech in Hong Kong. They intend to isolate some members of the democratic camp or disobedient members of the media, thinking that these people are their "enemies". Yet, even under such circumstances, some people still said that these talk show hosts have taken themselves off the air purely for personal reasons. People who made this comment are only deceiving themselves as well as others.

In fact, as also revealed by Mr Allen LEE when he attended the meeting of the Legislative Council Panel on Home Affairs, he had been admonished by people at the rank of central leaders more than once for hosting the programme. Although he had repeatedly rejected their invitations, influential figures still kept on offering to make arrangements for him to meet with central officials to discuss his hosting of the programme. Disregarding from which rank or level such pressure comes, it is still interference, and this cannot be clearer.

Former Deputy Director of the Hong Kong and Macao Affairs Office of the Ministry of Foreign Affairs, CHENG Shousan, stressed that he had telephoned Allen LEE only to catch up with a friend, not to exert pressure on him. But as also pointed out by Allen LEE, he is not familiar with CHENG Shousan and so, what is there to catch up with? Mr CHENG mentioned over the phone the programme hosted by Allen LEE and this had spelt out his purpose only too conspicuously. It gives the impression that his ultimate purpose was actually to persuade or to influence Mr Allen LEE.

As a common saying goes, one who holds no official position does not discuss official affairs. Mr CHENG has retired for many years and even though he is still interested in the affairs of Hong Kong, should he not be more cautious in order to pre-empt any implication? As political commentator, LAU Yui-siu, said, the Chinese political culture all along stresses that officialdom has no room for personal friendship. Now that Mr CHENG had made a great show of being sincere in asking Allen LEE to a meeting in his capacity of an old friend of Mr LEE. This gives even more reasons for one to suspect that he had an ulterior motive.

Madam Deputy, I agree with Mr Allen LEE's analysis that all the troubles stemmed from the election of the Legislative Council in this September. In fact, as also stated by Mr Albert CHENG, he would return to the radio station to host "Teacup in a Storm" by the end of the year. We cannot know by which level of mainland officials these election-related activities are mobilized, but their purpose is obviously to suppress the voice of the democrats before the election, fearing that the democrats can win half of the seats in the Legislative Council election in September.

But is this in compliance with "one country, two systems"? Is this in the long-term interest of Hong Kong? The Government under the leadership of TUNG Chee-hwa is feeble, and the Central Authorities do not trust the democratic camp. To ensure their control over the Hong Kong Special Administrative Region (SAR), they therefore keep on interfering in the affairs of Hong Kong. But interfering is like taking drugs, for they will be addicted to it. The interference from the Central Authorities is ever increasing and eventually, they even want to have a hand in matters which are clearly the internal affairs of the SAR. Let us look at the recent examples. The official English newspaper in the Mainland, *China Daily*, published an article criticizing the dereliction of duty on the part of Mike ROWSE, the Director-General of Investment Promotion of Invest Hong Kong, in his handling of the Harbour Fest. Such trends are indeed worrying to Hong Kong people.

The Chief Secretary for Administration, Mr Donald TSANG, has stressed that eloquence is the tradition of Hong Kong people, and that the freedom of speech is among the traditional core values of Hong Kong people. But in the series of political controversies recently, we cannot see SAR officials coming forth to defend our freedoms in a high profile. On the contrary, we nevertheless have seen that they have openly trampled on the people of Hong Kong from time to time. For example, Secretary Stephen LAM has even implied or refused to deny that some people among the 6 million Hong Kong people might be engaged in the promotion of the independence of Hong Kong. Such remark will indeed be very upsetting and frustrating to Hong Kong people.

The Director of the United Front Work Department of the Central Committee of the Communist Party of China, LIU Yandong, stressed the need to seek common ground while reserving differences and to accommodate different voices. But she did not live up to her words for she was unwilling to meet with

the democrats. Madam Deputy, if the Central Authorities are genuinely willing to defend the freedom of speech in Hong Kong, I sincerely call on the highest echelon of the Central Authorities to make peace or communicate with the democratic camp. I believe this will be the best and the most positive piece of news, and this will be the best way to remove the doubts associated with all the controversies and suspicious incidents that have occurred one after another recently. Thank you, Madam Deputy.

MR LEUNG FU-WAH (in Cantonese): Madam Deputy, I entirely agree that the freedom of the press and freedom of speech are the cornerstones of the success of the Hong Kong community. Regarding the detrimental effects of the loss of freedom of the press and freedom of speech, I believe few people have more profound experiences than veteran members of our union. An example is an incident that happened over 30 years ago. Two family members of Mr TSANG were arrested and imprisoned by the colonial government, and they had been viciously beaten up and tortured in prison. But they were not as high-profile as a famous radio talk show host who has taken himself off the air in Hong Kong. While this host appears to be scared on the surface, saying that he is very frightened on the one hand, he, on the other, moves around here and there, going to the racecourse at one time and travelling overseas at another.

Madam Deputy, from my recent observations, in the Hong Kong community there is indeed the problem of the loss of many freedoms, including the freedom of speech and freedom of the press, and this is seriously threatening our community. The following is some of my observations from my own experiences. For example, over a long period of time, a famous radio talk show host had often telephoned me during the course of his programme. Of course, I absolutely did not dare to give no response, because I would offend him if I did not give a response. So, whenever he called me, I always returned his call immediately, and nothing had happened for some time. Then, about two years ago, many people told me — and I had also heard of this myself — that he had been scolding me in his radio programme. He had used different expressions to scold me, but he just did not call me. Such scolding had persisted for several months and one day, he called me again out of the blue. I felt that I should have some measure of freedom and so, I asked him why he called me only now after scolding me for so many months since he could reach me anytime, and then I told him that I was not interested in talking with him. Having listened to what I said, he continued to scold me in his programme, and

he had been scolding me until he took himself off the air. It goes to show that I have no freedom in respect of replying a call or speaking. It is because when I replied his call, I would only be holding the handset, for he would be doing all the talking and he would keep on talking for eight minutes. It was he who had called me in the first place, but when he had reached me, he would be the only one who did the talking, and when I had made one or two utterances, he would say that he must hang up because it was time for the news report. This is my personal experience.

Madam Deputy, I have another personal experience and it happened at the beginning of last year. At that time, forums were held on the enactment of legislation on Article 23 of the Basic Law, and the first of these forums was held at the podium of the University of Hong Kong. I remember that Mr SZETO Wah, Raymond WONG, Mrs Regina IP and I attended the forum. I was expressing some of my views and, as Members know, I am very supportive of the enactment of legislation on national security, but after I had spoken a few lines, Raymond WONG suddenly yelled at me, "LEUNG Fu-wah, do you know anything about law? The barristers are saying that there are problems, do you dare say that there are none?" So, I immediately shut up. This goes to show that I do not have the freedom of speech, because I really have not studied law and so, how could I argue with him from a legal viewpoint? This is my personal experience, and I feel that I lost some of my freedom of speech.

Madam Deputy, on the other hand, the Democratic Alliance for Betterment of Hong Kong and the Hong Kong Federation of Trade Unions also do not have the freedom to have news about them being reported. Earlier on, the opposition camp said that many of their banners and placards had been damaged. Mr TAM Yiu-chung said that he had similar experiences, but such news is often not reported by some members of the media. Besides, from my observations, I also find that some people really do not have the freedom of speech. A Mr TSOI Hon-kuen, whom I learned from the press is an Assistant Director of the Immigration Department, had published some articles in the internal publications of the department. The views expressed in his articles are actually very common, as he called for more rational discussions and mutual tolerance. His article was later carried in other newspapers and that aroused much criticism, and I subsequently learned from the criticism that he is an Assistant Director of the Immigration Department who has an income of over \$120,000 monthly. But I can see that Mr TSOI does not enjoy freedom of speech, because he was criticized for not being politically neutral as required of a

civil servant. It was also said that he was in no position to make such comments and that he had stepped out of the line, and he was even told to shut up. Under such circumstances, Mr TSOI has no freedom.

From my observations, I find that the Chief Executive actually does not enjoy much freedom, for he does not have the freedom of response. I have heard many people criticizing the Chief Executive for responding so late to this incident. This shows that the Chief Executive has neither freedom of control over his own work schedule nor freedom in respect of the speed of response.

I can also see that a radio programme host of Radio Television Hong Kong, Ms CHEUNG Siu-yung, does not have the freedom to take maternity leave. She will give birth to her baby soon and according to the labour law, she, being a wage earner, should enjoy paid maternity leave. However, the staff redeployment in anticipation of her leave has been interpreted as persecution against Mr NG Chi-sum and has aroused criticism over his transfer away from the programme originally hosted by him.

I also see that the Secretary for Education and Manpower, Prof Arthur LI, does not have the freedom to explain policies. It is because the legislation relating to school-based management has aroused extremely heated and intense controversies recently. Many people have made many comments. I saw that the Secretary had written some articles in the press to explain the policy and he, being a government official, should have the responsibility to promote the legislation. But no sooner had he made explanation than Mr CHEUNG Man-kwong criticized him for stirring up conflicts and adding fuel to the flames. This shows that the Secretary cannot say anything, because as soon as he speaks, he will be alleged of stirring up conflicts and adding fuel to the flames. Such being the case, the Secretary is deprived of his right to promote government policies.

Furthermore, some 400 scholars had posted a statement in newspapers to express their many concerns on what happened recently. A reporter had asked for my views on this and I had given a response. But later, it was found that among those 400-odd scholars, some are administrative or executive staff and they are not necessarily scholars. But they had been lumped together as scholars. This means that these people have lost the freedom not to be called scholars.

Madam Deputy, from all these observations, I can see that the opposition camp is actually making use of their skills, network and influence, and this has indeed created a chilling effect, making many persons of integrity and persons with independent and rational thinking refrain from making fair comments. It is because once they made fair comments, they will often be branded as "boot-licking" and questioned as to whether they intend to lick the boots of the "Northern Giant". They will even be branded as endemic communists; they will be described as carrying the repulsive look of the leftists. Faced with these personal attacks, how many people would like to be scolded in such a way? Therefore, they can only remain silent. So, I do feel tired both mentally and physically. The chilling effect does exist, but the question is who are actually subject to this effect. I feel that we are indeed under immense pressure insofar as speech is concerned.

Thank you, Madam Deputy.

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

MRS SELINA CHOW (in Cantonese): Madam Deputy, VOLTAIRE, a famous French thinker in the 18th century, said, "I disapprove of what you say, but I will defend to the death your right to say it." I absolutely subscribe to this point. Although I have for many times ferociously attacked by one of the top talk show hosts verbally and I did feel displeased, and while I disapprove of this type of commentary which is sheer exaggeration and far from objective and deliberately provocative, I still respect his right to speak and even his right to continue to make criticisms; but I also have the right to lodge complaints against him.

Like many people, I do not agree with the style of individual radio talk show hosts in hosting their programmes on current affairs. Nor do I agree with their stance. I even have the feeling that their comments are sometimes too extreme or going overboard. But I think that a general criterion is that as long as these views are expressed peacefully without involving slanderous or unlawful elements, we should ensure that their right of expression must not be infringed. Anyone attempting to force other people to stop speaking by intimidation and even violence is tantamount to openly trampling on this widely recognized value of the freedom of speech and should be condemned by all sectors of the community in one voice.

Famous British economist and thinker, John Stuart MILL, had said in his well-known *On Liberty* to the effect that nobody can presume that his views will never be fallible and so, there is no reason for us to stop other people from expressing their views, and furthermore, even though the views are fallible, they often carry some measure of sense or validity, and only after the collision of the supporting and opposition views that the sense or validity will be revealed. Therefore, even if the views are erroneous, they should still be allowed to be expressed freely.

Madam Deputy, Hong Kong has all along been an open and free society where everyone is allowed free expression of views. This, coupled with the perseverance and diligence of Hong Kong people who always strive for improvement, is the cornerstone of our success and is part and parcel to our continued prosperity. We now live in the 21st century, an era which stresses creativity and innovative thinking. It is, therefore, all the more necessary for us to work hard to defend and cherish the existing latitude for the freedom of speech and freedom of the press.

I, therefore, wish to point out to Members that the freedom of speech is not confined only to a few famous talk show hosts. Rather, it belongs to each and every citizen. Only when we continue to express our views courageously, to lash out at the social evils courageously and to defend our freedom to express different opinions courageously that we will genuinely enjoy the freedom of speech and freedom of the press. Certainly, we must always be vigilant and promptly raise concern on acts which may possibly reduce this freedom. Having said that, however, we must not be over-sensitive.

Madam Deputy, recently, I have had a chance to meet the Mayor of Vancouver, Canada. According to him, the extent of freedom enjoyed by the media in Hong Kong even exceeds that in Canada. It is because if some of the comments that we can see in the local press appear in their newspapers, lawsuits may have been filed against them. My personal view is that the local media do enjoy far more freedoms than many other places; even some democratic countries do not have as great a freedom as we do. A long time ago, I was engaged in the mass media and I absolutely made no concession when it comes to the freedom of speech and the freedom of opinions. But in the meantime, I think when exercising such freedom, the media must also consider the responsibilities that they must shoulder. These responsibilities do not mean that they have to "shut up" or to exercise restraint. Rather, they must firmly uphold

the principles of fairness, objectivity and honesty. In recent years, I have the feeling that many comments or remarks have given consideration to "political correctness" or "the pedestal of ethics" and therefore, honest advice which is not pleasant to the ear is often ignored, while fine-sounding but impractical comments are often taken on board. Social division stems not from the expression of opinions by different people, but the suppression of people who hold different opinions. So, when we move towards democracy, we must at the same time ensure that there is room for freedom to be exercised by all sides. Only in this way can never-ending disputes be avoided, and only in this way can our efforts be dedicated to constructive endeavours.

Madam Deputy, Article 27 of the Basic Law expressly guarantees that Hong Kong people enjoy the freedom of speech, of the press and of publication. We agree that the Government of the Hong Kong Special Administrative Region must make every effort to defend these rights which are protected by the Basic Law. We also believe the Central Authorities are determined to uphold this undertaking in the Basic Law. But in the final analysis, we ourselves are the most important people to defend these freedoms.

Thank you, Madam Deputy.

MR BERNARD CHAN: Madam Deputy, it is impossible to imagine modern Hong Kong without freedom of speech and freedom of opinion. It is a part of our culture and our lifestyle. The recent departure of three radio talk show hosts should therefore be a concern to all of us.

These talk shows provide an outlet for public opinion — and perhaps a valuable monitor of public feelings for our policymakers and leaders. Nobody will benefit if criticism is driven underground. It is better to have it out in the open.

In addition, the departure of the three commentators has attracted attention around the world. These events have affected our international reputation as a free and tolerant society.

Like many people, I find this whole affair quite puzzling. If intimidation is happening, we must treat it as a threat to our society as a whole. The Government and the police must assure the public that threats have no place in

public affairs. People who think they are being intimidated should realize that they have a duty to report it fully to the police.

Since we are discussing freedom of expression, I would like to take the chance to mention an experience of mine around six months ago.

The insurance industry was warning the public that it might be difficult for some employers to obtain employee compensation insurance covering SARS. Some politicians and commentators accused our entire industry of being immoral or greedy.

In fact, the problem lay with the reinsurance companies overseas, not the whole sector here in Hong Kong, and the reinsurance companies were simply doing their job. They had no way of calculating the risks involved with this new disease.

One radio talk show host said things about the insurance industry which were completely unjustified and insulting. When I spoke on his show to try to explain what was happening, he simply dismissed my comments. He effectively defamed everyone working in the insurance industry.

That is, 60 000 people — the vast majority of them very dedicated and professional — being told that they were no good, plus their families being told that their spouses or their parents were in some sort of dirty work rather than a decent career. I got a lot of complaints from my colleagues in the industry about those comments. Complaints were sent to the Broadcasting Authority, but of course nothing happened.

My point is that we all have a duty to use our freedom wisely. Like all rights, freedom of speech comes with responsibilities. Freedom of speech can be abused. It can even be used to intimidate people, by making them less willing to speak out in defence of unpopular causes.

I personally have no problem talking with the media, even though I do worry that they will misquote me or twist what I say. But I know some people in the business community who are genuinely scared of the press. They do not feel free to say what they think. They do not believe they will get a right of reply.

People who support freedom of speech should support it for everyone, equally.

Thank you.

MR FREDERICK FUNG (in Cantonese): Madam Deputy, the freedom of speech and freedom of the press are a treasure of Hong Kong, not only because they give the so-called famous talk show hosts a chance to air their views. Such current affairs programmes also allow Hong Kong people to reflect their views. Some current affairs programmes are actually a combination of current affairs, speech, opinions and even performance. In this connection, I personally have had two different experiences. I remember that in 1994, I, for the first time, accepted the invitation of the programme "News Tease", and I was there face to face with these two famous talk show hosts who have taken themselves off the air, namely, Raymond WONG and Albert CHENG, and there was also CHAN Yiu-nam. If Members had watched that half-hour episode, they could not listen to what we said, because everyone just kept on speaking without stopping to let others speak. I expressed my views, and they expressed theirs at the same time, and our views were totally different. I was even verbally insulted by one of the hosts — I am not sure whether he can be considered a famous talk show host — and this host was neither Raymond WONG nor Albert CHENG. However, I was not angry then, because I took it as a current affairs programme and a forum for discussion. I believed that Hong Kong people who had watched the programme could tell whether my arguments or those of the trio were valid and whether Mr CHAN Yiu-nam's insult on me was founded.

Strangely enough, in the 1994 District Board Election and 1995 Legislative Council Election, the Hong Kong Association for Democracy and People's Livelihood (ADPL) won by a large margin and the numbers of seats won by us in these two elections were the largest ever in our history. In 1998, I lost in the election of the Legislative Council. Then I co-hosted a radio programme with Mr Allen LEE. During this two-hour programme, two government officials or celebrities would be invited each time to discuss some current affairs, and I was one of the talk show hosts at that time, though not famous. Many discussions actually aimed to present the facts and argue on principles. I also saw that given his participation in politics for many years, Mr Allen LEE had many experiences and opinions which made it particularly easy for him to dig up problems with the Government and the Civil Service in the

operation of the Government, and he could always hit the nail on the head. These two types of current affairs programmes are actually quite similar, but their styles are very different. To me, whether I am being questioned or I am the one who ask questions, and although the ways of how questions are put in these programmes are different, I do not think that only one of the two ways can give play to the freedom of speech while the other cannot. Anyhow, this is where the beauty of Hong Kong lies. That is, there can be many ways of expression in Hong Kong. This has made Hong Kong a wonderful place, and this is also a reason why I like Hong Kong.

Let me stress once again that I have been personally "lambasted" by these famous talk show hosts before. But today, Raymond WONG is a good friend of mine. Over the last couple of years, he has raised over \$100,000 for the ADPL. Why can we become friends after heated debates? This actually reflects that after debates or argument, there can still be friendship. But I appreciate that when it comes to speech or the media, it is a sensitive issue not only to Hong Kong people. It is also sensitive to the Communist Party of China (CPC). As far as I understand it, the CPC has three treasures in establishing the People's Republic of China. They are the army, propaganda and united front work.

Propaganda is, in fact, tantamount to news reports in newspapers or via television broadcast. This is considered very important by the CPC or Hong Kong people. Hong Kong people have also drawn an equal sign between the freedom of the press and the freedom of speech. Hong Kong people will not use the freedom of speech or the freedom of the press as a weapon or tool to overthrow or subvert the Central Government. However, we will use it as a tool to monitor and to put forward views on the SAR Government and even the policies of the Central Government and the remarks of some officials, in the hope that the Central Government will take heed of these views and make improvement.

In the past, we could not return the Governor by universal suffrage and now, we cannot return the Chief Executive by universal suffrage. Under such circumstances, the freedom of the press and the freedom of speech are very important means for Hong Kong people to make the Government change or improve some of its policies. As we can all listen from the radio, Hong Kong is governed by Albert CHENG every day before ten o'clock in the morning, because many people will telephone him to lodge complaints with him and he can

immediately bring senior officials onto the line and lodge complaints with them and make suggestions. Then changes will be made to some policies immediately, and improvement will also be made to some practices immediately.

These phone-in programmes have become part of the life of Hong Kong people. As we can see, they are also integral to the improvement of government policies. It is because of this reason that Hong Kong has attached importance to these programmes. At this sensitive moment, I think the SAR Government and the Central Government should not pay attention to whether for personal reasons or other reasons that these three famous talk show hosts have taken themselves off the air. If the Central Government and the SAR Government still believe that the freedom of speech is important to Hong Kong people and is even part of the life of Hong Kong people, they have to defend this part of life for Hong Kong people, and to defend this freedom, they must find out the truth. To defend this freedom, the SAR Government and the Central Government must sternly reprimand and lash out at those people or ways, including some subordinate officials, that have destroyed or jeopardized the freedom of the press and the freedom of speech in Hong Kong by intimidation or other means. During these days, whether it be the commentary in the *China Daily*, signed articles in *Wen Wei Pao* and *Ta Kung Pao* naming people in their criticism, comments made by local Deputies to the National People's Congress and Delegates to the Chinese People's Political Consultative Conference, or comments made by famous talk show hosts mentioned by me earlier or commentators on current affairs, all these have aroused an association in us: Is the Central Government telling us to shut up?

Thank you, Madam Deputy.

MS EMILY LAU (in Cantonese): Madam Deputy, I speak in support of Mr Albert CHAN's motion.

Madam Deputy, although there are so many amendments to the motion, I think the motion itself and the three amendments to it may still be voted down eventually. In that case, it will mean that this debate in the Legislative Council aiming to defend the freedom of the press and freedom of speech is not supported. This will send a very bad message to society. The people will then say that the Legislative Council is not at all prepared to defend the freedom of the press and freedom of speech. I hope that my view will turn out to be wrong. I hope the motion and the three amendments to it would not all be negated.

I do not understand why the words "this Council expresses grave concern about this" in Mr Albert CHAN's motion have to be deleted. Of course, they have to be deleted because some people are not concerned about this. Such being the case, it may be a good thing that the people get this message and see that some Members of the Legislative Council are not concerned about this issue which is nonetheless of concern to some members of the public. Indeed, many people are concerned about this issue. Madam Deputy, as we are members of the community and representatives of public opinions, the question of whether or not this Council is concerned about this is therefore very important. Certainly, if anyone dares to vote against the motion, which means that he or she is not concerned about this, the people will know how they should form their views.

As I said a few months ago during a debate in this Council, sometimes when I ask the public to fight for democracy, they may not be very enthusiastic about it and some may say, "What do we need democracy for? The most important thing about democracy is that it protects our freedom, and as we already have freedom now, why should we need democracy?" But in fact, many Hong Kong people are still very concerned about their freedom. Madam Deputy, on 1 July last year, so many people took part in the march, and one of the most important things in their mind then was their worry that their freedom would be taken away by Article 23 of the Basic Law. We were very happy to learn that the Liberal Party later agreed that this Article should not be implemented so hastily. Mr Bernard CHAN made a good point earlier when he said that these incidents had aroused concern widely across the international community. It is because not only the international media, other people are also watching Hong Kong. These people have a good impression of Hong Kong, for Hong Kong is a very vibrant city and a cosmopolitan. Many people have been here for business or for leisure. They may also have friends and relatives here. But all of a sudden, they heard that Hong Kong is going to lose the freedom of the press or this freedom is dwindling here. This message, whether we like it or not, has already been sent out.

Now, I hold great regrets to see the reaction of several people, particularly Raymond WONG and Albert CHENG. They used to work in the media and now, they dare not get involved in it any longer and have refused to remain on air. It is like some people having to put an abrupt end to what they have long been doing. Subsequently, some people cried; some were overwhelmed by fears. Disregarding the reasons behind them, Madam Deputy, will this not terrify the people? Therefore, I think the authorities should conduct a thorough

investigation into it. Investigation is mentioned in an amendment, and I think investigation is necessary. When Mr Allen LEE came before us the other day, I also raised a question on the need to conduct investigation.

Some people said that it is best for the duo to convene a press conference to give a full account of what happened. But if they tell the truth, they may face very serious consequences. That is why they refused to speak up. Do we understand their situation? Do we have to force them to tell the truth, come what may, and if they refused to do so, we would affirm that they are hiding some secrets from us and that they themselves are at fault? Yesterday, a senior central official even made some remarks, remarks which I do not wish to repeat here and Madam Deputy, I see that you are nodding your head. That he should defame other people with such remarks is indeed outrageous! Can the matter be settled by some brief comments of the SAR Government that there is nothing they can do, and that it will be their own business if they dare not tell the truth and refuse to remain on air?

However, this is exactly the chilling effect to which we have so often referred. Madam Deputy, this has already produced a very serious chilling effect. The two of them have always been bold and outspoken, and as we can see, "Ah Kei" had been harshly criticized by them before. I have also been criticized by them. So have many other people. But now, they have reacted in such a way. Madam Deputy, many people no longer dare to speak up. It is particularly so when so many people are coming from the Mainland and as many from the business community with a firm foothold here are disseminating information, who else will dare to speak up?

So, this motion debate today is actually very important. It is because today, we have made clear the core values most cherished by Hong Kong people and the issue which they consider most important. They think that this is the biggest difference between Hong Kong and the Mainland. But this difference may gradually disappear. When this difference no longer exists, then there would be "one country, one system". In that case, what is the point of talking about "Nine plus Two"? So, Madam Deputy, I very much hope that the authorities can come forth and state explicitly what they will do to sufficiently inspire confidence in the people and to prove that Hong Kong people can continue to say what they very much wish to say and that their eloquence will not subject them to grave consequences, even though it may not cost their lives. In fact, the temperature of this incident has been rising. Madam Deputy, when will the first blood be drawn? When will things go wrong?

I remember that a few years ago, some rich people said that all they have to do is to press a button to siphon their money out of the territory, just as easy as that. Hong Kong hopes that its investors and people can have confidence. But where does confidence come from? There is confidence if we know that we can continue to enjoy freedom, that the rule of law prevails, that our personal safety is protected. If people who are in decent jobs have to cry their eyes out, make an announcement in a recording and then run away, or when there are people trembling in fear, leaving just a few words and then going away, Madam Deputy, members of the public will feel very frightened and worried seeing all this happening. What can we in the Legislative Council do for the people? What can we do for Hong Kong? If even such a simple motion with no legal effect is voted down, we must really be ashamed of our disservice to Hong Kong people.

MR MICHAEL MAK (in Cantonese): Madam Deputy, only in a healthy society where people enjoy freedom of speech can the Government collect opinion effectively for the formulation of policies in the best interest of the public. The freedom of speech fosters pluralism of a society wherein everyone can express their different views. Through an interactive exchange process, we can understand the needs of different strata and eventually nourish a harmonious yet pluralistic society through integration. The media, representing the fourth power in society, can play an important role in monitoring the Government and strike a balance of interests between the Government and the public. The freedom of speech and freedom of the press, therefore, are the most important cornerstones of a democratic society.

The freedom of speech and freedom of the press are the precious assets of Hong Kong. They also serve as an effective indicator of the implementation of "one country, two systems" and "high degree of autonomy". But unfortunately, the freedom of speech in Hong Kong is being gradually nibbled away. The most obvious example is the recent consecutive departure of three popular radio programme hosts, who indicated that they had to quit the job and cease to host any programme again because they were under pressure and worried about their personal safety and the safety of their families.

Coincidentally, these three commentators have been regarded as the mouthpiece of the public because of their boldness in chastising the government officials and their policies. Their departure against a backdrop of the imminent

Legislative Council elections in September is so unusual that the public worry if some people intend to affect the election results by putting pressure on them.

The three famous hosts are objective, rational and impartial in commenting current affairs. As public figures, they would not make aimless criticisms because they have to be accountable to the public for their remarks. So, it is absolutely unnecessary for them to tell lies. They told the public that they were under pressure, feeling that their safety was at stake. We should respect their personal feelings. Their feelings, however, are not shared by those unsympathetic of their situations. Such disrespect to others' feelings should not be encouraged.

Apart from the three famous hosts, audience of phone-in programmes have also complained that their families were being suppressed or pressurized to vote for a particular political party or Member from a particular political party. All in all, why are these acts not intentional suppression of our freedom and even our general freedom of speech? Splashing excrement at the ward offices of Ms Emily LAU and Mr LEUNG Yiu-chung is an example. Whenever I had to attend the City Forum or walk near the Victoria Park, the "old guys in the park" often hurled abuses at me and even intimidated me with filthy offensive language intolerable to the ear. On the 21st of last month, four legislators and I planned to go to Shenzhen in the hope that we could express Hong Kong people's views on universal suffrage to QIAO Xiaoyang, Deputy Secretary-General of the Standing Committee of the National People's Congress. On that very night, a Chinese official contacted me on his own initiative, trying to lobby me to cancel the plan. He also pointed out that my visit to Shenzhen would have negative impact on my participation in the re-election. To me, this is huge pressure. But eventually, I think, as a representative of public opinion, I would have no regrets in exhausting all channels to reflect the people's views to the Central Government.

I do not understand the motives of those people who try to suppress the freedom of speech. Do they look like "an anxious eunuch"? Or is it because some of them are over-enthusiastic? No matter what the motives are, this is definitely not a healthy development. The departure of the programme hosts is already a great shock to Hong Kong society. The suppression of freedom of speech and freedom of the press is a major concern to all of us because the international image of Hong Kong as a free and open society will be seriously affected. Prospective investors will be scared away, adversely affecting the

economic development of Hong Kong and eventually shaking the confidence of Hong Kong people. Human resources are the lifeline of Hong Kong as we have no natural resources at all. For this reason, I am very worried. As I pointed out in the "Letters to Hong Kong" programme broadcast on RTHK Radio 3 last Sunday, if we allow this situation to go on, it will definitely affect our sense of belonging and confidence. Certainly, it will lead to another exodus of emigrants. I hope Members can pay attention to this adverse impact.

In order to protect the freedom of speech and freedom of the press and uphold "one country, two systems" and "high degree of autonomy", the Government should conduct an in-depth investigation into the case and offer a full account. LEE Ming-kwai, the Commissioner of Police, said that there was no evidence to prove that the departure of the programme hosts had anything to do with criminal intimidation or their personal and family safety being at risk. Nor was there any evidence to show that the incident was a planned attempt to impede freedom of speech. Given that a thorough investigation has yet to be conducted, I consider his remarks imprudent and unfounded. He should not have jumped to a conclusion before the whole truth is uncovered.

Thank you, Madam Deputy.

MS CYD HO (in Cantonese): Madam Deputy, in less than three weeks' time (from 3 May to 19 May), three radio programme hosts took themselves off the air one after another because of political pressure. Another host will also be transferred next week. We can see that the freedom of speech, which was temporarily spared due to the failed legislation on Article 23, has shrunk because of another form of threat. In fact, this is indeed very unfortunate.

Although many Honourable Members of this Council, including myself, have been criticized severely by Mr Albert CHENG, we are responsible for upholding everybody's freedom of speech anyhow. In a pluralistic society, whether his approach in the programme and his attitude in hearing views of audience are appropriate will be decided by the public and judged by the ratings. According to a survey, the programme hosted by Mr CHENG had the biggest audience in Hong Kong. If criticized by him, I will ask myself whether I am not as articulate as him. I also hope people can ask themselves whether their inability to convince the public is due to a lack of justification.

Upon invitation, Mr Allen LEE attended a special meeting of the Panel on Home Affairs last week to elucidate how he had been pressurized for hosting the programme "Teacup in a Storm". At the meeting, some Members queried whether he was "chasing after the shadow". On the next day, some newspapers ridiculed him for equating compliments on his wife and daughter with pressure, concluding that the whole incident was "a joke" and "an alarmist talk". However, we should remember that Mr LAM Bun, a programme host of Commercial Radio, was assassinated and burnt to death during the 1967 riots because he had severely criticized the ruffians who tossed bombs to kill innocent people. If somebody today still queries whether Mr LEE is chasing after the shadow, I think he or she is too cold-blooded.

As some academics have put it, the Chinese style of political censorship is like a python curled on a ceiling light. Even though the python does not make a move, anyone living under its shadow will feel the threat. The python simply does not have to make any move as the knowledge of its existence is enough to constitute a psychological pressure. The python will not tell you its bottomline; it only wants you to guess. As a result, everybody begins to exercise self-censorship, pondering what will offend the python and what will make it jump down. In the end, nobody does anything. As time goes by, everybody will keep their mouths shut and their eyes closed. Even if Mr CHENG has come forward and clarified the matter, these dark shadows still will not go away. Will the central leaders who have lectured Mr Allen LEE come forth to clarify the content of the lecture? Can those who had called him up come forth to clarify? I believe if these people can tell the truth, the public will be able to make judgement and know if Mr Allen LEE was under pressure or making conjectures.

The incident has told us that the python is already on the ceiling light of Hong Kong. Several radio programme hosts, after receiving different levels of advice and hints, decided to submit and shut up before any act of violence happens.

In fact, the interference in freedom of speech and freedom of the press in Hong Kong is no news any more after 1997. A blatant example is the remark in 2000 by WANG Fengchao, Deputy Director of the Liaison Office of the Central People's Government. He openly requested the media not to report news related to the independence of Taiwan because the media had a responsibility to uphold national unity and safeguard our territorial integrity. All in all, it is not only pressure on the media; it is also pressure on the Government of the Hong Kong Special Administrative Region (SAR).

It is said that the freedom of speech and freedom of the press are protected by the Basic Law. However, if the SAR Government is also under pressure and reluctant to discharge its duties or its statutory obligations, such protection is nothing but a paper promise or lip-service. Let us take a look at the attitude of the SAR Government. For more than two weeks after the incident, Mr TUNG Chee-hwa, the Chief Executive, remarked only last Friday for the first time that the SAR Government would uphold the freedom of speech. Mr LEE Ming-kwai, the Commissioner of Police, maintained that there was no evidence to indicate a relationship between the incident and the suppression of free speech. In the eyes of Hong Kong people, the SAR Government says on the one hand that the freedom of speech is protected by the Basic Law and takes no concrete action on the other. Everybody knows the existence of the python and wonders if the SAR Government has a share in raising it.

In fact, Mr Allen LEE has long been criticizing the Government and nothing major has happened. However, when he disclosed in his programme that some political forces both inside and outside Hong Kong had wanted to manipulate the election, he was advised, hinted and intimidated. Obviously, some people did not want the media to trace and find out the truth for fear that it would not only affect the election but also uncover an even bigger scandal. In fact, such manipulation creates a vicious cycle. The greater its unwillingness to play by the rules to achieve governance, the more a government is afraid of freedom of speech. The more the tightening up is, the more the fear that the truth will be uncovered. The harder the tightening up on the freedom of speech, the easier the infringement of the rights of the public will be. Hence, we need the support of a bunch of media workers who have integrity. We also need the public to unite together to uphold the freedom of speech.

The SAR Government should respond to the people's concerns and make it clear to the Central Authorities that the freedom of speech should be allowed continued existence in Hong Kong.

MR MARTIN LEE (in Cantonese): Madam Deputy, as we all know, Albert CHENG and Raymond WONG became famous by the programme "News Forum". Later it was joined by Prof CHAN Yiu-nam. Their criticisms were so sharp that many of those who had been criticized were scared by them. I remember on one occasion, Mr Frederick FUNG, who has spoken earlier, was the target. I believe it was the most severe criticism he ever had. On another

occasion, a suggestion made by me within the Democratic Party had been disclosed and some party members requested for its withdrawal. Worse still, on that night, I was grapped into the programme. Sitting there, I shivered, feeling even more nervous than facing the three Judges in the Court of Appeal because the Judges would only raise questions in turn but the three programme hosts bombarded me at the same time.

Having said that, "Tai Pan" took off the air on 3 May and "Fei Gao" stood in for him to host the programme. On 13 May, Yuk-man also quitted the job. On 19 May, "Fei Gao" resigned as well. These three famous hosts all shut up within 16 days.

According to a leftist friend, the series of events had to occur in such a short span of time in order to achieve shocking effect. Some people then asked, "Really? Show us the evidence." However, if a problem occurs, it is not the victim who should produce evidence. Rather, the prosecution should if it is available. If evidence is not yet available, the police should conduct an investigation. As we all know, intimidation may be made in an implicit way. Take robbery as an example. Money is given to the robber not necessarily at knife point. Very often, the robber can scare the victim by just hiding his hands in his pockets. When you are surrounded by a group of people saying, "Sir (or Madam), you are leading a good life, but you see, I have to feed my brothers over there." Just these few words will make you hand over your money obediently. They do not have to say borrowing money from you. It is you who give them money voluntarily. In this case, is it necessary to conduct an investigation? Or is it necessary to produce evidence first or make arrest first?

In fact, it is difficult to rely on the policy alone. Just now I have looked up section 38 of the Police Force Ordinance which says, "Nothing in this Ordinance contained shall be construed to limit the right of the Central People's Government to dismiss or terminate the appointment of the Commissioner of Police without compensation". In other words, our Commissioner of Police can be dismissed at any time by the Central Government without compensation. If the situation of Hong Kong is really like what was reported by the media, such as the *East Weekly*, that the Central Authorities want to control Hong Kong and their major concern is that the Legislative Council election on 12 September will lose control, what should our police force and our Government do? In fact, we

have heard of a saying: "one newspaper, one magazine and two microphones"³. I do not want to scare the newspaper and the magazine. Nor do I want to mention their names as they are well-known already. After the "two microphones" have disappeared, when will the newspaper and the magazine become the targets? It will not be long.

Now Yuk-man, "Tai Pan" and "Fei Gao" have taken themselves off the air. After their departure, a lawyer friend made a lot of complaints to me. He said that before Yuk-man had taken himself off the air, he could work in the office until 8 pm before going home for dinner. After Yuk-man had quitted, his wife would call him up for dinner at 6.30 pm because his wife was Yuk-man's great fan. Since Yuk-man's programme had been suspended, what she could do was to call up her husband earlier for dinner. However, our leaders will certainly say that there is no problem. Today, according to a report by *Ta Kung Pao*, Mr TANG Jiakuan, the State Councillor in-charge of Hong Kong affairs said to this effect, "Some people said it seemed to be an instruction from Beijing that ordered these people to quit their original posts. In my view, such saying is illogical and unrealistic." He then added, again to this effect, "Someone, being heavily in debt and unable to muddle along, has fled to Canada on his own initiative. How come it is an instruction from Beijing? It has totally disregarded the most fundamental fact." Raymond WONG called me up a few days ago, revealing his whereabouts. But he is not in Canada. Without his consent, it is inconvenient for me to disclose it. Mr TANG Jiakuan has only mentioned one of them and made a mistake even in his location. That is not important. But what about the other two?

In fact, many Hong Kong people are really very worried, Madam Deputy, because these famous hosts could air the grievances for them even though they scolded people. Some may ask whether they should stop hurling invectives. Will the audience accept it if so? Sometimes when I hear them scolding someone, I will feel cooled off. Of course, when I am scolded, somebody else will feel cooled off. It is very fair. If people have a lot of pent-up anger, it is not healthy for society.

Now we should stop talking about the famous hosts. Then, how should we vote? It seems to me that none of the motions will be endorsed because even

³ "Two microphones" refer to the two radio programme hosts

Mr Albert CHAN's motion, the wordings of which are so moderate, has been amended. We have no alternative. In the end, even if the motion is not passed, which I think unimportant, we have at least expressed what we should say. Everybody says that freedom of speech is very important. But now, have we in Hong Kong adopted the freedom of speech with the characteristics of China, meaning that only welcomed voices are allowed? Thank you.

MR ABRAHAM SHEK: Madam Deputy, in less than three weeks, a trio of popular, influential radio hosts, the Larry KINGS of Hong Kong, not Asia, one after the other abruptly left their posts. Their resignations have not only left behind a trail of unanswered questions, but also surprised the public, created a spate of debates in the community and disturbed many social quarters.

This is because journalists, scholars and human rights advocates are commonly regarded as barometers for the level of freedom of expression and thought a society enjoys. Certainly, these are abstract principles involving intangible ideals which cannot be measured, seen or heard, but they are rights which Hong Kong society cannot live or prosper without. Since these broadcasters are on the frontline in regard to the exercising and defending of these rights, it is expected that they are possibly more attuned than the others to any changes in the political climate affecting these particular freedoms.

Therefore, the present environment is untenable because there are just too many unanswered questions surrounding the resignations. The public is confused with two contradictory claims, one claiming that the radio hosts are under undue political pressure, and the other insisting that the so-called pressure is either needless or excessive worries. Half doubting and half believing, the public is now starting to draw their own conclusions based on fragments of facts and even rumours and speculation. Clearly, these political arguments are not healthy for any society, even one as pluralistic and open as Hong Kong. As it is, they have undermined the harmony and stability of society. If not properly addressed, I fear they may even lead to more serious socio-political consequences, as public confidence in a government is partly built around whether freedom of expression and freedom of thought are respected.

(THE PRESIDENT resumed the Chair)

Much as the community may harbour suspicion, I believe most people have not lost their faith in Hong Kong as being one of the freest societies in the world. Last week, Mr Allen LEE spoke of the pressures which drove him to quit his job as a radio host. On several occasions, he suggested that the public could make their own judgement on the issue. It seems that most people in the community are sensible enough to recognize that these radio hosts only reflect one side of the issue of freedom of speech and freedom of the press exercised in Hong Kong.

Ultimately, these freedoms are prescribed by the Basic Law. We also possess a robust, independent print media and broadcast industry. Controversial talk shows continue to be run every day without interference, and their hosts continue to make their sharp commentaries without fear of being fired. It is no coincidence that the flow of information in the territory is one of the most unhindered and unrestricted in the region. Most local political organizations and numerous religious groups have their own websites — some even run their own on-line radio show on the Internet. My point is, Madam President, there are still positive signs that Hong Kong still enjoys a high level of press and speech freedom.

By any standard, undue political pressure and threats of violence are serious claims which must not be dismissed easily. Therefore, it is not very wise for the Government to treat these claims as just another routine complaint. Neither is it smart to respond by repeating standard, bureaucratic statements. In addition, the police have been slow in responding to these claims with appropriate measures.

Madam President, the Government must act promptly to demonstrate its commitment in upholding these precious rights. Further, Hong Kong society has long enjoyed a high level of these freedoms. It is perfectly reasonable for the population to develop zero tolerance whenever any of their rights and freedoms are infringed. These freedoms of belief, of speech and of thought are the very foundation on which our society is built. Our Government must treasure and fiercely guard such freedoms. With these words, I so submit.

Thank you.

MR SIN CHUNG-KAI (in Cantonese): Madam President, just now our Honourable colleague, Mr LEUNG Fu-wah, said that "Tai Pan" had frequently scolded him, making him feel that he had no freedom of speech at all. I believe I am one of those in the democratic camp who had been most severely criticized by "Tai Pan". But I do not have the same feeling.

We, as public figures, are open to criticisms by the media. Our attitude towards such criticisms should be one of making corrections if problems really exist and redoubling efforts if no problems are found. We cannot say that our freedom of speech is being suppressed because of others' criticisms.

As regards the incident concerning the departure of several famous talk show hosts, I personally think that some antecedents had occurred beforehand. Since some Honourable colleagues in this Chamber have also attended the meetings of the Panel on Information Technology and Broadcasting, they should remember that the Government started to consider the licence renewal of Commercial Radio Hong Kong (Commercial Radio) in June or July last year, or even earlier, around April or May last year. At that time, there were reports in many newspapers, commentaries, editorials and even some grapevines hinting that the Government was considering whether to renew the licence for just three years or 12 years. One of the considerations was that the two "microphones" had been exerting great impact on the Government. For this reason, the issue aroused wide discussions, leading to numerous phone calls to Commercial Radio. In order to dodge the storm, the Government eventually renewed the licence of Commercial Radio for 12 years.

To put it simply, the said incident seems to give us an impression that the Government intended to shuffle Commercial Radio. Failing that, it tried to shuffle the programmes. And failing that, it tried to shuffle the programme hosts.

Today, Madam President, we can see that after the departure of several famous talk show hosts, many people in this short period of time have felt that public response is very strong and those who have pressurized and even asked these hosts to quit have lost more than gained. However, I am not holding such a viewpoint. From the long-term perspective, the popularity of these two programmes, which enjoyed a large audience in the past because of the styles or popularity of the former hosts, may gradually diminish because of the change of hosts. On the other hand, there is another view, as expressed in a newspaper

article by a programme host from another radio station, whose surname is CHOW, that it is meaningless even if these two famous talk show hosts return to host programmes again. In other words, it seems to imply that the two famous hosts, "Tai Pan" and Yuk-man, should not return.

Of course, both of them have only said that they will not be hosting any programmes before September. So, there is a possibility that they will return afterwards. However, it is still unknown whether they can come back after September or not. Nevertheless, the damage to Hong Kong has been done, and the price has been paid.

The incident concerning their departure has attracted international attention. Radio stations in Australia or other places have also begun to pay attention to the development of events in Hong Kong. In the long term, whether freedom of speech will affect the credit rating of Hong Kong is also a consideration.

I hope those people who have dealt a blow to the freedom of speech in Hong Kong will think about what more can be done to defend the freedom of speech which Hong Kong enjoyed in the past in our long-term interests.

I am saying this out of my personal feelings. I think what the Government did is indeed disappointing. Whenever I take part in a march, I will feel that the pressure exerted by the police on the marchers is very great. If the Secretary for Security, now in attendance, has an opportunity to take part in a march when he has stepped down from this position or if it so happens that he is also in the street when there is a march, he will have the same feeling as mine. Marchers in the streets are prevented from moving forward at certain locations! When they come to the front door of the Liaison Office of the Central People's Government, they will find that the road, which is originally very wide, has been narrowed down. Besides, there are many obstacles and many problems which will easily lead to conflicts between the marchers and the police.

Regarding the performance of the police, I am not talking about the standards of the so-called police service. When people want to express their views and apply for organization of a demonstration, the police should be responsible for crowd management so as to make things convenient for the marchers. However, the current situation is not like this. What does our Government do? It will suppress and refuse to make things convenient for the

marchers. When the people discuss the route with the police, the police will try to make life difficult. This is exactly the approach adopted by them. If you are one of the marchers, you will find the problem is very serious.

In the protest march on 1 July last year, I was at the bottleneck in front of Sogo. It became a bottleneck there because the eastbound lane of Hennessy Road had been closed. But the westbound lane was not. The situation was very unsatisfactory because there were too many people. The eastbound lane should be opened as well. I asked the policewoman, who was the officer-in-charge there, whether the road on the other side could be opened. She refused and said that she had to seek instructions from her superior. After she had done so thrice, the reply was still negative. Later, I just ignored her and gave her my identity card before pulling off the cordon belt to let the marchers cross the road for fear that a congestion of people who had been waiting for so long would lead to a mishap if I did not do so. After I had pulled off the cordon belt, the policewoman thanked me.

From this we can see that the colleagues of the Secretary for Security should be given credit for suppressing the freedom of speech, but should receive 10 floggings with the stick in respect of their performance in upholding freedom of speech. Given such a government, the case may be difficult. But people in other places may do the same.

Madam President, I personally think that, insofar as the subject of today's debate is concerned, it is the long-term interest of Hong Kong that suffers most. Many people always mention the long-term interest of Hong Kong and claim that whatever they do is for the long-term benefit of Hong Kong. What is most worthy to be upheld in Hong Kong now? As democracy has been lost, freedom of speech is now being sniped at close range.

Madam President, I feel very distressed. If today's motion cannot pass, this will indicate that this Council is actually unable to uphold the freedom of speech.

MR TAM YIU-CHUNG (in Cantonese): Madam President, freedom, rule of law, clean government and equality, and so on, are the core values of Hong Kong. The freedom of speech and freedom of the press are recognized and

respected by us unanimously. They are also protected by law. The Sino-British Joint Declaration states that rights and freedoms, including those of the person, of speech, of the press will be ensured by the laws in the Hong Kong Special Administrative Region (SAR). The Basic Law even enhances the protection for press freedom by providing that "Hong Kong residents shall have freedom of speech, of the press and of publication". The laws of Hong Kong do not allow any threat by violence or suppression of free speech.

The recent departure of three radio programme hosts for various reasons has aroused public concern that the freedom of speech in Hong Kong is under threat. Some people even worried if it involved threats by violence. But according to a public statement by the Commissioner of Police, the police, based on media coverage and other information, had contacted a number of people, including university professors, Council Members and political parties with the hope of obtaining relevant information. However, the information gathered was only some hypothetical, suppositional and personal opinions.

The laws of Hong Kong protect our freedom of speech. Over the past seven years since the reunification, the public have been free to express their views through the radio stations, newspapers and assemblies. The media, scholars as well as public affairs commentators have been strongly criticizing the SAR Government. The recent interpretation of the Basic Law by the Standing Committee of the People's National Congress (NPCSC) was condemned by a small group of opposition factions who still ignored the provisions of the Basic Law. Judging from the high-profile condemnation of the decision by the NPCSC, the supreme state organ, we can see that the freedom of speech in Hong Kong has not been constricted. In spite of the departure of those three radio programme hosts, Mr Tony TSOI, the Chief Operating Officer of Commercial Radio, still openly stated that the radio station was not subject to any pressure on free speech.

The freedom of speech still exists in Hong Kong, but the recent departure of radio programme hosts has aroused wide discussion in society, which reflects one objective fact. There is an obvious cultural difference between Hong Kong and the Mainland. As the community is increasingly polarized, any misunderstanding as a result of cultural difference will be exaggerated as white terror by those who have an ulterior motive to cause unrest among the public.

To uphold the freedom of speech, we must have a pluralistic environment for free expression of views. It is most worrying that the political stances of the media have been in conflict in recent years and their views taken sides. The electronic media channels are communal social resources, but some programmes have been reduced into a tool for political mobilization, leading to a drastic constriction of the room for reasonable discussions among various social bodies. As a result, social division becomes more and more serious. I read an article by a journalist named CHEUNG Tsui-yong the day before yesterday. Here is what she wrote, to this effect, in her personal column: "A member of the audience phoned into the radio programme grieving over the freedom of speech in Hong Kong. Besides mentioning the famous talk show hosts, the member of audience said that WONG On-yin, the democrat who particularly criticized the pro-democracy camp, had also lost his personal column, which was very popular, in a newspaper. The radio programme host then pointed out that it was a personal matter between WONG On-yin and the newspaper." CHEUNG Tsui-yong lamented with sighs: "Insofar as I am aware, this is certainly not the reason. The only difference lies in the fact that the 'democratic' newspaper is not *Ta Kung Pao*. Had WONG On-yin lost its column in *Ta Kung Pao*, the radio programme host would have a lot of comments to make." In my opinion, the comment of CHEUNG Tsui-yong, a veteran journalist, on the styles of the radio hosts is a hit right on the head of the nail. In conclusion, CHEUNG Tsui-yong said: "When we discuss the freedom of speech, do not let democracy turn into an evil force."

The freedom of speech is one of the cornerstones of Hong Kong's success. However, freedom of speech does not mean freedom unchecked. We have to respect other people's rights at the same time. Our society should not let anyone suppress, smear or persecute those who hold different opinions by making use of the room for free speech. That is the true essence of freedom of speech.

Recently, some organizations and individuals have kept claiming that the incident concerning the departure of several radio hosts is a political issue. Based on their speculation, they reasoned that the Central Authorities was trying systematically to suppress the opposition camp. They asserted that the pressure had originated from Beijing, with a view to creating white terror and igniting public dissatisfaction against the Central Authorities. Is it beneficial to Hong Kong? Is it conducive to social stability?

Four hundred people from the academic circle made a joint statement a few days ago to express their concerns over the freedom of speech. In this

connection, BBC, the fortress of press freedom, interviewed Prof Joseph CHENG, one of the initiators of the joint statement. Prof Joseph CHENG was stuck when he was asked: "You can publish such a statement in the newspaper. Does it not prove that the freedom of speech in Hong Kong has not been constricted? Does it not prove that the media have not exercised self-censorship?"

The exchanges between Hong Kong and the Mainland have become increasingly frequent. Undeniably, there are cultural and system differences between the two places. To minimize these differences, mutual communication must be strengthened in order to enhance mutual understanding. An absolute antagonistic attitude will only push us to extreme suspicions and anxieties. If we equate telephone calls with interference, how can we communicate and how can we exchange views?

The Democratic Alliance for Betterment of Hong Kong opposes any act which damages the freedom of speech and freedom of the press. We condemn anyone using violence to suppress the freedom of the press. We hope that all of us can put aside our prejudices and learn to respect each other.

Thank you, Madam President.

MR JAMES TO (in Cantonese): Madam President, when I read once again the speech which Mr Allen LEE had made on a special meeting of the Legislative Council in addition to the recent comments made by Mr CHENG Shousan two days ago, I found that the incident is basically very clear, and really very self-explanatory. Why? You have to go through the whole context to see why. Let me repeat what Mr Allen LEE had said. While he was visiting Inner Mongolia in August last year, he was taught a lesson by the leaders of Chinese Government. Why? Because when Albert CHENG took himself off the air in May last year, he stood in and became the host of the radio programme. This is the first point of the fact.

Here is the second point. He had met with many leaders during the National People's Congress (NPC) session in March this year, according to his supplementary statement. During a private meeting, the Chinese leaders raised many comments on his being the radio programme host. In spite of his explanation, they still had a lot of opinions about it, particularly referring to the radio programme "Teacup in a Storm". This is the second point.

The third point is about his attempt to consult WU Bangguo, Chairman of the Standing Committee of NPC when he began to take over the radio programme from Mr Albert CHENG. The reply was: OK. Hosting the programme itself was irrelevant to his capacity as a local Deputy to the NPC. His very influential friend from the Mainland (who was subsequently known to have the connection to arrange for him a meeting with JIANG Zemin) even said that he was a more appropriate host because he would discuss things according to facts instead of hurling invectives. It is indeed very straightforward. From start to finish, the mainland officials preferred Allen LEE to Albert CHENG. At least the situation would have been different — if the *East Weekly* magazine is correct, JIANG Zemin had criticized the radio programme explicitly by name. Therefore, the hosting by Allen LEE would be helpful to the discussions on current affairs. Maybe by exercising his flexibility on which line to take and what ought to say, he could even become a helping hand to the Central Authorities and the pro-communist political parties. To their dismay, he "did not return favour" and remained unchanged. Here comes the third point: Allen LEE said that on 3 May, a few days after becoming the host, his influential friend from the Mainland wanted to discuss with him about the programme "Teacup in a Storm". This is the third point.

It is said that CHENG Shousan was not intimidating him. As a matter of fact, Allen LEE has never said that he was intimidated. Allen LEE was just afraid of these officials — fearing that they might bug him one after another. Moreover, they would not only bug him but also his wife and his family.

Here is the fourth point: On the day of Mr Allen LEE's resignation as talk show host, his influential friend from the Mainland said that he was very happy because he was no longer under any pressure of having to talk to Allen LEE or having to find someone else to talk to Allen LEE. Prior to Allen LEE's departure, articles in *Ta Kung Pao*, *Wen Wei Pao* and the English *China Daily* kept criticizing him severely by name.

As can be seen from the above facts, the message he received is that the discussion was, from start to finish, only focused on the radio programme "Teacup in a Storm". That is why some people in *Wen Wei Pao* and *Ta Kung Pao* told Allen LEE that he could host other programmes instead. That is right. He can still host other programmes because he knows that "Teacup in a Storm" is the radio programme on which the Chinese Authorities (or maybe the highest authorities) have all along targeted. Whoever reputable, popular or outstanding

becomes the host of the programme will simply not do, in the eyes of the Central Authorities. Besides targeting on "Teacup in a Storm", they would accept it as long as Allen LEE does not host the radio programme before the September election. The target and the scope of action are very clear.

Finally, even if the Central Authorities did not give any instruction or tacit consent to do such things, I feel that the Central Authorities should at least come forth and say something in view of the current situation because it is not enough just to tell TUNG Chee-hwa that they support the SAR Government in the protection of Hong Kong people's freedom of speech according to law. Many among us could not feel relieved because any acts which do not fall within the definition of intimidation will be lawful. In any case, CHENG Shousan was only bugging Allen LEE rather than intimidating him. If the co-hosts of Allen LEE have any weaknesses, it is equally lawful to rout them at their soft spots. It is lawful to demand payment of debt and it is lawful to bug them, is it not? There is actually no need to intimidate. Notwithstanding all this, the Central Authorities should still explicitly indicate their determination to protect Hong Kong people's freedom of speech in that they will neither let anyone nor be delighted to see anyone (including the officials or those from the Mainland) commit any acts which will undermine the prosperity and stability of Hong Kong.

Certainly, there is a paradox in this. Many people have recently quoted comments from the Central Authorities, that the Central Authorities would not do anything detrimental to the SAR. The question remains: Is the departure of these famous radio programme hosts beneficial or harmful to the SAR? Today, many Honourable colleagues have said that the departure of these hosts will do more good than harm. Some people from the Hong Kong Federation of Journalists Limited even said that freedom of speech was greater than ever after their departure because they often made loud reproaches. Some even said that the freedom of speech had not lost because the styles of those who took up the hosting were the same as their predecessors. But the question is: If some people think that the freedom of speech has fallen into the hands of a few celebrities (although we do not have to completely agree to the styles of these popular few) and therefore state clearly that they cannot host this programme or discourage them from hosting a particular programme, or discourage them from hosting the programme before September, have we lost our freedom of speech already under such circumstances? We have, definitely. The freedom of speech protects every one of us, including each programme host. It is incorrect to say that one

departed host can be replaced by another. The freedom of speech is lost anyway. We cannot use this argument to explain that the freedom of speech is not lost.

On the other hand, the manner in which the police have handled the incident is very puzzling to me. From start to finish, the police were very political. I do not know if the police were trying to toe the same line of LEE Ming-kwai, the Commissioner of Police, who was interviewed earlier. Mr LEE said that issues on enforcement had to be dealt with in a political way as long as it was not against the law. He did not say that it might be against the law. He only presented one side of the fact, that is, there was no evidence to prove that it had anything to do with the freedom of speech. Conversely, however, his subordinate MA Wai-luk also admitted that there was no evidence to prove to the contrary. Since both statements are acceptable, why did he only present one side of the fact? Was he trying to induce the public to think single-sidedly? Sidney CHAU Foo-cheong, Senior Assistant Commissioner of Police, said that the victim was under protection. But the victim confirmed that the police did not contact him until that very night. Besides, mainland authorities which have frequent communication with the Central Authorities said that the Central Authorities had not done it. But I have a question. Concerning the so-called Central Authorities, what rank of officials were they talking about? To date, they are still unable to answer.

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

MISS CHOY SO-YUK (in Cantonese): Madam President, the recent departure of several famous talk show hosts has caused considerable concern in society. It aroused the concern of people over whether the freedom of the press and freedom of speech have been suppressed. Such a concern is valid because the freedom of the press, freedom of speech and even freedom of information are highly essential to maintaining prosperity and stability as well as the economic development in Hong Kong, which is an international cosmopolitan city. Therefore it is imperative for us to uphold such freedoms with full vigour. The crux of the matter is: Are we facing a situation which is really like what some people say now — that the freedom of speech in Hong Kong has been suppressed?

There must be a limit to freedom of speech. The limit is support by facts. Anything that goes beyond this is unfounded speculation, or an irresponsible smearing attack.

Until now, Mr Allen LEE, the only relevant talk show host who has been willing to come forward and explain his decision of "going off air", gave an account at a meeting of the Panel on Home Affairs of this Council which clearly illustrated several points: First, the incident did not bear any relations with the Central Government; second, the accusation against him made by the English newspaper *China Daily* was not instructed by the Central Authorities; and third, the incident also did not bear any relations with the SAR Government. In conclusion, even the person involved in this incident has already made it clear that the incident of his going off air was not related to the policies of the Central Government and the SAR Government. Therefore, any claim pointing an accusing finger at either the Central Government or the SAR Government, if not a speculated rumour, must be a calculated fabrication of facts aimed at tarnishing the prestige of the Central Government and the SAR Government.

Besides, according to the narration of Mr LEE, the telephone conversation in question, if judged with equanimity, was nothing more than some ordinary chit-chats between old friends who had not got together for a long time. There was not even the slightest trace of intimidation. What is more, in the meantime, Mr CHENG Shousan also extended the same invitations to other people, including your goodself, Madam President. He has also given a full account of the incident, so the facts are clear now. If people should still insist on adding some touches to the conversation in question and say that it was a warning issued by the Central Authorities to constrict the freedom of speech, I can only say that they have my admiration for their wild imagination.

There is yet another puzzling point about the incident. If Mr Allen LEE really thought that he had to go off the air because it was necessary for him to protect his wife and daughter from being harassed, why did he not choose to report the case to the police and ask for protection in a low profile, instead of keeping on explaining his dealings with the mainlander in question in a detailed manner? What kind of logic is this? Or, is it true that Mr LEE actually never believed that the Central Government would ever harass his family, and so he took that course of action? I believe that the sensible Hong Kong people will make the judgement by themselves.

However, anyway, I still wish to thank Mr Allen LEE for he was the only person among those who claimed to have been pressurized by the mainland authorities who was willing to come forward to give a full account of the incident. Only in this way can we enable the public to see clearly that the accusation against the Central Authorities for suppressing freedom of speech is invalid. When he is compared to other persons concerned, the latter dare not even mention any true names. So the so-called evidence is nothing more than some vague quotations or subjective speculations, such as they "felt" that there might be some trouble, and so on, and based on these there came some most astounding conclusions, which were then exaggerated by some of the media to create an atmosphere of terror, thereby arriving at some subjective assumption that the Central Authorities were trying to gag Hong Kong people by all possible means. However, I absolutely believe that the sensible Hong Kong people will not be fooled by such unfounded theories which are based on "bold assumptions without seeking evidence for verification", and they will never allow such an anti-intellect trend to continue spreading.

However, the recent incidents have reflected another question, which, in my opinion, is food for thought. If we agree that the limit to the freedom of speech is that it must be supported by evidence, then why were some anonymous persons allowed to make personal attacks on certain persons identifiable by their names on the radio without presenting the least bit of evidence? Can such attacks not be considered a tactic to affecting the fairness of the imminent elections? I think it is necessary for the Broadcasting Authority to make a judgement on such anonymous complaints and formulate relevant guidelines.

Of course, if any government officials are really found to be suppressing the freedom of speech, they should be severely denounced, and anyone who tries to affect the fairness of the elections through intimidation has already committed a criminal offence. Therefore, I would like to call on members of the public to stand up to disclose such incidents should the above-mentioned situations really take place. They should disclose and describe them in great details and report them to the police, or even report them to the DAB. We in the DAB will follow up these cases to the best of our abilities so as to uphold the cleanliness of the elections. However, in the meantime, we have to condemn those people who make irresponsible comments publicly without the support of facts. We must prevent them from turning Hong Kong into "a city of rumours".

Madam President, I so submit.

MR CHEUNG MAN-KWONG (in Cantonese): Madam President, who need freedom of speech most badly? The powerless. The freedom of speech is another source of strength for the powerless people, a strength that enables them to check and to resist the Government. People with powers can use force, the state machinery, executive orders and government powers to achieve their political goals. Their biggest wish is to deprive other people or people suppressed by them of the freedom of speech.

In the past, Hong Kong had no democracy, but we had freedom. When the people cannot manifest their power through democratic politics, and when the people cannot remove the Government or the Chief Executive through the system, the freedom of speech will inevitably go to the extreme. This is the voice of the people who are suppressed. The people speak out loudly only out of their agonies and because they are wronged. Some people criticized them for making too loud a noise and going to the extreme. But they have not pointed out at the same time that this is precisely because of an undemocratic system that the speech of the people has gone to the extreme. This allegation against the people is actually not seeing the wood for the trees, and is even helping a tyrant to do evil and taking the evildoer under their wing.

It is under this situation that Hong Kong needs popular talk show hosts. The fact that we need popular hosts is already sad in a political sense. But without popular hosts and without democratic politics, the people could only be viciously wronged and suppressed. If they could not remain silent, they could only resist, and they would resist even more drastically and violently.

However, the Government has never ever reflected on its mistakes, and it has never ever addressed squarely the flaws of an undemocratic system. It knows only to blame the popular talk show hosts, thinking that the hosts are the source of disasters and that the political controversies are all started by them. But these popular hosts are just waves and tiny ripples of the time. The true power and true anger are the big roaring sea and deep resentment in the hearts of the people.

But the Government does not think this way. It consistently holds that by doing away with these popular talk show hosts, it can exterminate conflicts, suppress and buy off the media, and subdue the wish of the people. This is, in

fact, putting the cart before the horse. This is blind faith in powers. This is underestimation of the people's sentiments.

Now, democratic popular election is already out of the question. The Central Authorities have used their autocratic powers to stifle the hopes of Hong Kong people for democracy. So, the next step of the Central Authorities was to suppress the popular talk show hosts and to "fix" the media, so as to quieten the dissenting voices in Hong Kong, to quieten the radio stations and to quieten the people.

The Central Authorities' united front endeavours among the local media used to target the print media to the neglect of radio phone-in programmes. But after the episode of Article 23 legislation, the Central Authorities and the SAR have come to realize that radio phone-in programmes are the most direct and interactive kind of people power, often manoeuvring the politics of the SAR and the people's sentiments, the right and wrong, and values. Therefore, having targeted its actions on the print media, they now move on to seize control of radio stations.

The political pressure on radio stations starts from the renewal of licence. Some people said that the licence could be renewed for a short period or two to three years, but the radio station must exercise self-discipline and shut up. Otherwise, upon the expiry of the licence, the operation of the radio would have to cease and of course, the programmes would have to go off the air.

However, the renewal of licence for the radio station had met opposition and challenges from the community and finally, the licence was renewed for 12 years. "Teacup in a Storm" and "Close Encounter of the Political Kind" can remain on air and hence continue to be an eyesore to the Central Authorities and the SAR Government.

Recently, a friend on the Chinese side told me to read a magazine and said that the Central Authorities were sending messages through this magazine which could be taken as a reflection of the position of the Central Authorities. A short article therein was about JIANG Zemin strongly criticizing the *Apple Daily* and popular talk show hosts, saying that the *Apple Daily* was confusing and corrupting the people's mind whereas the radio hosts were shouting curses so frenziedly that the situation had reached a state of absurdity.

That article was citing the remarks made by JIANG Zemin during the two Conferences in March this year. That was also when the theory of patriotism came on stage. Following the theory of patriotism, the series of political storms from the interpretation of the Basic Law by the Standing Committee of the National People's Congress (NPCSC), the resolution of the NPCSC, the strangling of democracy, the fixing of the media to popular talk show hosts taking themselves off the air are precisely drawing the largest picture of cold killing and suppression of the media.

Today, TANG Jiaxuan quite rudely mocked at WONG Yuk-man, teasing that he had run off to Canada to escape from "a full buttock of debts". The leftist camp slung mud at Allen LEE by saying that he had acted on unsubstantiated evidence and was unreasonably suspicious, and they smeared the reputation of Albert CHENG, saying that his going off the air was meant to canvass votes for the democratic camp. But when we see that the Central Authorities have attacked the democratic camp with sweeping momentum through the mainland media, that the leftists have swarmed to throw stones at the democratic camp to bare their soul, and that more and more newspapers and magazines have exercised self-discipline and made an about-turn, we also see the gradual construction of the freedom of speech in the lingering ring of the death knell sounded for democracy. If we continue to remain silent and be submissively tolerant, keeping quiet out of fear, the freedom of speech will eventually disappear in the airwaves amidst our silence and fear.

The freedom of speech really cannot rely on the popular talk show hosts. Nor can it become dependent on the popular talk show hosts. That a country becomes dependent on heroes is saddening. Today, we can only make the strongest possible noises where we can make a noise, in order to speak up and do justice for ourselves, for freedom and for autonomy.

What we should do now is to abandon fears and speak courageously. The biggest enemy of freedom is fear. Freedom lies not in the popular talk show hosts, but in the hearts of the people, the fearless hearts of the people that do not remain silent. When the hearts of the people live, freedom will live eternally.

With these remarks, Madam President, I support the motion of Mr Albert CHAN and the amendment of Mr Andrew CHENG.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): Mr Albert CHAN, you may now speak on the amendment. You have up to five minutes to speak.

MR ALBERT CHAN (in Cantonese): Madam President, I would like to voice my strong objection to Mr LAU Kong-wah's amendment. In the amendment proposed by him, "this Council" is deleted and substituted with "some members of the public". When a certain incident impacts on society, especially when it is an issue as significant as having an impact on the freedom of speech, and if a Member of the Legislative Council, or a political party does not have the courage, or is unwilling to indicate his explicit attitude in his capacity of a Member of the Legislative Council, or to indicate the worry of the Legislative Council over the impact on freedom of speech by the departure of several famous talk show hosts, and if he refuses to do this, I feel that such a person is not worthy to be a Member of the Legislative Council. Nor does he possess the right qualities to be the representative of the people in expressing their opinions and fighting for their interests. When Mr LAU Kong-wah mentioned the departure of the famous talk show hosts, he criticized the pro-democracy camp of "faking sentimentality to seek sympathy". But I feel that, while he has spoken so much, he is in fact faking ignorance and naivety. With regard to the Central Government's co-ordinated strategy in respect of the freedom of speech in Hong Kong, it is impossible that Mr LAU Kong-wah has not taken part in the internal discussions of the DAB, or that he has no knowledge of the co-ordinated strategy or development. If he really has no knowledge of such, it must be Mr Jasper TSANG who has not conveyed and explained to members of the DAB this information or a lot of such information or development which they should have known.

MR JASPER TSANG (in Cantonese): Madam President, a point of order. When Mr Albert CHAN spoke, he mentioned certain Members who have not spoken previously. He has mentioned my name, I wonder if I can have the chance to respond?

PRESIDENT (in Cantonese): Mr Jasper TSANG, I made a ruling in the past: If a Member, in the process of responding, mentions some arguments which have not been raised previously in the debate, and he also mentions one or several other names of Members who have not spoken in the preceding part of the debate, then I shall give such Members an opportunity to speak. Therefore, if you think there is a need later on, I shall let you speak. Mr Albert CHAN.

MR ALBERT CHAN (in Cantonese): Madam President, I was precisely hoping that Mr Jasper TSANG could rise and speak. I had been looking at him, and when you asked if any other Member wished to speak and he did not stand up, I was a bit disappointed because I wanted to listen to him making a speech in this Chamber. When we talk about the leftist authority, Mr Jasper TSANG must be the most representative. As such, I have been looking forward strongly to listening to his speech, so that other Members can know clearly the co-ordinated strategy of the Central Government in Hong Kong. I believe no one in this Chamber knows this better than Mr Jasper TSANG.

Madam President, regarding Mr LAU Kong-wah's amendment, what I have been saying is, if they do not even have the courage to convey the worry of the Legislative Council, it will give a very strong impression that the leftist Members basically do not even have the courage to express a simple worry about any action taken in Hong Kong by the Central Government. This can well be described as the sorrow of a political party. We can obviously see that — the recent series of incidents including the phenomenon that many of the mass media organizations have gradually come under the control and manipulation of consortia, especially by a pro-Beijing consortium — the development of the mass media in Hong Kong has been narrowed in a strategic and organized manner. This development is even more evident after the 1 July incident. Therefore, as the Council representing the people, and as political parties and Members who care about the future of Hong Kong, if we do not convey a clear message at this historically critical moment, I think it will jeopardize the future prospects of Hong Kong very tremendously.

Let us come back to the Basic Law. The Basic Law stipulates very clearly that Hong Kong enjoys freedom of speech and freedom of the press. However, when certain Chinese forces take actions to interfere with such freedom, if the Hong Kong Government just sits back and do nothing, I think this is a negligence of duty on the part of the Hong Kong Government. Therefore, I strongly hope that when the Government makes a response later on, it can clearly

tell me whether the actions of the Chinese officials in intending, attempting and taking actions to influence the mass media are in breach of the Basic Law? Are they in breach of the basic principles and spirit of "one country, two systems"? These are strictly the internal affairs of Hong Kong. I hope that the two Secretaries, when they speak, can clearly state the attitude of the Government and the interpretation of the Government, and do not pretend to be naive anymore. In the last meeting of the Panel on Home Affairs, government officials said that they did not know that Chinese officials had been trying to contact or had contacted the famous talk show hosts. In this connection, the Government should give Hong Kong people an explicit and clear explanation on this later on.

I would like to call upon all Members later on to oppose Mr LAU Kong-wah's amendment. Thank you, Madam President.

MR JASPER TSANG (in Cantonese): Madam President, thank you for giving me an opportunity to speak. Madam President, in today's debate, many Members, in the name of defending the freedom of speech, have actually capitalized on the opportunity to fabricate facts to attack the Central Government and smear the patriots in Hong Kong. The speech just delivered by Mr Albert CHAN, especially the part in which my name was mentioned, has fully illustrated this fact.

I have never had any expectation of Mr Albert CHAN respecting facts, but the blatant extent of absurdity in his fabrication just now is really a classic so far. Without any investigation, without any evidence, he has already passed a guilty verdict even before going through any hearing procedure, alleging that the Central Authorities have plans and co-ordinated strategies to suppress the freedom of speech in Hong Kong; and he even said that the DAB had held internal discussions, in full knowledge of the co-ordinated plans of the Central Authorities. What is more, he even mentioned me, saying that no one knows better than I do about such co-ordinated plans. He also said that, as I had not mentioned such information to Mr LAU Kong-wah, so Mr LAU deleted the words "this Council expresses concern about this". In fact, he has made a mistake. Mr LAU Kong-wah has not deleted the words "expresses concern about this" from the original motion. All he has done is just moving these words to the latter part. And he has even proposed that "some members of the public are worried that freedom of speech was at stake". As we can see this point, so we know that some Honourable colleagues in this Council, headed by

Mr Albert CHAN, make some fabricated accusations which have never been investigated and proved in the name of defending freedom of speech and on the pretext of worrying that freedom of speech is at stake. This is the reason for us proposing an amendment.

Several Members have expressed earlier the worry that the motion and none of the amendments will be endorsed. Ms Emily LAU said that, if none of the amendments is endorsed and the motion cannot be passed, it may convey a bad message. Does it imply that Ms Emily LAU will definitely oppose Mr LAU Kong-wah's amendment? In her speech, Ms Emily LAU said that, if Members opposed the original motion, would it mean that they did not even care about the freedom of speech? So, I would also like to ask a question. In Mr LAU Kong-wah's amendment, it is clearly stated that this Council should urge the Government to expeditiously find out the truth of these incidents, which is not mentioned in the original motion. She opposes this amendment, hence is she afraid that the truth of the incidents may be uncovered? Or is she trying to create "grey horror", as mentioned in the speech of Mr LAU Kong-wah? Why should anyone object to finding out the truth?

Therefore, if we want to drive home a clear message that this Council is determined to defend the freedom of speech, and we shall never face the situation of "none of the motion and amendments is endorsed" if we strive to defend the freedom of speech by finding out the truth and basing our comments on facts. Just by supporting Mr LAU Kong-wah's amendment, we shall be able to achieve this objective.

Thank you, Madam President.

MR ALBERT HO (in Cantonese): Madam President, maybe I also need to make a response.

PRESIDENT (in Cantonese): What did you say?

MR ALBERT HO (in Cantonese): Madam President, maybe I also need to make a response, because Mr Jasper TSANG has just said that overall speaking the democratic I am sorry, let me first put the microphone on.

PRESIDENT (in Cantonese): Please sit down first, can you? First of all, I have to look up the list of Members who have spoken. Has Mr Albert HO spoken already?

PRESIDENT (in Cantonese): Mr Albert HO, you have not spoken. And you are now requesting to speak after Mr Albert CHAN has spoken again, and the reason is

MR ALBERT HO (in Cantonese): I request to speak because Mr Jasper TSANG did not just direct his remarks at Mr Albert CHAN. He was saying that Members of the whole pro-democracy camp have been capitalizing on today's motion to smear some patriots, and such Members have been launching attacks and fabricating facts on the pretext of safeguarding freedom of speech. Madam President, please listen to the playback of the speech of Mr TSANG.

PRESIDENT (in Cantonese): All right. I also want to listen to the playback of the speech of Mr TSANG. I now suspend the Council.

7.40 pm

Meeting suspended.

8.15 pm

Council then resumed.

PRESIDENT (in Cantonese): Honourable Members, sorry to have kept you waiting for so long. In fact, I need not have taken such a long time. It is not at all easy to find 30 Members who are willing to come back to this Chamber. There are still some Members in the Building now, but I am afraid they could not be persuaded to join us. (*Laughter*)

I would like to recap the normal practice of debate in this Council. The normal practice should be: In today's case, after Mr Albert CHAN had moved his motion, several Members who seek to move amendments then spoke, and then a joint debate follows. In the course of the joint debate, I kept asking, "Does any Member wish to speak?", but no such wish was indicated by Members, meaning that all those who intended to speak had already given their opinions. Then Mr Albert CHAN spoke on the amendments.

However, Mr Albert CHAN made reference to Mr Jasper TSANG in his speech; Mr Jasper TSANG had not spoken in the debate. Mr CHAN made some comments on Mr Jasper TSANG, which was not in line with the normal practice. Therefore, for the sake of fairness, I had to let Mr Jasper TSANG speak and make a response. After Mr Jasper TSANG had made his response, Mr Albert HO made a similar request to speak in response to the speech of Mr Jasper TSANG. Although the Rules of Procedure do not stipulate that, after a mover of motion has spoken on an amendment/amendments, then another Member who has not spoken previously may not be permitted to speak, Mr Albert HO requests to speak at this stage. This is a departure from our normal practice. I hope, after this event, Members will respect our normal practice. Otherwise, if any Member who has not spoken requests to make a response and speak after he has heard something not to his liking, then the debate will continue and there is no knowing when it will stop, thus taking up a very long time eventually. For the smooth conduct of debates, I hope all debates in future will be conducted according to the normal practice.

Under such circumstances, I now give Mr Albert HO leave to speak.

MR ALBERT HO (in Cantonese): Thank you, Madam President. I do not intend to respond to Mr Jasper TSANG's remarks made in refutation of the accusations made by Mr Albert CHAN because Mr CHAN will have an opportunity to use his wisdom to respond to them. I just feel that I am compelled to respond to the strong comments made by Mr Jasper TSANG today in accusing Members of the pro-democracy camp as a whole.

In fact, his other colleagues have not made such strong accusations. He said that Members of the pro-democracy camp have been kind of, in the name of defending the freedom of speech, fabricating facts to attack the Central Authorities and smear the patriots — he said something more or less to that

effect. He even said that we have passed guilty verdicts on many cases before going through any investigation at all, that we have said that the Central Authorities have plans and strategies to suppress the freedom of speech of certain people. This is really a very serious accusation. Actually, I have personally listened to all the speeches delivered by different Members today. To be fair in our understanding of the worries of Members who have spoken today, we should clearly know that we really hope to find out the reasons for the departure of these famous talk show hosts — not just restricting our attention to what they had told the media, but we should also look at the background of the whole incident as well as the general political situation in Hong Kong. We have never said that how the Central Authorities had plans and strategies, well, at least — I say at least (Mr Albert CHAN will tell us what he thinks), as far as I have heard, no Member from the Democratic Party has ever said that these are the plans of the Central Authorities, the strategies of the Central Authorities, or what objectives the Central Authorities are trying to achieve.

What is the general background as mentioned by me? That is, the Central Government has actually, at least in the past year, displayed a lack of tolerance towards us, the dissidents in Hong Kong, treating such differences of opinion as discrepancies and contradictions between themselves and the enemies. This is a well-known fact to everyone. By the beginning of this year, such hostility further intensified. With the introduction of the patriotism theory, many people were labelled as the "Four Black Categories", and recently there is even a fifth category, that is, those who advocate "the independence movement".

In the past, some Deputies to the National People's Congress (NPC) and some Delegates of the Chinese People's Political Consultative Conference (CPPCC) did attack Radio Television Hong Kong, claiming that it had abused freedom of speech. Much more seriously, according to a certain report (which has never been denied), Mr JIANG Zemin was quoted as having said that a newspaper, namely the *Apple Daily*, and some famous talk show hosts in Hong Kong must be removed, criticizing them as crazy and running the risk of confusion in the territory. We must understand such background. And in the departure of Albert CHENG and Raymond WONG, one point is very clear, that is, they had said openly that some big wigs in triad societies had kept harassing them and exerting pressure on them. In the process, they said the person in question once claimed that a certain top man in the National Security Bureau had requested them to shut up, and he even said that they were willing to provide them with some compensation.

Madam President, all such incidents, as far as I know, have already been referred to the police for further actions. I hope the Secretary for Security can tell us later on whether he had actually received representations from the relevant persons. Is this true? Regarding the words spoken to Mr Allen LEE by a retired Central official for inviting him to an old-pal reunion meeting, Mr LEE's strong reaction fully illustrates that, even if he was not afraid that his personal safety is threatened, at least he must feel very disgusted at such continuous political harassment.

Therefore, under all circumstances, we have witnessed the successive departures of such famous talk show hosts. We strongly believe that the Central officials, especially a leader of the top echelon, have indicated such an intention and considered such famous talk show hosts as "a thorn in the side", which must be removed by all means. As a result, some individual officials might have actively followed this up in order to show their efficiency and their ability to follow the mindset of leaders of the Central Authorities. Then, some friends of such officials might have made use of the opportunity to claim credit and show their loyalty, thus mobilizing their connection in triad societies to do the intimidation tasks. All these can absolutely provide us with sufficient reasons to justify our suspicions. I am not saying that we can now come to any absolute conclusion at this point of time, but this is exactly the right time for the police and the Government to step in and conduct investigations. In such cases, some criminal investigation may not be sufficient for determining what had happened. Instead, the Government should appoint a higher-level task force to undertake the investigation, so as to find out the truth, thereby removing the doubt of the people more effectively.

Today, Madam President, what is disappointing is that our DAB colleagues, including Mr Jasper TSANG, have just made such passive responses to Mr Albert CHAN's motion. In particular, I would like to talk about the first three Members who have spoken, namely, Mr TAM Yiu-chung, Mr LAU Kong-wah and Mr LEUNG Fu-wah. They have even twisted the true meaning of freedom of speech. They said that these famous talk show hosts have always been scolding others fiercely in their programmes, depriving others of the chance to speak and making unfair comments. So they feel that such hosts have been making use of the freedom of speech to suppress people holding different opinions. In fact, they absolutely do not understand what is meant by the suppression of freedom of speech. Their performance in their posts, good or otherwise, can be assessed by the listeners and be determined by the market

force. If such intellectuals, who do not possess any power, are unfairly labelled as suppressors of freedom, how can this be fair and reasonable?

However, most importantly, what fabrication of facts is there? In fact, it should precisely be the DAB, being one of the major political parties in Hong Kong, which should worry about our freedom of speech, just as much as all the people of Hong Kong, and therefore they should support today's motion.

PRESIDENT (in Cantonese): Secretary for Security.

(Mr CHAN Kam-lam raised his hand to indicate his wish to speak)

PRESIDENT (in Cantonese): Sorry, Secretary for Security, it seems Members' interest in speaking still has not diminished. Mr CHAN Kam-lam.

MR CHAN KAM-LAM (in Cantonese): Madam President, since Mr Albert HO has mentioned the DAB, I also have to make a response. And once we have this precedent, I believe I should also enjoy the freedom of speech. Thank you, Madam President.

Mr Albert HO said that the Central Authorities are hostile to the pro-democracy camp, so they have sought to suppress freedom of speech in an organized manner. I think, be it before or after the reunification, it seemed or it seems to be the Democratic Party and the pro-democracy camp which are hostile to the Central Authorities, rather than *vice versa*. As such, even if the issues are twisted, it seems the people of Hong Kong, that is, the ordinary public, may not believe in it. However, if a lie is repeated many times on the television or over the radio, some people may buy the story.

Mr Albert HO even says that some members of certain triad societies have been harassing certain famous radio hosts, and there are even some people with National Security Bureau backing controlling all such activities. All these are unfounded accusations. I hope when we talk about the freedom of speech, we should also give due regard for the quality of our speeches. This is because, very often, we need to bear the responsibility for what we have said. Just as a

Member from the pro-democracy camp has just said, when we comment on certain issues, we must be objective, impartial, fair and responsible. This was said by Mr James TO.

I feel that the speeches made by Mr Albert HO and certain Members were actually very shocking because, while many of the remarks were totally unfounded, they still went on to label others and extend the scope of question indefinitely. This was especially so when they said that we had twisted the freedom of speech and failed to understand the true meaning of freedom of speech.

It was really funny, why? It was because Mr CHEUNG Man-kwong also joined in the discussion. He said that we could not judge whether there was freedom of speech in Hong Kong just by the presence of the several famous radio hosts. In fact, he was right. However, after the departure of the three radio hosts, he began to make a lot of noise, saying that this was the end of freedom of speech in Hong Kong. I, on the contrary, feel that the term of "freedom of speech" may have already been taken away and kidnapped by the trio. However, this is not the case in reality because everyone still enjoys freedom of speech. You can say whatever you like to say.

After taking over from Mr Albert CHENG in hosting the radio programme "Teacup in a Storm", Mr Allen LEE started to make a lot of comments. On the day of taking over the job, he already said that Mr Albert CHENG had gone off the air due to the fact some of his friends had changed their original stance (he said arbitrarily that it was Chief Secretary for Administration Donald TSANG). I do not know whether his words were founded on facts, nor do I know whether we have to be responsible for what we say under the freedom of speech we enjoy in Hong Kong. This is because our words or arbitrary comments on the moral stance or the integrity of the person in question could really do great damage to that person. Although we say that we enjoy freedom of speech, does it mean that we can say freely what we want to say without any restraint? Therefore, from my own perspective, has the freedom of speech in Hong Kong degraded, so that situations like "the loudest and the fiercest voice has the final say" or "you have the say but I do not" should occur? Or has the situation degenerated to such an extent that some people can distort the truth and claim that what I say is the truth, but what others say is just the twisted truth? Has our situation degenerated to such a bad state?

If this is really the case, then we may wonder whether this is precisely a kind of insult to the freedom of speech, and our society may also be gradually moving towards an inconceivable state of freedom of speech.

Madam President, there have been widespread rumours in society that Mr CHENG and Mr WONG have to flee away from Hong Kong due to their monstrous debts. But what is the truth behind all this? It seems none of us knows what it is all about. The so-called reasons for the resignation of Allen, everyone has some kind of interesting speculation. It seems that, from what we have heard so far, he went off the air just because he did not want to offend some friends. I do not know whether his friends deserve to be offended. But once he goes on air to host the radio talk show, he will keep offending his friends. What sorts of people his friends are? It really baffles me.

I feel that, no matter you are a current affairs commentator or a radio show host, you really have to be fair and impartial, and your comments must be unbiased. Only in this way will you be able to save yourself from feeling apologetic towards your friends and society. Otherwise, even if you choose not to go on air, you will still offend many people. I hope everyone of us can bear this advice in mind as a reminder.

The wider meaning of freedom of speech should exist on the foundation of social justice and impartiality. As a common saying goes, "Justice naturally exists in the hearts of the people." If what we say is beneficial to society and is conducive to social progress, I believe everyone will agree with us. What we fear most is: If what we say is radical and extremist, which eventually only enables several persons in society to enjoy the freedom of speech, but the public is deprived of such freedom as a result, then this is where the real terror lies.

PRESIDENT (in Cantonese): Maybe I should ask again: Does any other Member wish to speak?

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): If not, I shall now call on the Secretary for Security to speak.

SECRETARY FOR SECURITY (in Cantonese): Madam President, Hong Kong is a society where the rule of law reigns. The Government has always attached great importance to upholding the freedoms of speech and of the press, and the security and properties of the public which are safeguarded by the Basic Law and the laws of Hong Kong. We will never tolerate anyone who resorts to threat, intimidation, criminal damage and violence to subdue others.

With respect to the recent incidents involving some radio programme hosts, like the public, the Government is very much concerned about these incidents and attaches great importance to them. It is precisely because of this that our way of handling these incidents is different from the way we normally handle other criminal matters or those which may involve criminality. The police will adopt a very proactive approach and use a lot of resources and efforts to investigate into these events which involve public figures. At the Policy Bureau level, the Security Bureau will keep a close watch of the events. I believe Members will know that as investigations are presently underway, we cannot disclose any details at the moment. However, I can assure Members that the police are seriously and meticulously following up the events and we will not let go of any clues or evidence.

On the premise of not affecting the investigations, I would like to take this opportunity to explain how the police handle such events. After receiving reports from two hosts on criminal damage and assault, the police have made widespread and in-depth investigations. The scope of investigations does not only include the information provided by the parties concerned and the witnesses and environmental evidence on the sites, but also possible clues that are disclosed or led from such information. The police have also tried to learn more about these cases through all sorts of other channels. The police have contacted people who have claimed through the media or other channels that they can provide further information or know of the details. These people include Members of the Council, persons belonging to political parties and university professors. The police have also made inquiries with people or organizations who may be able to provide information. On one case involving a host of a programme, the police have arrested five persons, and four of them have been charged for offences of conspiring to assault and claiming to be members of triad societies. As for the third programme host, though he has not reported the case to the police, the police have taken the initiative to contact him to see if any criminality is involved. As of today, the police are still making careful and thorough investigations and all possibilities would be considered.

Having said that, I have to reiterate that the kind of investigations which the police are undertaking is criminal in nature and the level of evidence admissible is much higher than ordinary speculations and conjectures. As of today, according to information collected by the police from different sources, no concrete evidence is found that the criminality which these events may lead to are caused by the comments or remarks made by the hosts. And I must reiterate one point here, that we are not disparaging the enthusiasm shown by those people who have provided information, nor are we implying that they are not co-operating, but we must adhere to the standards and principles of criminal investigations and this is a basic requirement for any society under the rule of law.

From this it can be seen that these events are given great attention by the Government. We do not have any intention to water down the events. However, it is crucial that the parties involved and the persons informed of these events should provide as much information as possible to the police to carry out their investigations. The Police Force is a very professional and world-class law enforcement team. We are determined and capable of safeguarding public security so that Hong Kong can remain one of the safest places in the world and that the freedoms and rights which the public enjoy and value are protected. The investigations by the police must be carried out within the framework of the rule of law which we are so proud of and the protection given to human rights and freedoms. Such work must be based on sufficient and concrete evidence and no judgement can be rashly reached based on conjectures, hearsay or some general statements. We will not relax these yardsticks of criminal investigation or yield to any conditions or pressure, but we will strive to bring the offenders to justice. Work in prosecution and the judicial process will commence with impartiality. For if not, the basic principles which we have always upheld and which we are so proud of will be destroyed.

Apart from proactive efforts in investigation, the police are also committed to protecting the personal safety of the parties involved. Irrespective of whether these people under intimidation have reported to the police, should the police in their judgement find that the person's safety may be at risk, the police will act under the principles of preventing and investigating into crimes and protecting personal safety, and it will suggest providing protection to the person concerned. It remains, of course, that the person concerned is free to choose whether or not to accept protection by the police. As a matter of fact, one of the hosts who was

attacked a few years ago has been under police protection during the past few years. The degree of protection given would be adjusted according to the circumstances concerned but protection has not been interrupted during these years and that person is well aware of it.

Madam President, the Administration knows very well that the public is gravely concerned about these events and we are also very much concerned about them as well. That is why we will spare no efforts in investigating into them. In the process we will strictly adhere to the judicial principle of attaching due regard to evidence. We will strictly enforce and comply with the standards and principles of stringency and prudence required of police investigations and we will not lower or abandon any of these standards and principles on account of the identity of the persons involved in such events. We trust that it would be most fair to the persons involved, the law enforcement authorities as well as the community at large.

All in all, the Government is like the public in not tolerating any acts which resort to achieving certain ends by violence and intimidation. The police will continue to follow up and investigate into these events and will protect the persons concerned as appropriate. We will do our best to maintain the rule of law in Hong Kong society and will strive to protect the statutory rights enjoyed by each and every member of society, including their freedom of speech. Thank you, Madam President.

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, we are grateful to the Mr Albert CHAN for placing before the meeting the motion on "Urging the Government to defend freedom of the press and freedom of speech". This offers us the opportunity to review in the Legislative Council an essential value of our society — the freedom of speech.

We believe the freedom of speech is the foundation of all freedoms. As the Secretary for Home Affairs, my responsibilities in relation to human rights cover two areas. Firstly, I am to protect and promote human rights in Hong Kong as enshrined in the framework of the International Covenant on Civil and Political Rights (ICCPR) and to submit regular reports to the United Nations. Secondly, I am to build a civil society, maintain civil order and safeguard the rights of Hong Kong people. Insofar as building a civil society is concerned, my goals are to ensure the smooth exchanges of views between the public and the

Government and to encourage the expression of opinions by people from all sectors.

Hong Kong residents always have and enjoy freedom of speech and freedom of the press. These freedoms are safeguarded by the law. Article 27 of the Basic Law stipulates that Hong Kong residents shall have freedom of speech and freedom of the press. These freedoms are in fact referred to as the fundamental rights of Hong Kong residents. Provisions on the protection of freedom of opinion and expression in the ICCPR have also been incorporated into Article 16 of the Hong Kong Bill of Rights Ordinance (Cap. 383), the latter governs the provisions in the laws of Hong Kong as well as the acts of the Government or the public authorities. It safeguards the freedoms and rights of the public from unreasonable interference.

Freedom of speech is one of the core values of a civil society. Under the law, everyone can hold any opinion of his/her own free will, has the right to express his/her opinion through any medium and to give or receive ideas and information of all kinds. Where the freedom of speech comes into conflict with other core values of the society, such as rights and reputations of others, national security, public order or morality, and so on, the law may provide appropriate restrictions.

As regards freedom of the press, it is Government's policy to maintain an environment conducive to a vibrant press. There are little restrictions and these do not restrain freedom of expression or interfere with editorial independence. The law only requires local newspapers to register under the Registration of Local Newspapers Ordinance (Cap. 268). We will only refuse to register a newspaper if its name is identical with that of another that has already been registered. At present there are about 50 newspapers and more than 850 periodicals registered under the Registration of Local Newspapers Ordinance, a fact that testifies to the vibrancy of the press in Hong Kong. We firmly believe that the public, like the Government, is committed to upholding Hong Kong's status as an international media and information hub.

The Government of the Hong Kong Special Administrative Region (SAR), like the public at large, greatly values and cherishes the freedoms we enjoy. In fact, freedom of speech and freedom of the press are the cornerstones underpinning Hong Kong's success. They are indispensable to Hong Kong's

status as an international city and the continual development of our economy. The SAR Government is committed to safeguarding these rights and freedoms.

In fact, a high degree of freedom of the press and freedom of speech is evident every day. We have a lively press. Local and international newspapers and periodicals are available everywhere. We find newspapers can comment freely on current affairs; radio phone-in programmes continue to comment on government policy, measures and performance. Harsh criticisms are not uncommon. Current affairs commentators, columnists, journalists, audience and readers of different political views and in different manner continue to freely express their views every day through various channels without any restrictions. Similarly, Members of the Legislative Council as well as people from all sectors can voice their opinions daily in this Chamber, and views are conveyed to all corners of Hong Kong through the media.

As I said in a radio programme last Saturday, freedom of the press and freedom of speech are not abstract concepts. They are matters of substance and affect the whole society of Hong Kong. Hong Kong's economic structure is externally oriented. It can only sustain its development through continual interactions with the world. We need to have a broad vision and an open mind, not only to understand the changes in the world, but also to appreciate different values and to be in harmony with each other for the common good. Owing to this, Hong Kong has been able to build up an extensive network of trade and business services, to establish connections with various countries, ethnic groups and religious communities. It is difficult to imagine how we can broaden our vision without free access to information, a free press and freedom of speech. Restricting our freedoms in these areas means narrowing our vision, damaging our economy. It is pure folly to do such a thing. No one in Hong Kong will do so, neither will the SAR Government.

We are very concerned about the recent departure of the radio talk show hosts. The Chief Executive has already made enquiries specifically with the relevant Central Authorities. The Central Government has clearly expressed that it is its staunch and fundamental policy to safeguard the principle of "one country, two systems", Hong Kong people ruling Hong Kong and a high degree of autonomy. The Central Government will not do anything to undermine the principle of "one country, two systems" and the interests of Hong Kong. The Central Government also supports the SAR Government to take action to safeguard freedom of speech and freedom of the press in accordance with the law.

Hong Kong upholds the rule of law. The Government will never tolerate any unlawful means that damages the freedom of speech and the rule of law, including intimidation, threats, criminal damage or the use of violence to compel submission. The Secretary for Security, Mr Ambrose LEE, has just explained the actions taken by the Security Bureau and the police in this matter.

Members have put forward the suggestion that the Government may appoint an independent panel of inquiry to investigate the current incident. According to the Commissions of Inquiry Ordinance (Cap. 86), the Government may appoint a commission to inquire into matters of public importance. The commission may summon any person to attend to give evidence under oath. The commission may also require the individual to produce or submit any article or document that can facilitate the investigation. I believe Members understand that although the Government possesses this power, the Government will not exercise it rashly, especially when press freedom is concerned. We will be especially cautious in handling the issue of press freedom.

To ensure that the panel of inquiry operates effectively, we must obtain community support and co-operation of the concerned radio talk show hosts. However, there are various news and media reports with new development of the incident every day. Police investigation on the issue is in progress and the community has yet to achieve an identical conclusion on the incident. We should consider carefully that if it is the right time to set up a panel of inquiry now. Therefore, we better pay heed to the development of the incident and adopt effective measures at the right time.

I would also like to take this opportunity to mention the Report on Stalking published by the Law Reform Commission. The report basically recommends the creation of an offence against harassment, which is defined as a course of conduct serious enough to cause a person alarm or distress. The Home Affairs Bureau agrees that there is a need to criminalize such conduct. We are taking the legislative proposal through the internal procedures. I believe that if the proposal were to be implemented, it would further protect the rights of the public and the media. Such a law will prohibit unlawful acts that hamper or interfere with freedom of speech and freedom of the press.

Obviously, the recent incident has aroused widespread attention and heated discussions among the public and the media. But, to a certain extent, this

underlines a very positive message: The incident proves that Hong Kong remains a pluralistic society with different opinions, that Hong Kong people keenly exercise their right to express opinions. Although speculations and conjectures abound in the heated discussions, the people of Hong Kong have in general remained calm and rational, in the hope of gleaning more information and to get to the truth. All these have reflected well on the quality of Hong Kong people.

Madam President, freedom of the press and freedom of speech are not empty slogans. They affect each and every citizen. They are the rights of the people and are realized in our daily life. I would like to stress once again that we need the concerted efforts of each of us in safeguarding the freedom of speech. I hope all of us would cherish and prudently exercise our rights and civic responsibilities. When these rights are under threat, we should come forward and contact the police. It is the responsibility of each of us to protect the freedom of speech and of the press. The Government will strive to take action in accordance with the law to stop any act that endangers our core values.

Thank you, Madam President.

PRESIDENT (in Cantonese): I now call upon Mr Andrew CHENG to move his amendment to Mr LAU Kong-wah's amendment.

MR ANDREW CHENG (in Cantonese): Madam President, I move that Mr LAU Kong-wah's amendment be amended, as printed on the Agenda.

Mr Andrew CHENG moved the following amendment to Mr LAU Kong-wah's amendment: (Translation)

"To delete "some members of" after "off the air, and"; to add "at large" after "the public"; to delete "keep ensuring" after "take measures to" and substitute with "ensure"; to add "and their families" after "members of the media"; and to add "harassment and" after "are free from"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr Andrew CHENG to Mr LAU Kong-wah's amendment, be passed.

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

(Members raised their hands)

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

(No hands raised)

Mr Andrew CHENG rose to claim a division.

PRESIDENT (in Cantonese): Mr Andrew CHENG has claimed a division. The division bell will ring for three minutes.

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

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

Functional Constituencies:

Mr James TIEN, Dr Eric LI, Dr LUI Ming-wah, Miss Margaret NG, Mrs Selina CHOW, Mr CHEUNG Man-kwong, Mr Bernard CHAN, Mrs Sophie LEUNG, Mr SIN Chung-kai, Mr LAU Wong-fat, Ms Miriam LAU, Dr LAW Chi-kwong, Mr Abraham SHEK, Ms LI Fung-ying, Mr Tommy CHEUNG, Mr Michael MAK, Dr LO Wing-lok and Mr LAU Ping-cheung voted for the amendment.

Mr WONG Yung-kan and Mr LEUNG Fu-wah abstained.

Geographical Constituencies and Election Committee:

Ms Cyd HO, Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Mr LEUNG Yiu-chung, Mr Andrew WONG, Dr YEUNG Sum,

Mr LAU Chin-shek, Ms Emily LAU, Mr Andrew CHENG, Mr SZETO Wah, Mr Albert CHAN, Mr WONG Sing-chi, Mr Frederick FUNG and Ms Audrey EU voted for the amendment.

Mr CHAN Kam-lam, Mr Jasper TSANG, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr TAM Yiu-chung, Dr TANG Siu-tong, Dr David CHU and Mr Ambrose LAU abstained.

THE PRESIDENT, Mrs Rita FAN, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 20 were present, 18 were in favour of the amendment and two abstained; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 26 were present, 17 were in favour of the amendment and eight abstained. Since the question was agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was carried.

MS MIRIAM LAU (in Cantonese): Madam President, I move that in the event of further divisions being claimed in respect of the motion on "Urging the Government to defend freedom of the press and freedom of speech" or any amendments thereto, this Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.

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

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(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.

I order that in the event of further divisions being claimed in respect of the motion on "Urging the Government to defend freedom of the press and freedom of speech" or any amendments thereto, this Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.

PRESIDENT (in Cantonese): Mr Tommy CHEUNG, as Mr Andrew CHENG's amendment has been passed, I have given leave for you to revise the terms of your amendment, as set out in the paper which has been circularized to Members on 1 June. In accordance with the House Committee's recommendation which I have also accepted, when you move your revised amendment, you have up to three minutes to explain the revised terms in your amendment, but you may not repeat what you have already covered in your earlier speech. You may now move your revised amendment.

MR TOMMY CHEUNG (in Cantonese): Madam President, I believe I do not need to use up the three minutes. My amendment seeks mainly to smooth out the worries. Since you have asked me not to repeat what I have already covered, so I am not going to repeat them. Therefore, Madam President, I move that Mr LAU Kong-wah's amendment as amended by Mr Andrew CHENG, be further amended by my revised amendment. (*Laughter*)

Mr Tommy CHEUNG moved the following further amendment to the amendment as amended by **Mr Andrew CHENG**: (Translation)

"To add "to smooth out their worries and" after "take measures".

PRESIDENT (in Cantonese): I now propose the question to you and that is: That Mr Tommy CHEUNG's amendment to Mr LAU Kong-wah's amendment as amended by Mr Andrew CHENG, be passed.

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

(Members raised their hands)

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

(No hands raised)

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 amendment passed.

PRESIDENT (in Cantonese): I now put the question to you and that is: That Mr LAU Kong-wah's amendment, as amended by Mr Andrew CHENG and Mr Tommy CHEUNG, to Mr Albert CHAN's motion, be passed.

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

(Members raised their hands)

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

(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 amendment passed.

PRESIDENT (in Cantonese): Mr Albert CHAN, you may now reply and you have five minutes 13 seconds.

MR ALBERT CHAN (in Cantonese): Madam President, first of all, I very much welcome that all the amendments moved by the three major political parties have ultimately been passed. This would convey an explicit message to the international community: That the Legislative Council of Hong Kong is supportive of and has the intention of safeguarding the freedom of speech and freedom of the press.

Madam President, first of all, I would like to clarify some facts on behalf of "Tai Pan" because he had requested me through someone to criticize Mr CHAN Kam-lam in this Council of making some inaccurate remarks. Mr CHAN Kam-lam earlier said that Mr Albert CHENG and Mr Raymond WONG had owed some debts. In this connection, Mr Albert CHENG hereby wishes to point out very explicitly that he does not have any outstanding debts, so he hopes Mr CHAN Kam-lam can withdraw his remark made earlier.

PRESIDENT (in Cantonese): Mr Albert Chan, please wait for a moment. Mr CHAN Kam-lam, is there a point of order?

MR CHAN KAM-LAM (in Cantonese): As Mr Albert CHAN claimed that I had said that Mr CHENG and Mr WONG, so I hope I can have a chance to make a clarification later on, can't I?

PRESIDENT (in Cantonese): Yes, you can. Mr Albert CHAN.

MR ALBERT CHAN (in Cantonese): Madam President, may I continue with my speech after Mr CHAN Kam-lam has made his clarification? *(Laughter)*

PRESIDENT (in Cantonese): According to the Rules of Procedure, he can clarify the part of his speech misunderstood by you only after you have finished.

MR ALBERT CHAN (in Cantonese): Thank you, Madam President. I would like to thank the 26 Members and the two Secretaries who have made detailed submissions on the freedom of the press. However, I am disappointed with the speeches made by the two Secretaries because they have just painted some beautiful pictures and packaged their speeches nicely. They remained in complete silence on how to implement concrete measures of safeguarding the freedom of the press, especially when it came to the intervention in Hong Kong affairs by the Central Authorities. In fact, earlier on, I had already asked the two Secretaries to speak on issues such as the exertion of influence on famous radio talk show hosts by officials of the Central Government, and their remarks which affect and undermine "one country, two systems" and damage the Basic Law. However, they made absolutely no response at all. I wonder whether it is true that the two Secretaries do not have the courage to step into or challenge this "restricted area".

Madam President, with the departure of the three famous talk show hosts, its impact on freedom of speech has caused considerable concern in society. Likewise, this Council should express its concern and worry. However, some of the Members have made remarks in such a tone that it appears that they are just as unsympathetic as a cat crying over the death of a mouse. When the freedom of speech is threatened, each citizen and Member should have the responsibility to strive to protect it, and we should not feel that their going off the air is something worth celebrating just because such hosts had made some unfair comments on individual political parties or Members in the past.

Madam President, in order to safeguard the freedom of speech and freedom of the press, I shall put forward a "Three 'Self's Campaign". The first

"self" is the "self-restraint" of those in power, including those in the Central Government and the SAR Government. Such people should not intend or attempt to abuse their power and influence to affect the direction and details of comments of media workers directly or indirectly by making use of incumbent or retired senior officials. Self-restraint is the fundamental requirement of freedom of speech.

The second "self" is the "self-esteem" of the media workers. In the speech I delivered earlier, I already pointed out that, with regard to the incident of the departure of the three famous talk show hosts, many of the media and their editorials had displayed sarcasm and derision, smearing the motives and facts underlying their departure. We feel uneasy about this. If the media people do not have self-esteem, the hope of the freedom of the press will diminish to a great extent. They should not act just for safeguarding their own jobs, nor should they write the editorials according to the preferences of their bosses; also they should not try to please the Central Authorities due to the political inclinations of the bosses, thereby sacrificing their own conscience. Therefore, the self-esteem of the media people is very important.

Madam President, the third "self" is very important, it is the "self-strengthening" of the people. No matter what kinds of smearing tactics are employed by the Government, or what kinds of malicious or wicked measures are used to oppress the parties concerned, if the people are determined to safeguard and uphold the freedom of speech, they will rise up to fight back and defeat all these tactics and forces, and there should never be any compromise. Therefore, with regard to the recent incident of the departure of the three talk show hosts, Hong Kong people have called up the radio stations and written letters to editors. All these initiatives have effectively demonstrated that Hong Kong people still have the "self-strengthening" power and the "self-strengthening" attitude.

Madam President, regarding today's debate, though there have been some exchanges of criticism among Members as well as among political parties, this is natural. Yet, it is precisely this which shows us why the freedom of speech is so precious. However, facts must be respected. This is essential. Just as reflected by the instant call from "Tai Pan" to request me to clarify certain issues on his behalf, we cannot smear media workers and tarnish their reputation by smearing and vilifying tactics. I hope Members can respect and fulfil the spirit

of safeguarding the freedom of speech, and do not act in a way different from what you always uphold — it will lead to a situation in which you may criticize whoever disagrees with you, and try to please whoever shares your view. This is absolutely not the truth of freedom of speech, nor is it the essence of safeguarding freedom of speech.

Lastly, I hope we can conclude our discussion in harmony, and that Members can support the amendments to my motion moved by the three major parties. Thank you, Madam President.

PRESIDENT (in Cantonese): Mr CHAN Kam-lam, do you wish to clarify the misunderstood part of your speech?

MR CHAN KAM-LAM (in Cantonese): Yes, Madam President. As Mr Albert CHAN just said that I had made some inaccurate remarks, and he also said that as Mr Albert CHENG had not fled due to his debt problems, so Mr CHENG called him to ask me to clarify the issue. What I had said just now was "there have been widespread rumours in society that Mr CHENG and Mr WONG have to flee away from Hong Kong due to their monstrous debts." These were my original wordings. So I did not accuse or point out that they had left Hong Kong because of their debt problems. I hope the relevant parties can listen to our debate more carefully, so that any misunderstanding can be avoided.

I hereby make my clarification. Thank you, Madam President.

MR CHEUNG MAN-KWONG (in Cantonese): Madam President, I would like to ask Mr CHAN Kam-lam, through you, to make a clarification, and it is about

PRESIDENT (in Cantonese): From whom would you like to seek a clarification?

MR CHEUNG MAN-KWONG (in Cantonese): Mr CHAN Kam-lam. He said, "there have been widespread rumours in society that Mr CHENG and Mr

WONG have to flee away from Hong Kong due to their monstrous debts." Regarding his remark that "Mr CHENG had sizeable debts", I would like to ask him which were the reports which gave him such an impression, or which made him say something like this?

PRESIDENT (in Cantonese): Fine. I rule that no one needs to make any clarification. If you want to clarify any words spoken out of this Chamber by someone not in this Council, you may do so out of this Chamber. In this Chamber, I can only allow clarifications to be made on contents of speeches delivered in this Chamber. So let us put a stop to all these. However, I know that Mr CHEUNG Man-kwong wishes to say something, please go ahead.

MR CHEUNG MAN-KWONG (in Cantonese): Thank you, Madam President. I wish to, through you, seek a clarification. Mr CHAN Kam-lam said, "there have been widespread rumours in society that Mr CHENG and Mr WONG have to flee away from Hong Kong due to their monstrous debts." Can Mr CHAN clarify which report does he rely on in making his accusation against Mr CHENG for having incurred "monstrous debts"?

PRESIDENT (in Cantonese): To make it fair to everyone, I in fact do not wish to see Members to have such repeated exchanges of requests for clarification. All you have to do is to clarify what you have said, and that is all. I wish to leave it to Mr CHAN Kam-lam. If you wish to say a few words, please go ahead.

MR CHAN KAM-LAM (in Cantonese): Madam President, I believe we have all read a lot of press reports recently, and there were all sorts of speculations, and there were also many articles which had mentioned this issue. Among the press reports and speculations I have read, some of them did touch on the issue. Thank you, Madam President.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr Albert CHAN, as amended by Mr LAU Kong-wah and Mr Andrew CHENG and Mr Tommy CHEUNG, be passed.

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

(Members raised their hands)

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

(No hands raised)

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): Second motion: Safeguarding the rights and benefits of public servants and staff of outsourced government services.

SAFEGUARDING THE RIGHTS AND BENEFITS OF PUBLIC SERVANTS AND STAFF OF OUTSOURCED GOVERNMENT SERVICES

MR LEUNG FU-WAH (in Cantonese): Madam President, I move that the motion, as printed on the Agenda, be passed.

Madam President, during the past few years the economy of Hong Kong has remained in the doldrums, jobless rates are high and fiscal deficits are substantial. Given the economic recession and financial stringency, the Government is determined to cut recurrent public expenditure by resorting to measures to streamline the civil service establishment, reduce the pay and benefits of civil servants, and so on. However, as the Government seeks to streamline the civil service establishment and reduce public expenditure, the protection enjoyed by civil servants in terms of their pay and benefits will tend to be overlooked all the more. The civil servants will be more worried about their job prospects. In view of these, I have proposed this motion today in the hope

that the Government of the Hong Kong Special Administrative Region (SAR), being the largest employer in Hong Kong, should not forget to set up an example of a good employer despite the heavy financial pressure. It should ensure all employees of the Government and subvented organizations who directly or indirectly get their salary from the public coffers are given reasonable labour protection.

In addition, another reason for me moving the motion on "Safeguarding the rights and benefits of public servants and staff of outsourced government services" is the wish to remind the Government of its responsibility to protect the rights and benefits of all employees of the Government and subvented organizations, and that it has a similar responsibility to see to it that the contract staff of outsourced government services are under reasonable labour protection. For in the last analysis, the staff of contractors for outsourced government services is paid indirectly by the Government and so the Government is obliged to ensure that every single cent of public money is used properly. The Government should enhance its monitoring of its contractors to ensure that the related contracts will see to it that such staff on outsourced government services will get their full wages after deductions are made for the administrative expenses and reasonable profits of the contractors. This would pre-empt any exploitation by any middle-men while the rights and benefits of these workers of outsourced government services will be protected and there would be no wastage of public money. This is really killing two birds with one stone.

With respect to this motion, in mid-April I attended a seminar organized by the Government Employees Association, an affiliated organization of the labour union to which I belong. The seminar was on the concern for the rights and benefits of contract and outsourced government services employees. We have also written to labour unions of the civil service and the subvented organizations to collect their views on this motion. From the replies given by these labour unions, general support is given to my motion.

As at 31 March 2004, there are some 164 000 civil servants in Hong Kong and the number of posts in the civil service establishment is some 170 600. The number of employees in the subvented organizations is comparable to that in the Civil Service.

Of the many government employees, those civil servants employed on pension terms are less worried about their rights and benefits, for their salaries and benefits are all protected by the Basic Law. The impression which these

pensionable civil servants give to the people is that they have a very secure job and that they would have no fears of being sacked. But times have changed. With the political, social and economic changes which have taken place after the reunification, these civil servants do not hold an iron rice bowl any more and they can no longer afford to have a "couldn't-care-less" attitude to work. In recent years the Government has been promoting quality and customer-based services. The departments must reach certain performance targets pledged by the respective departments themselves and deploy their resources properly to achieve savings in expenditure. In such circumstances, civil servants are faced with not only the problem of a shortage of internal resources and manpower but that they also have to maintain quality and avoid inviting complaints from the public. This applies especially to front-line civil servants who have to face the public. So civil servants have to face great pressure and if their pressure is not vented on time, I am worried that this will lead to many problems, so the Government must pay attention to this.

Although the "zero-three-three" plan for civil service pay cuts has been implemented, in the face of heavy financial pressure, there are rumours that the Government will reduce civil service pay again. These rumours are making the civil servants feel uneasy and worried. I think the Government should think carefully and not to cut civil service pay again.

To achieve the aim of introducing greater flexibility in the civil service admission system, the Government introduced in 1 June 2000 a system applicable to new entrants to the Civil Service and a new set of terms of employment and conditions of service was implemented. Under the new system, new entrants to the basic ranks of various grades in the Civil Service will be employed on probation terms for three years, then they will be employed for three years on contract terms. It is only after six years that the Government will consider whether to employ the new entrant concerned on a permanent basis. The case is somewhat better with the disciplined forces and all new entrants have only to pass a probation period of three years before they can be employed on permanent terms prevailing at that time.

As at 31 March 2004, the new terms on probation are applicable to some 4 700 civil servants. The first batch of civil servants who have successfully completed the three-year probation period and who are employed by the Government on permanent terms only numbers some 280 and they are all in the disciplined services.

I once heard some member from the disciplined forces who was still on probation calling the radio and said that he was very worried that he would not be employed on permanent terms for his probation period would expire in two or three months' time. The reason was that the Government was trying to cut expenditure and streamline the civil service establishment, and the simplest and quickest way is to target on these employees employed on new probation terms. If these people are not employed on a permanent basis, their means of living and their families will be affected. I am convinced that these anxieties of officers in the disciplined forces have a lot to do with the communication between the departments and the staff. If there are clear guidelines from the Government requiring the departments concerned to inform within a certain period, say at least three months in advance, their staff who are to complete their probation under the new system, whether or not they will be employed on a permanent basis, I think that can dispel any worries harboured by the employees.

I also find that there is a lack of transparency in the contract renewal arrangements for these new entrants to the Civil Service. The employees do not know under what circumstances they will be employed on permanent terms and under what circumstances they will not. So their anxieties are understandable. I hope the Government can be fair and reasonable to these new entrants to the Civil Service and give them the kind of job security that they deserve.

I would also like to ask the Government, "Has it ever thought about the kind of consequences and effects of excessive downsizing given its affirmation of the goal of reducing the civil service establishment?" Excessive trimming of the body by ladies may lead to malnutrition and even anorexia or a complete loss of appetite for food. Excessive trimming in the Government may also lead to adverse impact that could be far-reaching. For example, government departments may run into a shortage of manpower and resources. Not only will this injure staff morale and departmental operations, it would also directly affect staff performance and service quality. In the end, it is the stability of the civil service team and the overall interests of Hong Kong which would suffer. All these are beyond our ability to bear. If the Government does not want to see such things happen, it must review the effectiveness of the present downsizing attempt and to rectify irregularities right away. In sum, the Government should not undertake a reduction of posts across the board just for the sake of downsizing and it must formulate a reasonable and proper establishment for the

departments commensurate with their practical needs and future growth demands. That would prevent any adverse results from happening.

According to information provided by the Civil Service Bureau, as at the end of last year, there were a total of some 16 000 full-time employees on non-civil service contracts which was some 2 400 more than that during the same period in 2002, representing an increase of about 15%. As the number of contract staff employed by the Government increases, the problems related to the rights and benefits of government contract staff also increase.

About one and a half months ago, in a seminar where contract staff and workers of outsourced government services aired their grievances, a Workman II who had been on continuous employment for six years in the Food and Environmental Hygiene Department told me that in recent years when the Department renewed its employment contract with her, every time her salary had been slashed. During the past two years, her salary had been slashed twice from \$9,800 to \$7,600. The contract term also grew shorter and shorter. This year her contract was renewed for a period of only nine months. She was worried that if the situation continued, she would be forced out of work at any time.

In addition, I know recently that the Leisure and Cultural Services Department will recruit Amenities Assistant III from within the Government to fill up vacancies in the permanent establishment. The Department has said that serving Amenities Assistant IIIs on non-civil service contract terms will not be eligible for application. That has caused grievances among such contract staff. I think that this move has deprived the serving Amenities Assistant IIIs on contract terms of their rights and it is extremely unfair to them. I hope the Department can give the staff an explanation on this as soon as possible.

On subvented organizations, the Government has adopted a lump sum grant arrangement for these subvented organizations. Some of these organizations have pointed out that the funding is insufficient. As the salaries of the senior staff of these organizations are high and it would be difficult to delete these posts, so the employees at the lower levels in these organizations are often made targets of layoff. The aim is to save on expenses.

A woman who works as a personal care worker in an old age home funded by the Social Welfare Department in Tai Po told me that there were a total of 68

elderly persons in the home where she works, and most of them were confined to the wheelchair and they cannot look after themselves. The establishment in her place of work used to have some 20 to 30 workers, but actually there are only some 20 and the number is under 30. The number of staff for the three-shift establishment should be 39 persons, but as the Government has slashed its funding, there is only an average of nine persons in each shift. Take the morning shift from 7 am to 3 pm as an example, four workers will have to take care of all the inmates. They have to help them take a bath every day and to have their breakfast. If any personal care worker should fall sick and cannot come in for work, the other three workers will have to do her work. As manpower is severely in short supply and the workload heavy, it is very likely to suffer injuries at work.

From the example it can be seen that the Government must enhance its protection for the contract staff on non-civil service terms and staff of subvented organizations with respect to their jobs, their salaries and benefits. This will prevent them from becoming the victims of government attempts to cut expenses.

Lastly, it is on the protection of the rights and benefits of the staff of outsourced government services. In the meeting of the Legislative Council Panel on Manpower on 22 April, a motion proposed by me was passed. The motion was to call for an imposition of a minimum wage standard for non-skilled workers of outsourced government services in accordance with the Quarterly Report of the Wages and Payroll Statistics published by the Census and Statistics Department. I am glad that the motion was passed. The Government made a swift response on 1 May. Then on 16 May it issued guidelines to the departments requiring contractors of outsourced government works to adopt the average wages of similar trades published in the Census and Statistics Department's Quarterly Report of Wages and Payroll Statistics as the standard for minimum allowable wage for non-skilled workers of outsourced government contracts. I hope the Government in enforcing the related requirements will exercise stringent regulation on the contractors and avoid the recurrence of exploitation by middle-men which frequently happened in the past. This would ensure that the rights and benefits of the staff of outsourced government services will not be adversely affected.

The amendment proposed by Mr Andrew CHENG urges "to extend it to the outsourced services contracts of public organizations and public corporations". Though this is a further extension of the scope of protection for

the employees and it would strive to secure a minimum wage protection for more wage earners, I would like to stress one point and that is, as the motion proposed by me is on safeguarding the rights and benefits of public servants and staff of outsourced government services, so the scope involved would be wider. So despite the fact that I do not oppose the amendment proposed by Mr Andrew CHENG, I think that his amendment has deviated somewhat slightly from the topic of the motion moved by me.

Madam President, I so submit.

Mr LEUNG Fu-wah moved the following motion: (Translation)

"That, as the largest employer in Hong Kong, the Government of the Special Administrative Region should set an example of a good employer to ensure that all employees of the Government and subvented organizations as well as contract staff of outsourced government services are under reasonable labour protection; to this end, this Council urges the Government to:

- (a) strictly enforce the requirements of the Basic Law concerning protection of the rights and benefits of public servants;
- (b) safeguard the rights and benefits of public servants newly recruited after 1 June 2000 in accordance with the principles of fair and reasonable treatment;
- (c) draw up a reasonable and appropriate public servants establishment;
- (d) enhance the protection for contract staff employed on non-civil service contract terms and staff of subvented organizations in regard to their posts, pay and benefits; and
- (e) strictly monitor government contractors to ensure that they adopt the average wages of similar trades published in the Census and Statistics Department's Quarterly Report of Wages and Payroll Statistics as the standard of minimum allowable wage for non-skilled workers involved in outsourced government services, and fully enforce this requirement."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr LEUNG Fu-wah be passed.

PRESIDENT (in Cantonese): Mr Andrew CHENG will move an amendment to this motion, as printed on the Agenda. The motion and the amendment will now be debated together in a joint debate.

I now call upon Mr Andrew CHENG to speak and move his amendment.

MR ANDREW CHENG (in Cantonese): Madam President, I move that Mr LEUNG Fu-wah's motion be amended, as printed on the Agenda.

Madam President, the focus of my speech today will be on the treatment received by workers of outsourced government services and I will also move an amendment to that effect.

It is common knowledge the wages received by these workers of outsourced government services are extremely low. It is only after repeated disclosures by non-government organizations and academics that the wages of these workers are far lower than market levels that the Government has finally decided to adopt measures to protect the wages received by these workers.

At the beginning of this May, the Financial Services and the Treasury Bureau issued a set of guidelines to require government departments and trading funds to ensure that in their outsourced service contracts, the wages offered by the contractors of these services, especially services which hire large numbers of non-skilled workers, will not be lower than the average wages of similar trades in the market. Wages of workers of outsourced government services will be determined in accordance with the average wages of similar trades published in the Census and Statistics Department's Quarterly Report of Wages and Payroll Statistics. The guidelines also require contractors to sign employment contracts with the workers, specifying in particular the wages, working hours and the number of holidays, and the terms and conditions are not to be changed at will.

The scope of protection of the guidelines is only confined to the non-skilled workers in the outsourced government services such as cleaning workers, watchmen, security guards and such like employees at the lower ranks.

It is estimated that such workers in government departments number about 40 000.

The Democratic Party is of course glad to see these new requirements from the Government, but we are doubtful that the departments can effectively monitor their contractors. As a matter of fact, under the existing outsourcing mechanism, there are already measures protecting the wages and other benefits of the employees. Under the existing procedures, if any procurement is to be made for services that require a large number of non-skilled workers, a points system has to be adopted. The assessment criteria would include the wage levels and working hours of non-skilled workers as listed out in each tender document. Such information will be used to determine whether or not the terms offered are in line with those offered in the market by similar trades. For market conditions, reference is made mostly to the information found in the Quarterly Report of Wages and Payroll Statistics.

Unfortunately, it is apparent that this assessment mechanism cannot be enforced effectively and so the wages and benefits of these workers of outsourced government services contracts are not protected. When government departments outsource their services, the weighting between costs and profits in the tender would be about half and half. But contractors, in a bid to win the tender, would often bring their profits as close to the costs as possible and when they have won the tender, they will try all means to lower the costs and bring up their profits. Employees who do not enjoy employment protection will become victims. They are exploited by such tactics as deductions or withholding of wages and holidays; their workload may be increased and they may be under false self-employment and so on. The result is that the wages and benefits as pledged in the tender documents are never the same with the reality. Take the Housing Department as an example, the monthly wage for full-time cleaning workers as specified in the tender document ranges from \$3,240 to \$9,150, but in reality and as the findings of a survey by Oxfam show, the wage is only \$3,525 to \$3,754.

Even in the new requirements, the wages to be regulated only refer to the average wages found in the tender document. But as the number of trades involved in outsourced work is plenty and wage differences could be very large, so even if the new measures have specified the average wages, given the absence of standards applicable to the wage received by each worker, the wages for some non-skilled workers could still be extremely low.

A greater problem is that the government departments are powerless to prevent these contractors from violating the labour laws. The tender system requires contractors to pay their workers wages not lower than the market levels and this may make more contractors resort even to breaking the law in order to save expenses spent on the workers. It is common to see contractors breaking the labour laws. Information provided by the Labour Department in 2001 shows that of the cleaning contractors on its list, as many as 50% have breached the labour laws during the past three years. In the year 2001, there were 18 such cleaning contractors still on contract to the Housing Department.

Even if contractors have violated the labour laws, their eligibility to submit tenders is often not affected. Under the existing tender system, there is a points deduction system to penalize those contractors who have breached the labour laws. The penalty for serious contravention would be suspension of the eligibility to submit tenders. However, employees will not dare to accuse their employers of contravention of labour laws for fear that they will lose their jobs. Moreover, the contravention of labour laws as referred to in the tender system is only confined to those cases where successful prosecutions have been brought by the Labour Department. The number does not include those cases where the workers filed a case with the Labour Tribunal and won. That is why for the entire year of 2003-04, there are only three cases of successful prosecution against contractors who have contravened the Employment Ordinance. Apparently, those employers who have been penalized represent only the tip of the iceberg.

Even if individual employers have their eligibility to submit tenders suspended because of contraventions of the Employment Ordinance, the impact on them is minimal, for many of these contractors will be awarded contracts again after only a very short time. As the Government frequently invites tenders, the period of suspension of tender submission will be over after a short time and hence no deterrent effect is achieved at all.

All of these point to one problem and that is, despite the high-profile remarks made by Mr TUNG Chee-hwa in the Legislative Council that the Government has issued guidelines to the relevant departments to set the wage levels which the contractors should offer to low-skilled workers, at the end of the day nothing can be done because of the many problems found in enforcement. Thus the grass-roots workers are left without any protection.

Though it is doubtful that any positive effect will be produced, it is better than none. So the Democratic Party would like to move an amendment today to urge the Government to extend the regulatory regime to contractors of the outsourced contracts of public organizations and public corporations.

By public organizations we are referring to those non-commercial institutions which operate independently of the Government and which are tasked with the provision of services to the public. Though these organizations are not government departments, they also provide some services which are generally provided by the Government. One such public organization is the Hospital Authority. Public corporations are those commercial entities formed by law and tasked with the provision of goods or services. Public corporations are usually formed by the transfer of government assets to a corporation, such examples include the Kowloon-Canton Railway Corporation and the Airport Authority.

These organizations, like government departments, are financed mainly by public coffers and so they should bear some social responsibility. When the outsourcing contracts of government departments will impose regulation on the wages offered by contractors to their employees, these public organizations should likewise not act like independent kingdoms and they must not turn a blind eye on the exploitation of their staff of outsourced services.

In addition, these public organizations are important clients of outsourced services. They have great purchasing power and they can influence the wages which the workers of an entire trade are getting. So these organizations must take the lead in improving the treatment of the workers. However, it is precisely the contract staff of outsourced services in these organizations who are being most seriously exploited. Their average hourly wage is lower than that in the private sector and this serves to pull down the wages across the trade.

The fact that employees of outsourced services contracts of public corporations are given extremely bad employment terms has made them air their grievances on many occasions. Take the Hospital Authority as an example, during the SARS outbreak, many cleaning workers in the hospitals said that they were in lack of personal protective gear and the unreasonable wages made them work overtime or engage in part-time jobs before they could hope to feed their families. That also increased their chances of being infected.

The universities are another example. A survey shows that the cleaning workers and security guards working in the universities are getting a monthly salary of about \$4,000 to \$5,000. Those working in the Hong Kong Baptist University and Lingnan University are only getting some \$3,000. In overseas countries, the pay of a professor is about six times than that of an employee in the basic ranks, but in Hong Kong, the difference is as much as 25 times.

All in all, as public organizations are funded by taxpayers and they are vested with a corporate responsibility to the community, so it is only right that they should take the lead to improve the wages of workers in the most basic ranks. In reality, however, these public organizations have taken the lead to pull wages down. Those in the top management of these organizations enjoy a most lucrative salary as workers toil and receive a pay so meagre that it would not enable them to maintain a basic living. That is really something which should not have happened. So at least the outsourced services contracts of these public organizations should be brought on par with those of the government departments and that the wages which the contractors offer to the workers will not be less favourable than the average wages of workers in similar trades in the market.

With these remarks, Madam President, I move the amendment.

Mr Andrew CHENG moved the following amendment: (Translation)

"To add "and to extend it to the outsourced services contracts of public organizations and public corporations" after "and fully enforce this requirement"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr Andrew CHENG to Mr LEUNG Fu-wah's motion, be passed.

MS LI FUNG-YING (in Cantonese): Madam President, in this modern society, laws should be the most effective instrument to safeguard the rights and benefits of the citizens. A model should be set up in the community for employers to follow, so that they should be reminded of not to aim at reaping every cent of

profits and fleecing the employees to their bones. Laws which should have served to uphold social justice and protect the rights and benefits are much too pale and frail. So as I speak in support of the original motion and the amendment today, all sorts of feelings swell in me. For I see that as the largest employer in Hong Kong, the Government is not conscious of its role as a good employer. Meanwhile, the workers in Hong Kong will have to depend on this Government to enact laws to protect them. What then is a way out for the working class? How will their rights and benefits be safeguarded?

The SAR Government as the largest employer in Hong Kong has only managed to set an ignominious example during these few years past. Starting with the reforms after the reunification, the Civil Service has been dealt one blow after another. Some of these effects are still being felt. This especially applies to the civil service pay cut incident in which the Government, in its bid to achieve a pay cut to the extent already announced by it, resorted to manipulating and pitching public opinion against the civil servants. This nearly shattered the mutual trust between the civil servants and the Government.

Article 100 of the Basic Law protects the rights and benefits of civil servants who joined the Civil Service before 1997 but still there are extensive controversies between the Government and the civil servants and actions are brought to the Courts. Civil servants who joined the Civil Service after 1997 are not protected by the Basic Law. So the Government felt justified in introducing some new entry arrangements for civil servants in 2000 and the pay and benefits of new entrants were greatly slashed as a result. This led to the present situation of civil servants having equal work but not equal pay. This is a violation of the principles of fairness and rationality.

The argument which we hear most often trying to explain away this unfair situation is that the new entrant civil servants should have known in advance that the salary and benefits they would get and if they think that these are unfair, they may as well choose not to become civil servants. If this argument of personal choice is tenable as a justification for the existence of unreasonable systems, then all the issues about injustice in society would become non-questions. At the beginning of last month, the media reported that some of the workers of outsourced government services were only getting some \$2,000 a month and the community was outraged at learning about that. If this logic of personal choice applies, then these workers may as well not take up this job; but if they are

willing to work as cleaning workers for some \$2,000 a month, that indicates that nothing is wrong with the system. Can this argument stand?

So with respect to the problems found in outsourced public services, the issue at hand is no longer whether or not the Government should set an example as a good employer, but that the entire outsourcing policy is generous to the contractors while ruthless to the workers. According to the latest guidelines issued by the Government, it is only stipulated that contractors will only be made ineligible for submission of tenders if they have contravened the Employment Ordinance during the 12-month period before the deadline of the invitation for tender and that they have been convicted three times. I can only say that a policy like this would only encourage contractors to contravene the Employment Ordinance and exploit the employees. After extensive media coverage on the low pay received by the staff of outsourced government services, the Government has now come up with a new set of guidelines which requires that the wages of contract staff of outsourced government services cannot be lower than the average wages of similar trades. I believe the Government must have forgotten a paper which it submitted to the Legislative Council Panel on Manpower some years ago which said *inter alia* that ever since the launching of assessment criteria on outsourced government non-skilled services in May 2001, tenders should have included wage levels and working hours which should be on par with those in the market. If this criterion applies, theoretically all tenders which are lower than the market levels will all be rejected, but why do we have such a state of affairs now? Is it because the people in control have not followed the guidelines or that there is insufficient monitoring after the award of tenders? Who then should be held accountable? The former or the latter? Should the Government not conduct a thorough review of the whole situation? One should learn from past mistakes. Can we now put our faith in this set of new guidelines which is in effect not much different from the previous assessment criteria in that it will really protect the non-skilled workers so that the wages they get will not be humiliating?

Madam President, irrespective of whether the latest guidelines on outsourced government services can be enforced, I would like to point out that the guidelines have to a certain extent responded to our motion today. The Government does not want to set an example of a good employer. It does not even want to follow the example of some better employers in the private sector and offer some more reasonable wages to hire non-skilled workers. For the

guidelines only fix a wage standard at a level not lower than the prevailing wages of similar trades. As the Government is not even a good employer, so how would the working class expect the Government to be a good one and formulate laws which incorporate a minimum wage and protect the rights and benefits of workers?

Madam President, I so submit.

MR KENNETH TING (in Cantonese): Madam President, the Federation of Hong Kong Industries and the Liberal Party think that the SAR Government has a responsibility to safeguard the pay and benefits of its employees in a reasonable and lawful manner. However, with respect to the proposal to set up something like a minimum wage standard and such a practice, we do have reservations.

As the largest employer in Hong Kong, the Government certainly has a responsibility to ensure that its employees will receive reasonable employment protection and wages. As a society which respects the rule of law, Hong Kong is obliged to enforce Article 100 of the Basic Law to protect the rights and benefits of the civil servants.

On the monitoring of government contractors, the Chief Executive has announced that with effect from 7 May, government contractors must use the data from the Census and Statistics Department's Quarterly Report of Wages and Payroll Statistics as the standard of minimum wages and upper limit of working hours for non-skilled workers hired by these contractors. The Liberal Party is of the view that though the original intention on the part of the Government to protect the rights and benefits of staff of outsourced government services is good, it would only backfire. It is because contractors would find it difficult to hire employees who lack experience, who are low-skilled and who are more advanced in years according to the minimum wages set, in the end these employees would lose their jobs. Such a kind of intervention would only distort the actual operation of the labour market and will not help improve the unemployment situation.

We think that the key to solving the problem lies in the authorities' enhancing their monitoring of the contractors and preventing them from sub-contracting and doing anything unscrupulous such as exploiting contract

workers through the sub-contracting system and reducing their wages without any justification.

As for the amendment moved by Mr Andrew CHENG, it is in practice expanding the scope of application of the guidelines announced by the Chief Executive to outsourcing contracts of public organizations and public corporations. This will only allow more interventions from the Administration and will only cause more adverse effects.

Madam President, I so submit.

MR CHEUNG MAN-KWONG (in Cantonese): Madam President, the Civil Service of Hong Kong used to maintain a high level of quality and efficiency before the reunification, much to the acclaim of the international community. Since there were stability and uniform terms of employment within the civil service system, any new recruits, once joining the Civil Service, could expect to rise over time on their respective salaries scales. Although the salaries of civil servants might be slightly higher than those of their private-sector counterparts, this could in fact ensure a clean Civil Service and foster cohesion and a sense of belonging, thus succeeding in commanding the dedication of most civil servants in their work of serving the community and the Government.

Since the reunification, all rules of the game have changed. On top of the permanent and pensionable establishment, the authorities have incessantly introduced and created various terms of civil service and non-civil service employment, including supernumerary posts, the non-civil service contract posts created outside the permanent establishment in 1999, the new probationary terms, agreements terms, monthly terms, daily terms and other employment terms. The officers employed under all these terms have become a growing and sizeable subsidiary of the mainstream Civil Service. They perform the same tasks as those of pensionable civil servants, but the authorities have come up with all sorts of excuses for introducing different categories of civil service employees, leading to unequal pay for the same tasks and greatly affecting the morale and stability of the Civil Service as a whole. The operation of public-sector organizations and even private-sector ones has also been impacted directly or indirectly.

Madam President, the authorities have all along claimed that the adoption of different categories of employment terms is meant to give government departments greater flexibility, so that they can take on employees outside the pensionable establishment to cope with temporary manpower needs and deliver services which can be provided by part-time staff, or which will be reviewed shortly. But the said flexibility has been abused. As at the end of 2002, there were already some 17 000 people employed by the Government on agreement terms, monthly terms or daily terms. This, together with supernumerary and non-civil service contract employees, actually amounted to 18.2% of all the 170 000 or so civil servants at that time. The corresponding percentage even stood at 20% at the end of 2003. If other non-pensionable employees were also counted, the percentage would be even higher. This means that the number of civil servants on pensionable establishment has dropped drastically to less than 70% of the entire Civil Service. For a civil service that emphasizes stability and consistency, the excessive adoption of other employment terms is indeed a very worrying phenomenon.

The number of full-time non-civil service employees, for example, stood at some 16 000 at the end of 2003. Among this number, 7 000 had worked for a continuous period of two years or more by that time, and those who had worked for more than two years even numbered 1 500. And, on average, 84% of these 16 000 employees earned a monthly salary of less than \$16,000. The Government really needs to assess the actual need for the various different posts currently filled by non-civil service contract employees; it should also examine the duration of each of these posts and convert those with long-term operational need into civil service posts. We further propose that the authorities should first introduce conversion in departments with a greater number of non-civil service contract employees, so as to demonstrate that the Government has no intention of exploiting anyone in the name of flexibility.

Madam President, I now wish to discuss the "three-three system" for civil servants, that is, the new civil service entry system implemented since 1 June 2000. Under this system, a new recruit will normally be employed for a probation period, or an observation period, of three years. After this period, he may be employed on agreement terms for a further three-year period. Following this, he may be considered for permanent employment on the prevailing terms then. The Democratic Party has all along criticized the "three-three system" for involving too much time, fearing that really competent people not satisfied with prolonged exploitation may switch to the private sector.

The Education and Manpower Bureau has recently issued a letter to all government schools in Hong Kong, informing them that contract teachers having completed the initial three-year probation period will no longer be offered three-year contracts as usual, but will be offered one-year renewable contracts instead. Madam President, I object to this measure of the Bureau, because it is a departure from the overall civil service policy, something that is done deliberately to divide the Civil Service. Madam President, when a young teacher was first recruited, he expected that as long as he could do his job and satisfactorily complete the initial three years of probation, he would be offered a contract for another three years, after which he might become a regular civil servant-teacher. However, the authorities have now abruptly changed the employment arrangements without any consultation, replacing three-year contracts with one-year renewable contracts. This is a most unfair and oppressive policy. As the representative of the education sector, I must voice my objection, in the hope that the authorities can refrain from lightly altering this established civil service policy. If the Government does not refrain from doing so, further internal dissension and conflicts may result.

Madam President, I so submit.

Mr LAU PING-CHEUNG (in Cantonese): Madam President, during the period of time preceding the reunification, in view of the booming economy and budget surpluses, the British Hong Kong Government sought to provide more public services, thus leading to the incessant expansion of the Civil Service. The rapid economic decline in the wake of the financial turmoil has exposed not only the obesity of the Civil Service but also the inflexibility of its pay mechanism, which makes it impossible to adjust the salaries of civil servants in response to economic changes and the overall situation in society.

In a bid to "follow the principle of keeping expenditure within the limits of revenues in drawing up its budget, and to strive to achieve a fiscal balance" as required by the Basic Law, the SAR Government set down the policy direction of "big market, small government" several years ago. It has since been reforming its structure and setting down new objectives of work, striving to downsize the Civil Service to 160 000 employees in 2006-07. This means a downsizing rate as high as 19% against the establishment of 198 000 in 2000. And, there is still a need to reduce manpower by as much as 7%, given the establishment of 172 000 this year. The process is certainly very painful.

The Government can be compared to a private company having to "slim" its various departments. Therefore, it is only natural for it to adopt various measures to outsource its non-core services or even sell its assets, so as to open up new sources of revenue and cut expenditure. There is nothing wrong with introducing all these measures. But in the process, the various government departments must retain their core services and ensure that their quality will not decline as a result of manpower reduction. The key to achieving this lies in the retention of the best people in the departments concerned. I have repeatedly stressed in this legislature and elsewhere that when deciding what services are to be outsourced, or when determining the priority of filling the gaps left behind by manpower drain, the departments concerned should focus on considerations relating to the professional expertise and technical levels connected with the services and manpower concerned. The reason for this is very simple. It often takes a very long time to train up professional grade civil servants and to acquaint them with departmental as well as inter-departmental operation. Therefore, if the drain of professional grade civil servants is taken so lightly, the experience they have accumulated in the Government will be wasted.

As a matter of fact, many professional grade colleagues in government departments are employed on civil-service or even non-civil service agreement terms. There were some past cases in which the agreements of some professional grade colleagues in the Lands Department would soon expire but the Department was still reluctant to indicate whether it would renew their agreements, in disregard for the statutory duties of the posts concerned and despite the fact that some of the projects being handled by these professional grade colleagues were still uncompleted. These colleagues thus worried about their job security. This was clearly an administrative blunder.

Besides, there were also cases in which the job security of staff was affected by the Government's policy adjustments. For example, the Government has adjusted its housing policy and halted the construction of Home Ownership Scheme flats. In addition, income from public housing rentals is not enough to cover the costs incurred, and I am afraid that the public housing construction volume in the next few years will likely be less than 20 000 units. The public housing construction volume in Hong Kong used to be some 40 000 flats per annum in past years, so surplus manpower will inevitably occur as a result of the reduction of construction volume. I have repeatedly suggested the Government to solve this problem by redeploying its manpower. The surplus

professional grade colleagues in the Housing Department can be seconded to other departments, such as the Lands Department, so as to assist it in tackling the problem of illegal building structures, a problem which has remained not solved for years. This is a good arrangement to achieve an "all-win" situation. On the one hand, the Housing Department will be able to retain its best and essential staff and avoid plunging people into unemployment, and on the other, other departments will be given assistance in tackling their backlogs and removing potential environmental threats in the districts. As a further step, the Government should even consider the idea of extending the secondment policy to quasi-governmental organizations or statutory bodies such as the Urban Renewal Authority, the Kowloon-Canton Railway Corporation and the Real Estate Investment Trust Fund soon to be set up by the Housing Department.

The policy on departmental framework reviews will also curb the promotion prospects of staff. In some departments, owing to the natural wastage or retirement of staff at the upper and middle levels, there is in fact a need to promote staff members from the lower level to fill the vacancies. But very often, the departments concerned will delay the promotion of lower-level staff on the excuse of departmental framework review. Even when some civil servants are confirmed to be suitable for promotion after passing their promotion interviews, they are still not promoted, or acting appointments may be offered to them as a temporary solution.

Madam President, by adopting this practice, government departments are in fact evading the problem. The operation of government departments has all along been based on the transmission of expertise from the higher echelons to the lower ones: senior civil servants will guide new recruits in the handling of official business, passing on their experience to the lower echelons, who will in time take over. This traditional pattern of promotion has its own value. But if recruitment is stopped for prolonged periods, a vacuum may occur somewhere in the civil service echelons. Even if those from the lower echelons are promoted, the civil servants concerned may well fail to discharge the duties of the new posts well enough due to the lack of experience. This may affect the operational efficiency of the departments concerned. As I have just pointed out, the training of professional grade civil servants will take a much longer time than the training of skilled or semi-skilled civil servants. I hope that the Government can first resume the recruitment of professional grade civil servants at an appropriate time, so as to prevent the "chain" of transmission from breaking into two.

Madam President, in the final analysis, the crux of the problem is the rigidity of the civil service establishment and pay mechanism, which results in the failure to keep in line with the overall economy. I hope that the Government and civil service unions can forge a consensus on the pay adjustment mechanism as soon as possible, so that the pay of civil servants can be adjusted in accordance with the overall economic conditions in society. This can enable the Government to attract suitable talents on the one hand and give assurance to civil servants on the other. I have repeatedly emphasized outside this legislature the necessity of offering high pay to civil servants, so as to maintain a clean Civil Service and ensure the stability and continuity of government services.

Madam President, I so submit.

MR LEUNG YIU-CHUNG (in Cantonese): Madam President, the Civil Service of Hong Kong has sustained quite a number of blows since the reunification, including those of a political nature, such as the introduction of the Accountability System for Principal Officials which has reduced the influence of career civil servants. All these aside, the blows which have caused the most "direct" impact on civil servants, especially the lower echelons, are the various changes to their employment relationship with the Government.

Before the reunification, both the Chinese and British Governments recognized civil servants as the main pillar of social stability, which was why they were given all sorts of promises, and Beijing even inserted a provision in the Basic Law to safeguard their interests. Unfortunately, all this is no match for the fiscal deficit faced by the Government. The fiscal deficit has driven the Government to "slash" the Civil Service. This huge impact has created many problems which, if not properly handled by the Government, will not only undermine the stability of the Civil Service but also seriously hamper our socio-economic development.

To begin with, in order to reduce expenditure, the Government has been trying continuously to downsize the civil service establishment. As at the present moment, the establishment has been curtailed from 190 000 employees to some 170 000. And, there is still a plan to further reduce the establishment to 166 500 before the end of the current financial year. In the long run, according to the objective set down by Mr TUNG, the civil service establishment has to be reduced to 160 000 or so at the end of his term of office. The downsizing of the

civil service establishment has not been necessitated by any declining demand for government services, nor has it been caused by the accumulation of too many sinecures from the past. All this is not the point. What then is the point? The point is: What can we notice while the government is trying to reduce the establishment? We can notice that the Government has at the same time recruited many non-civil service employees to replace those who have left. This means that the Government actually needs such manpower, but then, for the sole purpose of reducing expenditure, it has sought to employ contract or non-contract staff to work alongside existing civil servants. I must of course say that I do not see anything wrong with the Government's attempts to reduce expenditure. Such attempts should in fact be welcomed by taxpayers. However, our concern is: Will this create yet greater problems and result in the exploitation of employees?

While the Government is slashing the civil service establishment, it at the same time recruits new staff on various contract terms to fill the resultant vacancies; this has led to the existence of different classes of employees and in turn a divisive situation in government departments. In the existing Civil Service, the benefits enjoyed by contract civil servants are less favourable than those of pensionable civil servants, because the former are not entitled to any retirement protection and pensions. And, non-civil service contract staff are entitled to even less benefits than contract civil servants because the protection available to the former is limited to all that is provided under the ordinances relating to employment. And, of course, the treatment received by workers of outsourced government services is the poorest. All this has led to the conception of "second-class" employees. Why is there such unequal pay for equal work? From the standpoint of possible divisive effects, can there be any good when all these different classes of employees are required to enforce government policies together? Or, will there actually be a potential problem, the problem that no one will be totally dedicated to the execution of the policies concerned?

Salaries and benefits aside, job security is something that makes the various forms of employment so very different. A civil service post has traditionally been regarded as an "iron rice bowl"; this no longer seems to be so true today, but the situation with other classes of employees such as contract staff is even worse. Every day, they have to worry about the expiry of their contracts. I think this will deal a very heavy blow to the morale of those working for the Government.

Our original understanding of non-civil service contracts and outsourcing contracts is that their validity periods are bound to be relatively short because they are meant to cope with seasonal or special service needs. The Hongkong Post and the Registration and Electoral Office, for example, will have to employ some particular temporary staff during some particular times. But what we can now see is that there are actually long-term needs for most of the non-civil service posts or outsourced services. We therefore cannot help asking, "Since there are long-term needs for cleaners working for hospitals and the municipal authorities, why are they always employed on a temporary basis or on short-term contracts? Are these forms of employment beneficial to them?" These forms of employment are not beneficial to them; quite the contrary, their morale, dedication and sense of belonging will be seriously dampened.

The simplest reason for introducing these forms of employment, I believe, is the Government's wish to reduce expenditure as much as possible. But this has led to some other problems. Since short-term contracts give the Government greater flexibility to reduce staff salaries at any time, a system most disadvantageous to employees has thus emerged. But if the employees concerned all go to work every day without any sense of job security, then, as I have pointed out just now, how can we make sure that they can be totally dedicated to their work? Will the Government suffer more losses than gains in the end?

The reduction of employee protection and the evasion of employer responsibility are precisely the most important directions of the Government's policy on employing contract staff and outsourcing. Besides the various forms of employment and outsourcing mentioned above, the Government has also commissioned some personnel consultants to work for public libraries and other departments. These personnel consultants are responsible for staff recruitment and the related contract matters, and the employees recruited are under the direct order of the departments. As a result, while the Government can evade or free itself from most of the responsibility that should be discharged by an employer, it can still command the employees concerned. What is the consequence of this? Most importantly, the employees concerned are unable to get the support of a good employer in their work. The Director of Housing, Mr C.M. LEUNG, once remarked, "Services can be outsourced, but responsibility cannot." But very often, what we can see is just the opposite. This means that the Government simply does not have to shoulder any responsibility.

Madam President, we must emphasize that the Government as the largest employer in Hong Kong must set an example of a good employer, and it must also adopt an integrated policy that affords better protection to all staff directly or indirectly employed by it. Some policy reforms, such as lump sum grants to subvented organizations and also the policy on delinking the remuneration packages of higher education staff from those of civil servants, are packaged as means of offering flexibility to organizations and institutions. But in reality, they only enable them to exploit their employees. In the case of some posts, salaries are not actually reduced at the rates of civil service pay cuts. Rather, they are just retitled and split into several new posts with the same workload. But then the salary has already been cut by as much as one third. This trend is spreading continuously, and it will deal a heavy blow to the labour market.....
(the buzzer sounded)

Mr MICHAEL MAK (in Cantonese): Madam President, first of all, I wish to make a declaration of interest. I am an employee of the Hospital Authority (HA), a subvented organization. To the SAR Government, the motion today must be a bit of an irony because in recent years, it has never set an example of a good employer; instead, it has wanted to take the lead in being an unscrupulous employer.

Why do I say so? To begin with, over the past few years, the Government has forcibly reduced the salaries of civil servants by way of enacting legislation. Second, the Government has drastically slashed the salaries of newly recruited civil servants, thus splitting the Civil Service. All this has dealt a heavy blow to the morale of civil servants.

As a matter of fact, Article 100 of the Basic Law provides that all civil servants may retain their seniority with pay, allowances, benefits and conditions of service no less favourable than before. However, the Government has simply disregarded the law and forcibly suppressed (as I have said many times before) the pay of civil servants to the levels of the year 1997. It seems that (again, as I have said many times before) it has never considered the fact that the original levels of pay were based on many complex factors, such as the price indices, consumption patterns and economic conditions of the time. They were not based solely and simplistically on monetary considerations. Therefore, I urge the Government to adhere strictly to the Basic Law provision on safeguarding the rights of civil servants, as a sign of respect for them and as a recognition of their contribution.

On the excuse of having to eradicate the fiscal deficit, the Government has been slashing resources and downsizing the basic establishment of the Civil Service. Under the second voluntary retirement scheme of the Government and also the voluntary early retirement scheme of the HA, totally 1 084 nurses and 129 allied health professionals have resigned. These schemes have led to the resignation of many experienced staff, thus seriously affecting human resources arrangements. In the Budget this year, the Government still proposes to delete 127 health care worker posts and 135 allied health professional posts. The shortage of nurses and allied health professionals in public-sector medical institutions is already well known to all, and I have talked about this so many times here, to the extent that my mouth has literally "dried up". I hope that instead of continuing to ignore this problem, the Government can allocate sufficient resources to public-sector medical institutions, so that they can recruit all the health care personnel they need for delivering quality services.

The Government has outsourced some of its services, but it has failed to supervise contractors well enough. This has led to the occurrence of "subcontracting" which not only affects service quality but also gives contractors opportunities to blatantly exploit contract staff of outsourced government services. Some subcontractors withhold workers' wages; some workers of outsourced government cleaning services are denied any leave at all; and, wages are far below market levels. It was brought to light earlier on that the workers of the cleaning services outsourced by the Housing Department were just offered a monthly wage of as low as \$2,400 or so. This is really a shame to the Government.

Recently, Chief Executive TUNG Chee-hwa has expressed his concern about the problem that many contractors of outsourced services are paying wages below the market levels to their employees. Madam President, mere lip-service is not enough. Only actions count. Therefore, the Government should tell members of the public explicitly how it is going to impose strict control over these contractors and how it will ensure that workers of outsourced government services can receive fair treatment in terms of wages and working hours.

But however much the Government steps up its inspection of contractors, it may not necessarily succeed in finding out whether they have actually

exploited their employees, because "where there is a measure, there is bound to be a counter-measure", as the saying goes. Contractors may threaten their employees, rendering them dare not disclose the actual wages. And, for the sake of their "rice bowls", the latter can only remain silent despite their anger. Actually, I think the most effective solution is for the Government to stop outsourcing altogether and take on these workers direct on agreement terms.

Madam President, in a civilized society, the government should seek to safeguard the rights of workers. Since the labour rights of civil servants and workers of outsourced government services are still not effectively guaranteed and protected, I hope that the Government can redouble its efforts.

Thank you, Madam President.

DR TANG SIU-TONG (in Cantonese): Madam President, the Government of the Hong Kong Special Administrative Region (SAR) is the largest employer in Hong Kong, currently employing more than 170 000 civil servants. Under the plan for this year, a further 6 000 employees will be cut. According to the Government's plan, the number of civil servants will be reduced to 160 000 in 2006-07. The Hong Kong Progressive Alliance (HKPA) has all along supported the Government's efforts of structural rationalization, reasonable manpower deployment and flexible resource allocation. And, given the huge fiscal deficit, it also thinks that the Government needs to slash its expenditure and go "slim". However, we also request the Government to rationalize its manpower in a fair and reasonable manner. As the largest employer in Hong Kong, the SAR Government is obligated to set a good example.

The motion seeks to ensure that all employees of the Government and subvented organizations as well as contract staff of outsourced government services can enjoy reasonable labour protection. Hong Kong is a civilized modern society; we uphold the market economy and free competition, so we do not think that the Government should interfere with the labour market by administrative means. However, we also think that as a monitoring authority and employer, the Government is obligated to ensure that all the employees of different organizations in Hong Kong can enjoy reasonable labour protection.

I shall first talk about the treatment and protection of civil servants. The HKPA has all along supported the idea that the Government should set the pay levels of civil servants with reference to the pay levels and trends in the private sector. The HKPA also thinks that a pay adjustment mechanism allowing pay increases and reductions should be introduced, and that a full-scale review should be conducted to abolish all outdated allowances. All this does not violate the principle of safeguarding the rights of civil servants as stipulated in the Basic Law. As mentioned a moment ago, the HKPA agrees that the Government should rationalize the civil service establishment. Rationalization is required not only for the eradication of fiscal deficit but also for achieving the effective use of public money and reasonable resource allocation. We do not accept any rationalization scheme that will lower the quality of services, so manpower rationalization should not be applied across the board to all departments. Instead, its application or otherwise should depend on the respective demands for various services; and, the deployment of manpower among government departments should be made more flexible. Cases of dereliction of duty and laziness should be dealt with sternly.

For reasons of narrowing the gap between civil servants and private-sector employees in terms of pay and other benefits, there is undeniably quite a big difference in salaries and other benefits between civil servants recruited after 1 June 2000 and those taken on before that date. This has given people the impression that there is unequal pay for equal work, and that new recruits are given unfair treatment. But I think this is actually unavoidable in the process of gradual adjustment of the pay and other benefits of civil servants. Naturally, if the Government wishes to maintain an excellent Civil Service capable of delivering quality services, it must make sure that the salaries and benefits offered to civil servants can remain attractive in the employment market. Besides, it should also offer fair and reasonable protection to the rights of newly recruited civil servants. For example, the possibility of adjusting the length of probation may be studied, so as to bring it more in line with the practices in the private-sector employment market. This will help boost the morale and team spirit of the Civil Service as a whole. Besides, everybody, be they employers or employees, should respect the spirit of contract, so the Government must not arbitrarily slash the salaries and benefits of civil servants even though it is necessary to eradicate the fiscal deficit. And, new civil servants must also recognize that pay reforms are an unavoidable trend.

I have heard that some non-civil service contract staff of the Government, especially non-skilled workers, are offered increasingly harsh agreement terms, and that the notice period for renewal is also getting very short, thus plunging these workers into fears of unemployment and great anxieties. This will obviously dampen morale and inevitably deal a blow to service quality, doing no good to society. I recognize that non-civil service contract staff of the Government are usually taken on to cater for temporary needs, so one cannot expect their pay levels to be on a par with those of regular civil servants. Besides, upon the expiry of their contracts, their employment will cease immediately, so they do enjoy far less job security than civil servants. Although we recognize all these fundamental differences between the two, we nonetheless also think that in the interest of boosting staff morale and improving service quality, an employer should really set down reasonable and specific terms in the relevant contracts, so that the employees concerned can plan ahead at an earlier time and rid themselves of any unnecessary anxieties. As a matter of fact, whether it is a public-sector organization or a private-sector one, it is always necessary to set down reasonable and fair agreement terms to enable the employees concerned to work without any worries, before a win-win situation can be achieved.

The Chief Executive and even the public at large are both very concerned about the fact that some non-skilled contract workers of outsourced government services are receiving wages that are far below the reference wage levels set down in the guidelines issued by the Financial Services and the Treasury Bureau. As I have pointed out, although Hong Kong is a society that aspires to free competition, it does not accept any exploitation of workers' rights. For this reason, the Treasury Branch issued in May this year a set of guidelines on the levels of wages for contract workers of outsourced government services. I hope that all government departments can adhere strictly to the guidelines and see to it that their contractors also duly comply. In the past, through various channels, we frequently received anonymous complaints from non-skilled contract workers of outsourced government services, accusing contractors of failing to pay them wages at the levels reported to the Government, of trying to deduct their wages, and of extending working hours unreasonably. However, for fear of losing their "rice bowls", most workers do not dare to come forth and report. I am of the view that the strict adherence of contractors to the new guidelines and the plugging of various loopholes are an important topic that the authorities must look into. I agree that the Government should increase the penalties for

contractors who do not pay wages at the prescribed levels, so as to achieve a deterrent effect.

Madam President, I so submit.

MR TAM YIU-CHUNG (in Cantonese): Madam President, a stable Civil Service is essential to the effective governance of the Government of the Hong Kong Special Administrative Region (SAR) and its delivery of various public services. For this reason, the rights and benefits of civil servants and contract staff of outsourced government services must be fair and reasonable, and such must be accorded comprehensive protection.

Over the past few years, the problem of low wages for contract staff of outsourced government services has remained unresolved. The Housing Department has awarded 77 cleaning work contracts, and in the case of seven of them, the monthly pay of cleaning workers is less than \$3,000, or even just \$2,450 at the lowest. The monthly pay of the outsourced cleaning workers of the Food and Environmental Hygiene Department is also low, averaging some \$4,000. The monthly pay of a gardener in the Leisure and Cultural Services Department is just \$3,900. These workers have to work 11 hours a day, meaning that the hourly pay is merely \$14 or so. This is definitely lower than the market median. The lowest hourly pay received by contract staff of outsourced government services is even 58% lower than the market median wage as shown in the surveys of the Census and Statistics Department, evidencing how much they have been exploited.

Under a formal announcement of the Government last month, all departments and trading funds having to procure services hiring large numbers of non-skilled workers, such as cleaning workers, caretakers and guards, are required to ensure that the wages paid by the contractors will not be lower than the average market wages for similar jobs. This measure should be welcomed. As the largest employer in Hong Kong, the SAR Government should set an example of a good employer as soon as possible. In order to ensure that this new measure can really improve the wages of workers of outsourced government services, the SAR Government must step up monitoring, with a view to plugging any loopholes in operation and preventing unscrupulous employers from forcing

their employees to sign fabricated wage receipts or lowering workers' wages on all sorts of excuses.

Under the Basic Law, the salaries, fringe benefits and terms of service of civil servants are safeguarded. The relevant provision imposes a practical and unavoidable requirement on the SAR Government. However, with a view to eradicating the fiscal deficit, the SAR Government must strive to reduce expenditure by \$20 billion in 2006-07, and this makes it necessary to downsize the civil service establishment to 160 000. From this, it can be seen that the implementation of the relevant Basic Law provision does pose a serious challenge to SAR Government.

On the last two occasions when legislation was enacted to reduce the salaries of civil servants, some civil service trade unions voiced their opposition. Similarly, the civil service pay survey to be conducted by the Government and also the flexible pay adjustment mechanism to be introduced will also lead to anxieties among civil service trade unions.

I believe that owing to the economic downturn, there is bound to be a discrepancy between the findings of the pay survey and civil servants' existing salary levels. Any salary adjustments will inevitably involve various kinds of comparative and contrastive studies, but the findings of such studies can never be entirely reliable, so they can at best serve as important reference only. It is precisely due to the lack of any scientific and objective criteria governing such comparative and contrastive studies that the Government should safeguard the legitimate rights of civil servants; it must also fully consider the importance of a stable Civil Service and the requirements of the Basic Law. It must not lightly and immediately impose the survey findings on civil servants, nor should it focus on the incidents at any particular times. Instead, it should discuss with civil servants more frequently, striving continuously to reduce differences and work out a feasible scheme acceptable to both sides.

Since government departments must downsize their establishments on the one hand and cope with the ever increasing demand for services on the other, employment on contract terms and outsourcing are bound to become increasingly common. There is a general feeling in the Government that it is both "economical and convenient" to take on contract staff or workers of outsourced services. But it must not be forgotten that their salaries and fringe benefits are vastly different from those of pensionable civil servants. As contract staff

become a permanent feature over time, the problem of unequal pay for equal work between civil servants and contract staff will become more and more obvious. Besides, the new set of employment terms applicable to civil servants recruited on or after 1 June 2000 will also aggravate the problem of unequal pay for equal work. The labour disputes between civil servants and the Government in the 1980s should serve to remind us that if the problem cannot be solved early, it will become a mine which will cause increasing dangers and destruction as time passes.

Recently, the staff side of the Water Supplies Department has been vigorously opposing the Government's plan to introduce Public Private Partnership in the operation of the Sha Tin Water Treatment Works and the water supplies facilities in some areas. The incident highlights another question: Is the Government's downsizing target sensible? The Government expects that the civil service establishment can be downsized to 165 000 this year. This means that there must be a further curtailment of 5 000 staff in the next financial year. However, it must be realized that the success in substantially downsizing the civil service establishment over the past few years has been mainly attributable to many departments' mergers and reorganization following long years of planning and arrangements, which in turn paved the way for the voluntary retirement schemes. But the number of civil servants participating in the second voluntary retirement scheme last year already failed to attain the expected level. And, at present, we are not aware of any further proposals from the Government on mergers and reorganization, nor can we notice any grades with surplus manpower. That being the case, if any unreasonable size of establishment is set down as the target, and if this target cannot be achieved, what measures will the Government take? The introduction of Public Private Partnership in the operation of the Sha Tin Water Treatment Works and other water supplies facilities will affect the job security of 800 employees. If the safe drinking of potable water is to be sacrificed for the sake of attaining the downsizing target, we will surely refuse to give our approval.

I understand that the Government is hard-pressed by the fiscal deficit. But it must realize that the full protection of government employees' legitimate rights is the one and only way of maintaining the stability of the Civil Service. With these remarks, I support the original motion and the amendment.

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

MR LEE CHEUK-YAN (in Cantonese): Madam President, in many recent disputes, as far as I can remember, the Government and TUNG Chee-hwa frequently said that there must not be too many arguments and all sides must accord priority to economic development and employment.

Today, I really wish to discuss the issue of employment with the Government. Have they been able to make any achievement in this respect? Frankly speaking, over the past few years, the Government as a whole has been burying its head deep in the sand, trying to evade all the employment-related problems of civil servants and the public at large.

We initially hoped that the employment situation in society could stop deteriorating. But the current policy of the Government has deprived a group of people of the security they used to enjoy. This group of people can be further divided into two types. Civil servants belong to the first type. They are affected by the voluntary retirement schemes, and the Government has been exerting increasing pressure, trying to curtail the establishment all the way down to 160 000 employees. This alone can already create panic in the entire Civil Service. The other type of people comprises all the employees of welfare agencies and universities. The introduction of lump sum grants have put their salaries and various benefits at great risks, and they just do not know how much of their salaries will be lashed in the contracts offered to them this year. The staff of The Chinese University of Hong Kong, for example, will receive a cut of as much as 12%. All this has been caused fundamentally by the Government's policy, because the introduction of lump sum grants has led to a "big earthquake" within the universities and welfare agencies. So, when it comes to employment, how can the Government talk about any achievement? What it has done so far is just to turn stability into instability. How can it do something like this? Why is it impossible to really stop the problem of employment, the greatest concern of Hong Kong people, from deteriorating?

Since the motion today involves the civil service establishment, I would like to ask Secretary Joseph WONG, "Does the term 'establishment' still mean anything to the Civil Service?" As far as I know, the policy priority now is to reduce the establishment to 160 000 people. How? By outsourcing. As also pointed out by Mr TAM Yiu-chung just now, the outsourcing programme of the Sha Tin Water Treatment Works has rocked the "rice bowls" of the 800 employees. Outsourcing cannot free the Government of any payment. After outsourcing, it must still pay, only that all the benefits are thus funnelled directly to the consortia, enabling them to reap profits. But then, those who used to

enjoy job security, the civil servants concerned, are now plunged into panic for fear of losing their "rice bowls". What advantages can there be? Who will get all the benefits? Nobody but the consortia. What is the point of outsourcing? Nothing but the attainment of the rigid target. The rigid target is precisely what I oppose most strongly. Are there any justifications for the Government's avowed target of scaling down the establishment to 160 000 in 2006-07? The Government has ignored the needs of society, has ignored the fact that economic activities and economic restructuring will lead to an increasing number of social problems. The Government has ignored all these problems, and sticking to the rigid target, it has avowed that the civil service establishment must be scaled down to 160 000 in 2006-07. But is this an appropriate target?

Therefore, all in all, we can see that the forced scaling down of the civil service establishment to 160 000 will lead to different types of problems. The first problem, the problem I raised with the Secretary just now, concerns whether or not the term "establishment" still means anything to the Civil Service. What is the current situation? The situation now is that all departments included in the voluntary retirement scheme are not permitted to recruit new staff. What does this mean? This means that no new staff can be recruited even when there is natural wastage. The Secretary may of course say that the departments concerned may apply for permission. But as we all know, the inclusion of a department in the voluntary retirement scheme actually means that there are sinecures in the department. And, when there are sinecures, the department should not recruit any new staff. As a result, more than 250 grades and government departments are not permitted to recruit any new staff.

This has, however, led to an awkward situation. I have mentioned that to the Secretary, and he can see my point. I am talking about a "top-heavy" situation. By this, I mean that although government departments are not permitted to recruit new staff, internal promotion is still permitted. As a result, whenever there is natural wastage in the higher echelons, there will be promotion — I do not oppose promotion, and I must make this very clear here. Please do not get me wrong and criticize me for opposing promotion later on. What I am actually saying is that we should not adopt a policy of permitting promotion but forbidding recruitment, for it is very unfair. Decisions on the establishment of a grade should be made in the light of its overall establishment. If the establishment of the grade is not large, then when there is natural wastage, new staff should be recruited for replenishment. And, when there is any need to scale down the establishment of senior ranks such as those of Assistant Directors, actions should be taken. However, the Government has forgotten all

about establishment. This will lead to the problem I have raised, the problem of not recruiting any new staff despite such a need. Front-line civil servants of departments are thus kept extremely busy. To avoid this, the employment of contract civil servants to fill the vacancies may be considered as an alternative.

The Secretary is also aware that I have been criticizing the Government for trying to deceive itself and others. But still I must point out that although the Government claims that there are just 160 000 or so civil servants, it is in fact employing 16 000 non-civil service contract workers. Even if the 4 000 posts created for the poor are deducted, there are still 12 000 non-civil service contract workers. This, together with the rough figure of 160 000, should add up to some 170 000. These 12 000 non-civil service contract workers are offered lower salaries though their jobs are no different from those of civil servants in nature. What is so absurd is that in one single department, there may be four types of employees. The first type comprises civil servants on pensionable establishment; the second non-civil service contract staff; the third workers of outsourced services; and, the last those employed through head-hunters or personnel consultants. All these four types of employees have to work together, doing the same jobs but earning different salaries, for they are employed on different terms and conditions. That being the case, how can there be any morale? I hope that the Government can stop taking advantage of non-civil service contract staff. If they are really performing the tasks of civil servants, why is it impossible to turn them into civil servants? There is nothing wrong with this; are they not implementing the "3+3" system? Why is it impossible to turn them into civil servants? Therefore, I hope that the Secretary for the Civil Service can actively review the overall civil service policy.

Lastly, I wish to say a few words to Secretary Frederick MA. In the Question Time today, the Secretary promised me to do one thing, so a few months later, he must consult the departments concerned. There should be no excuse for further non-intervention because public money is involved and he should have the power to check whether the guidelines of the Government have been complied with. If the Secretary does not do this, I shall have to do it myself. Thank you, Madam President.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): Mr LEUNG Fu-wah, you may now speak on Mr Andrew CHENG's amendment. You have up to five minutes.

MR LEUNG FU-WAH (in Cantonese): Madam President, Mr Andrew CHENG has proposed an amendment to my motion, adding "and to extend it to the outsourced services contracts of public organizations and public corporations" to its point (e).

I have listened attentively to Mr Andrew CHENG's remarks. A good part of his speech was on his concern about the wages, benefits and rights of workers employed on outsourced government services. And, when talking about public organizations, he mentioned grass-roots workers in particular. I agree with him on these points. However, since he did not say anything about the definitions of public organizations and public corporations, I am a bit disappointed. It is a bit easier to grasp the meaning of public organizations, but when it comes to public corporations, should those commercial organizations wholly-owned by the Government or those with a greater extent of government participation be regarded as public corporations as well? Can the Government include these commercial organizations in the scope of the amendment? I am not quite sure. I of course will not oppose Mr Andrew CHENG's amendment, only that I am a bit disappointed because he has not explained the specific meaning of the amendment proposed by him.

Thank you, Madam President.

SECRETARY FOR THE CIVIL SERVICE (in Cantonese): Madam President, the motion moved by Mr LEUNG Fu-wah today and the views put forward by Members just now have fully shown that the Legislative Council attaches great importance and gives much support to the civil service team. For this I extend my heartfelt thanks to all Members.

I would like to explain the government policy with respect to the employment of civil servants and non-civil service contract (NCSC) staff. Later the Secretary for Financial Services and the Treasury will speak on the employment of staff of outsourced government services by contractors as well as the employment of the staff of subvented organizations.

The Civil Service has always been an important cornerstone in the governance of Hong Kong and civil servants are committed to working for the stability and prosperity of the Hong Kong society. Ever since the reunification, and especially whenever we are confronted with great challenges or difficulties, such as resisting the Asian financial turmoil, SARS and the avian flu, my colleagues in the Civil Service have worked with professionalism and determination to join hands with the public to overcome the difficulties.

Our policy with respect to the civil servants in SAR is to maintain a clean and effective Civil Service which strives for excellence at all times. When devising policies on the civil servants, the Civil Service Bureau is guided by two major principles, first, to retain and give full play to the merits of the civil service system, including features like permanence, professionalism, political neutrality and cleanliness; second, to enable the Civil Service to advance with the times, adjust itself to the changes on the political, economic and social fronts and to answer the expectations of the people.

The remuneration policy with respect to civil servants is to offer sufficient salary incentive to retain and encourage people of the right calibre to render their service to the public in an efficient manner. As the pay and benefits of civil servants come from public resources, we must ensure that such a system of civil service pay and benefits is recognized by the civil servants and the public alike as a broadly reasonable system. So with respect to the determination of civil service pay, the principle which we uphold is to make it broadly in line with the private sector and in devising policies on fringe benefits, our goal is to ensure that these terms of employment are in line with the prevailing conditions.

As Mr LEUNG Fu-wah has said, the SAR Government is the largest employer in Hong Kong and it has a responsibility to set an example as a good employer. When we are to devise any policy regarding civil service appointment and remuneration, we will adhere to the principle of being reasonable, sensible and lawful. The rights and benefits enjoyed by civil servants are protected by the Basic Law, government policies and their employment contracts.

In order that the Civil Service can advance with the times, since 1999 we have implemented reforms in a gradual manner. We have formulated more flexible and timely employment arrangements for new entrants to the Civil

Service, including the offer of mandatory provident fund benefits to replace pensions and the adjustment of entry pay and fringe benefits according to the market situation, and so on. Despite these efforts, we remain convinced that we should maintain a stable and efficient Civil Service and we abide by our pledge to be a good employer. That is why the rights and benefits of all newly appointed civil servants are safeguarded by current policies and contracts of appointment.

In order to ensure that the Civil Service will constantly excel itself and advance with the times, we impose stringent control over the civil service establishment. In this regard, the Chief Executive has set a clear objective in his policy address of 2003 that he hopes to reduce the size of the civil service establishment to 160 000 posts by 2006-07.

Through natural wastage and a series of initiatives such as the launching of two rounds of voluntary retirement schemes, a complete suspension in the appointment of new civil servants, a revamp of the institutional framework and the flow of work, the civil service establishment has been brought from a peak of 198 000 posts at the beginning of 2000 down to 170 000 presently. The rate of reduction is as much as 14%. Even if the some 10 000 employees on NCSC as mentioned by Mr LEE Cheuk-yan earlier are included, the number would still represent a substantial reduction from the original. We estimate that by the end of March 2005, the size of the civil service establishment would be brought further down to 166 500 posts. Here I would like to add one point in response to what Mr CHEUNG Man-kwong has said in that the some 10 000 employees on the Model Scale I Pay Scale, though employed on month-to-month terms, are in fact employed on a permanent basis.

In the process of streamlining the establishment, we ask the heads of departments to review all the posts and their functions with a view to looking for room to economize. I wish to emphasize that we do not adopt an across-the-board approach to cut the size of staff in each department. We will make different arrangements in accordance with the actual needs of the departments. For example, some departments like the Immigration Department have not reduced but increased their staff. The posts to be reduced would be distributed in all ranks and grades, not concentrating on the basic ranks as reported. In 2003, the directorate grade posts were reduced by 2.7% and that was greater than the 2.5% reduction among the non-directorate grades.

I would like to respond to the point raised by Mr LEE Cheuk-yan on a complete halt in civil service recruitment. There is a mechanism which allows us to consider the situation of individual grades to determine if there is any need to relax such a restriction. In fact, this restriction is lifted in certain departments and they are allowed to recruit civil servants.

In future we will continue to oversee the situation in the establishment through the manpower plans submitted by the departments and bureaux on a regular basis. We will solve the problem of an oversupply of manpower in certain grades through the internal deployment mechanism and other voluntary measures.

I understand that some Members are concerned about the employment of non-civil service contract staff. In the middle of April this year, I already briefed the Panel on Public Service on the developments in this aspect.

In 1999 we launched the NCSC employees scheme to give greater flexibility to the heads of departments to deploy their resources. The departments are thus enabled to employ staff on contract terms and outside the civil service establishment to meet their short-term or non-full time service needs, or those under review. We have provided detailed guidelines to heads of departments on the suggested scope of employment, terms of employment and pay and benefits applicable to NCSC staff and all departments are required to comply with these guidelines.

Heads of departments may appoint NCSC staff in accordance with the actual needs and staffing arrangements in their departments. However, the staff will be appointed on three-year contracts. After the expiry of the contract, the head of department concerned may decide whether or not the contract for that particular staff member is to be renewed, subject to the performance of the staff, the need for continued service and staffing arrangements in the department. I understand that some Members hope that the Government can offer these contract staff appointment on permanent terms like the civil servants, but I have to point out that civil servants and NCSC staff are two distinctive types of employees. The former is employed on a permanent basis while the latter does not have the same protection enjoyed by the former. Of course, the department concerned will consider the actual situation and decide whether or not the NCSC staff will continue to be employed when his contract expires.

Regardless of the employment of civil servants or NCSC staff, the Government will on the one hand assume the role of a good employer so that the employees will devote their efforts to providing quality services to the public, while on the other ensure that public money is well spent. I believe both demands are well looked after in the current policies and arrangements. This is also what I think to be the expectations which the Legislative Council and the public would hold for us.

Thank you, Madam President.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, just now the Secretary for the Civil Service has spoken on the protection of the rights and benefits of government employees. Now I would like to talk about outsourced government services and related matters in response to the motion moved by Mr LEUNG Fu-wah and the amendment moved by Mr Andrew CHENG.

On the minimum wage standards for non-skilled workers involved in outsourced government services contracts, the Government promulgated on 6 May this year, not 16 May as referred to by Mr LEUNG Fu-wah, a mandatory requirement on assessment of tender documents. I would also like to point out that this is a mandatory requirement, not a set of guidelines as referred to by Ms LI Fung-ying. Under this requirement, when bidders submit tenders for the award of a service contract which employs mainly non-skilled workers, it is suggested that the wage rate for the non-skilled workers they need to employ for that particular service shall not be lower than the average monthly wages of similar trades based on the number of working days in a month and the number of working hours in a day as published in the Census and Statistics Department's Quarterly Report of Wages and Payroll Statistics at the time of tender invitation. Otherwise, the tender proposal will not be considered.

The controlling officer should specify in the invitation to tender document such a mandatory requirement and wage rate. Persons submitting tenders have to state in their tender document a wage level for the non-skilled workers they are to hire which cannot be lower than the specified wage rate. The proposal is binding. The controlling officer must specify in the invitation to tender document that the contractor must sign a written employment contract with his employees, with the exception of employees hired temporarily to fill up vacancies of employees on leave of absence. The contract shall specify terms of

employment including the salary. The controlling officer should also ensure that the wage rate offered by the contractors to the non-skilled workers they hire shall not be lower than the wage rate pledged by the contractor who has been awarded the tender. All the above stipulations on wages are also applicable to the service contracts entered into using the right of direct purchase.

If the services contract is awarded after undergoing a tender process, then the controlling officer should specify in the tender document the penalties provisions should the contractor fail to fulfil his contractual obligations. A points deduction system should be enforced. Under this points deduction system, if a contractor is found to have failed to discharge his obligations with respect to wages, working hours and other obligations specified in the written contract he has entered into with the employees, the controlling officer may issue a notice of dereliction of duty to the contractor concerned. Upon each instance of the issuance of such notice, the contractor will be deducted one point. When the contractor submits a tender and bid for a new contract, if he is found to have been deducted six points by one department or more during the one year period prior to the close of tender, the tender proposal submitted by him will not be considered. In addition, in cases of serious breaches of contract terms, the controlling officer may consider termination of the contract with the contractor concerned.

Ms LI Fung-ying pointed out that the system is too generous to the contractors. I would like to point out that the penalty upon the deduction of six points was determined in consultation with the departments concerned. If the contractor maintains a number of services contracts with the Government, then irrespective of against which one of the contracts deduction has been made, the total of six points still counts. So this standard cannot be said to be too lenient. Having said that, we will also review this in due course.

On the question of regulating contractors, under the existing arrangement, the controlling officer shall devise a regulatory regime to ensure that the contractors will honour the pledge they made in submitting the tender with respect to the wages of non-skilled workers. The controlling officer may, for example, require the contractor to display at the place of work for these workers, information on the wages which the contractor has promised to offer to these non-skilled workers. This will enable the workers to know their wages. The controlling officer may also require contractors to pay the workers their wages by autopay or cheques, inspect records of wages and working days on a regular basis, interview the non-skilled workers and handle their complaints about wages

at once. If the controlling officer has reasons to suspect that the contractor or sub-contractor has breached any stipulations in the Employment Ordinance, the information may be referred to the Labour Department for investigation. The controlling officer may also ask the Labour Department to mediate in any dispute between the contractor and the employees in respect of terms in the employment contract.

With respect to complaints on alleged contravention of the Employment Ordinance, the labour inspectors from the Labour Department will meet the employees and the contractors respectively to gain an understanding of the complaint. The inspectors will also carry out blitz checks. For cases where there is sufficient evidence proving that the contractors have contravened the provisions in the Employment Ordinance, the contractors concerned will be prosecuted. The Labour Department will also inform the outsourcing departments concerned of the cases and urge them to further monitor their contractors.

The Government will enforce to the letter these mandatory requirements on the wages of non-skilled workers. By means of the above measures, it will monitor the contractors closely so that they will honour their pledge made with regard to the wages of the non-skilled workers, that the wages of these workers shall not be lower than the average wages of similar trades published in the Census and Statistics Department's Quarterly Report of Wages and Payroll Statistics.

As for the staff of subvented organizations, since they are not employees of the Government, nor are they staff of outsourced government services, the Government cannot mandate any requirements on their terms of employment through administrative measures. The amendment moved by Mr Andrew CHENG suggests extending the requirement for minimum wage standard to the outsourced services contracts of public organizations and public corporations. The scope covered by public organizations inclusive of public corporations is very wide indeed. For public organizations which are statutory bodies, the number has exceeded 200. The work of these public organizations would fall into the policy portfolios of various Policy Bureaux. These public organizations also have their own functions and responsibilities, as well as their own modes of operation which are governed by laws. Some of these public organizations are accountable to a board of directors and they must operate according to commercial principles. According to the existing government policy, under

general circumstances, these public organizations can determine their own terms for the outsourcing contracts. We think that this policy will enable these organizations to operate according to their practical needs and conditions. So such a policy should continue. With respect to the protection of the rights and benefits of employees, the Commissioner for Labour would like me to point out that irrespective of the staff of subvented organizations or the staff of outsourced government services in the public organizations and public corporations, they are all protected by the Employment Ordinance like those employees in the private sector. They all enjoy rest days, paid annual leave, maternity protection, severance pay, long service payment and protection against short payment of wages, and so on.

I am grateful to Members for their many valuable views and I will convey them to the respective Policy Bureaux for their consideration.

Thank you, Madam President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the amendment, moved by Mr Andrew CHENG to Mr LEUNG Fu-wah's motion, be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(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 amendment passed.

PRESIDENT (in Cantonese): Mr LEUNG Fu-wah, you may now speak in reply, you have two minutes 30 seconds.

MR LEUNG FU-WAH (in Cantonese): Madam President, I am very grateful to the 10 Members who have spoken on this motion. Members have clearly indicated that they will support the motion. But I still wish to say a few words on Mr Kenneth TING's point that there can be no entirely satisfactory improvement in respect of the problem. I agree with him entirely, but I must add that my motion only asks for wage and income protection instead of any measures to improve income. Mr LAU Ping-cheung referred to the vacuum found in many professional grades. I also agree to his remark. It is true that if the Government stops the recruitment of civil servants across the board, the problem of a vacuum is bound to occur. I have in fact heard such a viewpoint from many civil service unions. I also agree to Mr LEE Cheuk-yan's comment that it is unwise to add instability to the otherwise stable Civil Service. The Government should really consider what specific measures should be implemented in this respect.

I also wish to say a few words in response to Secretary Joseph WONG's opinions. According to him, all the employees whom I refer to as public servants within the scope of my motion enjoy the triple protection of the Basic Law, government policies and the relevant employment contracts. Actually, my motion today focuses mainly on the inadequate protection under these contracts. Besides, it also casts doubts on what is meant by a reasonable level of establishment. The Government has actually put in place another policy under which the recruitment of new staff will be forbidden across the board following the implementation of the voluntary retirement schemes. Some posts even have to be deleted on a permanent basis. I think there is a problem here. The Secretary may of course say that the situation with some specific grades will be reconsidered. But the time connected with such reconsideration should be after the total suspension of civil service recruitment, not after the implementation of the voluntary retirement schemes. Therefore the Government should really consider how it can come up with a scheme that can achieve reasonable savings, while giving assurance to all staff, whether they are staying behind or leaving. Secretary Frederick MA seems so unable to do anything with subvented organizations. But I think that there is still something he can do. I mean, he can actually set down some rules in regard to grass-roots workers because he is responsible for allocating funding to these organizations, and flexibility should be connected with top management staff. I think solutions

to these problems can be worked out. Also, it is unreasonable to cater for long-term service needs by employing staff on short-term contracts.

Thank you, Madam President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Mr LEUNG Fu-wah, as amended by Mr Andrew CHENG, be passed.

PRESIDENT (in Cantonese): 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 as amended passed.

NEXT MEETING

PRESIDENT (in Cantonese): I now adjourn the Council until 2.30 pm on Wednesday, 9 June 2004.

Adjourned accordingly at thirteen minutes to Eleven o'clock.

Appendix 1**REQUEST FOR POST-MEETING AMENDMENTS**

The Secretary for the Environment, Transport and Works requested the following post-meeting amendments in respect of supplementary questions to Question 4

Second last line, second paragraph, page 30 of the Confirmed version

To amend "..... increase the number of conservation sites" as "enhance the conservation of sites with a high ecological value." (Translation)

(Please refer to third last line, first paragraph, page 6398 of this translated version)

Line 2, fifth paragraph, page 31 of the Confirmed version

To amend "and second, we would determine if its ecological value is special" to "and second, we would determine if the value of its habitat is special". (Translation)

(Please refer to lines 2 and 3, third paragraph, page 6400 of this translated version)

Lines 4 and 5, fifth paragraph, page 31 of the Confirmed version

To amend "..... before we can rank all the places in Hong Kong with ecological value systematically" to "..... before we can rank places in Hong Kong with ecological value systematically". (Translation)

(Please refer to lines 6 and 7, third paragraph, page 6400 of this translated version)

Lines 1 and 2, sixth paragraph, page 32 of the Confirmed version

To amend "..... undertake the environmental impact assessment for the entire development project" to "..... undertake an assessment for the entire development project". (Translation)

(Please refer to lines 2 and 3, second paragraph, page 6402 of this translated version)

Appendix 2**REQUEST FOR POST-MEETING AMENDMENTS**

The Secretary for Home Affairs requested the following post-meeting amendment in respect of a supplementary question to Question 5

Lines 5 and 6, fourth paragraph, page 37 of the Confirmed version

To amend ".....wish to add a principle enabling the ratio of female members to be over 30%....." as ".....wish to add a principle enabling the ratio of female members to be over 25%....." (Translation)

(Please refer to lines 7 and 8, first paragraph, page 6409 of this translated version)

Appendix I

WRITTEN ANSWER

Written answer by the Secretary for Financial Services and the Treasury to Mr TAM Yiu-chung's supplementary question to Question 1

As regards wage information on non-skilled workers employed by contractors of public bodies and public organizations, as public bodies and public organizations fall under the policy purview of different Policy Bureaux, we have made an enquiry with Directors of Bureaux. The relevant information is provided for Members' reference.

In addition, we have issued a memorandum to Directors of Bureaux requesting them to inform the public bodies/public corporations under their policy purview of the mandatory requirement on wages for non-skilled workers imposed by the Government on service contracts that rely heavily on the deployment of non-skilled workers, so that the public bodies/public corporations concerned and their Policy Bureaux can decide for themselves whether to follow the Government's practice.

Wage information for non-skilled workers employed by contractors of public bodies
(based on service contracts (excluding construction service) held on 1 June 2004)

<i>Policy Bureau/Offices</i>	<i>Name of public body</i>	<i>Occupation</i>	<i>Average monthly wage</i>	<i>Number of normal hours of work per day</i>	<i>Number of standard working days per month</i>
Chief Secretary for Administration's Office (Administration Wing)	Legal Aid Services Council	Cleaner (General) [○]	\$4,500	8.5	26
	The Duty Lawyer Service	Cleaner (General)*	\$2,050	2	26

[○] The cleaner has performed cleaning duties for only one working hour per day for the Legal Aid Services Council and is responsible for other cleaning duties assigned by the contractor in the remaining working hours.

* The hourly wage of the cleaner is \$39.4, which is higher than the rate of \$23.5 as stated in the relevant Quarterly Report of the Census and Statistics Department.

WRITTEN ANSWER — *Continued*

<i>Policy Bureau/Offices</i>	<i>Name of public body</i>	<i>Occupation</i>	<i>Average monthly wage</i>	<i>Number of normal hours of work per day</i>	<i>Number of standard working days per month</i>
Financial Secretary's Office	Hong Kong Monetary Authority	Cleaner (General)	\$5,000	8	26
		Security Guard	\$10,200	11	26
Commerce, Industry and Technology Bureau	Hong Kong Trade Development Council (Exhibition Services Department)	Booth Materials Cleaner	\$5,000	8	26
		Warehouse Worker	\$8,500	8	26
		Operation Worker	\$9,500	8	26
	Hong Kong Productivity Council	Cleaner (General)	\$4,400 (\$5,030 from 1 July 2004)	8	26
	Hong Kong Science and Technology Parks Corporation	General Cleaner	\$4,200	10	26
		Watchman	\$6,500	12	26
		Employed by another contractor:			
		General Worker	\$5,800	9	26
		Cleaner (General)	\$5,500	9	26
Cleaner (Lavatory)		\$6,000	9	26	
	Watchman/Guard	\$6,900 + \$200 attendance bonus	9	26	

WRITTEN ANSWER — *Continued*

<i>Policy Bureau/Offices</i>	<i>Name of public body</i>	<i>Occupation</i>	<i>Average monthly wage</i>	<i>Number of normal hours of work per day</i>	<i>Number of standard working days per month</i>
Economic Development and Labour Bureau	Airport Authority Hong Kong	Sanitary and similar services:			
		Cleaner (General)	\$5,234	8	26
		Cleaner (Lavatory)	\$5,015	8.5	26
		Miscellaneous Worker (Waste Management)	\$6,930	10.5	26
		Property management:			
		Gardener	\$8,000	8	26
		Garden Supportive Worker	\$7,000	8	26
		Car Park Attendant	\$7,000	8.5	26
		Platform Attendant	\$7,500	9	26
		Hong Kong Tourism Board	Security Guard	\$6,727	11.25
Consumer Council	Cleaner (General)	\$1,500	1.5	26	
Employees Compensation Assistance Fund Board	Cleaner	\$2,000	2	26	

WRITTEN ANSWER — *Continued*

<i>Policy Bureau/Offices</i>	<i>Name of public body</i>	<i>Occupation</i>	<i>Average monthly wage</i>	<i>Number of normal hours of work per day</i>	<i>Number of standard working days per month</i>
Economic Development and Labour Bureau (Cont'd)	Occupational Deafness Compensation Board	Cleaner	\$5,030	8	26
	Occupational Safety and Health Council	General Workers - lettershopping	\$4,800	8	26
		- exhibition set up	\$4,000 to \$6,000	8 to 10	20
		Cleaner (General)	\$5,000	10	26
		Watchman/Guard	\$6,000 to \$6,500	10	26
Education and Manpower Bureau	Clothing Industry Training Authority	Watchman/Guard	\$5,700	12	25
	Construction Industry Training Authority	Guard	\$4,320	8	26
		Canteen General Worker	\$4,850	8	24
	City University of Hong Kong	Cleaner (General)	\$5,000	9	26
		Security Guard	\$7,200	11	26
	Hong Kong Baptist University	Cleaner (General)	\$4,100	9	26
		Security Guard	\$6,000	11	26

WRITTEN ANSWER — Continued

<i>Policy Bureau/Offices</i>	<i>Name of public body</i>	<i>Occupation</i>	<i>Average monthly wage</i>	<i>Number of normal hours of work per day</i>	<i>Number of standard working days per month</i>
Education and Manpower Bureau (Cont'd)	The Hong Kong Institute of Education	Cleaner (Campus)	\$4,900	8	26
		Cleaner (Visitors' Centre)	\$2,400	4.5	22
		Security Guard	\$5,850 to \$6,975	9 to 11	26
		Gardener	\$5,625	8	26
	The Hong Kong Polytechnic University	Cleaner (General)	\$5,763	9	26
		Security Guard	\$5,525	7.5	26
		Gardener	\$6,000	8	26
	The Hong Kong University of Science and Technology	Cleaner (General)	\$4,500	9	26
		Watchman/Guard	\$6,080	11	26
	Lingnan University	Cleaner (General)	\$4,000	9	26
		Security Guard	\$5,800	11	26
	The Open University of Hong Kong	Cleaner (General)	\$4,660	9	26
		Cleaner (Lavatory)	\$4,660	9	26

WRITTEN ANSWER — Continued

<i>Policy Bureau/Offices</i>	<i>Name of public body</i>	<i>Occupation</i>	<i>Average monthly wage</i>	<i>Number of normal hours of work per day</i>	<i>Number of standard working days per month</i>
Education and Manpower Bureau (Cont'd)	The Open University of Hong Kong (Cont'd)	Security Guard	\$6,690 to \$8,083	11	26
		Gardener	\$5,700	8	26
	University of Hong Kong	Cleaner (General)	\$5,000 (minimum)	8 to 9	26
		Security Guard	\$6,400	8	26
	Hong Kong Examinations and Assessment Authority	Guard	\$6,249	12	26
	Vocational Training Council	Cleaner (General)	\$4,996	8	26
Guard		\$5,745	11	26	
Environment, Transport and Works Bureau	Kowloon-Canton Railway Corporation	Cleaner (General)	\$4,373.5	8.7	25.7
		Cleaner (Lavatory)	\$4,566.5	8.5	25.5
Financial Services and the Treasury Bureau	Securities and Futures Commission	Cleaner (General)	\$6,670	9 (excluding one hour for lunch)	26

WRITTEN ANSWER — *Continued*

<i>Policy Bureau/Offices</i>	<i>Name of public body</i>	<i>Occupation</i>	<i>Average monthly wage</i>	<i>Number of normal hours of work per day</i>	<i>Number of standard working days per month</i>
Health, Welfare and Food Bureau	Hospital Authority	Security Guard	\$5,460	9.5	26
			\$5,800 [#]	11	26
			\$6,000	11	26
			\$6,100	11	26
			\$6,300	11	26
			\$6,400	11	26
			\$6,480 [#]	11	26
			\$6,500 [△]	11	26
			\$6,700 [#]	11	26
			\$6,744	11	26
			\$6,770	11	26
			\$6,923	11	26
			Laundry Worker	\$5,050	8.5
		\$5,100		9	26
		\$5,200		8.5	26
		\$5,500		9	26
		\$5,900		8	26
		\$6,300 [△]		9	26
		Domestic Worker	\$3,200	3.5 (Part-time staff)	26
			\$4,240	8	26
			\$4,650	9	26
			\$4,900	8	26
			\$5,000 [□]	8	26
			\$5,100 [#]	8	26
			\$5,152	7	26
			\$5,200 [□]	8	26
			\$5,250	8	26
\$6,600	11		26		

[#] Two contracts involved in each case.

[△] Three contracts involved.

[□] Four contracts involved in each case.

WRITTEN ANSWER — Continued

<i>Policy Bureau/Offices</i>	<i>Name of public body</i>	<i>Occupation</i>	<i>Average monthly wage</i>	<i>Number of normal hours of work per day</i>	<i>Number of standard working days per month</i>
Health, Welfare and Food Bureau (Cont'd)	Hospital Authority (Cont'd)	Pest Control	\$5,700	8	24
		Worker	\$7,265.5	9	26
		Gardener	\$5,500	8	26
			\$6,000	7	26
			\$7,000	8	26
	Hong Kong Academy of Medicine	Cleaner (General)	\$6,000	9	26
		Building Management Staff (for example, security staff)	\$9,615	9 to 11	26
Home Affairs Bureau	Board of Management of the Chinese Permanent Cemeteries	Junk Bay Cemetery			
		Security Guard	\$6,743	11	26
		Cape Collinson Cemetery			
	Security Guard	\$5,520	8	26	
	Equal Opportunities Commission	Building contract cleaner:			
		Cleaner (General)	\$5,000	9	26
Part-time Cleaner		\$2,300	4	26	

WRITTEN ANSWER — *Continued*

<i>Policy Bureau/Offices</i>	<i>Name of public body</i>	<i>Occupation</i>	<i>Average monthly wage</i>	<i>Number of normal hours of work per day</i>	<i>Number of standard working days per month</i>	
Home Affairs Bureau (Cont'd)	Equal Opportunities Commission (Cont'd)	Telephone cleaning service:				
		Cleaner (General)	\$5,000	8	21	
		Carpet cleaning:				
		Cleaner (General)	\$8,500	9	26	
		Part-time Cleaner	\$28 to \$38 per hour	NA	NA	
	The Hong Kong Academy for Performing Arts	Cleaner (General)	\$5,300	9	26	
		Cleaner (General) (Part-time)	\$2,900	4.5	26	
		Cleaner (Lavatory)	\$5,300	9	26	
		Guard	\$7,320	11	26	
				\$6,000	7.5	26
		Gardener	\$6,150	8	26	
	Hong Kong Arts Centre	Cleaner (General)	\$6,218	10	26	
		Building Attendant	\$7,914	9	26	
	Hong Kong Arts Development Council	Cleaner (General) (Part-time)	\$1,700	2	26	
Cleaner (Lavatory)		\$5,500	9	26		

WRITTEN ANSWER — *Continued*

<i>Policy Bureau/Offices</i>	<i>Name of public body</i>	<i>Occupation</i>	<i>Average monthly wage</i>	<i>Number of normal hours of work per day</i>	<i>Number of standard working days per month</i>
Home Affairs Bureau (Cont'd)	Ocean Park Hong Kong	Gardening Attendant	\$7,800	8	26
		Food Attendant	\$4,667 (plus meal benefit)	8	26
		General Worker	\$4,576	8	26
		Cleaner (General)	\$4,680	8	26
		Cleaner (Lavatory)	\$4,923	8	26
	Office of the Privacy Commissioner for Personal Data	Security Guard	\$5,350	8.5	26
		Cleaner (General office) (Approximately one hour daily for general cleaning, garbage removal, and so on)	\$5,000	10	26
	Islands District Council	Part-time Cleaner (General)	\$540	8	1
	Housing, Planning and Lands Bureau	Hong Kong Housing Authority (Housing Department)	Cleaner (for cleansing services contracts)	\$2,450 to \$7,274	7 to 9
Security Guard (for security service contract)			\$4,965 to \$5,642	8	26

WRITTEN ANSWER — Continued

<i>Policy Bureau/Offices</i>	<i>Name of public body</i>	<i>Occupation</i>	<i>Average monthly wage</i>	<i>Number of normal hours of work per day</i>	<i>Number of standard working days per month</i>
Housing, Planning and Lands Bureau (Cont'd)	Hong Kong Housing Authority (Housing Department) (Cont'd)	Cleaner (for property service contract)	\$3,240 to \$9,150	7 to 9	26
		Security Guard (for property service contract)	\$4,100 to \$7,310	8	26
	Urban Renewal Authority	Security Guard	\$7,575	12	26
		Warden	\$6,100	12	26
		Full-time Cleaner	\$4,500	9	26
	Part-time Cleaner	\$27 to \$29 per hour	2.5	22	

Appendix II**WRITTEN ANSWER****Written answer by the Secretary for Housing, Planning and Lands to Ms Audrey EU's supplementary question to Question 3**

As regards whether the Government had, prior to 10 February 2003 (the date when the main contract of Central Reclamation Phase III (CRIII) was awarded), received notification from any organization of the lodging of any judicial review on the CRIII, the main contract of the CRIII works was awarded on 10 February 2003 and the works commenced on 28 February 2003. On 27 February 2003, the Town Planning Board (TPB) received a notification from the Society for Protection of the Harbour Limited (SPH) that the SPH had applied to the High Court for judicial review over the draft Wan Chai North Outline Zoning Plan (OZP). The application for judicial review was targeted at the decisions made by the TPB on the draft Wan Chai North OZP and had nothing to do with the CRIII works. On 28 February 2003, the High Court granted leave to the SPH's application for judicial review.

It was on 25 September 2003 that the SPH applied to the High Court for judicial review and interim injunction against the CRIII works — Until then, the Government had received no notification from any organization claiming that judicial review would be lodged on the CRIII.