

# **OFFICIAL RECORD OF PROCEEDINGS**

**Wednesday, 27 October 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 JAMES TIEN PEI-CHUN, G.B.S., J.P.

THE HONOURABLE ALBERT HO CHUN-YAN

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

THE HONOURABLE LEE CHEUK-YAN

THE HONOURABLE MARTIN LEE CHU-MING, S.C., 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 JAMES TO KUN-SUN

THE HONOURABLE CHEUNG MAN-KWONG

THE HONOURABLE CHAN YUEN-HAN, J.P.

THE HONOURABLE BERNARD CHAN, J.P.

THE HONOURABLE CHAN KAM-LAM, J.P.

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

THE HONOURABLE LEUNG YIU-CHUNG

THE HONOURABLE SIN CHUNG-KAI, J.P.

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

THE HONOURABLE WONG YUNG-KAN, J.P.

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

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

DR THE HONOURABLE YEUNG SUM

THE HONOURABLE LAU KONG-WAH, J.P.

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

THE HONOURABLE MIRIAM LAU KIN-YEE, G.B.S., J.P.

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

THE HONOURABLE CHOY SO-YUK

THE HONOURABLE ANDREW CHENG KAR-FOO

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

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

THE HONOURABLE LI FUNG-YING, B.B.S., J.P.

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

THE HONOURABLE ALBERT CHAN WAI-YIP

THE HONOURABLE FREDERICK FUNG KIN-KEE, J.P.

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

THE HONOURABLE VINCENT FANG KANG, J.P.

THE HONOURABLE WONG KWOK-HING, M.H.

THE HONOURABLE LEE WING-TAT

THE HONOURABLE LI KWOK-YING, M.H.

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

THE HONOURABLE JEFFREY LAM KIN-FUNG, S.B.S., J.P.

THE HONOURABLE MA LIK, J.P.

THE HONOURABLE ANDREW LEUNG KWAN-YUEN, S.B.S., J.P.

THE HONOURABLE ALAN LEONG KAH-KIT, S.C.

THE HONOURABLE LEUNG KWOK-HUNG

DR THE HONOURABLE KWOK KA-KI

DR THE HONOURABLE FERNANDO CHEUNG CHIU-HUNG

THE HONOURABLE CHEUNG HOK-MING, S.B.S., J.P.

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

THE HONOURABLE RONNY TONG KA-WAH, S.C.

THE HONOURABLE CHIM PUI-CHUNG

THE HONOURABLE PATRICK LAU SAU-SHING, S.B.S., J.P.

THE HONOURABLE ALBERT JINGHAN CHENG

THE HONOURABLE KWONG CHI-KIN

THE HONOURABLE TAM HEUNG-MAN

**MEMBERS ABSENT:**

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

THE HONOURABLE LAU CHIN-SHEK, J.P.

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

DR THE HONOURABLE JOSEPH LEE KOK-LONG

**PUBLIC OFFICERS ATTENDING:**

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

THE CHIEF SECRETARY FOR ADMINISTRATION, AND  
SECRETARY FOR HOUSING, PLANNING AND LANDS

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

THE SECRETARY FOR JUSTICE

PROF THE HONOURABLE ARTHUR LI KWOK-CHEUNG, G.B.S., J.P.

SECRETARY FOR EDUCATION AND MANPOWER

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

DR THE HONOURABLE SARAH LIAO SAU-TUNG, J.P.

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

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

DR THE HONOURABLE YORK CHOW YAT-NGOK, S.B.S., J.P.  
SECRETARY FOR HEALTH, WELFARE AND FOOD

**CLERKS IN ATTENDANCE:**

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

MRS JUSTINA LAM CHENG BO-LING, ASSISTANT SECRETARY  
GENERAL

MR RAY CHAN YUM-MOU, ASSISTANT SECRETARY GENERAL

## TABLING OF PAPERS

The following papers were laid on the table pursuant to Rule 21(2) of the Rules of Procedure:

Subsidiary Legislation/Instruments	<i>L.N. No.</i>
Specification of Arrangements (Government of the Macao Special Administrative Region) (Avoidance of Double Taxation on Income from Aircraft Operation) Order.....	162/2004
Statute Law (Miscellaneous Provisions) Ordinance 2002 (23 of 2002) (Commencement) Notice 2004 .....	163/2004
Merchant Shipping (Prevention and Control of Pollution) (Specification of Substances) (Amendment) Order 2004 (L.N. 128 of 2004) (Commencement) Notice 2004 .....	164/2004

### Other Papers

- No. 18 — Traffic Accident Victims Assistance Fund Annual Report for the year from 1 April 2003 to 31 March 2004
- No. 19 — Office of the Telecommunications Authority Trading Fund Report 2003/04
- No. 20 — Hongkong Post Annual Report 2003/04

## ORAL ANSWERS TO QUESTIONS

**PRESIDENT** (in Cantonese): Questions. According to House Rules, question time normally does not exceed one and a half hours, that is, each question is allocated about 15 minutes on average. After a Member has asked a main

question, the Member who asks a question has priority to ask the first supplementary. Other Members who wish to ask supplementary questions will please indicate their wish by pressing the "Request-to-speak" button and wait for his/her turn.

A supplementary should only contain one question and should be as concise as possible so that more supplementaries may be asked by Members. Members should not make statements when asking supplementaries, as this contravenes Rule 26(5) of the Rules of Procedure.

**PRESIDENT** (in Cantonese): First question.

**Expatriate Teacher Insulted Chinese by Making Racially Discriminatory Remarks**

1. **MISS CHOY SO-YUK** (in Cantonese): *Madam President, it has been reported that an expatriate teacher in an aided secondary school insulted the Chinese by making racially discriminatory remarks. In this connection, will the Government inform this Council whether it:*

- (a) *has followed up the incident; if it has, of the details; if not, the reasons for that; and*
- (b) *will issue warnings to or impose other penalties on the teacher where he is found to have committed acts of racial discrimination?*

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

- (a) With regard to the incident mentioned in the question raised by Miss CHOY So-yuk, we have looked through the reports in a number of newspapers and found that what actually happened is unclear. According to the reports in a number of Chinese and English newspapers on 16 September this year, a taxi driver picked up an expatriate teacher at the University KCRC station. Not only did this teacher refuse to pay the taxi fare, but he also insulted the driver in English by calling him a "Chinese pig" and "stupid". However,

in their follow-up reports on 17 September, several newspapers said that the expatriate teacher denied having used abusive language. He claimed that as the taxi driver had called him a "crazy man" in Chinese, he put down \$20 on the taxi front seat and quickly got out of the taxi.

We have made an enquiry with the Ma On Shan Police Station of Sha Tin District, which investigated the incident. The reply we received is as follows:

As regards the allegation that racially discriminatory remarks had been made, the police are not going to take any follow-up action since at present there is no legislation in Hong Kong to prohibit racially discriminatory acts between private individuals. As for whether the expatriate teacher has committed the offence of "making off without payment", the police are still investigating.

As a teacher was involved, the Education and Manpower Bureau has liaised with the school in which the expatriate teacher works after the incident. Its enquiries have revealed no evidence indicating that the teacher concerned has shown any racial biases in school, and no conclusive evidence substantiating that he has made deliberate racial remarks in the incident involved.

Regarding the enforcement of anti-discrimination laws, the Equal Opportunities Commission is only responsible for implementing three existing anti-discrimination ordinances, namely the Sex Discrimination Ordinance (Cap. 480), Disability Discrimination Ordinance (Cap. 487) and Family Status Discrimination Ordinance (Cap. 527). Until the legislation against racial discrimination is enacted, complaints about racial discrimination are handled by the Race Relations Unit of the Home Affairs Bureau. The Unit has in place an enquiry and complaint hotline on racial discrimination, but has not taken any follow-up action relating to the incident as no complaint has been received.

- (b) As mentioned above, since there is no evidence indicating that the expatriate teacher concerned has shown any racial biases, we will not issue warnings to or impose other penalties on him. Because of

the incident, the school in which the teacher works has already counselled him on the importance of respectful and tolerant behaviour in school and community life.

I note that Miss CHOY So-yuk has enquired whether we will issue warnings to or impose other penalties on the teacher if he is found to have committed acts of racial discrimination. I believe Miss CHOY So-yuk is concerned about whether acts of racial discrimination are sanctioned.

At present, the Hong Kong Bill of Rights Ordinance (Cap. 383) incorporates into Hong Kong law the provisions of the International Covenant on Civil and Political Rights as applied to Hong Kong. The Hong Kong Bill of Rights proscribes all forms of discrimination (including racial discrimination) in the public sector. However, as section 7 of the Ordinance restricts the application of the Hong Kong Bills of Rights to the Government and public authorities, we do not yet have specific legislation against racial discrimination which applies to actions between private parties or individuals.

To remedy this deficiency in legislation and respond to calls locally and internationally (including those from the United Nations Committee on the Elimination of All Forms of Racial Discrimination), the Hong Kong Government has decided in principle to legislate against racial discrimination. In this connection, the Home Affairs Bureau has published a consultation paper to canvass public views on the legislative proposals. The consultation is for a period of three and a half months and will last until the end of this year. I would like to take this opportunity to call on Members of the Legislative Council and the public to express their views so as to enable us to refine our legislative proposals.

**MISS CHOY SO-YUK** (in Cantonese): *Madam President, in order to assist expatriate teachers to integrate into society more easily, will the Government consider publishing some pamphlets with specific information on the usual ways of life of Hong Kong people, including their taboos, so as to minimize contradictions and conflicts arising from different cultural backgrounds?*

**PRESIDENT** (in Cantonese): Which Secretary will answer the question? Secretary for Education and Manpower.

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, there are nearly 800 expatriate teachers in Hong Kong teaching the subject of English in primary and secondary schools. They have already formed an organization before coming to Hong Kong, and we would also provide them with guidelines on the different aspects of Hong Kong when they join the schools in which they will be teaching.

**MR CHEUNG MAN-KWONG** (in Cantonese): *Madam President, Miss CHOY So-yuk raised the question on the basis of press reports, which said that an expatriate teacher had insulted a taxi driver by making racially discriminatory remarks. However, from the Government's reply today, it is noted that so far there is no evidence to substantiate this so-called racial discrimination case. Can the Government inform this Council whether the premise of Miss CHOY So-yuk's question, that is, that expatriate teacher is racially discriminatory, is a premature conclusion; and whether this is fair to that expatriate English teacher?*

**PRESIDENT** (in Cantonese): Which Secretary will answer the question? Secretary for Home Affairs.

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Madam President, as I pointed out in the main reply, we found that the facts were unclear. As we looked through the reports in a number of newspapers, the reports on 16 September provided us with one version, whereas those on the following day, that is, 17 September, gave another version. As such, it is still unclear which party is the plaintiff, and which party is the defendant.

**MR CHEUNG MAN-KWONG** (in Cantonese): *My question has not been answered. In raising this question, Miss CHOY So-yuk based on the judgement*

*that the expatriate teacher in question is racially discriminatory. Is this basis a premature conclusion, and is this fair to that expatriate teacher? I said that because he is also a person working and living in Hong Kong.*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, we have already made it very clear that we really do not have any evidence to show that this expatriate teacher had deliberately or maliciously insulted the local, or that he had committed any racially discriminatory acts. And he has absolutely not committed any racially discriminatory acts in school.

**MISS CHOY SO-YUK** (in Cantonese): *Madam President, since Mr CHEUNG Man-kwong mentioned my name in his question, I think it is necessary for me to clarify the issue.*

**PRESIDENT** (in Cantonese): I am sorry, Miss CHOY. The Rules of Procedure do not have any provisions for this. During the question time, please just ask government officials supplementary questions.

**MISS CHOY SO-YUK** (in Cantonese): *Then I would like to ask a question.*

**PRESIDENT** (in Cantonese): You want to ask a supplementary question?

**MISS CHOY SO-YUK** (in Cantonese): *Yes. Madam President, I would like to ask government officials, my question just said that "It has been reported", which means that I have only heard and read the reports in the newspapers. In this Council, I did not.....*

**PRESIDENT** (in Cantonese): What do you want to ask? Please ask put your supplementary question direct.

**MISS CHOY SO-YUK** (in Cantonese): *Can the Government inform us whether this question has led to any specific opinions or whether it has included any conclusion in itself? I was just asking whether the Administration would follow up the incident. Besides, I had just read the reports. "It has been reported" is not a tone for making any conclusion.*

**PRESIDENT** (in Cantonese): Which Secretary would like to make supplementary remarks?

(Both Secretaries shook their heads to indicate that they did not intend to make any supplementary remarks)

**PRESIDENT** (in Cantonese): Fine. Second question.

### **Inadequate Light Rail Services**

2. **MR ALBERT HO** (in Cantonese): *Madam President, since the opening of the Light Rail (LR) Tin Shui Wai Extension last December, the Kowloon-Canton Railway Corporation (KCRC) has not increased the number of LR train cars, making it necessary to deploy some existing train cars to the Extension. As a result, the LR services in Tuen Mun and Yuen Long have become grossly inadequate, giving rise to complaints from many residents. Although supplemental bus services are currently provided by the LR in the areas concerned, they have failed to attract passengers. I have carried out an investigation in the areas concerned and found that during the morning peak hours, passengers traveling on various LR routes have to wait for a long time on the platforms before they can board trains, and that the compartments are packed with passengers. In this connection, will the Government inform this Council:*

- (a) *of the total number of LR train cars put into service each year since the commissioning of the LR, and whether it has assessed if the existing number of train cars can cope with the population growth in the Northwest New Territories; if it has, of the assessment results;*

- (b) *whether it knows if the KCRC will procure new train cars to solve the problem of inadequate LR services; if it will, of the details; and*
- (c) *whether it will open up the areas served exclusively by the LR to other modes of public transport, so as to solve the problem of inadequate LR services; if it will, of the details; if not, the reasons for that?*

**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS**

(in Cantonese): Madam President, the total number of LR train cars in operation each year since the commissioning of the LR in 1988 is tabulated in the enclosure circulated for Members' information.

According to the assessment of the KCRC, the travelling pattern of passengers has substantially changed with the commissioning of the West Rail (WR) and the LR Tin Shui Wai Extension by the end of 2003. Since the WR was opened, 25% of long-distance routes passengers travelling between Yuen Long, Tin Shui Wai and Tuen Mun had already shifted to travel via the WR. In parallel, the demand for the LR as a feeder service to the WR also increased as the WR patronage rose.

According to the statistics from the KCRC, the annual average patronage for the LR grew from 290 000 in 2003 to the present patronage of over 380 000. Most of them were short-distance routes passengers who interchange with the WR and the growth of LR patronage is attributed mainly to patronage growth in Tin Shui Wai.

In meeting the changing travelling pattern of passengers, the KCRC started its reorganization of LR routes in phases in late 2003. In order to use resources more effectively, the KCRC has restructured some of its long-distance routes and increased short-distance feeder routes.

Moreover, in response to the change in transport demand, the KCRC introduced LR route 706, a circular route plying in Tin Shui Wai, in April this year. Half of the frequencies on LR routes 614 (Tuen Mun Ferry Pier — Yuen Long) and 615 (Tuen Mun Ferry Pier — Yuen Long) were reorganized to

become short-distance routes, operating in a circular mode between Siu Hong and Tuen Mun Ferry Pier.

Surveys conducted by the Transport Department in June 2004 showed that LR patronage varied significantly during morning peak hours for different stations. It ranged from around 26% for Siu Hong Station on route 615P to around 90% for Tin Yiu Station on route 701. However, the LR services and carrying capacity provided have generally met passengers demand. In order to cope with the passenger demand when the new school term commenced in September, the KCRC also extended the circular route 701 from Tin Shui Wai South to Tin Shui Wai North in late August, restructured part of the long-distance service provided by 751 (Tin Yat — Yau Oi) and introduced a short route 751P to strengthen the LR feeder service to the WR. In addition, a new bus route K74 was launched in September to ply between Tin Shui and Yuen Long via Tin Tsz to relieve the heavy passenger demand at several sections in Tin Shui Wai during peak hours.

In planning its service arrangements and considering the procurement of train cars, the main consideration for the KCRC is passenger demand. The overall passenger capacity of the railways in the Northwest New Territories (NWNT) has been significantly increased since the commissioning of the WR. Many of the long-distance route passengers travelling between Tuen Mun, Yuen Long and Tin Shui Wai who used to take the LR have shifted to use the more efficient service provided by WR. The KCRC considers that with the procurement of a total of 20 train cars in 1997, the LR train fleet is able to meet the passenger demand so far. While there is a significant increase in LR patronage after the commissioning of the WR and the LR Extension, the growth is yet to stabilize. The KCRC will examine the need to procure additional train cars when the LR patronage turns stable.

Apart from the services provided by the WR, LR and KCRC buses, residents in NWNT are served by other modes of transport, including 65 bus routes and 38 green minibus routes. The current transport arrangements have provided reasonable choices for residents. The Government will continue to monitor closely the transport services and demand in the area and consider introducing additional public transport services when necessary.

Enclosure

## Total Number of LR Train Cars in Operation Each Year

<i>Year</i>	<i>Total Number of Train Compartment</i>
1988 to 1992	70
1992 to 1994	100 (30 were procured in 1992)
1994 to 1997	99 (One retired in 1994)
From 1997 onwards	119 (20 were procured in 1997)

**PRESIDENT** (in Cantonese): Members, a total of 11 Members are waiting to ask questions. Will Members please be as succinct as possible when putting supplementaries.

**MR ALBERT HO** (in Cantonese): *Madam President, the third paragraph of the main reply pointed out clearly that according to the statistics from the KCRC, the annual average patronage for the LR has grown from 290 000 in 2003 to the present patronage of over 380 000. The figures are very clear. The increase is more than one third but we can see that the number of train cars did not increase between 1997 and the present. The last sentence of the seventh paragraph of the main reply points out that while there is a significant increase in LR patronage after the commissioning of the WR and the LR extension, the growth is yet to stabilize, and the KCRC will examine the need to procure additional train cars when the LR patronage turns stable. The significant growth is a very explicit fact, however, the Secretary still wants to wait until the patronage turns stable before considering the purchase of more train cars. At present, it takes on average three years to purchase a train car. May I ask the Secretary after how many years new train cars will be available to alleviate the present inadequacy? If it is necessary to wait for three or five years, does she feel that her conscience is clear over the 1 million residents living in New Territories West?*

**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS** (in Cantonese): Madam President, although the decision to procure additional train cars for the LR involves quite a substantial investment, I believe the KCRC will make such a decision in the light of passenger demand. On the reorganization of routes, the KCRC will make use of the existing facilities as far as possible. As I have mentioned in the main reply, short-distance and long-distance routes will be restructured to tie in with the feeder service provided after the commissioning of the WR. As to why it is necessary to wait until patronage has stabilized, this is because the patronage can vary from 90% to 26%. We hope that maximal use can be made of resources and if the deployment in this regard is better made, no substantial investment on train cars will be necessary. Of course, we do not have any definite view on whether additional train cars should be procured, however, it is very reasonable to decide only after patronage has stabilized. Since the new railway line has been operating for less than 12 months, a lot of the information is still unavailable. I hope Members can appreciate this point. At the end of the day, we have to take into account passenger demand and the ability of passengers to shoulder the fare before making a decision.

**MR ALBERT HO** (in Cantonese): *Madam President, a simple and short request for clarification. My question was about the earliest time new train cars would become available. Will it be three years or five years? The Secretary did not give a reply.*

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

**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS** (in Cantonese): No.

**MS MIRIAM LAU** (in Cantonese): *Madam President, the seventh paragraph of the main reply mentions that it is necessary to wait until the patronage has turned stable before the KCRC will proceed to consider if new train cars have to be procured. May I ask the Secretary what she means by turning stable and what level of patronage is considered stable? What level should the number of passengers reach in each train car before the patronage is considered stable?*

*Meanwhile, does the Administration feel that the KCRC should prepare for rainy days by anticipating what level of patronage would necessitate the procurement of train cars, rather than waiting until the patronage has reached a so-called stable level before the KCRC examines whether or not to procure LR train cars?*

**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS** (in Cantonese): Madam President, this so-called stability of patronage means that we have to observe the travelling pattern of passengers after the change in their travelling habit, not the attainment of a certain percentage. However, I can provide some information to Members. At present, the waiting time during peak hours is four to eight minutes, that is, most people can take the first train that comes along and only a small number has to take the next train. In that case, they only have to wait a further eight minutes at the most.

**MS MIRIAM LAU** (in Cantonese): *Madam President, the latter part of my question asked whether the Government believes that the KCRC should provide for rainy days rather than waiting until a certain level has been reached before examining the matter. This is a matter of timing and timeliness.*

**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS** (in Cantonese): We do not have a timetable as yet on the planning of these transport measures because planning takes time, so certainly it will be best to have sufficient time. However, this involves issues of investment and fares. Since its commissioning so far, the LR has suffered substantial losses of nearly \$100 million per annum. Therefore, we have to consider how investments in this mass transit system should be made and the fares that passengers can afford before making flexible investments. It is not the case that we do not want to do so, however, we really have to consider the cost-effectiveness.

**DR KWOK KA-KI** (in Cantonese): *Madam President, the Secretary said in reply to the questions just now that additional train cars would be procured only after further consideration. We all know that the Planning Department has recently published its latest plans. According to the relevant forecasts and studies, in the next 10 years, population growth in Tuen Mun and Yuen Long will*

*be quite significant. The Secretary keeps saying that it is necessary to wait until the patronage has become stable before considering procuring additional train cars. In fact, this precisely reflects the mentality of the Government or the Secretary all along. If the population keeps growing, we can expect the passenger capacities of some routes to have already reached 90% during peak hours, however, they cannot stabilize and this means that the supply cannot meet the demands of society. If the Secretary adopts such a way of thinking, I am really concerned that .....*

**PRESIDENT** (in Cantonese): Dr KWOK Ka-ki, please come to your supplementary direct.

**DR KWOK KA-KI** (in Cantonese): *Madam President, my question is: Can the Secretary provide a very specific timetable and tell us how many years it will take from conducting studies to eventually procuring new train cars?*

**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS** (in Cantonese): Madam President, population growth has of course been factored into planning. At present, our LR system has a ridership of 878 000 person trips. In the planning forecast mentioned by Dr KWOK just now, the population will be about 1 million, however, these people do not rely solely on the LR service. The newly commissioned WR is still far from reaching its maximum capacity and there is still a lot of room left. Furthermore, there are also different voices in the district and members of the public also hope that the North-west Transit Service Area can be opened up to other forms of transport, so that the public can have choices. In this regard, it is necessary for us to deliberate in detail and examine which services will be the most efficient, for example, we may enhance bus service. In fact, the KCRC has also done so. As regards whether the LR should continue to invest in this mass transit railway system, we have to consider this in great detail before making any decision.

**MR LEE WING-TAT** (in Cantonese): *Madam President, in the eighth paragraph of the main reply, the Secretary mentioned the services provided by*

*other modes of transport, including bus service. However, we all know that the extent of opening up of the district is only very limited and the competition is not full-scale. Here comes my supplementary. Since the Secretary has always adopted a policy of encouraging various modes of transport to engage in competition, what are the areas and the number of routes in this district that the Government plans to open up to other forms of transport, for example, to green minibuses, buses, and so on, in the next five to 10 years, so as to enable competition?*

**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS**

(in Cantonese): Madam President, I believe Mr LEE knows this district better than I do. Concerning this North-west Transit Service Area, the Kowloon-Canton Railway Corporation Ordinance has accorded a 20-year operation guarantee to this area starting from 1986. At that time, it was hoped that the LR could provide a cost-efficient service. In fact, it has now been almost 20 years and there are only two years left in the 20-year period. Therefore, we are actively reviewing this system to determine if it has made effective use of road surface and whether this mass transit approach is the most effective. We do not have a proposal that can serve as an answer to Mr LEE's question as yet, however, we also hope that all people can discuss this issue publicly. When we have a proposal, it will definitely be submitted to the relevant panel of the Legislative Council for detailed examination.

**MR LEE CHEUK-YAN** (in Cantonese): *Madam President, in listening to the reply given by the Secretary, I felt as though it were the major shareholder rather than the Secretary who was speaking. This is because a major shareholder would be very concerned about investment, return and whether a loss of \$100 million will be incurred. However, as the Secretary, should she not in fact sense the people's urgency, that is, to think about what a difficult time residents in Tin Shui Wai have in getting to Kowloon. When the Secretary talked about the four to eight minutes, it sounded as though things were very easy. However, we all know that during rush hours, to get a ride is like having a fight .....*

**PRESIDENT** (in Cantonese): Mr LEE, what is your supplementary?

**MR LEE CHEUK-YAN** (in Cantonese): *Apart from making reference to these figures, has the Secretary heard or gathered views concerning the discontents of residents in Tin Shui Wai with the LR service, then make adjustments to the service in view of these discontents?*

**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS** (in Cantonese): Madam President, firstly, the Administration is not a major shareholder of the railway, rather, it wholly owns the railway. *(Laughter)* Of course, we must manage the finances very prudently since they are all taxpayers' money and it is impossible not to calculate the economic benefits. Of course, we cannot neglect the service that residents in the district need either. Mr LEE mentioned the difficulty in going from Tin Shui Wai to Kowloon. I suggest that they take the WR, since the LR cannot take you to Kowloon .....

**MR LEE CHEUK-YAN** (in Cantonese): *You mean taking the WR?*

**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS** (in Cantonese): Should you not? The WR can take you to Kowloon and what is more, enormous investment has been made to construct this railway. However, coming back to the subject, that is, our consideration of the transport services of the district as a whole. I believe Members who have worked in the district for many years have heard a lot of views and I too have heard different voices about the transport services of the whole district. I do not know how many Members seated here have ridden the LR. I have done so on many occasions. The recently modified circular routes are well-received as it is now no longer necessary to take one large loop and a lot of time can be saved by operating separately in two areas. This is an excellent improvement made by the KCRC using its professional knowledge and after listening carefully to members of the public. However, what else can be done concerning this system for the time being? This depends on the stability of the patronage because the travelling habits of the residents are still changing. In future, apart from consulting members of the public, the KCRC will also make longer-term planning on its future service. It is necessary to think about how the best combination can be achieved in the provision of public transport service by the LR and other modes of transport in the district. The matter should be looked at in this light.

**PRESIDENT** (in Cantonese): Mr LEE Cheuk-yan, has your supplementary not been answered yet?

**MR LEE CHEUK-YAN** (in Cantonese): *No, Madam President. What I asked the Secretary was whether the Secretary would take into account the complaints lodged by residents against the service when deciding how to adjust the service. In addition, I also wish to remind the Secretary that often, we have to take the LR before we can change to the WR.*

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

**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS**  
(in Cantonese): No.

**MR TAM YIU-CHUNG** (in Cantonese): *Madam President, when the school year began in September this year, I made direct observations at several LR stations in Tin Shui Wai. Although all members of the senior management of the KCRC were present that day and sufficient preparation had been made, from my observation, it was still rather crowded. This situation is even more serious at other times. To increase the number of train cars is the popular and strong demand of residents in Tin Shui Wai .....*

**PRESIDENT** (in Cantonese): Mr TAM Yiu-chung, what is the supplementary you want to put?

**MR TAM YIU-CHUNG** (in Cantonese): *Since the LR takes up such a lot of road surface and it is accorded priority in the right of way, if the train cars are not increased, residents will have to wait for a long time and put up with the crowdedness. Why does the Government not try to exert greater influence and request the LR to increase the train cars expeditiously?*

**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS** (in Cantonese): Madam President, we are certainly aware of the demands of residents in Tin Shui Wai. However, we cannot make rash decisions merely because of the demands from a certain quarter. Many people have also asked why no more roads are built since the LR has taken up such a lot of road surface so that there can be greater flexibility. Therefore, it is not the case that we do not consider the suggestion, but rather, we hope that we can make longer-term and more advisable choices after considering the situation comprehensively.

**PRESIDENT** (in Cantonese): We have spent more than 21 minutes on this question. Last supplementary question now.

**MR ALBERT CHAN** (in Cantonese): *Madam President, the Secretary pointed out in the seventh paragraph that the LR train fleet is able to meet passenger demand so far. This may be true in general but in many areas, passenger demand has not been met. In particular, at Tin Shui Wai North and Siu Hong stations, the congestion and crowdedness during the morning rush hours are very serious; moreover, this may affect passenger safety. The KCRC is now conducting a review and study as well as planning to procure buses instead of train cars, so as to ameliorate this problem within a short period of time. Does the Secretary support this proposal by the KCRC?*

**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS** (in Cantonese): Madam President, the KCRC did recommend using buses to solve the existing problem of traffic congestion. Our policy is to provide living space to operators of all types of public transport. On the issue of allowing the KCRC to procure its own buses and operate services, other trades have already conveyed their discontent to me, asking why their buses or minibuses cannot be used for feeder service. It is also necessary for us to take into consideration the needs of other businesses. Concerning the services in this area, is it possible to co-ordinate with the KCRC and use the railway as the main service and allow other service providers to provide feeder service? Only in this way can the needs of various parties in society be taken care of.

**MR ALBERT CHAN** (in Cantonese): *The Secretary has mistaken my point. I am not saying that the KCRC is procuring new buses to develop its business, but to solve the problem of crowdedness. The thrust of what I said just now is that the plan of the KCRC is to procure .....*

**PRESIDENT** (in Cantonese): Mr CHAN, you only have to point out which part of your supplementary has not been answered by the Secretary.

**MR ALBERT CHAN** (in Cantonese): *The Secretary has misunderstood what I meant and she has replied to another issue. I am not saying that it wants to compete with other modes of transport, but to alleviate the problem of crowdedness.*

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

**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS**

(in Cantonese): Madam President, what Mr CHAN means is that it is hoped bus feeder service can be used to solve the problem of crowdedness. We are now studying this aspect and making the arrangements. At present, there are several routes that make use of green minibuses to provide feeder service but that may not be enough. We have to look at the circumstances and provide feeder services at strategic locations to alleviate crowdedness.

**PRESIDENT** (in Cantonese): Third question.

**Provision of Subsidies to Elderly CSSA Recipients for Seeking Chinese Medical Treatment**

3. **MR FREDERICK FUNG** (in Cantonese): *Madam President, it has been reported that the former Secretary for Health, Welfare and Food said at the end*

*of September this year that the Government was aware that elderly people have more faith in Chinese medical practitioners, and the Government was studying the provision of subsidies to elderly recipients of Comprehensive Social Security Assistance (CSSA) for seeking Chinese medical treatment. On the other hand, as there are only three public Chinese medicine out-patient clinics in Hong Kong and the authorities concerned have shelved the plan to set up 18 Chinese medicine out-patient clinics, there is a serious shortage of Chinese medicine out-patient services. In this connection, will the Government inform this Council:*

- (a) as, according to the former Secretary, the elderly people concerned are required to obtain confirmation from Western medical practitioners that Western medical treatment has not been effective before they can be granted subsidies for Chinese medical treatment, whether the authorities have assessed if such a confirmation requirement will be seen as disregarding their right to choose and discrimination against Chinese medical practitioners; and*
- (b) as the authorities appreciate that elderly people prefer seeking Chinese medical treatment and also intends to subsidize them, whether they will reconsider setting up the above 18 clinics; if so, whether they will consider giving priority to setting up such clinics in areas with a higher concentration of elderly people, so as to meet their greater needs?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese):  
Madam President, I would like thank Mr Frederick FUNG for his question.

- (a) First of all, I would like to emphasize that Hong Kong people can always have a choice of consulting Chinese medicine (CM) practitioners or Western medical doctors. Individuals can make their own choice, having regard to their own requirements or unique situations.

The Administration adopts the following direction in the development of CM in Hong Kong:

- (i) drawing up and regulating standard of CM practice and Chinese medicines by the Chinese Medicine Council;
- (ii) the mainstay of CM service remaining in the private sector rather than the public sector; and
- (iii) development of evidence-based CM practice through clinical research conducted in CM clinics set up at hospitals under the Hospital Authority (HA).

There are currently three CM out-patient clinics established under the HA, namely Yan Chai Hospital Chinese Medicine Clinic cum Research Centre, TWGHs Tung Wah Hospital — The University of Hong Kong Clinical Centre for Teaching and Research in Chinese Medicine, and the recently established Nethersole Chinese Medicine Clinical Research and Services Centre. The purpose of setting up these CM clinics is to promote the development of "evidence-based" CM practice through clinical research. Recipients of CSSA are entitled to free out-patient services rendered by these clinics.

Meanwhile, many charitable organizations and voluntary agencies, such as Yan Chai Hospital, TWGH and Pok Oi Hospital, also offer the needy with quality CM services at low price, some even free of charge. Other organizations like the Hong Kong Federation of Trade Unions and Hong Kong Association for Democracy and People's Livelihood also provide CM services to the public.

CM clinics run by these organizations are located across the territory, some of them are set up in districts with a high concentration of elderly citizens, for example, Wong Tai Sin, Sham Shui Po, Kwun Tong, and so on. The table in the main reply also shows the locations of many well-known clinics, including Sham Shui Po, Wong Tai Sin, Causeway Bay, Shau Kei Wan, Mong Kok, Kwun Tong, Tsuen Wan, Tuen Mun, Tai Po, Sha Tin, Sai Ying Pun, Tai Koo Shing, Tsing Yi, Tin Shui Wai, Aberdeen, Yuen Long, Chai Wan and Cheung Chau. Besides, the table also indicates the

amount of consultation fees, showing that some charge a low price while some even free of charge.

<i>Clinic</i>	<i>District</i>	<i>Consultation Fee (General Clinic)</i>	<i>Medication Fee</i>
Ching Chung Free Chinese Medicine Clinic Number 1	Sham Shui Po	Free of charge	Free of charge
Sik Sik Yuen Herbal Clinic	Wong Tai Sin	Free of charge	Free of charge
The Neighbourhood Advice Action Council C C Chien Memorial Chinese Medicine Clinic	Wong Tai Sin	\$55 (Free for elderly receiving CSSA)	\$30 (Free for elderly receiving CSSA)
Hong Kong Federation of Trade Unions Workers Medical Clinics	Causeway Bay/Shau Kei Wan/Mong Kok/Kwun Tong/Tsuen Wan/Tuen Mun/Tai Po/Shu Tin	Free of charge	\$36 to \$54
Yan Chai Hospital BOC Chinese Medicine Clinic	Sai Ying Pun	Free for elderly	\$30 to \$60
Pok Oi Hospital Chinese Medicine Polyclinics (four clinics)	Tai Koo Shing/Tsing Yi/Tin Shui Wai/Aberdeen	Elderly/CSSA recipients: \$20	Elderly/CSSA recipients: \$40
Pok Oi Hospital Chinese Herbalist Clinics (three clinics)	Yuen Long/Chai Wan/Cheung Chau	Elderly/CSSA recipients: \$20	Elderly/CSSA recipients: \$40

The proposal of subsidizing elderly CSSA recipients to seek medical consultation from private CM practitioners is only one of the many initial ideas concerning the strengthening of services for the elderly. We understand that public views are diverse on this idea, and some people have cast doubt on its feasibility. I am aware that patient referrals between CM practitioners and medical doctors are so far uncommon, and possible referral cases mainly involve terminal cancer and pain problem which is difficult to cure. In fact, CSSA recipients can enjoy free public medical service, and a system is in place to enable other people with financial difficulties to seek a waiver of charges for public medical service. The Administration

currently has no plan to subsidize CSSA recipients on private medical consultation.

In a nutshell, we will carefully consider all reasonable and practical options, having regard to their potential impact on public finance and overall resource distribution in the community, with a view to providing the most appropriate medical services to the needy elderly in a pragmatic manner.

- (b) The three CM clinics established at HA hospitals, which I mentioned earlier, were established in December 2003. The HA is now conducting a review on their effectiveness. At present, the utilization rate of three clinics has not reached 100%. On the basis of the review findings, the Administration will consider the timetable of setting up additional CM out-patient clinics in the territory. In considering their location, we will take into account a host of factors including experience and interest of the voluntary/charitable organizations, their past achievements in providing CM services, readiness of the hospitals for carrying out CM research, and so on. As the purpose of establishing these CM clinics is to develop standards of CM practice and models of interface between Western and Chinese medicine through clinical research, decisions would be made only after careful consideration. Besides, we will also consider the demographic structure of various districts, which will be one of our considerations before making the next decision.

**MR FREDERICK FUNG** (in Cantonese): *Madam President, in the main reply, the Secretary did not directly answer part (a) of my question. I hope the Secretary can clarify it a little bit more. Regarding the former Secretary's statement that confirmation from Western medical practitioners that Western medical treatment has not been effective is required before referral to Chinese medical treatment can be made, does the incumbent Secretary agree to that? This is the point that the Secretary has not answered.*

*Besides, parts (a)(ii) and (iii) of the main reply reflect the existence of some problems. The Secretary pointed out that some voluntary agencies would*

*offer CM services free of charge or at low cost. However, these are provided by private organizations. Secondly, medicine fees have to be paid while CSSA recipients are entitled to free CM services rendered by government clinics. On the surface of it, the three CM out-patient clinics run by the Government are located respectively in Hong Kong Island, Kowloon and the New Territories. But if I remember it correctly, Nethersole is located at Chai Wan, TWGHs are located at Mong Kok and Yan Chai Hospital is located at Tsuen Wan. If people want to go to Yan Chai Hospital from Sha Tin, they have to travel a long distance. If the elderly people are required to seek free Chinese medical treatment in these three hospitals, the travelling expenses will eventually be higher than the medicine fees. Under such circumstances, may I ask the Government whether it will consider formulating a transitional plan particularly for the elderly people or CSSA recipients to claim the minimum medicine fees after having consulted those CM practitioners who are considered to be up to standard by the Government before the timetable of setting up the 18 clinics is implemented?*

**PRESIDENT** (in Cantonese): Secretary, Mr FUNG said that you had not answered the main question and requested your clarification. As to how the question should be answered or whether it is necessary to make clarification, it is your decision.

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, regarding the first part of the question, a research has clearly indicated that most people will not consult CM practitioners only after being referred by Western medical practitioners. This is a matter of choice which should be respected and I have emphasized this point at the beginning. Regarding the second part concerning the setting up of 18 clinics, there is no plan to shelve it and it will proceed as scheduled. However, we wish to decide how to implement it after the performance of the three clinics has been assessed and analysed.

**MR FREDERICK FUNG** (in Cantonese): *Madam President, the Secretary has not answered my supplementary question. My question is: Will the Government provide capped medicine allowance to CSSA recipients for seeking CM treatment during the transitional period?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): I should make it clear that we have not considered this for the time being because patients consulting CM practitioners do not necessarily suffer from major illness, rather, they want to improve their health. So, the plan must be clearly assessed before it is launched. Of course, we will consider Members' suggestion and review its feasibility. We will also determine whether public money can be put to the best use if it is launched.

**PRESIDENT** (in Cantonese): A total of 12 Members wish to raise supplementary questions. I will let them ask questions according to their order.

**MR JASPER TSANG** (in Cantonese): *Madam President, when reading out part (b) of the main reply concerning a review of the effectiveness of the three CM clinics being conducted by the HA, the Secretary added that the current utilization rate had not reached 100%. May I ask the Secretary whether he has studied why the CM out-patient clinics in the public sector cannot be fully utilized despite a great demand for CM out-patient services? Is it because of a lack of demand or managerial problem? For instance, the purpose of offering out-patient services is fundamentally not for serving the public and patients, but for conducting research and thus has led to such a defect, is it not?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): Mr Jasper TSANG, as I said at the beginning, the Government's CM policy is purely provision of treatment. We do not intend to compete with CM practitioners in the community. CM service is developed mainly for the development of evidence-based CM treatment in Hong Kong. We have to uphold this principle.

**MR JASPER TSANG** (in Cantonese): *Madam President, the Secretary seems to have evaded my supplementary question. The Secretary mentioned that the utilization rate of out-patient service has not reached 100%. It seems to be a forecast of the demand for CM service, which will not be great at all. So, may I ask the Secretary whether the model of service provision has led to a low utilization rate?*

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

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): As far as I know, among the three clinics, the utilization rates are almost 90% for one of the clinics and 70% to 80% for the other two. Of course, there are two senior CM practitioners and three junior CM practitioners in each clinic, each of them being responsible for different areas of research. It needs certain time before their research results can be seen. Their research has just begun for about 10 months. I believe it is difficult to have proven information showing whether or not it is effective. However, we will conduct a study expeditiously so as to determine the locations of these additional 18 clinics. In fact, as I have just mentioned, the locations of these clinics depend on the needs of the people of the area, the diseases which are considered to be more important and the organizations which can assume the responsibility of conducting research.

**MR LEUNG YIU-CHUNG** (in Cantonese): *Madam President, as everybody knows, CM practitioners have gained registration status for a period of time. But so far, unfortunately, the Government has no clear or precise direction, telling us when CM practitioners can be absorbed into its medical system to serve the public. After such a long time, the Government still has not completed the task. Does it not show that CM practitioners are being discriminated against? Otherwise, how can it ensure that the public can enjoy the same rights and opportunities when seeking CM service as they consult Western medical practitioners?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): I would like to stress once again that we do not intend to provide treatment only, nor do we intend to compete with the existing 8 000 registered CM practitioners. As there are 8 000 registered CM practitioners, competition is very keen. So we hope that effort is devoted to enhancing professional standards. In such a direction, our development must adhere to the principle of clinical research and evidence-based CM practice.

**MR LEUNG YIU-CHUNG** (in Cantonese): *Madam President, I did not ask about market competition. The Secretary has not answered my supplementary*

*question. How can it be ensured that the public can enjoy the same opportunities and rights when seeking CM service as they consult Western medical practitioners in public hospitals? Can the Secretary give a detailed explanation on whether there is a clear direction in his blueprint?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): We do not have any other plan at the moment except setting up 18 out-patient clinics. However, in the short term, I will, in particular, examine whether interface between Chinese and Western medicine in respect of clinical research and hospitalization is possible for two situations — the first one is terminal cancer and the second is pain problem.

**MS EMILY LAU** (in Cantonese): *Madam President, insofar as I understand it, many elderly people in the community wish to have free CM services. So I wonder why the services of the three clinics have not been fully utilized. Can the Secretary tell us, according to his understanding, how great the demand for CM services is? Is it because, as Mr Jasper TSANG has just said, these services do not meet the people's needs and therefore cannot be fully utilized? Besides, Madam President, the table in the main reply has set out the CM clinics run by many local organizations. But they are not all free of charge. Some of them levy certain charges on the patients. May I ask the Secretary whether he knows if the utilization rates of these clinics have not reached 100% as he has just said, or whether the demand exceeds the supply?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): No investigation has been done on each of these clinics. But we have made some telephone calls to some clinics run by charitable organizations or those which charge a low fee. We found that they were not fully utilized and there was capacity. We did have made three or four telephone calls to check this out.

**MR JAMES TIEN** (in Cantonese): *Madam President, I would like to follow up part (a) of Mr Frederick FUNG's main question, which is about referrals to Chinese medical treatment can be made only after being confirmed by Western medical practitioners that Western medical treatment is not effective. Specifically speaking, this is about subsidies for elderly people on CSSA. As a*

*matter of fact, is it true that elderly people on CSSA will be granted subsidies only after it has been confirmed by Western medical practitioners that Western medical treatment has not been effective? If so, what are the reasons?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): As said in my earlier reply, this is one of our ideas at that time. This policy is no longer adopted.

**MR ANDREW CHENG** (in Cantonese): *Madam President, under the current medical system, a patient has to seek Western medical treatment before he will be granted subsidies for consulting CM practitioners. Besides, the initial intention is to set up 18 clinics which have now been reduced to three only. Does the Secretary, as a Western medical practitioner himself, think that CM practitioners seem to be second-class doctors and patients second-class patients under the entire existing medical system in Hong Kong?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): I have also consulted CM practitioners, but I do not feel that I am a second-class patient. We simply consult doctors who are considered to be trustworthy when our health is in different conditions. According to the CM practitioners, our physical conditions are classified into three states. The first is healthy, the second is sick, and in-between is the so-called not feeling well or all right. Very often, CM practitioners will deal with patients whose physical conditions fall between healthy and sick and it is more difficult to ascertain the services they provide. So, if public money is used to grant subsidies for patients whose condition is the so-called not feeling well, we have to ensure how it can be defined. It is not true that I do not want to consider this issue, but it is hard to define.

**PRESIDENT** (in Cantonese): We have spent more than 19 minutes on this question. Last supplementary question now.

**DR FERNANDO CHEUNG** (in Cantonese): *Madam President, as admitted by the Secretary in his main reply, referrals between Chinese and Western medical practitioners are uncommon and quite difficult. In fact, the proposal that*

*elderly people on CSSA should consult Western medical practitioners first before they can consult CM practitioners upon referral was raised on the second-phase reduction of CSSA payment. I believe the Health, Welfare and Food Bureau will also admit that many elderly people are leading a hard life. Despite receiving CSSA payment, they have to take and buy medicines, thus incurring very high medical expenses. The CSSA payment is not enough to maintain their living. However, in the Secretary's earlier reply, a problem remains unsolved, and that is, when the elderly people have to consult the CM practitioners when they are sick or suffer from chronic diseases, they are unable to go to the three CM clinics run by the Government — there are only three clinics in the territory.....*

**PRESIDENT** (in Cantonese): Dr Fernando CHEUNG, what is your supplementary question?

**DR FERNANDO CHEUNG** (in Cantonese): *How can the Secretary help them?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): As I have said earlier, if money is granted to these people, they may not consult CM practitioners because not everyone will consult CM practitioners. We are now considering other methods, hoping that they can seek CM treatment in nearby areas. As I have just said, we will review the effectiveness of the three CM clinics to determine if elderly people in the respective areas can get sufficient services. Analysis has to be conducted in a gradual manner before a way forward for the development of CM services can be determined.

**PRESIDENT** (in Cantonese): Fourth question.

### **Appointment of Secretary for Health, Welfare and Food**

4. **DR KWOK KA-KI** (in Cantonese): *Madam President, the former Secretary for Health, Welfare and Food resigned on 7 July this year and agreed to stay on for a period of not more than three months, so as to allow the Chief Executive time to identify a successor. However, not until 4.20 pm on*

*7 October this year, that is, the day after the expiry of the said three-month period, did the Information Services Department issue a notice stating that the Chief Executive would hold a press conference at 5.30 pm on the same day to announce the appointment of the new Secretary and for the Secretary designate to meet the media. Yet the conference was suddenly called off half an hour before it was due to start. The Administration announced the appointment of the new Secretary only on the next day and the new Secretary finally reported for duty on 12 October. In this connection, will the Government inform this Council:*

- (a) of the difficulties the Administration encountered in identifying and the appointment of the new Secretary;*
- (b) of the measures, if any, to avoid changes in the arrangements for announcing such appointments; and*
- (c) given that the hand-over period on the job for the outgoing Secretary and the Secretary designate lasted for only a few days, whether the Government has assessed its impact on the work of the Policy Bureau concerned; if it has, of the assessment results?*

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): Madam President, my reply to the three parts of the question is as follows:

- (a) The Chief Executive nominates and reports to the Central People's Government for the appointment of the Principal Officials in accordance with Article 48 of the Basic Law. The appointment of the new Secretary for Health, Welfare and Food was made in line with this mechanism. No difficulties were encountered in the process.
- (b) As to the timing for announcing the appointment, the scheduled press conference was postponed to the following day due to some communication and procedural problems at the operation level. Apart from that, there were no other problems in respect of the arrangement concerning the appointment. The deferral in the announcement of the new appointment for one day caused inconvenience to the press. Learning from this experience, we will be more prudent in future.

- (c) The work of the Health, Welfare and Food Bureau (the Bureau) has a direct bearing on the daily lives of Hong Kong people. We have ensured that its work would not be affected by any change in personnel. In fact, the Bureau, with its well-established structure and mechanism, has been operating efficiently with all work plans carried out on schedule. Soon after the new Secretary for Health, Welfare and Food assumed office on 12 October 2004, he attended the Legislative Council meeting on 13 October 2004, to reply to Members' questions and responded to a motion debate on facilitating the integration of people with disabilities into society. The Bureau and the health officials from the Mainland and Macao attended a joint meeting of senior health officials of the three places as scheduled on 15 October 2004. The Centre for Health Protection, which has been the focus of public attention, has also been officially inaugurated today (27 October 2004). All these demonstrate that under the leadership of the Secretary, it has been business as usual for the Bureau.

**DR KWOK KA-KI** (in Cantonese): *Madam President, it seems that the Chief Secretary for Administration has not answered my question. First, I asked whether there had been any difficulties and he said there had been none. If so, does it mean that the Government's arrangement was and will remain that such appointment would not be made until the last day, or even one day after? Second, my main question was certainly not asked for and on behalf of the press. Issues of communication and arrangement relating to the appointment would not have affected the press. I wanted to know whether there had been any specific difficulties, but there is no mention in the Secretary's main reply. Third, the issue of hand-over. The Chief Secretary for Administration said there were no problems of hand-over for the new Secretary for Health, Welfare and Food. That, however, is only an indication that the new Secretary has settled in fast, is smart and has done well. The Chief Secretary for Administration, however, has not answered whether any assessment has been done to ascertain if any work has been delayed as a result of the hand-over, in other words, whether any work has actually been affected?*

**PRESIDENT** (in Cantonese): DR KWOK Ka-Ki, I have to remind you again that your supplementary question can only carry one question; not one, two and

three questions. However, in order to save time, I will see if the Chief Secretary for Administration would reply.

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): Madam President, I have said clearly just now that the Central Government and the Government of the Hong Kong Special Administrative Region (SAR) have an established communication mechanism and procedures regarding the appointment of Principal Officials of the SAR Government. As I mentioned, there had been neither any problems in the mechanism nor the procedures; and again I say now, there were no problems. The Chief Executive himself naturally has a number of factors to consider in selecting the designate. For instance, the Chief Executive himself has mentioned the criteria in his selection of this appointment. He said that sometimes he had to meet with different candidates, and arrangements for such meetings took time. Afterwards, we had other follow-up work to do, including integrity checks and declaration of interests by the new designate. Such work of various nature took time. After they have been completed, the appointment has to be endorsed through certain procedures by the Central People's Government. We have therefore already tried to expedite matters in this respect.

Here I can assert that we have worked in strict accordance with the relevant procedures and encountered no difficulties. Regarding problems which occurred at the last minute, as I have said earlier, they were mainly communication problems at the operation level. I will remember this lesson keenly and will not let them happen in future.

**MR LEUNG KWOK-HUNG** (in Cantonese): *Madam President, I have to ask what those problems really were. Were they problems caused by the SAR Government, the agent, or the Central Government? This is the second time already. The first time was in the appointment of Secretary Frederick MA. I think you should .....*

**PRESIDENT** (in Cantonese): Mr LEUNG Kwok-hung, please put your supplementary question.

**MR LEUNG KWOK-HUNG** (in Cantonese): *I think he should reply. There were three parties .....*

**PRESIDENT** (in Cantonese): You have to sit down before he can reply.

**MR LEUNG KWOK-HUNG** (in Cantonese): *I think he should reply, he cannot .....*

**PRESIDENT** (in Cantonese): I would not ask him to reply if you remain standing. You had better sit down first.

**MR LEUNG KWOK-HUNG** (in Cantonese): *Whenever each of us asked him a question, he would prevaricate. I am now asking him .....*

**PRESIDENT** (in Cantonese): Please sit down.

(Mr LEUNG Kwok-hung, having sat down, suddenly rose to ask questions)

**MR LEUNG KWOK-HUNG** (in Cantonese): *I am now asking him which of the three parties caused the problems? Who caused the problems? Were the problems caused by all three parties?*

**PRESIDENT** (in Cantonese): You cannot speak after you have sat down. Chief Secretary for Administration, please reply.

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): Madam President, as I said before, we had communicated not sufficiently at the procedural and operation level, resulting in the failure to make the public announcement in the press conference at the scheduled time. In fact, as you would have noted, we remedied the situation quickly and made the public announcement as usual the next day.

**MR LEUNG KWOK-HUNG** (in Cantonese): *I would like to follow up this question.*

**PRESIDENT** (in Cantonese): Mr LEUNG Kwok-hung, please rise to ask your question.

**MR LEUNG KWOK-HUNG** (in Cantonese): *The Secretary has not answered the question of who caused the problems. Was he saying that all three parties caused the problems? The Secretary has to reply. Only three parties could possibly have caused the problems here: first, the Government; second, the agent; third, the Central Government. Among these three parties, were the problems caused by one party, two parties or all three of them? The Secretary has to reply. This supplementary question is very easy, even easier than a multiple choice question in the Hong Kong Certificate of Education Examination. He must reply, otherwise it will amount to contempt of us. This is a very clear question.*

**PRESIDENT** (in Cantonese): Mr LEUNG Kwok-hung, you have to stand up and face the President when you ask a question in future. The reason is that you are asking a question through the President.

**MR LEUNG KWOK-HUNG** (in Cantonese): *I don't know, I don't understand .....*

**PRESIDENT** (in Cantonese): That is why you have to learn the Rules of Procedure. Never mind, the staff members of the Secretariat will patiently coach you. You better learn from them so as to facilitate our communication.

Chief Secretary for Administration. Please reply.

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): Madam President, perhaps let me explain the circumstances, in order to assist Members in understanding the causes of the problems. The Chief Executive's Office had previously understood that the relevant appointment would be approved on 7 October. However, we did not receive any formal notification by 5 pm that

day. Since we had not received any formal approval papers, we had no choice but to postpone the announcement. Therefore, as I have said before, the disruption was caused by the lack of formal approval papers at the procedural level. It has nothing to do with who caused the problems.

**MR ALBERT HO** (in Cantonese): *Madam President, the Chief Executive often tells us about the need to learn how to communicate with the Central Government. Now we realized that in fact they had a lot of communication problems resulting in mistakes even in such a serious matter, leading many to think that there were problems with the appointment itself. I would like to ask: At the time when the Government was informed that the appointment would be approved, whether it had also received clear notification before making any arrangement for the press conference? How could mistakes be made in such communication? The SAR Government should have arranged for a press conference only after it had received clear notification from the Central Government that the appointment of Dr York CHOW as Secretary had been approved. The reason is that as long as the approval papers have not been received, there is still the possibility that the appointment may not be approved after all. No one can be sure. In case the approval papers were not issued for some reasons, how would the Government be able to explain to the public? May I ask the Secretary to explain why there were communication problems with the Central Government? Will similar problems occur in the future?*

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): Madam President, Mr Albert HO has already provided the answer in his supplementary question. He just mentioned that it was not a problem of communication. We could only act after receipt of formal notification, and according to our understanding, the notification should be on its way. However, we had not received any approval papers on the day and that was the problem. Therefore, we did understand the relevant circumstances in the matter, only that the approval papers were not actually "in our hands".

**PRESIDENT** (in Cantonese): Fifth question.

**Professional Development for Chinese Medicine Graduates**

5. **MR JASPER TSANG** (in Cantonese): *Madam President, it is learnt that only a small portion of graduates from local bachelor's degree courses in Chinese medicine have become Chinese medical practitioners (CMPs) upon graduation. Moreover, as no means of continuous training is available to them, their professional development is also affected. In this connection, will the Government inform this Council:*

- (a) *whether it knows the employment situation of the graduates in various years at the end of each year of graduation and, among them, of the number of graduates who are currently employed by the three public Chinese medicine out-patient clinics;*
- (b) *of the policies the authorities will adopt to enhance the professional development of these graduates; and*
- (c) *whether it will conduct planning and studies regarding the supply of and demand for CMPs and their development?*

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

- (a) The first cohort of 31 full-time University Grants Committee (UGC)-funded Chinese Medicine (CM) degree students graduated from the Baptist University of Hong Kong (HKBU) in 2003. We understand from the HKBU that 22 of these graduates are now in CM-related employment (at least 15 of them work in CM clinics), and three are pursuing further studies. Employment status of the remaining six is unknown.

In 2004, a total of 45 (33 from the HKBU and 12 from The Chinese University of Hong Kong (CUHK) full-time UGC-funded CM bachelor degree students graduated from the HKBU and CUHK. We understand from the two universities that 31 of them are in CM-related employment (at least 25 of them work in CM clinics). Seven others are pursuing further studies. Employment status of the remaining seven is unknown.

At the moment, four locally-trained CM graduates are under the employment of the CM clinics in Yan Chai Hospital and Tung Wah Hospital as CMPs. These clinics are among the three established in Hospital Authority (HA) hospitals in December 2003, primarily to promote evidence-based CM practice through clinical research, they are working with veteran CMPs.

- (b) The Administration is fully committed to facilitating the development of CM in Hong Kong. Our policy is to establish a sound regulatory regime to lay a more solid foundation for the future development of CM, to enhance standard and build up public confidence in CM practice, and to elevate Hong Kong's status in CM development in the region. The regime provides a platform for CMPs to seek advancement in the profession.

Established in 1999, the CMC has also drawn up a framework of Continuing Medical Education (CME) for CMPs to ensure their professional knowledge and skills on CM are kept up-to-date through participation in seminars, training courses and self-studies. The CMC requires a registered CMP to attain a minimum of 60 points within a three-year cycle before they can renew their practising certificate. Local training institutions and professional associations in CM are recognized by the CMC as Programme Providers and Administrators to organize training programmes.

- (c) The Department of Health will conduct another Health Manpower Survey (HMS) in 2005 which aims to collect updated information on the size, structure and employment status of health care personnel in Hong Kong. This survey will cover CMPs for the first time. The results will provide a comprehensive picture on the supply of health care personnel and its trend, which will serve as a basis for the formulation of policy on health manpower planning.

In formulating the manpower planning strategy, the Administration will also take into account the projected future supply of health workforce from other sources such as number of CM students enrolled in and completing the relevant courses in Hong Kong and expected number of professionals trained outside of Hong Kong, to complement the data collected from HMS.

The Administration also keeps a close watch on the employment situation of the CMPs. We will also keep track of consumer behaviour on the seeking of CM consultation through the thematic household survey regularly conducted by the Census and Statistics Department as necessary.

**MR JASPER TSANG** (in Cantonese): *Madam President, in part (b) of my main question, I asked the Secretary what policies would be adopted to enhance the professional development of locally-trained CM graduates. The Secretary only mentioned a regulatory regime in his main reply, with no mention of how support would be provided. The mode of CME for CMPs provided by the CMC mentioned by the Secretary was in fact nothing more than some seminars, training courses and so-called self-studies. Of course, given his professional knowledge, the Secretary knows that the provision of this kind of CME would actually help very little with regard to the development of the professional development of these locally trained CM graduates who lack clinical experience. Just as the Secretary said, only four out of the 76 graduates could work with veteran CMPs in HA clinics. May I ask the Secretary whether he agrees that this situation is unfavourable to the professional development of locally trained CM graduates? Does the Government intend to give them more support, so as to help them find genuine avenues of professional development?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, I also agree with what Mr Jasper TSANG has said just now, that regulatory regime and CME alone are not necessarily comprehensive enough, especially when we talk about the development of those young CMPs. Nevertheless, as far as I know, to date, when CM graduates start their practice, they would practise in joint venture with some veteran CMPs, and very few of them would start practice on their own. For that reason, I hope veteran CMPs will co-operate with younger CMPs, especially younger CMPs need more time to practise after passing the examinations. I believe it will still be insufficient even if the three clinics absorb all the CM graduates. A large number of veteran and experienced CMPs are practising in the community, I hope this survey will help us to understand the way they train up the next generation of CMPs. Our current data show that over 35% of registered CMPs are above 60 years of age, who are older and more experienced, for that reason, it is important

to find out how the experience of these CMPs can facilitate the training of the new generation of CMPs.

**DR RAYMOND HO** (in Cantonese): *Madam President, the Secretary explained in the main reply that all registered CMPs are required to get a minimum of 60 points within the three-year cycle of the CME. I think it is related to those 8 000 CMPs. As a common practice, CM graduates can only sit for professional examinations on condition that they have spent some time attending approved training courses. May I ask whether the Government would allow them to work for voluntary organizations and charitable institutions besides government CM clinics while they are attending the approved training courses?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): *Madam President, Dr HO, at present, a person has to pass a professional licensing examination before he can register as a CMP, and before he sits for the examination, irrespective of which university he has been studying in, he should obtain clinical practice experience of 32 weeks. Different universities would conduct the practicum in different places, for while some are in Hong Kong, some are in the Mainland. With regard to the licence we issue, as soon as the CM graduate has obtained the licence, he can start practice immediately. He is not required to attend any further training course at any place. Of course, it is up to them to attend the training courses voluntarily, and some CM graduates would pursue further studies. For that reason, we hope the sector will draw up a strategy which allows young CMPs to develop through working with veteran CMPs.*

**MR HOWARD YOUNG** (in Cantonese): *Madam President, Mr TSANG mentioned in his main question that only a small portion of locally-trained CM graduates had become CMPs upon graduation. The Secretary cited some incomplete statistics in part (a) of the main reply, that is, only 70% of locally-trained CM graduates from the two universities are in CM-related employment at present. Of course, these figures are not at all complete, nevertheless, if we compare them with the figures of other university graduates in similar disciplines who practise the profession relevant to their respective academic discipline, are these figures high or low? If they are compared with*

*Western medical practitioners, will these figures reflect a serious problem? If yes, what measures will the Government adopt?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, this is not an easy question to answer. First of all, the percentage is a little more than 70%, that is, around 30% of the graduates do not enter the practice, so I believe the figures are not so encouraging. Each year, we have several graduates engaging in other unidentified trades. CM is a profession of broad scope, besides providing clinical out-patient service or consultation, they sometimes may engage in other aspects of CM, for that reason, more observations are needed. I have explained earlier that currently, elderly CMPs make up for the majority of registered CMPs. I believe in 20 years or so, we would need more CMPs than today. I also hope CMPs can improve the standard of the sector in Hong Kong through co-operation and mutual training during this interim.

**MR LEUNG YIU-CHUNG** (in Cantonese): *Madam President, the Secretary explained in part (c) of the main reply that in formulating the manpower planning strategy, the Administration would also take into account the expected number of professionals trained outside of Hong Kong. May I ask the Secretary whether the three public CM clinics and private institutions have recruited practitioners from outside Hong Kong, which has in return affected the employment opportunities of local CMPs? I have heard that several hospitals or institutions have recruited some non-locally-trained practitioners or even non-permanent identity card holders to work in Hong Kong. Is that true?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, I wish to divide my answer in two parts. Mr LEUNG, firstly, some of the senior CMPs currently employed by the three hospitals under the HA are recruited from the Mainland owing to their unique backgrounds, experience and qualifications which could meet our requirements in the scientific research respect; while the number of professionals trained outside of Hong Kong who had obtained CMP licences, as far as I know, were 80 in the past two years. Nevertheless, no information shows that whether these 80 people are practising CM or no information shows that whether these 80 people are practising CM or engaging in CM-related business. However, we can see that

the trend will continue. There will be 79 CM graduates in each of the next three years (that is, triennium of the university) in addition to CM students trained outside Hong Kong who will sit for the licensing examination. I believe more than 200 fresh CM graduates would join the CM sector.

**PRESIDENT** (in Cantonese): Mr LEUNG Yiu-chung, has your supplementary question not been answered?

**MR LEUNG YIU-CHUNG** (in Cantonese): *Yes, Madam President. The supplementary I raised just now was whether these recruits would obstruct or hinder the development of locally-trained CMPs? Since the Secretary mentioned earlier that some of the CMPs were recruited from the Mainland, does it mean the level of professional knowledge of locally-trained CMPs is too inadequate, or does it mean that we will concentrate more on the training of local professionals in future?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, as I have explained earlier, locally-trained CM graduates have only a couple of years' experience, thus they are unable to assume the posts of senior CMPs. However, the senior CMPs we recruited have the professional qualities and experience. At present, we also have professor grade CMPs recruited from mainland CM hospitals.

**MR TAM YIU-CHUNG** (in Cantonese): *Madam President, at the initial founding of the SAR, the Government used to propose the development of Hong Kong into a Traditional Chinese Medicine Port (TCMP). Subsequently, this concept of TCMP has made a lot of students select CM majors and universities compete with each other by opening CM courses. At present, Hong Kong has 80 CM graduates each year and 8 000 registered CMPs. Will the Government reconsider the concept of TCMP in order to create more employment opportunities for these CM graduates?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, I wish to thank Mr TAM for his suggestion. I believe that it

is also a question I have to consider carefully. Since if we develop CM, we should not only train CM professionals without considering the overall development of the service. We would spend some time to review that issue.

**DR KWOK KA-KI** (in Cantonese): *Madam President, I agree with the analysis made by the Secretary earlier, that is, we should not solely rely on the CM professionals trained by public hospitals. We can also see that it is now quite difficult to train up CM students to become research and teaching staff in future. Will the Secretary evaluate and estimate that when our locally-trained students who are graduated from educational institutions, including the two universities, can take over scientific research and teaching jobs, and what means will the Government adopt to achieve this?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): *Madam President, Dr KWOK, I know that some students stay in the university to conduct research and they are working as postgraduate students. Of course, I believe that it will take eight to 10 years for a person to become an experienced and qualified professional who can lead his fellow professionals, and I believe this timeframe is acceptable to us. However, I have explained earlier that we would provide a more effective training environment for the development of elite CMPs in other respects in quest of some results in scientific research.*

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

**DR LUI MING-WAH** (in Cantonese): *Madam President, at present, CMPs usually need no help of specific diagnostic equipment, for traditionally, they would make a diagnosis by the four methods of diagnosis (observation, auscultation and olfaction, interrogation, and pulse feeling and palpation). The Secretary mentioned in the last paragraph of the main reply that the purpose of CM clinics were "to promote evidence-based CM practice through clinical research". May I ask what "evidence-based CM practice" is?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, as far as I know, evidence-based CM practice is the same as evidence-based medicine. That is, we will do some work and to conduct some scientific analysis to prove its efficacy. In my opinion, traditionally, CM lacks backing in this respect. Plenty of literatures in this respect could be found in the Mainland, but in the Hong Kong context, not much work has been done before the implementation of the registration system, thus we have to make some proactive efforts in this respect. In fact, there is very little difference between traditional CM and Western medicine, as a lot of Western medicines are derived from CM. For that reason, we hope that in terms of scientific research, CM and Western medicine could be considered as a whole and I hope that research can be conducted together. I have explained earlier that we could pool the strength of both schools in the research of specific subjects or cases.

**DR LUI MING-WAH** (in Cantonese): *Madam President, the Secretary has not answered my supplementary. He said CM and Western medicine are the same, but I think they are very different, one school aims at bacterial infection, the other targets the regulation of the environment; they are virtually different. The Secretary said earlier that he would make some efforts, what actually will he do? Just now I asked what "evidence-based CM practice" was, but the Secretary has not answered my supplementary.*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, "evidence-based CM practice" is an approach aiming at the condition of a patient or a person. For instance, if we adopt a certain treatment to treat a patient, it involves the ways to prove the treatment is effective, or the extent of efficacy could be achieved, and under what circumstance it will be effective and under what circumstance it will fail, we could only find out through scientific analysis carried out under different circumstances. With regard to the Chinese and Western medicine I mentioned earlier, in fact I wished to illustrate that as far as CM is concerned, for example, Aspirin is extracted from herbs. In this respect, should we separate CM from Western medicine? We hope that we can put together all the findings on the existing basis of Chinese and Western medical practice in Hong Kong, so that we can help the further development of Chinese and Western medicinal practice. Certainly, this study cannot be accomplished overnight, and we should spend some time to accomplish it.

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

### **Supply and Demand of Residential Units**

6. **MR LEE WING-TAT** (in Cantonese): *Madam President, it has been reported that some real estate developers have predicted that the supply of residential units will fall short of demand in 2007 and 2008. In this connection, will the Government inform this Council of:*

- (a) *the total area of private land scheduled to be put up for sale in the next five years; whether it has any plan to include more land in the List of Sites for Sale by Application, in particular those with a smaller site for development, so that small and medium-sized developers have the opportunity to participate; if it has, of the details; if not, the reasons for that;*
- (b) *the projected supply and demand situation of residential units and the relevant figures in the next five years; and*
- (c) *the number of public rental housing units the authorities plan to provide in each of the next five years and, among them, the number of units which were originally built under Home Ownership Scheme (HOS) projects?*

**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Cantonese): Madam President, before answering Mr LEE Wing-tat's question, I would like to reiterate the Government's policy positions on land and housing supply and public housing development. The Government's housing policy is market-oriented. As a main provider of land, the Government will ensure sufficient supply to satisfy the demands for housing. The Government is also committed to providing public rental housing to needy low-income families.

My reply to the three-part question is as follows:

- (a) Since 2004, the supply of new land is only triggered from the Application List for the Sale of Government Land (the Application List). In 2004-05, there are 17 sites on the Application List,

comprising about 10.5 hectares of residential land and about 2.6 hectares of commercial/business land. Up to now, 12 sites have yet to be triggered for sale. Hence, we have no plan to include additional sites in the 2004-05 Application List. At the end of last year, when drawing up the current Application List, the Government had already taken into account the prevailing market conditions and the development needs of the community and provided sites of different types, sizes and uses. Of them, nine residential sites have an area of less than 1 hectare, which are suitable for small and medium developers.

The Government is responsible for providing sufficient land to meet the needs of developers. The actual timetable for land supply depends on the actual needs of the community and market conditions. At present, we have about 99 hectares of land that are readily available for private housing development. In the next five years, we estimate that more land would be available for different development uses. However, as we do not know the market development in the longer term, we do not consider it appropriate to draw up an Application List for a longer period to avoid confusing the market. The Government will continue to draw up the Application List on a yearly basis having regard to the needs of the market.

- (b) As at the end of September this year, there are about 15 000 flats which are completed but not yet sold. About 48 000 flats are either under construction or have not yet been sold or offered for sale. Moreover, the sites already granted to developers for which construction can commence at any time could also provide some 10 000 flats. After the Government's co-ordination, the two railway corporations will put their property development projects to the market in an orderly manner. According to the information announced by the railway corporations, a total of 67 000 flats will be provided between 2007 and 2016. In addition, the Housing Authority (HA) has a stock of some 16 000 surplus Home Ownership Scheme (HOS) flats, which are planned for sale after 2006.

I wish to emphasize that the figures quoted above only reflect the actual snapshot situations on the basis of the best information

available to date. They should not be taken as a forecast of flat supply. Developers will, having regard to market conditions, decide the timetables for commencing residential developments and the supply of flats will fluctuate accordingly. On the basis of the statistics on hand, we do not agree that the market is showing any signs of future short supply. Nonetheless, I wish to assure Members that the Government will monitor the flat supply situation closely and will provide sufficient land for housing development in a timely manner.

On the other hand, market demand for housing depends on a number of factors such as demographic changes, economic and social conditions. Hence we have to be careful in reading and analysing any forecast figures. To address this aspect of Mr LEE Wing-tat's question, I wish to provide the following information for reference. Figures in the past few years suggest that the annual average of transactions in the primary housing market ranges between 21 000 and 26 000.

- (c) As regards provision of public rental housing, we will continue to regularly assess the demand and plan the public housing development programme on the basis of maintaining the average waiting time at around three years. At present, the average waiting time is only less than two years. In addition, the HA has decided to transfer about 3 000 HOS flats and 8 700 Interim Housing flats to public rental housing. We estimate that in the next five years, the HA will provide an average of 30 000 public rental flats every year to eligible families.

**MR LEE WING-TAT** (in Cantonese): *Madam President, the Secretary disclosed at yesterday's meeting that of the some 90 hectares of land to be supplied in the future, a large portion was located in the New Territories and Kowloon, and only a small portion was on the Hong Kong Island. In view of this, it is pointed out in some analyses that there will hardly be speculation on small to medium sized flats in general. But the shortage of supply will easily give rise to speculation on luxury flats on Hong Kong Island. Does the Secretary agree with this? And, has speculation on luxury flats already emerged?*

**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Cantonese): Madam President, the distribution of the 99 hectares of land mentioned by me yesterday is the same as cited by Mr LEE Wing-tat. However, Members should remember that, as I just said, we will provide more land in the next five years, with an area of about 295 hectares. The 99 hectares of land mentioned earlier are not included in these 295 hectares of land. We can supply these sites in the next five years gradually, when necessary. Certainly, some of these sites are under formation, and not all the sites can be supplied now. But no matter how, according to the progress of our project and plan, we are confident of providing that amount of land in five years if necessary.

Certainly, as I said earlier, the actual supply of land has to be decided according to the actual conditions at the time. Of the 295 hectares of land, not all the sites are located in the New Territories; some of them are on Hong Kong Island. Therefore, the actual supply of sites and the future supply of residential flats on Hong Kong Island will not be too low.

Regarding the issue of luxury flats mentioned by Mr LEE Wing-tat earlier, it is definitely a matter of demand and supply. As I said earlier, there are quite a number of sites available for development of this kind on Hong Kong Island in the future. As to whether the schedule of supply of these sites can tie in with demand or be provided at an earlier time, I consider that in the short term, the equilibrium of demand in this respect will be maintained. Though many people say that the supply of sites for luxury flats is limited, I think we should not overlook that three so-called luxury development sites have already been included on this year's Application List, with one located at the Peak, one at Repulse Bay and one at South Bay.

Sites of this type are in supply now; it is only that these sites have not been triggered for sale by developers. I think Members should examine the reason behind this. Therefore, I think what the Government can do now is to monitor closely the supply in this respect, ensuring that adequate supply of land can be provided when necessary.

**MR CHAN KAM-LAM** (in Cantonese): *Madam President, the Secretary said just now that the Government would monitor the flat supply situation closely and would provide sufficient land at an appropriate time. In the last paragraph of part (a) of the Secretary's main reply, it is mentioned that the Government would*

*draw up the Application List for the coming year on a yearly basis. It seems quite cautious to draw up the list on a yearly basis. But, on the other hand, the Secretary says that land will be provided at any time depending on the market situation. May I ask the Secretary, taking into account the factors he has to consider, when the appropriate time is? At what stage of market development will land be supplied? Will the approach to draw up the Application List on a yearly basis be altered?*

**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Cantonese): Madam President, the issue should be considered from three aspects, the short term, the medium term and the long term. In the short term, as I explained earlier in my main reply, we have to consider the economic situation of each year, the flat stock in the property market and the number of flats under construction, before we decide the supply of the coming year. I believe this is a cautious approach agreeable to all.

However, it does not mean that we are not capable of or not prepared for providing more land when demand arises in the market, and that we will fail to react promptly, being unable to supply any land. Therefore, as I stated clearly just now, our policy is to maintain the supply of land in the long term. We can assure the market of this. We have 99 hectares of land in our hands, which can be supplied now and are readily available for development. In the several years to come, we will increase the supply of land year by year. We are now carrying out different levels of formation works and can assure that an additional supply of at least 295 hectares of land will be made available in the next five years. Therefore, I can give a clear message to the market that land is available. We will provide an appropriate number of sites each year in a manner that all of us consider cautious.

Of course, if we find that we are wrong, that we have underestimated or overestimated the market situation, we may remedy the situation in the middle of the year. However, the remedial measures to be introduced have to be decided according to the situation at the time. We cannot state clearly now how we will remedy the situation, but we are capable of doing so.

**MR JEFFREY LAM** (in Cantonese): *Madam President, in the main reply, the Secretary says that 12 sites have not yet been triggered for sale, but he has not*

*mentioned how many hectares of land are assigned as residential sites and commercial sites. According to the information of the two railway corporations, 67 000 flats will be provided between 2007 and 2016. Now, what we urgently need to know is the number of flats to be provided by the two railway corporations between now and 2006.*

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

Madam President, the flats to be provided by the two railway corporations between now and 2006 must be under construction. If the construction works of these flats have yet to be started, there is no chance that these flats can be put on the market before 2006. In fact, this is exactly the co-ordination with the two railway corporations in consolidating housing measures that we mentioned last year. The arrangement involves the co-ordination of the timetable for inviting tender for their sites, so that the completion dates of all these flats will not fall on the same period. In the light of the co-ordinated scheme on land supply we have agreed, the two railway corporations announced two to three weeks ago that sites providing 2 000 to 3 000 flats would be put up for tender by the end of this year or early next year, and those flats would be completed after 2007.

**MR TOMMY CHEUNG** (in Cantonese): *Madam President, I would like to ask the Secretary about the flats to be provided by the railway corporations and the surplus HOS flats after 2006, which he has mentioned in part (b) of his main reply. May I ask the Secretary when the relevant timetable will be available? Or, is the timetable already available, only that we are not told about this? From 2006 to 2016, within a period of 10 years, the two railway corporations will provide tens of thousands of flats and the HA is stocking up more than 10 000 flats. I believe many colleagues would like to know whether the 10 000-odd HOS flats will be offered for sale in 2006. May I ask whether a timetable has been drawn up now? Actually, these flats are completed. Will the Secretary inform us of the relevant timetable?*

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

Madam President, I will first talk about the two railway corporations. As I said

earlier, last year, we co-ordinated with the two railway corporations, confirming that the some 60 000 flats would be completed in phases within 11 to 12 years, with the number of flats completed each year being capped at several thousands. Thus, we have tried to minimize the impact on the market, which may facilitate the market demand.

In respect of the surplus HOS flats, a problem which has been worrying us for a long time, the discussion has been dragged on in this Chamber for two years. I remember that when I announced the Statement on Housing Policy in this Chamber two years ago and at the first panel meeting after that, Members had asked about the disposal options for HOS flats. In fact, we have done our level best and disposed of a substantial amount of HOS flats. For example, after protracted negotiations with the Government, the Government agreed to purchase some 4 000 HOS flats for use as quarters for the disciplined services. We have also converted a substantial number of HOS flats into public housing flats. At present, the some 10 000 surplus HOS flats can be classified into two types. The first type of flats are those that have once been offered for sale, flats left unsold when flats of the estates were put on sale earlier. This type of flats must be offered for sale again. The other type of flats is new HOS flats that have never been offered for sale, the number of which amounts to 4 000. The total of the two types of flats is 16 000. We have said before that these flats would not be offered for sale before 2006. Certainly, I fully understand that the maintenance of these flats and the interest so incurred place a burden on the HA, and that we have to bear these expenditures. We have explained in our Statement on Housing Policy the reason for such arrangement. For the economy and development of the property market of Hong Kong at large, we have to make some sacrifice. Not every issue can be dealt with the best option which is 100% perfect. At present, it seems that our approach is acceptable to the community. But still, we feel heartrending about the substantial resources spent in this respect. We will insist on following our original approach.

**MR TOMMY CHEUNG** (in Cantonese): *Madam President, the Secretary has given a very detailed reply. However, I learnt from the reply that 12 000 flats must be offered for sale, though they will not be put on sale before the end of 2006. My supplementary question is: Since a timetable has been drawn up, will he inform us of the information about those HOS flats which must be put on sale? Has the Secretary identified which HOS flats they are?*

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

**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Cantonese): Madam President, I do not have much to add. We will certainly put those flats on sale after 2006, but a timetable has yet to be fixed.

**PRESIDENT** (in Cantonese): We have spent more than 19 minutes on this question. Last supplementary question now.

**DR RAYMOND HO** (in Cantonese): *Madam President, in part (a) of the main reply, the Secretary says that the Government does not know the market development in the longer term. However, after hearing the replies given by the Secretary just now, it appears that the Government also fails to keep tabs on the market changes in the short and medium terms. As the Application List drawn up at the end of last year was drawn up on a yearly basis, and that 12 sites have not been triggered for sale so far, will the Government consider conducting a review to examine the suitability of the locations, size and pricing of these 12 sites? As it has almost been a year since the Application List was drawn up, will the Government conduct a review in this respect?*

**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Cantonese): Madam President, we will certainly conduct frequent reviews. However, to date, we see no signs that the locations of sites are undesirable or the area of sites is unsuitable. Indeed, these are sites desired by the sector. For example, there are small scale sites, sites for different purposes, sites for luxury flats, sites of larger scale, and so on. Almost all kind of sites in need can be found among these sites. We will follow this approach in deciding the composition of the Application List in future.

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

**WRITTEN ANSWERS TO QUESTIONS****Additional Assistance Provided by Social Welfare Department**

7. **DR FERNANDO CHEUNG** (in Chinese): *Madam President, there has been heated discussion on the Comprehensive Social Security Assistance (CSSA) System in the community recently. Some social organizations requested that the Government should, apart from suspending the cutbacks in CSSA payments, review the entire the CSSA System and determine the level of CSSA payments with reference to the clients' basic and essential needs. On the other hand, a spokesman for the Health, Welfare and Food Bureau said that elderly or non able-bodied CSSA recipients who had special needs or difficulties could approach the Social Welfare Department (SWD) for assistance, and the SWD would exercise discretion in providing them with additional assistance. The Director of Social Welfare, however, criticized a survey on basic and essential needs conducted by the Hong Kong Council of Social Service as hazardous and impractical. In this connection, will the Government inform this Council:*

- (a) of the scope of additional assistance provided by the SWD to the above CSSA recipients;*
- (b) whether the SWD has any criteria or procedures for determining whether the special needs of these persons warrant additional assistance; if it has, of the details; if not, how it can ensure that different front-line staff are able to exercise discretion in an objective manner in determining whether additional assistance should be provided;*
- (c) whether the SWD had conducted any survey on basic and essential needs over the past three years; if it had, of the details and the outcome;*
- (d) whether it will consider determining the level of CSSA payments by reference to basic and essential needs; if it will, of the implementation timetable; and*
- (e) whether it will review the entire CSSA System and consult the public on the review; if it will, of the ways to proceed with the review (for example, whether a working group will be formed) and the timetable*

*of the review, including the time to issue the public consultation paper and to publish the outcome of the review?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Chinese): Madam President, regarding (a) and (b) of the question, after the adjustment of the standard rates for non-able-bodied CSSA recipients (that is, the elderly, the disabled or those medically certified to be in ill-health) from 1 October 2004, these categories of recipients could, apart from the standard rates, also receive a number of special grants to meet their special individual and household needs. The grants are payable to cover items such as rent, water/sewage charges, telephone fees, glasses, dental treatment, special diet allowance, removal service, home help service, rehabilitation and medical appliances, emergency alarm system for the elderly and the expenses on travelling between home and hospital or clinic. In case of difficulties or special needs, the recipients may approach the SWD and apply for these special grants, which are made on a flat-rate or reimbursement basis, or awarded according to individual recipient's actual needs up to certain limits. The eligibility criteria are specified in "A Guide to Comprehensive Social Security Assistance" published by the SWD for front-line staff and recipients' reference.

Also, staff of Social Security Field Units of the SWD will assess recipients' situation and difficulties, such as whether they require assistance or services beyond the CSSA Scheme, and, where appropriate, refer the cases to other service units, departments or non-government organizations for further assistance. District social welfare officers also strive to help needy elder/non-able-bodied CSSA recipients through outreach services and community care networks. Assistance can be rendered in the form of home help and home care services, counselling service, meal service, compassionate rehousing, material assistance and household repairs by volunteers.

Regarding (c) and (d) of the question, the CSSA Scheme seeks to provide assistance to needy individuals and households to meet their basic and essential needs. With this principle in mind, the Administration keeps the CSSA Scheme under regular review.

For example, on the basis of the findings of the 1994-95 Household Expenditure Survey, the Administration made an overall examination of whether the CSSA rates could adequately meet people's basic and essential needs in 1996.

The basic and essential needs of different categories of CSSA recipients were set with reference to the advice of government dieticians as well as information on the expenditure pattern and price changes provided by the Census and Statistics Department (C&SD). The aim was to ensure that the CSSA standard rates were set at a level not lower than this baseline. Having regard to the review findings, the Administration has increased the standard rates for specific categories of CSSA recipients in real terms by 9% to 57% since 1 April 1996.

Apart from setting the CSSA standard rates for different categories of recipients to meet their basic and essential needs, the 1996 review also led to the establishment of a mechanism for annual adjustment of CSSA standard rates on the basis of the Social Security Assistance Index of Prices (SSAIP). Under this mechanism, a household expenditure survey for CSSA households is conducted every five years, in addition to the annual adjustment. The aim is to update the SSAIP in the light of the relative importance of individual items of goods and services consumed by CSSA households, to ensure that the index can more accurately reflect the expenditure pattern of CSSA households and the impact of price changes on the purchasing power represented by the CSSA standard rates. The latest household expenditure survey for CSSA households was conducted in 1999-2000. The C&SD will conduct another household expenditure survey in 2005. Results are expected to be available in late 2005. By and large, the CSSA review mechanism has taken into account the recipients' basic and essential needs.

For part (e) of the question, with ongoing fine-tuning, the CSSA has worked generally well with experience and improvements over the past years. The Administration would review the CSSA from time to time to ensure that the Scheme can provide people in financial difficulties with a sustainable and effective safety net.

Apart from the household expenditure survey for CSSA households mentioned above, we will also conduct reviews on particular topics and set up a working group under the Social Welfare Advisory Committee (SWAC) to follow up. The scope will include:

- the intensive employment assistance projects implemented since October 2003 to help unemployed CSSA recipients and "near-CSSA" recipients to find gainful employment;

- the existing CSSA arrangements and related services for single-parent families on CSSA; and
- the practice of disregarded earnings under the CSSA Scheme.

The reviews would be conducted from now to mid-2005 and we will consult the SWAC and the Legislative Council Panel on Welfare Services on the results.

### **Introduction of "Teaching by Subject Specialists" in Primary Schools**

8. **DR RAYMOND HO** (in Chinese): *Madam President, regarding the Government's plan to introduce "teaching by subject specialists" in primary schools for the subjects of Chinese Language, English Language and Mathematics, will the Government inform this Council:*

- (a) *of the timing of launching the plan and its details;*
- (b) *of the estimated average number of additional teachers that each primary school has to employ because of the implementation of the plan; and*
- (c) *whether the plan will be extended to secondary schools?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Chinese): Madam President,

- (a) The Government plans to increase the teacher-to-class ratio for eligible whole-day primary schools from 1.4:1 to 1.5:1 with effect from 2005-06 school year. The objective is to reduce teachers' teaching workload, to enable the language and mathematics teachers to focus more on teaching the subjects they profess in to enhance learning and teaching effectiveness and professional development of teachers. Specialized teaching will start with English Language first, to be followed by Mathematics or Chinese Language. The Government has no intention to introduce additional qualifications or training requirements in implementing this initiative.

- (b) The provision of additional posts subject to a maximum of three for each school is determined by the number of classes. For example, a whole-day primary school with 30 classes will receive three additional teachers' provision.
- (c) Specialized teaching is already common in secondary schools. Secondary school classes, especially those at the senior secondary levels, are usually taught by subject-trained teachers. The Education and Manpower Bureau will continue to encourage specialized teaching through professional development of teachers and flexible use of resource by schools to create space for teachers to focus on the teaching of their subject discipline.

### **Scientific Research Pursuits**

9. **DR RAYMOND HO** (in Chinese): *Madam President, the Chief Executive mentioned on the 7th of last month that he looked to private sector enterprises and charitable trusts to contribute funds for developing research areas of excellence. He also pointed out that the Government could and should play an active role in creating an environment conducive to scientific research pursuits. In this connection, will the Government inform this Council:*

- (a) *whether it knows the details of the donations made by local private sector enterprises and charitable trusts to local scientific research institutions in the past three years;*
- (b) *whether it has adopted any measures to encourage donations in this respect; if it has, of the relevant details;*
- (c) *of the total public spending on scientific research activities in the past three years and the major research topics involved; and*
- (d) *what plans it will implement in the coming three years to create an environment more conducive to scientific research pursuits?*

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Chinese): *Madam President, the Government provides its support to local basic*

and applied scientific research projects mainly through the University Grants Committee (UGC) and the Innovation and Technology Fund respectively.

- (a) In the past three years, local private enterprises and charitable organizations donated a total of \$495.4 million to the UGC-funded institutions in support of their new research projects.
- (b) The Government has been making use of various activities to showcase our scientific research deliverables, highlight the importance of such researches in the development of local industries, and in turn arouse the interest of the industries in our scientific research activities. These include hosting exhibitions, forums and talks on science and technology, organizing the Hong Kong Student Science Project Competition, and taking part in scientific and technological events held overseas as well as by international organizations. The Government will strengthen co-operation in this direction with industries, enterprises, research bodies, professional associations, educational institutions and youth groups. Plans are in hand to organize public exhibitions and seminars on technological issues on a regular basis, and to disseminate the latest information on innovation and technology development via the Internet. It is our intention that these efforts will promote an innovation and technology culture among different sectors in the community, including private enterprises and charitable organizations, as we solicit their support for local scientific research development.
- (c) In the past three years, the Government committed over \$13.4121 billion on scientific research activities. This amount includes appropriation from the UGC block grant to UGC-funded institutions for academic research purposes as well as funding provided by the Research Grants Council and the Innovation and Technology Fund covering the academic years 2001-02 to 2003-04. The main research areas funded include information technology, electronics, biotechnology and manufacturing technology.
- (d) In the next three years, the Government will continue to provide an environment conducive to scientific research pursuits and build up

the related capability through various funding schemes and infrastructural projects. For example, the Innovation and Technology Fund will continue to finance projects that could enhance the competitiveness of industries and their technological applications. We will also strive to promote co-operation between research institutions and industries, and establish research and development (R&D) centres to encourage wider industry participation in R&D activities and the optimum use of research deliverables.

Besides, the Applied Science and Technology Research Institute (ASTRI), which was established in 2000, will continue to perform high-quality R&D to facilitate the transfer of the outputs to the relevant industries. The Hong Kong Science and Technology Parks Corporation will also continue to offer services in a number of areas such as nurturing technology start-ups through the incubation programme, providing facilities and services in the Science Park for applied R&D activities and allocating sites in the Industrial Estates for production.

As regards the education and nurturing of research personnel, the UGC has been supporting the education of Research Postgraduate (RPg) students. For the 2004-05 academic year, the number of RPg places offered by local institutions totals 4 315 full-time equivalent. In the coming three years, the Government will continue to provide, through the UGC, resources for the institutions to support the education of RPg students for preparing them to undertake research work. Given that the funding for the 2005-08 triennium has yet to be finalized, we are not able to provide details on the provision for the next three years in the meantime.

### **Mainland People Taking up Illegal Employment as Domestic Helpers**

10. **MR LAU KONG-WAH** (in Chinese): *Madam President, regarding mainland people taking up employment as domestic helpers illegally after entering Hong Kong on Exit-entry Permits for Travelling to and from Hong Kong and Macao or business visit endorsements, will the Government inform this Council:*

- (a) *of the respective numbers of mainland visitors arrested and convicted for taking up employment as domestic helpers illegally in each of the past three years, together with a breakdown by the type of travel documents held; and*
- (b) *whether the authorities have encountered any difficulties in investigating such cases and prosecuting the persons concerned, for instance, when both the employer and the employee claim that they are relatives and the work is unpaid; if so, of the counter-measures to deal with the situation?*

**SECRETARY FOR SECURITY** (in Chinese): Madam President,

- (a) We do not have statistics which are specifically broken down according to whether a mainland visitor has been arrested for, or convicted of, working illegally as a domestic helpers.

As regards mainland visitors arrested for, or convicted of, working illegally in Hong Kong, the statistics in the past three years are as follows:

<i>Year</i>	<i>2001</i>	<i>2002</i>	<i>2003</i>	<i>2004*</i>
Number of persons arrested	2 210	3 031	4 830	3 874
Number of persons convicted	1 236	1 878	2 659	2 603

(\*up to end-September)

As regards the type of travel documents held by these people, most of the mainland visitors arrested had gained entry into Hong Kong on strength of their Exit-entry Permits for Travelling to and from Hong Kong and Macao, with a majority of them holding endorsements for visiting relatives or conducting businesses.

- (b) The Immigration Ordinance (Cap. 115, Laws of Hong Kong) prohibits any visitor from taking up any employment, whether paid or unpaid. Offenders are liable on conviction to a maximum fine of \$50,000 and imprisonment for two years. In consequence, it remains unlawful to take up employment even it is unpaid.

In investigating cases involving illegal work as domestic helpers, law enforcement officers need to overcome similar difficulties in obtaining evidence as in other illegal employment cases. Given that household chores are mostly done inside private residential premises, extra prudence has to be exercised in the investigation. Nevertheless, our law enforcement officers will always deal with each case in a professional manner by analysing the intelligence carefully and making arrests only after meticulous planning. Apart from seizing relevant exhibits at the scene, they will tactfully interrogate the arrested persons or make enquiries with witnesses and others in order to gather sufficient evidence to bring the illegal workers and their employers to justice.

Recently, the Court of Appeal has issued guidelines for sentencing offenders employing illegal workers. According to the guidelines, in the absence of aggravating circumstances or mitigation factors, even first offenders who have only employed one illegal worker on a casual basis should be given an immediate custodial sentence of three months. The guidelines also state that the fact that the illegal worker is a relative or clansman of the employer does not in itself constitute a mitigating factor.

### **Aircraft Noise**

11. **MR ALBERT CHAN** (in Chinese): *Madam President, in reply to my question at the Legislative Council meeting on 8 October last year, the Government indicated that the Civil Aviation Department (CAD) had implemented various noise mitigating measures to minimize the impact of aircraft noise on the communities near the flight path. For example, to avoid aircraft overflying more densely populated areas in the early hours, arrangements were made for flights departing Hong Kong between 11 pm and 7 am to use the southbound route via the West Lamma Channel as far as possible, while flights arriving in Hong Kong between midnight and 7 am were directed to land from the waters southwest of the airport, subject to flight safety not being affected. However, I have learnt that during the above hours, aircraft noise was still often*

*causing nuisance to residents of many housing estates, including the Caribbean Coast in Tung Chung, the Seaview Crescent in Sham Tseng and Park Island in Ma Wan, making it difficult for them to sleep. In this connection, will the Government inform this Council of:*

- (a) the number of flights with aircraft noise levels exceeding 75 decibels (dBs) during the above hours, as recorded in Tung Chung, Sham Tseng and Ma Wan in the past 12 months, and their take-off and landing times; and*
- (b) the measures to reduce the nuisance caused by aircraft noise to residents of these estates, including whether it will consider prohibiting the take-off and landing of aircrafts the noise levels of which exceed 75 dBs?*

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

- (a) The CAD has installed aircraft noise monitoring terminals at Fu Tung Estate near Caribbean Coast, Seaview Crescent in Tung Chung, Hong Kong Garden in Sham Tseng and Park Island in Ma Wan. During the past 12 months from 1 October 2003 to 30 September 2004, for the period from 11 pm to 7 am, there were 39 aircraft noise events exceeding 75 dBs recorded at the noise monitoring terminal at Fu Tung Estate, Tung Chung (representing 0.02% of all noise events recorded at this terminal). Detailed information is set out in Annex 1. During the same period, there were 225 aircraft noise events exceeding 75 dBs recorded at the noise monitoring terminal at Hong Kong Garden, Sham Tseng (representing 0.2% of all noise events recorded at the terminal). Detailed information is set out in Annex 2. The noise monitoring terminal at Park Island, Ma Wan recorded 2 365 aircraft noise events exceeding 75 dBs during the same period (representing 2.09% of all noise events recorded at the terminal). Detailed information is set out in Annex 3.

- (b) Subject to flight safety and air traffic operation not being affected, the CAD has since October 1998 implemented a series of noise mitigation measures to minimize the impact of aircraft noise on the communities near the flight path. These measures include:
- (i) to avoid aircraft overflying more densely populated areas in the early hours, as far as possible flights departing between 11 pm and 7 am are arranged to use the southbound route via the West Lamma Channel, whereas flights arriving Hong Kong between midnight and 7 am are arranged to land from the southwest;
  - (ii) to reduce the aircraft noise impact on Tung Chung, Sham Tseng and Ma Wan, all aircraft taking-off towards the northeast are required to follow the noise abatement departure procedures prescribed by the International Civil Aviation Organization (ICAO) to reach a higher altitude within a shorter distance; and
  - (iii) with effect from 1 July 2002, the CAD has banned all aircraft which has a higher noise level, as defined in Chapter 2 of Volume I, Part II of Annex 16 of the Convention on International Civil Aviation, from landing and taking-off at the airport.

Noise impact caused by aircraft take-off and landing in many parts of the world is assessed on the basis of the internationally accepted Noise Exposure Forecast (NEF) Contour. The Contour is determined after taking into account various factors including the dB levels of aircraft noise, the tonal characteristics as well as the duration and frequency of overflying flights at different times of the day. As compared to measuring only the dB levels, the NEF model can reflect more comprehensively and appropriately the noise impact caused by aircraft take-off and landing. Hong Kong currently adopts the NEF 25 Contour, which is comparable to or more stringent than the standards adopted by many other countries.

According to the Hong Kong Planning Standards and Guidelines, all noise sensitive developments, including residential developments, are prohibited within the NEF 25 Contour. Although Tung Chung, Sham Tseng and Ma Wan are near to the airport, these areas (including Caribbean Coast, Seaview Crescent and Park Island) are outside the NEF 25 Contour.

Aircraft noise impact is assessed by using the NEF model. We will not prohibit the take-off and landing of aircraft based only on the dB level of aircraft noise. The CAD has also banned the landing and take-off of all aircraft which has a higher noise level in accordance with the ICAO standards. It will continue to closely monitor flight paths and aircraft noise impact through the Aircraft Noise and Flight Track Monitoring System. It will also continue to closely monitor international aviation technology developments and consider all possible noise mitigating measures.

Annex 1

Aircraft Noise events exceeding 75 dB  
Location: Tung Chung  
Period: 1 October 2003 to 30 September 2004  
Time: 2300 to 0700

<i>Time</i>	<i>Number of noise events exceeding 75 dB</i>
23:00 - 00:00	6
00:01 - 01:00	9
01:01 - 02:00	5
02:01 - 03:00	6
03:01 - 04:00	5
04:01 - 05:00	1
05:01 - 06:00	6
06:01 - 07:00	1
<b>Total:</b>	<b>39</b>

Remark:

Tung Chung Noise Monitoring Terminal was out of service on the following dates:

- 11 to 17 June 2004
- 1 August 2004

## Annex 2

Aircraft Noise events exceeding 75 dB  
 Location: Sham Tseng  
 Period: 1 October 2003 to 30 September 2004  
 Time: 2300 to 0700

<i>Time</i>	<i>Number of noise events exceeding 75 dB</i>
23:00 - 00:00	11
00:01 - 01:00	40
01:01 - 02:00	27
02:01 - 03:00	21
03:01 - 04:00	37
04:01 - 05:00	40
05:01 - 06:00	20
06:01 - 07:00	29
<b>Total:</b>	<b>225</b>

Remark:

Sham Tseng Noise Monitoring Terminal was out of service on 1 August 2004.

## Annex 3

Aircraft Noise events exceeding 75 dB  
 Location: Ma Wan  
 Period: 1 October 2003 to 30 September 2004  
 Time: 2300 to 0700

<i>Time</i>	<i>Number of noise events exceeding 75 dB</i>
23:00 - 00:00	238
00:01 - 01:00	989
01:01 - 02:00	345
02:01 - 03:00	136
03:01 - 04:00	200
04:01 - 05:00	207
05:01 - 06:00	126
06:01 - 07:00	124
<b>Total:</b>	<b>2 365</b>

Remark:

Ma Wan Noise Monitoring Terminal was out of service on the following dates:

- 17 to 19 January 2004 (relocation of noise monitoring terminal from Ma Wan Service Reservoir to Park Island)
- 1 August 2004

### **Decline in Primary One Students**

12. **MS AUDREY EU** (in Chinese): *Madam President, it is learnt that the number of applicants for Primary One (P1) admission is declining year by year and the situation is particularly serious for schools in Sha Tin and Tai Po. Even schools with Year 2000 design premises providing better facilities are also affected. In this connection, will the Government inform this Council of the total number of P1 classes reduced as compared with that in the preceding year for Year 2000 design schools in each of the past three years, as well as the names and locations of the schools concerned?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Chinese): *Madam President, there are a total of 71 Year 2000 design primary school premises in Hong Kong at present, providing a total of 2 032 classrooms. A total of four P1 classes have been reduced in only three of these schools as a result of the decline of population in the past three years. The details are as follows:*

<i>Name of School</i>	<i>District</i>	<i>No. of P1 classes reduced</i>		
		<i>2002-03</i>	<i>2003-04</i>	<i>2004-05</i>
CCC Kei Chun Primary School	Kwai Chung	0	0	2
Buddhist Chi King Primary School	Kwun Tong	0	0	1
CCC Hoh Fuk Tong Primary School	Tuen Mun	0	1	0
Total		0	1	3

### **Possession of Video Recording Equipment in Places of Public Entertainment**

13. **MR LAU KONG-WAH** (in Chinese): *Madam President, in June 2000, the Legislative Council passed amendments to the Prevention of Copyright Piracy*

*Ordinance to stipulate that any person who, without lawful authority, has in his possession in a place of public entertainment any video recording equipment commits an offence. In this connection, will the Government inform this Council:*

- (a) of the number of cases about pirate recording or possession of video recording equipment in places of public entertainment reported to the authorities in each of the past three years and, among such cases, the respective numbers of those in which the suspects were prosecuted and convicted, as well as the reasons for some of the suspects not being convicted; and*
- (b) whether, in taking enforcement actions, the authorities have detected loopholes in the Ordinance which make it difficult to institute prosecutions, and whether amendments will be proposed to the relevant provisions?*

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Chinese): Madam President,

- (a) In the past three years, the Customs and Excise Department received reports of five cases of unauthorized possession of video recording equipment in places of public entertainment. The offenders in two cases were prosecuted and convicted. Please refer to the Annex for details of the cases.
- (b) So far, the Customs and Excise Department has not encountered specific difficulties in enforcing the provision against unauthorized possession of video equipment in places of public entertainment under the Prevention of Copyright Piracy Ordinance. In the light of previous enforcement experience, we do not have any plan to amend the relevant provision in the Ordinance.

## Annex

**Report on Unauthorized Possession of Video Recording Equipment in Places of  
Public Entertainment Received by the Customs and Excise Department  
(April 2001 to October 2004)**

<i>Case</i>	<i>Year</i>	<i>Location</i>	<i>Result</i>
(1)	2001	Performance venue	No offence was detected when Customs officers arrived at the scene.
(2)	2002	Cinema	Two offenders were prosecuted and convicted of the charge.
(3)	2002	Cinema	The offender was a tourist, who was unaware of the requirements under the said Ordinance and had no intention to commit any offence. The offender was subsequently warned and released.
(4)	2002	Performance venue	No offence was detected when Customs officers arrived at the scene.
(5)	2003	Cinema	The offender was prosecuted and convicted of the charge.

### **Mainland Women Giving Birth in Hong Kong**

14. **MR LI KWOK-YING** (in Chinese): *Madam President, it has been reported that the number of mainland women giving birth in Hong Kong has been on the rise, resulting in an upsurge in the demand for obstetrician and neonatal services in hospitals, and that some woman patients who are about to give birth or have just given birth have to rest in mobile steel wheeled beds which are normally used for transporting patients into and out of nursing wards. In this connection, will the Government inform this Council whether it:*

- (a) *knows the respective numbers of cases in which mainland pregnant women have used the services provided under the public health and medical care system in Hong Kong, and the resources involved, in 2002, 2003 and so far in 2004, and the number of cases in which*

*fees have not been paid and the total amount involved, as well as the measures the Hospital Authority (HA) has put in place to ensure that patients must settle the fees before they are discharged from hospitals;*

- (b) *knows the current usage rates of obstetrician and neonatal services provided in public hospitals in various districts, whether they are being used to capacity, and the short-term measures adopted by the HA to alleviate overcrowding in nursing wards as well as the pressure faced by front-line medical personnel; and*
- (c) *has reviewed the demand for obstetrician and neonatal services in Hong Kong, having regard to its population policy and the trend of mainland women coming to Hong Kong for childbirth; if so, of the review results; if not, the reasons for that, and whether it will review the relevant medical services in the light of the demand, and formulate long-term policies and measures accordingly?*

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

- (a) The number of non-resident mainland women giving birth in HA hospitals, the resources involved, the number of default cases and the consequential amount written off are as follows:

<i>Year</i>	<i>Number of non-resident Mainland women who gave birth in HA hospitals</i>	<i>Estimate cost of resources used \$ (Million)</i>	<i>Number of default cases*</i>	<i>Total amount written-off*</i>
2002-03	8 736	89.3	315	\$2,668,306
2003-04	8 727	93.5	581	\$4,057,388
2004-05 (six months)	5 356	54.4	4	\$29,300

\* Status as at 30 September 2004. For 2004-05, action is still being taken to recover the majority of debts, hence the amount written off is relatively small at this stage.

The following measures have been taken to minimize the write-off of medical fees:

- On admission, private in-patients and non-eligible persons (NEPs) are required to pay deposits. At present, the amount of the deposit is fixed at \$19,800.
- During hospitalization, interim bills are sent to patients on a weekly basis.
- In case a patient fails to settle the bills, his/her next of kin will be contacted for payment.
- Reminder and final notice will be sent to the patient after dispatch of the final bill.
- In addition to mailing, telephone calls will be made to patient or his/her next of kin to request for an early settlement of medical fees.
- If the bills remain outstanding, legal actions will be instituted where appropriate, taking into account factors such as the amount in arrears and the chance of successful recovery. These legal actions include submission of cases to the Small Claims Tribunal and execution of bailiff.

In addition to the above,

- Patients are reminded of their responsibilities to pay hospital fees and provide correct correspondence details.
- To facilitate collection of outstanding debts from frequent defaulters, a "frequent defaulter report" is generated on a weekly basis. The report lists out the amounts due by patients who are currently under maintenance at a particular hospital. Based on the list, hospital staff would follow up the outstanding fees with the patient and/or his next of kin.

- To facilitate payment by patients, various means of settlement are accepted including local and foreign currency cash and cheque, EPS, PPS and credit card. Settlement by Octopus card is being piloted and introduction of the China Union Pay card is being arranged.
- (b) The overall utilization rates of obstetrics and neonatology services in HA hospitals were in the range of 56% to 78% over the past few months and there was no evidence of substantial increase. There is a seasonal pattern of workload with relatively high usage rate between August and January each year. Also, the majority of NEP mothers, who have little antenatal care, often discharge themselves within 24 hours after delivery, leaving very little time for optimal observation of the newborn babies and education of mothers on baby care. This has resulted in an increase in the number of babies requiring medical intervention because of infection, dehydration, severe neonatal jaundice or congenital anomalies.

For individual hospitals, the United Christian Hospital recorded a bed occupancy rate of 113% in September 2004. The Prince of Wales Hospital and the Tuen Mun Hospital recently reported relatively large number of NEPs presenting to labour units after 12 midnight, resulting in an increase in workload for the night-shift staff, which is normally smaller in number compared to other shifts.

To address rising workload of NEP deliveries, hospitals are improving midnight staffing levels, with the deployment of more nurses with midwife qualifications to obstetrics units. To develop staff capacity, midwifery refresher courses are being organized for nurses with midwife background and more part-time nurses are being recruited.

- (c) Obstetric services in HA hospitals have, in the past, been adjusted in view of reducing birth rates based on population projections. The HA has all along been monitoring the trends in birth rates and will continue to do so in the light of rising proportion of NEPs. It is predicted that there will be a continuous rise in total birth rates and obstetric workload for the coming year. The areas of our concern are: lack of antenatal care for these NEP pregnancies and the short

stay of NEP mothers, both of which would lead to increase of maternal and foetal complications and possible longer-term health implications to mothers and children. Obstetric service and manpower will be adjusted accordingly. The Government and the HA are conscious of the importance of appropriate deployment of resources to ensure quality medical services for the local population, and are considering how best to tackle the rising trend of mainland pregnant women coming to give birth in Hong Kong.

### **Application for Warrants by Law Enforcement Departments to Search News Agencies**

15. **MS EMILY LAU** (in Chinese): *Madam President, on 10 August this year, the Court of First Instance of the High Court set aside the warrants issued earlier on by the Court to the Independent Commission Against Corruption (ICAC) authorizing it to search the offices of newspapers and the homes of journalists and to seize journalistic material. The ICAC lodged an appeal against the ruling but was dismissed by the Court of Appeal on the 11th of this month, on the ground that it had no jurisdiction to hear the appeal. However, the Court of Appeal held that it had been entirely lawful and justified for the ICAC to apply to the Court for the warrants, and it raised doubts on a number of viewpoints and principles put forward by the Judge of the Court of First Instance. The views of the Court of Appeal have aroused concern among the community that the law enforcement departments may readily apply for warrants to search news agencies in executing law enforcement work, hence compromising the independence of news agencies and undermining the freedom of the press. In this connection, will the executive authorities inform this Council:*

- (a) *of the criteria adopted by the law enforcement departments in deciding to apply to the Court directly for warrants to search news agencies and to seize journalistic material, instead of using alternative means which are more acceptable to others for obtaining the material concerned, such as asking news agencies to produce the required material voluntarily, or to apply to the Court for a production order, as well as the rationale for setting such criteria, and whether they have assessed if those criteria can strike a balance between public interest and the freedom of the press;*

- (b) *whether the law enforcement departments will act in accordance with the viewpoints and principles put forward by the Judge of the Court of First Instance in executing law enforcement work in the future, such as applying for a search warrant only as "an investigative tool of last resort"; if so, whether the authorities will draw up relevant guidelines; if not, of the justifications for that; and*
- (c) *whether they will propose legislative amendments to provide that, before applying for a warrant to search news agencies, law enforcement departments have to try alternative means which are more acceptable to others for obtaining the required material, such as applying for a production order, so that the independent operation of news agencies is free from hindrance or undue interference?*

**SECRETARY FOR SECURITY** (in Chinese): Madam President, the Administration attaches the utmost importance to upholding press freedom. The existing legal provisions on search and seizure of journalistic material in Part XII of the Interpretation and General Clauses Ordinance (Cap. 1) (the Ordinance) were enacted in 1995 precisely for the purpose of providing additional safeguards to press freedom by laying down stringent criteria for law enforcement agencies' access to journalistic material.

The provisions were introduced in 1995 after thorough discussion by the then Legislative Council. The Administration accepted almost all the suggestions of the Bills Committee to improve the Amendment Bill. The provisions provide for a three-tier approach on access to journalistic material by law enforcement agencies.

- (i) *Tier One (production order, inter partes hearing)*

Under this tier, an officer may apply to a District Court or Court of First Instance Judge for a production order, requiring the person who possesses the journalistic material to produce it or to give the officer access to it. An application for the order shall be made *inter partes*, that is, with both sides present. The officer has to satisfy the Judge that a number of conditions are met before an order can be made. These conditions include, *inter alia*, that the material is likely to be of substantial value to

the investigation of an arrestable offence or relevant evidence in proceedings relating to that offence, and that it is in the public interest to grant the order, having regard to the likely benefit to the investigation, and the circumstances under which the journalistic material is held.

(ii) *Tier Two (warrant application, seize and seal)*

This tier provides that an officer may make an *ex parte* application to a District Court or Court of First Instance Judge for a warrant authorizing him to enter premises and to search for or seize journalistic material. Such application shall not be made unless it has been approved personally by a directorate disciplined officer listed in Schedule 7 of the Ordinance. This is to ensure that the decisions are made at a high level and that the grounds for resorting to this course of action are thoroughly considered and fully justified. The applicant will have to satisfy the Judge that:

- there are reasonable grounds for believing that an arrestable offence has been committed, that there is material, known or suspected to be journalistic material on the premises in question, and that the material sought is likely to be of substantial value to the investigation of the offence or relevant evidence in proceedings for that offence;
- other methods of obtaining the material have been tried and failed, or have not been tried because of the likelihood of failure or serious prejudice to the investigation;
- there are reasonable grounds to believe that it is in the public interest to grant the order, having regard to the benefit likely to accrue to the investigation; and
- it is not practicable to communicate with any person entitled to grant access to either the premises or the material to which the application applies; or the service of a notice pursuant to a Tier One production order may seriously prejudice the investigation.

Alternatively, the applicant will have to satisfy the Judge that a Tier One production order relating to the material has not been complied with.

Any journalistic material seized pursuant to the warrant has to be sealed. The person from whom the material was seized may make an *inter partes* application for the return of the material. Unless the Judge is satisfied that it would be in the public interest that the material be made use of by the authorities, he shall order it to be immediately returned to the person from whom it was seized.

(iii) *Tier Three (warrant application, seize and use)*

In exceptional circumstances, an officer may make an *ex parte* application for a warrant and for the immediate use of the journalistic material seized. Apart from satisfying all the additional requirements in Tier Two, the officer has to prove to the satisfaction of the Judge that the investigation may be seriously prejudiced if immediate access to the material is not permitted.

Under each tier, therefore, attempts by law enforcement agencies to access journalistic material are subject to the stringent conditions and judicial scrutiny stipulated in the legislation. The existing legislative scheme already strikes a proper balance between the need to protect press freedom and that of safeguarding public interest.

The answers to the three parts of the question are as follows.

(a) and (b)

As discussed above, the legislation already specifies in detail the criteria which the Court should apply when deliberating on applications under each of the three tiers of the legislative scheme. In respect of an application for a warrant, one of the criteria is precisely whether the alternative of a production order would be more appropriate. The law enforcement agencies have always sought to abide by the provisions in the Ordinance in deciding whether to apply to the Court for an authorization and, if so, under which tier. The criteria adopted are those stipulated by law.

In line with the spirit and letters of the legislation, the law enforcement agencies never look upon journalistic material as their normal means of acquiring evidence for the purpose of criminal

investigation. The provisions in the Ordinance on journalistic material have been very infrequently resorted to and only when there were strong justifications to do so. The recent Court decisions will not lower the threshold that the law enforcement agencies will observe.

- (c) As noted above, the current legislation already specifies that a warrant can only be authorized if the alternative of a production order may seriously prejudice the investigation. The Administration considers that the existing legislation, with its three-tier system and detailed stipulations on criteria and procedure, already strikes a proper balance between the need to protect press freedom and that of safeguarding public interest. Nonetheless, as with all other legislation, the Administration will keep the provisions under review.

### **Broadcasting of Audio-visual Programmes Inside Buses**

16. **MR FREDERICK FUNG** (in Chinese): *Madam President, regarding the broadcasting of audio-visual programmes inside buses by franchised bus companies since November 2000, will the Government inform this Council:*

- (a) *of the respective numbers of buses of various franchised bus companies which are equipped with facilities for broadcasting audio-visual programmes, and the respective percentages of such buses in the bus fleets of various companies;*
- (b) *of the total number of complaints received from passengers about the broadcast in each of the past two years, broken down by the names of franchised bus companies and the subjects of complaint;*
- (c) *whether there is existing legislation governing the contents of these programmes and the broadcasting volume; if so, whether there have been any breaches of such legislation by franchised bus companies; and*
- (d) *of the measures currently adopted by the respective franchised bus companies to mitigate the impact of broadcasting audio-visual programmes inside buses on passengers?*

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

- (a) As at 30 September 2004, the respective numbers of buses of franchised bus companies equipped with facilities for broadcasting audio-visual programmes and their respective percentages in the bus fleets are shown in Annex 1.

<i>Franchised bus companies</i>	<i>Number of buses with broadcasting facilities</i>	<i>Percentages in the bus fleets of the respective bus company</i>
Kowloon Motor Bus (KMB)	3 386	82%
New World First Bus Services (NWFB)	711	100%
Citybus <sup>(1)</sup>	572	63%
Long Win Bus (LW)	16	11%
New Lantao Bus (NLB)	0	0%

Note<sup>(1)</sup>: Citybus includes both Citybus (Franchise for Hong Kong Island and harbour crossing services) and Citybus (Franchise for the Airport and Tung Chung services).

- (b) The total number of complaints received by the Transport Complaints Unit about audio-visual broadcasting on buses in the past two years and the percentage of complaints per 100 buses equipped with broadcasting facilities, with breakdown by franchised bus companies are shown in Annex 2.

<i>Franchised bus companies<sup>(1)</sup></i>	<i>Number of complaints</i>		<i>Percentage of complaints (per 100 buses equipped with broadcasting facilities)</i>	
	<i>October 2002 to September 2003</i>	<i>October 2003 to September 2004</i>	<i>October 2002</i>	<i>September 2004</i>
KMB	421	497	2.28	0.89
NWFB	154	142	2.04	0.98
Citybus	204	133	3.8	1.57
LW	0	0	0	0
Unclassified <sup>(2)</sup>	13	36	N/A	N/A
Total	792	808	N/A	N/A
Average	N/A	N/A	2.49	0.98

Note<sup>(1)</sup>: NLB is not included in the above table because there are no audio-visual broadcasting facilities on their buses.

Note<sup>(2)</sup>: The bus companies involved in the complaints are not specified.

The number of complaints received per 100 buses equipped with broadcasting facilities has been reduced by 60% from 2.49 in October 2002 to 0.98 in September 2004. Most of the complaints were about the broadcasting volume. Since different aspects such as the broadcasting volume and the programme contents were involved in some of these complaints, we do not have the breakdown by subjects of the complaints.

- (c) Providing audio-visual broadcasting service on buses is an initiative by the bus companies to provide informative and entertaining programmes for passengers. The contents of the programmes broadcasted on buses must comply with Film Censorship Ordinance (Cap. 392) and have to be censored by the Television and Entertainment Licensing Authority (TELA) before broadcasting. There have not been any breaches of the above Ordinance by any bus companies since their broadcast of programmes censored by the TELA. As regards the broadcasting volume, since the overall noise level on buses is affected by many factors including bus model, vehicle age, noise made by passengers on buses, road conditions and the background noise outside the compartment, it is difficult to specify the broadcasting volume in the legislation. There is no existing legislation governing the broadcasting volume on buses.
- (d) To gauge passenger feedback on franchised bus services, the Transport Department (TD) has co-ordinated sampling surveys since January 2001 on a quarterly basis and commissioned consultants for this purpose. Audio-visual broadcasting service on buses is covered by these surveys. Recent survey findings showed that audio-visual broadcasting service on buses was considered "acceptable" by the majority of the respondents (nearly 70%) and "not acceptable" by about 13% of the respondents, with the remaining 17% having no comments. Passengers who considered the service not acceptable were mostly concerned about the broadcasting volume.

Taking into account the preferences of different passengers and to provide a comfortable environment of generally acceptable standard for passengers on buses, the bus companies have put in place the following arrangements at our request:

- (i) adjusting the volume of broadcasting to a level close to the ambient noise level of a bus;
- (ii) using compressors in producing the compact disks to be played on buses so that the variations in pitch are within a narrow range; and
- (iii) designating a quiet zone at the back portion of the lower deck of the bus and allowing only one speaker to be turned on on the lower deck.

### **Consultancy Studies Commissioned by Central Policy Unit**

17. **MS EMILY LAU** (in Chinese): *Madam President, regarding the consultancy studies commissioned by the Central Policy Unit (CPU) in the past three years, will the executive authorities:*

- (a) *set out the details of such studies in the following table:*

<i>Title of the study</i>	<i>Purpose and contents</i>	<i>Company/ Organization engaged</i>	<i>Date of the commissioning</i>	<i>Consultancy fee</i>	<i>Status of the study (If it is completed, please specify the date of completion)</i>

- (b) *inform this Council whether the CPU has made public the contents and/or results of any studies; if not, whether it will consider changing such a practice; and*
- (c) *inform this Council of the guidelines adopted by the CPU in drawing up tendering documents to ensure compliance with the principles of fairness, impartiality and openness?*

**CHIEF SECRETARY FOR ADMINISTRATION** (in Chinese): Madam President, my reply to the question is as follows:

- (a) The consultancy studies commissioned by the CPU within the past three years, that is, between November 2001 and October 2004, are set out in the table at Annex.
- (b) In deciding whether or not the reports should be published, whether and how the public should be informed, we consider each case on its own merits taking into account the interest of the public at large, the nature and contents, the cost of production and distribution, the extent of publicity required and the mode of delivery of the reports. We have marked in the Annex an asterisk against those studies which have been made public.
- (c) The Government has a set of clear internal administrative procedures regarding the procurement of consultancy services. In preparing tender documents and selecting consultants for its studies, the CPU has been following this set of administrative procedures.

#### Annex

<i>Title of the study</i>	<i>Purpose and contents</i>	<i>Company/ Organization engaged</i>	<i>Date of the commissioning</i>	<i>Consultancy fee (\$million)</i>	<i>Status of the study (If it is completed, please specify the date of completion)</i>
Socio-Economic-Political Trends in the Mainland	An ongoing study on the socio-economic-political trends in the Mainland, with particular emphasis on Guangdong and its interaction with other regions	One Country Two Systems Research Institute Limited (for the current contract)	First commissioned in July 1998	1.287 (for the current contract)	Ongoing

<i>Title of the study</i>	<i>Purpose and contents</i>	<i>Company/ Organization engaged</i>	<i>Date of the commissioning</i>	<i>Consultancy fee (\$million)</i>	<i>Status of the study (If it is completed, please specify the date of completion)</i>
Socio-Economic-Political Trends in Taiwan	An ongoing study on the socio-economic-political trends in Taiwan, cross-strait relations and Hong Kong-Taiwan relations	Hong Kong Policy Research Institute Limited (for the current contract)	First commissioned in July 1998	1.066 (for the current contract)	Ongoing
Socio-Economic-Political Trends in Southeast Asia	An ongoing study on the socio-economic-political trends in Southeast Asia, with particular emphasis on Singapore, Malaysia and Thailand	Centre of Asian Studies, University of Hong Kong (for the current contract)	First commissioned in July 1998	1.300 (for the current contract)	Ongoing
Socio-Economic-Political Trends in Japan and South Korea	An ongoing study on the socio-economic-political trends in Japan and South Korea	One Country Two Systems Research Institute Limited (for the current contract)	First commissioned in July 1998	0.743 (for the current contract)	Ongoing
* The Socio-economic Impact of 24-hour Operation of Boundary Control Points	A study on the socio-economic impact of 24-hour operation of boundary control points	One Country Two Systems Research Institute Limited	December 2001	1.295	Completed (August 2002)
* Household Survey on 24-hour Passenger Clearance at Land Boundary Control Points	A household survey on 24-hour passenger clearance at land boundary control points	MDR Technology Limited	December 2001	1.295	Completed (July 2002)

<i>Title of the study</i>	<i>Purpose and contents</i>	<i>Company/ Organization engaged</i>	<i>Date of the commissioning</i>	<i>Consultancy fee (\$million)</i>	<i>Status of the study (If it is completed, please specify the date of completion)</i>
Hong Kong's Social Cohesion and Identity	A study on Hong Kong's social cohesion and identity	Centre of Asian Studies, University of Hong Kong	March 2002	0.340	Completed (April 2002)
Economic Analysis of Deflation	An economic analysis of deflation in Hong Kong	School of Business, University of Hong Kong	May 2002	0.180	Completed (August 2002)
* Hong Kong's Creative Industries	A baseline study on Hong Kong's creative industries	Centre for Cultural Policy Research, University of Hong Kong	July 2002	1.299	Completed (May 2003)
External Relations Strategy for the HKSAR Government	A study on the strategy for the Hong Kong Special Administrative Region Government to improve Hong Kong's image	Institute for China and Global Development, University of Hong Kong	September 2002	1.136	Completed (April 2003)
* Third Sector Landscape in Hong Kong	A series of research to study the third sector landscape in Hong Kong	PolyU Technology and Consultancy Company Limited, and so on	September 2002	1.370	Completed (August 2004)
Barrier to Social Cohesion	A study on barrier to social cohesion: voices from two vulnerable groups	Social and Economic Policy Institute Limited	November 2002	0.238	Completed (March 2003)

<i>Title of the study</i>	<i>Purpose and contents</i>	<i>Company/ Organization engaged</i>	<i>Date of the commissioning</i>	<i>Consultancy fee (\$million)</i>	<i>Status of the study (If it is completed, please specify the date of completion)</i>
Social Conflicts in Hong Kong	An inventory of social conflicts in Hong Kong: 1996 to 2002	Hong Kong Institute of Asia-Pacific Studies	December 2002	0.150	Completed (March 2003)
Taiwan Business Activities in the Pearl River Delta	A study on Taiwan businesses in the Pearl River Delta: their mode of operation and linkage with Hong Kong	One Country Two Systems Research Institute Limited	June 2003	0.460	Completed (February 2004)
* Hong Kong and the Western Pearl River Delta	A study on Hong Kong and the Western Pearl River Delta: co-operative development from a cross-border perspective	Hong Kong Institute of Asia-Pacific Studies	June 2003	0.270	Completed (February 2004)
Pearl River Delta Cities and Hong Kong	A study on co-ordination of development among Pearl River Delta cities and Hong Kong	Guangdong Institute of Policy Science Research	June 2003	0.300	Completed (October 2004)
* Hong Kong's Economic Integration with the Pearl River Delta	A study on Hong Kong's economic integration with the Pearl River Delta: quantifying the benefits and costs	Department of Economics, The Chinese University of Hong Kong	June 2003	0.134	Completed (February 2004)
Hong Kong-Guangdong Co-operation in Logistics	A study on Hong Kong-Guangdong co-operation in logistics	Development Research Centre of the Guangdong Provincial Government	January 2004	0.125	Completed (September 2004)

<i>Title of the study</i>	<i>Purpose and contents</i>	<i>Company/ Organization engaged</i>	<i>Date of the commissioning</i>	<i>Consultancy fee (\$million)</i>	<i>Status of the study (If it is completed, please specify the date of completion)</i>
* Policies and Practices of Mainland Authorities on Facilitating Mainland Private Enterprises to Locate their Business and Office Operations in Hong Kong	An analysis of the policies and practices of mainland authorities on facilitating mainland private enterprises to locate their business and office operations in Hong Kong	China Business Centre, The Hong Kong Polytechnic University (PolyU)	February 2004	0.130	Completed (May 2004)
Policies and Practices of Selected Countries/Territories in Respect of Eligibility and Portability of Public Benefits	A study on policies and practices of selected countries/territories in respect of eligibility and portability of public benefits	Sau Po Centre on Ageing, University of Hong Kong	August 2004	0.524	In progress
Attracting Guangdong Private Enterprises to Develop Their Business in Hong Kong	A study on attracting Guangdong private enterprises to Hong Kong	Development Research Centre of the Guangdong Provincial Government	August 2004	0.156	In progress
Socio-Economic-Political Trends in Pan-Pearl River Delta Region, covering Fujian, Jiangxi, Hunan and Hainan	A study on the socio-economic-political trends in Pan-Pearl River Delta Region, covering Fujian, Jiangxi, Hunan and Hainan	TeamOne Economist Limited	September 2004	1.000	In progress

<i>Title of the study</i>	<i>Purpose and contents</i>	<i>Company/ Organization engaged</i>	<i>Date of the commissioning</i>	<i>Consultancy fee (\$million)</i>	<i>Status of the study (If it is completed, please specify the date of completion)</i>
Socio-Economic-Political Trends in Pan-Pearl River Delta Region, covering Guangxi, Yunnan, Guizhou and Sichuan	A study on the socio-economic-political trends in Pan-Pearl River Delta Region, covering Guangxi, Yunnan, Guizhou and Sichuan	TeamOne Economist Limited	September 2004	1.000	In progress
Tri-partite Partnership: Local Research and Engagement	A study on tri-partite partnership: local research and engagement	Civic Exchange	September 2004	0.366	In progress
Tri-partite Partnership: Benchmarking Study form an International Perspective	A study on tri-partite partnership: benchmarking study form an international perspective	Hong Kong Policy Research Institute Limited	September 2004	0.352	In progress
The Life Situation of the Ethnic Minorities in Hong Kong	A study on the life situation of the ethnic minorities in Hong Kong	Department of Applied Social Sciences, The Hong Kong Polytechnic University	September 2004	0.100	In progress
Attracting Zhejiang Private Enterprises to Develop Their Business in Hong Kong	A study on attracting Zhejiang private enterprises to Hong Kong	School of Business, Ningbo University	September 2004	0.080	In progress
Improving Hong Kong's Business Environment	A pilot study on improving Hong Kong's business environment	Department of Decision Sciences and Managerial Economics, The Chinese University of Hong Kong	October 2004	0.230	In progress

<i>Title of the study</i>	<i>Purpose and contents</i>	<i>Company/ Organization engaged</i>	<i>Date of the commissioning</i>	<i>Consultancy fee (\$million)</i>	<i>Status of the study (If it is completed, please specify the date of completion)</i>
Improvement of Quality of Urban Living in Hong Kong	A pilot study on improvement of quality of urban living in Hong Kong	Department of Architecture, University of Hong Kong	October 2004	0.250	In progress
Thematic Household Survey — Social Characteristics of Hong Kong People having Resided/Stayed Substantially in the Mainland	A study on the social characteristics of Hong Kong people living or working in the Mainland	Mercado Solutions Associates Limited, co-ordinated by Census and Statistics Department	October 2004	1.000	In progress

### **Long Waiting Time for First Appointment at Specialist Out-patient Clinics**

18. **MR TAM YIU-CHUNG** (in Chinese): *Madam President, I have received complaints from members of the public about the long waiting time for the first appointment at specialist out-patient clinics (SOPCs) operated by the Hospital Authority (HA). In this connection, will the Government inform this Council whether it knows:*

- (a) *the respective average waiting times for the first appointments with the medical, surgical, paediatric, obstetric and gynaecological, ophthalmological and oncological specialist out-patient clinics operated by the HA over the past three years;*
- (b) *the specialist out-patient service operated by the HA with the longest waiting time for the first appointment, and the reasons for the longer waiting time required for such service; and*

- (c) *if there were any patients whose clinical conditions deteriorated over the past three years due to the excessively long waiting time; if so, the measures taken by the HA to solve this problem?*

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

Madam President,

- (a) Earlier this year, the HA revised the triage system in the SOPCs. These clinics now arrange for the first appointment of consultation for new patients on the basis of the urgency of their clinical conditions at the time of referral, taking into account various factors including the patients' clinical history, the presenting symptoms and the findings from physical examination and investigations. Referrals of new patients are usually screened first by a nurse and then by a doctor in the relevant specialty and classified into one of the following categories: Priority 1 cases for patients with the most urgent medical needs; Priority 2 cases for patients with comparatively less urgent medical needs; and routine cases for patients where medical needs do not appear to be urgent. In order to ensure that patients with urgent medical needs are attended to within a reasonable time, the HA has targeted to keep the median waiting time for Priority 1 and 2 cases within two weeks and within eight weeks respectively. If necessary, the waiting time can be as short as a few days. In addition, to ensure that no urgent medical conditions are overlooked at the initial triage, all referrals that have been classified as routine cases would be double-checked by a senior doctor in the relevant specialty within seven working days of the triaging.

The following table lists the average waiting time for major specialties in the past three years under the old triage system:

	<i>Average waiting time for new cases (weeks)</i>		
	<i>2001</i>	<i>2002</i>	<i>2003</i>
Internal medicine	9	12	13
Surgery	7	8	11
Paediatrics	3	2	2
Gynaecology	4	5	6
Obstetrics	1	1	1
Ophthalmology	2	2	2
Oncology	0	0	0

Note: "0" means less than one week.

- (b) At present, the waiting time for new cases is relatively longer for internal medicine and surgery owing to increasing demand. In addition, with advancement in medical technology, a lot of treatment procedures that required the patient to be hospitalized can now be done in the out-patient setting. This has added to the workload of the SOPCs. Furthermore, the SARS outbreak last year had caused a standstill to the SOPC service for some time, resulting in the accumulation of considerable workload and longer waiting times. As infection control measures cannot be relaxed after SARS and as the HA has to be mindful of the requirement posed by statutory working hours for medical staff, there has not been any decrease in the workload of the SOPC.
- (c) The revised triage system mentioned above ensures that patients of the SOPCs with urgent medical conditions would be attended to in a timely and appropriate manner. The HA will continue to refine the triage system, in particular the prioritization criteria to enhance the screening of referral letters by doctors. The HA will also facilitate the sharing and learning of triage experience, and will remind specialist doctors to provide holistic care to patients to minimize unnecessary referrals. Furthermore, the SOPCs also actively provide information on different out-patient services to patients and their carers to enable them to make decisions and arrangements that suit them best.

The HA has also devised a standard referral letter for doctors in public primary care and private practice to ensure the necessary

information are available and relevant investigations are conducted before the referral. This will enhance more appropriate referral to specific specialties and more accurate triage.

### **Rail Construction Works Affecting Tourism**

19. **MR HOWARD YOUNG** (in Chinese): *Madam President, during the construction of the East Rail Extension of Kowloon-Canton Railway Corporation (KCRC), which commenced in April 2001, hoardings were erected everywhere in Tsim Sha Tsui (TST), one of the famous tourist areas. Coupled with the frequent traffic congestion caused by closure and diversion of several roads in the area and a dusty environment, the public and tourists were deterred from visiting TST and the businesses in the area were greatly affected. Upon the commissioning of the Extension last Sunday, the businesses in the area have improved slightly. However, as the Kowloon Southern Link (KSL) to be constructed by the KCRC will go through TST, tenants in the area worry that they will once again be subject to the impact of the rail construction works in the coming years. In this connection, will the Government inform this Council of the measures to minimize the impact of the works concerned on the tenants, road traffic and environment in the area during the construction of the KSL, so as to avoid another blow to the tourism businesses in TST?*

### **SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS**

(in Chinese): *Madam President, the KSL is a strategic railway project that will bring significant benefits and convenience to the public and business operators in the TST area. The Government fully appreciates the concern over the possible impact of the works for this project on the road traffic conditions and the environment in the TST area. When carrying out the works, the KCRC will implement the following key measures to reduce the disturbance to the area:*

- (i) *it will apply the bored tunnelling method in constructing the railway tunnels in the TST area as far as technically feasible. Only where the method cannot be used because of ground conditions and site constraints will it adopt the cut-and-cover method for which temporary decks will be laid at the street level to minimize disruption to pedestrians and road traffic while excavation works are carried out underneath the decks. To ensure that the use of the*

cut-and-cover method is minimized, the Government has employed an independent consultant, the City University of Hong Kong, to vet the construction methods proposed by the KCRC;

- (ii) where the works will disrupt road traffic, the KCRC will implement Temporary Traffic Management Schemes (TTMS) which will have to be examined and approved in advance by the relevant government departments, including the Transport Department, the Highways Department and the police. The KCRC will maintain a close dialogue with the local community, including the residents and business operators in the area, to ensure that their views will be properly taken into account during the implementation of the TTMS;
- (iii) the KCRC will fence off all works areas with hoardings to ensure the safety of pedestrians and other road users, and minimize the inconvenience caused to them. The KCRC will use translucent hoardings and hoardings with suitable graphics to minimize the visual impact. It will provide additional lighting where necessary. It will also provide sufficient directional signs and street maps at strategic locations to guide pedestrians to their destinations where they have to make detours because of the works areas; and
- (iv) in accordance with the Environmental Impact Assessment Ordinance, the KCRC will need to obtain the approval of the Director of Environmental Protection (DEP) for the Environmental Impact Assessment Report on the KSL project and an Environmental Permit (EP) from the DEP before works can start. It will follow the requirements in the EP, including those related to keeping the noise and air quality impacts to within the acceptable levels, when carrying out the works in addition to complying with other statutory environmental protection requirements.

### **Applications for Employment Visas**

20. **MR LEE CHEUK YAN** (in Chinese): *Madam President, will the Government inform this Council of:*

- (a) *the number of persons who came to Hong Kong on employment visas granted on the grounds of receiving training in the territory over the past three years (broken down by industry, occupation, place of origin and duration of employment contract);*
- (b) *the criteria adopted in vetting and approving applications for employment visas submitted on the above grounds; and*
- (c) *the measures in place to ensure that the above persons will not affect the employment opportunities of local workers?*

**SECRETARY FOR SECURITY** (in Chinese): Madam President,

- (a) The number of approved and refused entry applications for taking up employment in Hong Kong on grounds of receiving training in the past three years is set out below.

<i>Year</i>	<i>Number of approved cases (by duration of contract)</i>				<i>Number of refused cases</i>	<i>Total</i>
	<i>Three months or below</i>	<i>More than three months to six months</i>	<i>More than six months to 12 months</i>	<i>Total number of approved cases</i>		
2002	1 469	648	622	2 739	9	2 748
2003	994	508	686	2 188	1	2 189
2004 (January to September)	936	496	936	2 368	7	2 375

A breakdown of applicants according to nationality is set out at the Annex. The Immigration Department (ImmD) does not keep breakdowns according to industry or occupation.

- (b) Under existing immigration policy, where a corporation conducting business in Hong Kong has main or branch offices outside of Hong Kong, the employees of the latter two may apply to enter Hong Kong to receive short-term training for a period of not more than 12

months in the Hong Kong corporation, or in local businesses which have close relations with the corporation, in order to acquire specific skills and knowledge.

Detailed information that the organization providing training must provide includes:

- (1) detailed training programme and the reason(s) for conducting the training in Hong Kong;
- (2) training contract or agreement signed by the training organization and the trainee;
- (3) the training organization's undertaking to provide for the living expenses of the trainee in Hong Kong; and
- (4) the training organization's undertaking that the trainee will return to his/her country after completing training.

In the course of receiving training, trainees may be allowed to practise what they have learned through taking up employment, but such employment must fall within the scope of the detailed programme provided to the ImmD.

- (c) The ImmD ensures that all training applications meet the requirements under the policy before granting approval. Moreover, in order to prevent abuse, the ImmD requires the training organization to provide detailed explanations on the training programmes if it finds that a particular training organization has arranged training programmes at an unusually high frequency; an unusually large number of persons receive training at that organization; or that an individual trainee keeps returning to Hong Kong for further training shortly after completion of a programme.

The ImmD will monitor abuse and, if necessary, take appropriate actions such as conducting spot checks and putting organizations suspected of wrongdoing on a watch list so that future applications from them can be subject to closer scrutiny.

If the ImmD discovers that an organization has arranged trainees to take part in activities other than those submitted in the application and there is an intention to defraud the department, prosecution actions will be initiated.

Annex

### Breakdown of Approved Applications by Nationality

2002

<i>Nationality</i>	<i>Total</i>
Mainland, China	1 526
India	151
China (residing overseas)	147
Germany	132
The United States of America	131
France	111
The United Kingdom	96
Malaysia	50
Thailand	48
Korea	36
Japan	35
Australia	32
The Philippines	30
Singapore	28
Canada	24
Taiwan, China	20
The Netherlands	17
Indonesia	14
Austria	9
Myanmar	8
Norway	7
Others	87
Total	2 739

## Breakdown of Approved Applications by Nationality

2003

<i>Nationality</i>	<i>Total</i>
Mainland, China	1 251
The United States of America	128
China (residing overseas)	124
Germany	102
India	100
The United Kingdom	93
France	73
Korea	46
Australia	30
Singapore	30
Taiwan, China	28
Japan	25
Canada	22
Chile	16
Belarus	8
Thailand	8
Mexico	6
South Africa	6
Brazil	5
Sweden	5
Austria	4
Others	78
<b>Total</b>	<b>2 188</b>

## Breakdown of Approved Applications by Nationality

2004 (January to September)

<i>Nationality</i>	<i>Total</i>
Mainland, China	1 137
The United Kingdom	140
China (residing overseas)	131

<i>Nationality</i>	<i>Total</i>
Germany	129
The United States of America	127
India	115
France	112
Japan	67
Singapore	56
Australia	50
Canada	46
The Philippines	36
Korea	33
Malaysia	26
Indonesia	21
Switzerland	15
Thailand	12
Taiwan, China	12
The Netherlands	10
Italy	8
Austria	3
Pakistan	2
Others	82
Total	2 368

## MEMBERS' MOTIONS

**PRESIDENT** (in Cantonese): Members' motions. Two motions with no legislative effect. I have accepted the recommendations of the House Committee: the movers of the motions will each have up to 15 minutes for their speeches including their replies, and another five minutes to speak on the amendments; the movers of amendments will each have up to 10 minutes to speak; other Members will each have up to seven minutes for their speeches. I am obliged to direct any Member speaking in excess of the specified time to discontinue.

First motion: Public inquiry on irregularities in the 2004 Legislative Council Election. Ms Margaret NG.

## **PUBLIC INQUIRY ON IRREGULARITIES IN THE 2004 LEGISLATIVE COUNCIL ELECTION**

**MS MARGARET NG** (in Cantonese): Madam President, I move that the motion as printed on the Agenda be passed. I move the motion to urge the Chief Executive to appoint an independent Commission of Inquiry to investigate the irregularities and general confusion on the polling day of the 2004 Legislative Council Election and make such recommendations as appropriate on improvement and disciplinary measures. As many as 1.78 million electors voted in the Legislative Council Election this year, and the turnout rate in geographical constituencies was 55%, the highest ever in the history of Legislative Council elections. The enthusiasm of Hong Kong electors in exercising their right is most encouraging. However, the polling day was also marked by unprecedented confusion, leading to large numbers of complaints even when the election was still in progress — as the supply of ballot boxes was insufficient, cardboard boxes were used in their place; and, a long queue of more than 100 electors was seen outside certain polling stations, leading to temporary closure in some cases. The situation was just incredibly chaotic.

More complaints emerged the day following the polling day. Some candidates, political parties and organizations such as the Hong Kong Human Rights Monitor and the Hong Kong Democratic Development Network all launched campaigns of collecting complaints from the public. And, there were also the reports of the press, which all clearly reflected the validity of complaints. When I was staying at Po Kok Secondary School in Tiu Keng Ling, I also witnessed the confusion mentioned above.

An analysis of the complaints received by political parties and the Hong Kong Human Rights Monitor shows that the polling day was marked by confusion in many different aspects — the casting of votes, the deployment of polling staff, the problems with ballot boxes and the counting of votes. Some people claimed that their names were deleted from the voter register without any notification on the unreasonable ground of home removal, so they were not allowed to vote; in some cases, the name of an elector was found in the register, but when he turned up for voting, the polling staff told him that another person with the same Identity Card Number had already voted; some Presiding Officers opened ballot boxes without authorization; it was alleged that a certain Deputy Presiding Officer was allowed to bring ballot papers back to his home days before the polling day; some polling station staff deposited ballot papers into ballot boxes for electors; the ballot boxes in many polling stations all over the

territory were already filled beyond capacity in the afternoon of the polling day, but there was no replenishment for a very long time, so some polling officials simply asked electors to leave and return some time later for voting; the ballot boxes supplied as replenishment were neither labelled nor locked; long queues of electors were found outside some polling stations, resulting in a waiting time of one or even two hours. Some members of the public noticed that in marked contrast to the last election, the voting procedures this year were executed far less rigorously, for even people who were not electors could linger in polling stations. And, the following problems were detected after the close of poll: in some cases, the number of cast ballot papers reported by polling officials to their supervisors was different from that of their own counting; at a polling station in Tai Po, voting chops were simply placed on a table, and ballot papers were put inside a suitcase; the voting chops in some polling stations on Hong Kong Island were also found missing; at the Pui Ching Primary School Polling Station, all election agents were refused entry when polling officials were sealing ballot boxes; in some functional constituencies, there were discrepancies between the turnout figures and the number of counted ballot papers; there was a long delay in the announcement of results after the completion of counting; even the arrangements regarding polling officials' working hours and shifts were not properly made, and some polling officials complained that they had to work continuously for 27 hours, with just two bottles of water supplied to them.

Madam President, each of the 60 Members here knows very well that every single ballot paper is extremely valuable. Ballot papers are the means through which electors manifest their aspirations, so in every election, we must ensure that every cast ballot paper must be counted, and that every cast ballot paper counted must have come from an elector. Even a discrepancy of one ballot paper is too many. This is the basic and essential requirement. However, every stage of the process on the polling day, from the casting of votes to polling station arrangements, and to the counting of ballot papers, was open to doubts.

All these problems, when pieced together, will give people the feeling that our electoral system, held to be fair and rigorous for too long, is already beginning to fall apart. One can no longer be so certain that it is impossible to take away ballot papers, put more in or simply replace them.

On 15 September, when responding to a question asked by a reporter during a press conference, Mr Justice WOO Kwok-hing, Chairman of the Electoral Affairs Commission (EAC), said to this effect, "You have mentioned

that there were many problems with the Election, but this was not the case in reality. Actually, the fundamental problem is connected with the design of ballot boxes and the erroneous estimation of their capacity, and all other matters much publicized in the media were just an emanation from this problem. This was the only mistake, and we will definitely admit it." As I have mentioned, there were numerous examples of confusion regarding the electoral arrangements on that day, so how can Justice WOO assert so definitely that there was only one mistake? What is more, even if there was really just one mistake, it cannot be tolerated either. The design and use of ballot boxes should have been tested adequately under simulated conditions before they were put to use on the polling day, should they not?

Some may argue that since the EAC is now compiling a report, we should wait until the findings are released before deciding whether or not an investigation should be conducted. My motion, which urges the Chief Executive to appoint an independent Commission of Inquiry to investigate the irregularities and general confusion on the polling day, is not based on any prejudice against the investigation and review conducted by the EAC. Rather, my concern is that the investigative powers of the EAC are very limited. What is more, besides the Constitutional Affairs Bureau which was in overall charge, the many complaints are also related to EAC, to whether it was able to conduct the Election in a proper manner as a body responsible for organizing, monitoring and regulating elections. How can members of the public be convinced if such a review or investigation is conducted by the EAC itself?

Madam President, I maintain that the establishment of an independent Commission of Inquiry is a matter of the utmost urgency and also the most credible means to enable members of the public to know the facts of the confusion that day. The Commission of Inquiry should be chaired by a serving or retired Judge. This is surely not a statutory requirement, but I must say that there will hence be the maximum credibility. Besides, people from various social sectors should be appointed as members, and a secretariat should also be set up to assist members in carrying out an extensive investigation which should cover, among other things, an invitation to information submission from the public. Consideration may even be given to publishing the invitation in newspapers. Since political parties and organizations do not receive complaints in any systematic manner and they lack the manpower and resources for subsequent handling and follow-up, we indeed need an authoritative Commission of Inquiry to carry out all the relevant work which includes conducting public hearings, launching an extensive invitation to information submission and

collating the information received. It is only in this way can we paint a full, objective and clear picture of the electoral arrangements, put forward specific improvement measures to deal with the various causes of confusion and irregularities and ascertain whether any government officials should be disciplined for negligence or irregularities. This is the only way for us to work out a comprehensive report with credibility and restore people's confidence in the electoral system.

Immediately after the Election, the major political parties in the Legislative Council already expressed strong dissatisfactions with the confusion and irregularities relating to the electoral arrangements, demanding a prompt explanation from the Government. The four Members belonging to the Article 45 Concern Group, including myself, also urged the Chief Executive to set up an independent Commission of Inquiry to carry out thorough investigation during their meeting with him on 17 September, because elections are an important issue to Hong Kong.

Madam President, more than a month has passed since the polling day. Actually, as soon as the new term of the Legislative Council began, we already wanted to move a motion on this topic. Unfortunately, the lot did not fall on the four of us. This is the first time, but anyway, we should set up an independent Commission of Inquiry as soon as possible, when people's memories of the confusion on that day are still vivid and the evidence is not yet lost. All Hong Kong people are now very concerned about when there will be universal suffrage in Hong Kong. The Government must therefore restore people's confidence in the electoral system, so as to make universal suffrage really meaningful. Thank you, Madam President.

**Ms Margaret NG moved the following motion:**

"That this Council urges the Chief Executive to appoint an independent Commission of Inquiry to investigate the irregularities and general confusion on the polling day of the 2004 Legislative Council Election and make such recommendations as appropriate on improvement and disciplinary measures."

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

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam President, the third term Legislative Council Election, held on 12 September, stands as an important milestone in Hong Kong's constitutional development. For the first time, half of the Members of the Legislative Council were returned by direct election, with the numbers of candidates and voters, as well as the turnout rate, surpassing all previous elections.

Although there were some problems with the practical arrangements on the polling day, the voting was basically conducted smoothly, and the entire electoral process was conducted in an open, fair and honest manner.

Insofar as electoral affairs are concerned, the Constitutional Affairs Bureau (the Bureau) is mainly responsible for formulating electoral policies and enacting principal legislation; the Electoral Affairs Commission (EAC) is responsible for conducting and overseeing elections; whereas the Registration and Electoral Office (REO) is responsible for providing the EAC with the required administrative support and assisting the EAC in performing its statutory functions.

Making practical arrangements for elections is the duty of the EAC and the REO. Both organs are vested with the statutory powers and responsibilities to make practical arrangements for elections. At the same time, election is also one of the key duties and major policy areas of the Bureau. For this reason, I would like to take this opportunity to apologize to Members seated here, the public and candidates for the problems with the practical arrangements in the Election this time and the inconvenience thus brought to the public. In this connection, the EAC has made a public apology earlier.

At a press conference on 15 September, the Chairman of the EAC indicated that he would learn from this lesson, improve electoral arrangements in future, and strive to ensure that public elections can continue to be held in an open, fair and honest manner in Hong Kong. The Bureau and departments concerned will also exert their utmost to provide assistance to tie in with the work of the EAC in this aspect.

The EAC has, since the polling day, been actively reviewing the voting and counting arrangements of the polling day and following up relevant complaints. In the course of investigation, the EAC has obtained relevant information from the relevant polling staff. At the same time, it will further liaise with the complainants if required.

As regards the complaints referred by individual Members, the EAC has obtained relevant information through Members for liaison with the complainants to follow up individual cases.

As far as I understand it, a preliminary investigation carried out by the EAC is near completion. An interim report will be submitted to the Chief Executive to give an account of the progress of the investigation and initial recommendations. I believe the EAC's interim report will be completed and publicized in early November.

As for the problems of particular concern to Members with respect to the electoral arrangements, an initial explanation was given to the public by the EAC Chairman at a press conference on 15 September. Now I am going to inform Members of the latest developments.

New ballot papers, in which candidates' photographs and information were printed, were introduced in this year's Legislative Council Election. Considering that the new ballot papers are bigger and heavier than the old ones, and that it would be difficult to handle and transport old ballot boxes, which are comparatively big, if they are used to hold new ballot papers, the EAC therefore decided that new ballot boxes be designed.

Before the Election, the Bureau reminded the EAC to make full logistics preparation and, in particular, ensuring a sufficient supply of ballot papers and ballot boxes. The EAC did increase the number of ballot boxes from some 2 700 to 3 200.

As far as understand it, the insufficient supply of ballot boxes on the polling day was attributed mainly to a wrong estimate made by the REO of the capacity of the ballot boxes.

The EAC is carrying out an investigation into the wrong estimate of the capacity of the ballot boxes and the arrangements made on that day for delivering replenishment.

The EAC has undertaken to review the procedure of testing ballot boxes and conduct more comprehensive tests on any newly designed voting tools. The EAC will give an account on these aspects in its interim report.

Owing to the insufficient supply of ballot boxes at polling stations, the EAC decided, by virtue of the power conferred under the Electoral Affairs Commission Ordinance, on the polling day to allow Presiding Officers (POs) to open ballot boxes so that the disordered ballot papers could be put in order to make room for more ballot papers for the purpose of allowing all voters intending to cast their votes to do so as soon as possible.

The EAC made it clear in its directive that the opening of ballot boxes should be done in the presence of candidates or their agents, or in their absence, police officers, to ensure that the process is transparent and honest.

As of 23 October, the EAC has received five complaints, involving eight polling stations, alleging that ballot boxes were opened during the voting process. The EAC will, when presenting its interim report later, give an account of the outcomes of the investigation in this respect. It will also give a detailed explanation of the legal justification for the directive issued on that day.

The EAC has received 15 complaints against the use of cardboard boxes to hold ballot papers at five polling stations. At the press conference on 15 September, the EAC already explained that the POs, as the persons in charge of polling stations, may exercise discretion to take measures, when there is an insufficient supply of ballot boxes, to ensure that the election proceeds in an open, fair and honest manner.

The EAC is investigating each of the complaints and will give an account of the details in its interim report, including the circumstances under which the measure was adopted by polling staff, whether or not the process was monitored by a witness, and so on.

The EAC has received 15 complaints relating to the eviction of candidates and their agents from 31 polling stations when the stations were being converted into counting stations and, as a result, the candidates and the agents could not witness the conversion process.

According to electoral legislation, candidates, their election agents and counting agents may stay in the polling station while it is closed for preparation for the counting of votes.

The EAC is investigating the details of each complaint case. During the investigation, the EAC has, apart from contacting the complainants, approached the polling staff with a view to finding out what happened. I believe the EAC will give a detailed account of each investigation and relevant matters in its interim report.

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

The counting of ballot papers in this Election was all completed at 11 am on the day following the Election (13 September). It has taken 12 and a half hours to count some 1.78 million ballot papers from five geographical constituencies and some 135 000 ballot papers from 17 functional constituencies (FCs). Dissatisfaction has been expressed by candidates about the lengthy wait for the announcement of the election results.

According to the preliminary investigation conducted by the EAC, the delay in announcing the election results was attributed mainly to the failure of the computerized system of announcing the voter turnout figures in transmitting data during a certain period of time and some polling stations were unable to complete the procedure of inputting their hourly voter turnout figures. As a result, after the close of the poll, the REO had to make a special effort in confirming by hand with each polling station to verify the voting figures to ensure the accuracy of the data.

There was delay in announcing the voting results due to the time-consuming verification process. The EAC will conduct a more detailed investigation into the problems arisen in this area.

Some candidates from four FCs, namely the Social Welfare FC, Labour FC, Accountancy FC and Health Services FC, complained that the number of ballot papers counted exceeded the number of voter turnout figures announced during the poll. As explained by the EAC at a press conference on 15 September, the hourly voter turnout figures announced during the poll were meant as reference for the media and the public only. The REO has checked the ballot paper accounts and returns prepared by polling staff after the end of the poll, and found that the number of actual ballot papers counted was in fact

slightly fewer than the number of ballot papers believed to have been issued as recorded in the ballot paper accounts and returns. The EAC takes the view that this phenomenon is not irregular and should not give rise to concern.

The above is a brief report presented by me to Members with respect to the progress of the investigation conducted by the EAC. More details can be given only after the submission by the EAC of its report to the Chief Executive.

According to the preliminary outcomes of the investigation by the EAC, although there were inadequacies in the practical arrangements of the Election, generally speaking, the principle of conducting the Election in an open, fair and honest manner was not affected.

Under the electoral law, the EAC, being a statutory organ, has statutory power to carry out an investigation into the electoral guidelines issued by it. It is also required to, within three months after each election, submit a report to the Chief Executive. The report shall cover any complaints against the election and the investigation report made by the EAC. I expect that the interim report will be submitted to the Chief Executive in early November and the final report to be submitted in December.

In her motion today, Ms Margaret NG raised such points as setting up an independent Commission of Inquiry, making improvement and taking disciplinary measures. Insofar as the liability of individual officer is concerned, we will, upon the receipt of the EAC's report and depending on the need, decide on further steps and actions. Generally speaking, the Government itself has a set of policies and procedures for handling civil servants' discipline. We will act impartially according to the established mechanism. The experience gained in this Election reflects that there is an obvious need for improvement to be made in terms of practical arrangements. We will definitely address the problems arisen in this Election in a serious and solemn manner to prevent the recurrence of the mistakes. We have to carefully examine the crux of the problems, prescribe the right remedies, and take proactive follow-up action.

As such, we hope Honourable Members can give us more room and time to enable the Government to, after receiving the interim report and devising strategies, give a further explanation to Members.

Madam Deputy, I implore Members to vote against Ms Margaret NG's motion.

**DR YEUNG SUM** (in Cantonese): Madam Deputy, I wish to respond to the explanations given by Secretary Stephen LAM on behalf of the Government. First, he made an apology for the blunders made by the EAC on behalf of the Government. However, Madam Deputy, I believe that this apology is inadequate and that is the reason why I rose to speak on behalf of the Democratic Party in support of Ms Margaret NG's motion, which calls for the establishment of an independent Commission of Inquiry.

Madam Deputy, the occurrence of the blunder this time is most regrettable since the turnout rate in this election has reached a record level in Hong Kong history, with 55.6% of members of the public having cast their votes. The voting record has surpassed the 53% recorded in 1998 and over 1.7 million people have cast their votes and all voting records have been broken. However, against such a high turnout, blunders were made in succession and a plethora of oversights has occurred. This has brought disgrace on Hong Kong as an international city and we found this most regrettable.

Just now, Secretary LAM has pointed out that the Government had bidden the REO to increase the number of ballot boxes from the original 2 700 to 3 000, unfortunately, the REO made a mistake in estimating the capacity of the ballot boxes and because of this mistake in estimation, there was an insufficient number of ballot boxes. However, Madam Deputy, I know that the REO had also conducted trials before polling and many public opinion polls also indicated that the turnout this time would set a new record. In this light, if a mistake in estimation was made all the same, I think heavy responsibility has to be assumed.

This also involves the issue of crisis management. Madam Deputy, I know that apart from using cartons in the place of some ballot boxes, the REO also used some large ballot boxes which had been used in 2000, that is, not the type of new ballot boxes but those that had been used in 2000. In view of this, basically, if the contingency plan had been well made, larger ballot boxes used in 2000 could have been employed and no cartons would have been used at all. Madam Deputy, the use of cartons can give rise to many problems since all ballot boxes have to be counted and sealed. When the ballots were later counted,

agents have to monitor the breaking of the seals. What is the main reason for this? Why is it necessary to seal the ballot boxes and why do agents have to be present when the seals are broken? This is because voting has to be confidential and if all ballot papers are left laying in cartons for all to see, may I ask how confidentiality can be ensured?

Secretary Stephen LAM has also explained that when polling stations begin to count ballots, agents or even police officers are allowed to be present. However, I believe Secretary Stephen LAM is also aware that some polling stations went so far as to bid the police officers, agents and candidates to leave the station and a cordon was thrown round it. In fact, what happened to the ballot boxes at that time remains a mystery.

In addition, Madam Deputy, the operation of some of the polling stations even came to a halt due to a lack of ballot boxes. Actually, I wish to publicly commend those members of the public who went back home, then trudged back to the polling stations and insisted on waiting outside the polling stations to cast their votes because they supported this electoral system and wanted to exercise their civic rights despite the hardship. They insisted on casting their votes even though they had to go back to the polling stations again and as it turned out, had to wait for more than an hour. I think Hong Kong people can take pride in this. However, what response has the EAC given them? Why were their efforts made to go to waste? This motion proposed by Ms Margaret NG is in fact intended to salvage public confidence in the electoral system. This is a very important motion, therefore, the Democratic Party fully supports it. However, what has the Government done? As Secretary Stephen LAM said, the Government asks all of us to wait for the report prepared by Justice WOO before considering the next step.

However, we all know that the EAC is an independent body functioning independently from any influence by government authority. All decisions on electoral affairs are made by the EAC and its Chairman is none other than Justice WOO. Now, Justice WOO is personally investigating the work related to himself, the decisions involving himself and the deployment made by officers related to him. Just think about this. Is the decision to make one investigate oneself appropriate? Is it not necessary to avoid suspicion in any way, no matter how impartial a person Justice WOO is?

Therefore, Madam Deputy, this motion calling for an investigation proposed by Ms Margaret NG is very important. Although the date she got from drawing lots was a rather belated one, it is anyway not possible to just sweep this matter under the carpet and think that nothing had happened. No matter how excellent the report prepared by Justice WOO is and no matter how impartial he asked of himself, in the eyes of the public, something is still amiss with his image and he should avoid suspicion. He should step forward, and so should Secretary Stephen LAM, and support the establishment of an independent Commission of Inquiry by the Legislative Council, so as to show the impartiality of the Government and defend the impartiality of Justice WOO and salvage public confidence in the electoral system. Although we have such good electoral outcomes, due to our administrative blunders, this state of affairs is indeed highly lamentable. However, there is no use lamenting and we have to make use of positive results to salvage public confidence.

Therefore, the Democratic Party fully supports the motion proposed by Ms Margaret NG and hopes that Honourable colleagues can salvage public confidence in the electoral system through this motion and I hope Members can give her their full support. With these remarks, I support the motion.

**MR MA LIK** (in Cantonese): Madam Deputy, the turnout for the Legislative Council Election this year reached a record high. Although the elections were hotly contested and some confusion and hiccups occurred in the process, we still think that the Election as a whole was basically held according to the law and smoothly. Generally speaking, members of the public and public opinions also agree with this point.

Of course, we could also see that confusion occurred in the course of polling, leading to public discontent. We certainly should not overlook this point. According to the complaints received by the EAC, confusion occurred mainly in several areas, for example, in the course of polling, some of the sealed ballot boxes in some of the polling stations were opened, as mentioned by the Secretary; some polling stations used cartons as ballot boxes; the operation of some polling stations came to a halt during polling; some candidates or their agents were driven out of certain polling stations; the number of votes for four functional constituencies did not tally with the total numbers of people who had cast their votes, the announcements on the results of geographical direct elections were deferred, and so on.

I am very glad that the Secretary has made a review and given us a response just now. However, have the incidents on this occasion brought Hong Kong into disrepute? I think many members of the public have pointed out that the causes of confusion this time are related to the bureaucratic culture of the Government. This is because the Government thinks that in each election, it will be able to get over each election merely by spending some money and coming up with some novelty. Take the example of new ballot papers used this time. The ones used by the authorities were of A3 size, however, we believe the ballot boxes used were not suitable. As a result, there was a dearth of ballot boxes. In fact, the ballot boxes used in the District Council elections last year were as big as it was deep. They would have been most suitable for the new ballot papers used in this Legislative Council Election. However, for some unknown reasons, the EAC ditched the old ones for the new and opted to spend money to design new ballot boxes with less capacity.

In addition, we also found that no communication arrangement has been put in place between the EAC and the REO and there is a lack of alertness to crisis. This point has also been raised by the Secretary. Since the EAC had not tested the actual capacity of the new ballot boxes on site, nor had it formulated any contingency measure to deal with any crisis, for example, the time required for delivering back-up ballot boxes, in the end, some of the polling stations were given new ballot boxes only after they closed at half past 10 pm. However, in the face of a shortage of ballot boxes, the REO did not issue any timely guideline, so the Presiding Officers could only fall back on their own resources and improvise as they saw fit. However, we also found that the Presiding Officers could in general adhere strictly to the guidelines and rearrange the ballot papers under the supervision of observers or police officers, so that further controversy and confusion were averted.

Despite the confusion in this Election, we are of the view that according to existing information, the major causes of the confusion were mainly technical glitches and there is no evidence that points to any malpractices. The confusion did not affect the open, fair and honest nature of the Election. For example, because of the technical hiccups or chaotic arrangements, long queues formed outside polling stations and individual voters even gave up casting their votes because of the excessive hassle, and consequently, we found that the voting rate was affected by these circumstances. However, in view of the fact that over 1 million people have cast their votes, I believe this factor will have little bearing on the voting results. As regards the people who eventually chose not to vote, it

is difficult for us to judge which candidate they would have voted for and consequently, which candidates would have been adversely affected. Basically, it is hard to say that such occurrences would affect the openness, fairness and honesty of the entire voting process. So far, nobody has accused any public officer of being involved in any malpractice.

Dr YEUNG Sum said that the turnout rate this time was very high and many members of the public queued up for a long time to cast their votes. In fact, we should take pride in this. How can we say that our reputation has been tarnished? Actually, the evaluations of international opinions on this Election are also the same. The United Kingdom Foreign Office Minister, Bill RAMMELL, commented, "We welcome the fact that Legislative Council elections were generally well run." He added, "Clearly there were a number of technical problems on the day in some locations and we understand that the SAR Government and the Electoral Affairs Commission will be looking into these. That said, there appears to have been fair treatment for all candidates and we have no reason to question the validity of the outcome".

In sum, the Democratic Alliance for Betterment of Hong Kong (DAB) considers that the Government should actively follow up this matter and the officials concerned should take the initiative in assuming responsibility and seriously consider improvement measures. However, the DAB holds the view that it is not necessary to establish an independent Commission of Inquiry at this stage.

The Secretary has also mentioned that the Electoral Affairs Commission Ordinance provides that the EAC should submit a report on the Election to the Chief Executive within three months after the conclusion of the Election. The Chairman of the EAC, Mr Justice WOO Kwok-hing, made it known right after the end of the Election that an in-depth investigation would be launched on the confusion in this Election and an interim report would be submitted to the Chief Executive at the beginning of next month. There are still a couple of weeks before Justice WOO submits the interim report. We believe we decide what further follow-up measures to take after examining this report. This is the reasonable and pragmatic approach. We hope that the report of the EAC can really delve into the issue and the SAR Government can learn a lesson from this and provide a more efficient and better designed setting and system for future elections.

I so submit. Thank you, Madam Deputy.

**DR LUI MING-WAH** (in Cantonese): Madam Deputy, since the introduction of direct elections into the Urban Council in the '70s, dozens of elections for representative councils at various levels have been held in various forms in Hong Kong. The elections all proceeded very smoothly, uneventfully, fairly and impartially, winning extensive praises and approval. Elections were able to proceed smoothly because there is sound electoral law in Hong Kong, as well as a high standard of management and administrative efficiency. However, in the Legislative Council Election in 2004, a series of unprecedented problems and blunders emerged, arousing widespread criticisms and discontent in society. It was most regrettable.

According to the reports of the media, a myriad of problems occurred on the polling day, including an insufficient number of ballot boxes which made it necessary to use cartons instead; workers opened the ballot boxes without authority or used rulers or even barbecue forks to rearrange the ballot papers to create more room; some polling stations had to close temporarily to rearrange the ballot boxes; other polling stations were too small and as a result, long queues formed outside the polling stations; in some others, the number of ballot papers issued did not tally with those collected, there were glitches in the computer system, and so on. There were great a public outcry and a barrage of criticisms and accusations in society. It seems that the acclaims that electoral affairs in Hong Kong won in the past were wiped out all of a sudden.

In fact, on a closer analysis, these problems and blunders can be categorized into several areas. Of these problems, the mismatch in the design of the ballot boxes with the ballot papers and the poor design of the ballot box and ballot paper was the fundamental causes leading to the confusion and from this, many other problems ensued. In spite of all this, the unauthorized opening of the ballot boxes and the use of cartons as ballot boxes have cast a shadow over this Election and should not be forgiven. It also reflects the insufficient training received by the workers in advance, which failed to equip them to deal with contingencies properly. As to the confusions which occurred during ballot counting and gave rise to the complaints lodged by candidates, electioneering teams and the mass media, it is evident that the organization and management in the last Election were highly inadequate and brought Hong Kong people into disrepute.

Of course, concerning the spate of blunders that occurred with regard to the electoral arrangements for the last Election, we definitely must not allow

them to be glossed over with fine excuses. The EAC must conduct a serious and earnest investigation and review of this incident and pre-empt any repetition. However, as I have said, the problems that occurred this time were only technical and operational in nature and did not involve any malpractice or matters of principle, therefore, the establishment of a Commission of Inquiry is not called for. Moreover, the EAC will also submit a report on the Election to the Chief Executive later. We should gain an understanding of the contents of the report before considering if there is any need to take any follow-up action. Thank you, Madam Deputy.

**MR CHEUNG MAN-KWONG** (in Cantonese): Madam Deputy, there were some 3.2 million registered electors in the Legislative Council Election this year, and some 1.7 million of them cast their votes, constituting the highest turnout rate since the reunification. Basically, the larger the electorate is, the greater the credibility of an election will be. Regrettably, the conduct of the Legislative Council Election this year was sloppy and chaotic, marked by inconceivable blunders. As a result, the credibility of the Election has come under serious doubts. I support Ms Margaret NG's motion, which proposes to set up an independent Commission of Inquiry to investigate the confusion of the Legislative Council Election. Some Members argue that we should first wait for the report of the EAC before making any decision. But I must point out that the EAC has already lost its most precious independence in the face of its own mistakes. There is thus a need to establish an independent Commission of Inquiry to restore public confidence in the integrity of our elections.

Madam Deputy, the mistakes on the polling day of the Legislative Council Election this year were both outrageous and terrible. Some of them were just technical in nature and are thus forgivable. But once any mistake is suspected to be in violation of the law, an independent investigation must be conducted to clear all doubts and suspicions. If it is proved that the administrative measures of the EAC were in breach of the law, it must offer an explanation to the public and assume responsibility.

The root cause of the irregularities in the Election seems to be the faulty design of ballot boxes. But the real reason should be the failure of government officials to cope with unexpected circumstances. The capacity of ballot boxes was inadequate, but had any tests been conducted beforehand? After ballot boxes had been filled beyond capacity, were attempts made to co-ordinate the

contingency measures to be taken? What could be seen on the polling day was that all the polling stations concerned simply improvised measures they considered expedient. Presiding Officers came up with all sorts of "ingenious" solutions, ignoring the law and the rules. Some tried to poke ballot papers into ballot boxes with a ruler or a barbecue fork; some opened ballot boxes to compress the ballot papers inside; some simply closed their polling stations and suspended polling; and, some even used cartons as ballot boxes in violation of the law. Madam Deputy, is it against the rules for polling officials to open any ballot boxes in the middle of an election? Is it against the law to use unlocked cartons as substitute ballot boxes? Is an election still a fair one when it is marked by possible violations of the law and the rules? These are the questions the EAC must answer and also the reasons why society is demanding an independent investigation.

Mr Justice WOO Kwok-hing, Chairman of the EAC, has remarked that the opening of sealed ballot boxes was a general instruction given by the EAC. However, we must bear in mind that there are clear and strict provisions on the locking and sealing of ballot boxes in the Electoral Affairs Commission Ordinance. This Ordinance gives expression to the most important spirit of treating ballot papers in the strictest confidence, forbidding anyone to violate this crucial principle by opening any ballot boxes and touching any ballot papers before counting.

The first serious allegation in connection with the polling day was the use of cartons in place of ballot boxes in five polling stations. This may be against the law and must be thoroughly investigated. Under the Electoral Affairs Commission Ordinance, "a ballot box to be used for an election is to be so constructed that ballot papers can be introduced into it while it is locked". The important point is "while it is locked". Cartons of course cannot be locked, so their use is against statutory requirements and may lead to many legal and procedural problems. The first question is: Did the Presiding Officers concerned make any decisions without the authorization of the EAC, thus violating the law? Did the Presiding Officers concerned report immediately to the EAC and the REO? Why was it that as late as 5 pm that day, the Secretary for Constitutional Affairs, Mr Stephen LAM, still denied that cartons had been used as a result of insufficient ballot boxes? After the EAC had given its "general instruction", why were cartons still used as ballot boxes in five polling stations in violation of the instruction?

The second serious complaint in connection with the polling day was the closure of polling stations. To keep order at a polling station, if a person misconducts himself or fails to obey a lawful order, the Returning Officer or the Presiding Officer may order the person to leave the polling station immediately. But in any other cases, no one shall be prevented from voting at his assigned polling station. How many electors eventually gave up voting after being refused immediate entry into polling stations? Did this in effect deprive electors of their voting right? There are so many mysteries surrounding the use of cartons for voting, the closure of polling stations, and so on. But all has been so secretive, and all these mysteries have remained unresolved so far, thus totally destroying the openness, integrity and fairness of our elections.

Madam Deputy, elections must be fair, and seen to be fair. To restore the credibility of the electoral system, the EAC must not investigate itself. It must not be allowed to turn itself from the accused into the Judge and write its own judgement. Instead, an independent Commission must be established to conduct thorough investigation into all the technical and procedural errors and violations of the law. The findings must then be released, so as to restore people's confidence. We must not leave the Hong Kong Legislative Council Election intact and let it remain a laughing stock of the world even when problems violating the rule of law are noticed.

Madam Deputy, lastly, I wish to respond to Mr MA Lik's comments on Dr YEUNG Sum's remarks. Mr MA Lik wondered why Hong Kong would be brought into disrepute when there was no corrupt practice. But even if there was no corrupt practice, there might be contraventions of the law. In a place upholding the rule of law, it is nothing but a disgrace to turn a blind eye to an election that may be marked by contraventions of the law, and to refuse to carry out any investigation. In a place upholding the rule of law, it is nothing but a disgrace to refuse to investigate contraventions of the law; it is equally a disgrace to conduct any investigation which is not independent. If we do not wish to bring any disgrace on the elections in Hong Kong, or even on Hong Kong as a whole, there is only one option. We must support Ms Margaret NG's motion on establishing an independent Commission of Enquiry and follow up the findings according to the law.

With these remarks, Madam Deputy, I support Ms Margaret NG's motion.

**MR RONNY TONG** (in Cantonese): Madam Deputy, Secretary Stephen LAM and Honourable Members, to begin with, I find it so regrettable that the Government of the Hong Kong Special Administrative Region (SAR) and also Secretary Stephen LAM himself have opined that the problems in the recent election were not so serious as to call for the establishment of an independent Commission of Inquiry.

Mr MA Lik said that the confusion was not so serious as to affect the turnout rate or election results. Dr LUI Ming-wah also pointed out that the problems were just technical in nature, again not so serious as to warrant the establishment of an independent Commission of Inquiry. I think all such comments cannot pinpoint the crux of the problems. I hope Members can see the real problem — our electoral system must be reliable, and a reliable electoral system must in turn be founded primarily on a set of procedures marked by openness, integrity and fairness. But most importantly, as in the case of the rule of law, our electoral system must be able to command credibility. A credible electoral system is the cornerstone of democratic development, without which it will be no use talking about democracy.

As I personally witnessed on the polling day, ballot boxes were opened, ballot papers were left unattended on tables, electors were turned away, and they told me that they would not return for voting. All these incidents, together with the long delay in announcing the election results, have seriously undermined the credibility of this election and other elections in the future. This is a very serious problem, one that will directly affect Hong Kong's position in the world map of democracy.

Secretary Stephen LAM has advised us to first wait for the report to be published by the EAC. But I must point out that the publication of this report will just be part of the routine procedures, and as such, it does not in any way compare with the work of an independent Commission of Inquiry. As also mentioned by some Members, no investigation committee or organization should investigate itself, so whatever the results may be, the investigation of the EAC will not be able to convince the public and even the international community. To restore the confidence of all in the electoral system of Hong Kong and to avoid blemishing its democratic elections, an independent Commission of Inquiry must be set up. There is no alternative.

Another important reason is that the Constitutional Affairs Bureau was responsible for co-ordinating and implementing all matters related to this election. As a result, Secretary Stephen LAM should be held responsible for the blunders this time around. However, under the existing framework, I simply fail to see how Mr Justice WOO Kwok-hing's report can hold the Secretary accountable in any way. What is more, we have identified many major problems, and we must investigate them thoroughly and make recommendations on improvement, but there is currently no mechanism under which we can make any recommendations or conduct public discussions.

At this stage, I can think of eight major points:

Firstly, should Secretary Stephen LAM be appropriately disciplined?

Secondly, should the authorities concerned announce the locations of polling stations and all the relevant arrangements after the registration of candidates, so that candidates and the various sectors of society can voice their views on any related problems, such as the facilities and sizes of individual polling stations and the inconvenience caused to disabled people or the elderly? That way, we can ensure that all electors can vote under fair and impartial conditions.

Thirdly, should we specify the percentage of experienced polling officials, especially Presiding Officers, for each polling station, so that unexpected circumstances can be handled properly on the spot to ensure the fairness of elections?

Fourthly, should a clear mechanism be established to facilitate the smooth communication between polling stations and the central command and to enable polling officials to receive appropriate instructions and assistance as soon as anything happens?

Fifthly, should all polling officials be given a basic understanding of the relevant ordinances, so as to prevent the recurrence of any serious violations of fundamental principles, such as the opening of ballot boxes, the closure of polling stations and the exclusion of agents?

Sixthly, should we explore the possibility of installing video cameras at polling stations to record the handling of ballot boxes, so as to ensure that ballot

boxes will not be tampered with, and to minimize the possibility of corrupt practices?

Seventhly, studies should be conducted to ascertain whether vote counting at polling stations will achieve the opposite result of facilitating corrupt practices in elections. In this regard, we must emphasize that since this proposal was made by Mr Justice WOO Kwok-hing, it will be very hard for him to ascertain whether his own proposal is appropriate.

Eighthly, should we reconsider the adoption of central vote counting, so as to ensure that candidates, the media and members of the public can monitor the process of vote counting in open, fair and highly transparent circumstances?

These questions all warrant open discussions, but there is no mechanism for us to do so. I therefore think that an independent Commission of Inquiry should be set up to enable the various social sectors to conduct discussions on these questions. The only way to restore the credibility and international image of the electoral system in Hong Kong is the prompt establishment of an independent Commission of Inquiry. I hope the SAR Government will heed our views and set up an independent Commission of Inquiry immediately. I so submit. Thank you, Madam Deputy.

**MR ALBERT HO** (in Cantonese): Madam Deputy, Secretary Stephen LAM said at the beginning that despite all the blunders, the recent Election was on the whole still conducted in a fair, open and honest manner. DAB Chairman MA Lik also commented just now that the election was still conducted fairly and smoothly despite the failures.

Madam Deputy, people with no suspicions, or people who believe the Government, will still have confidence in the Election even without any persuasion whatsoever. But to those who have doubts in mind, the comments mentioned above are not convincing at all. As a matter of fact, there were so many problems that aroused people's suspicions.

I have run in many different elections in Hong Kong for some 20 years, but I have never seen so many people raising so many queries. Some extreme sceptics have even said to me that the pro-democracy camp is simply ignorant of what actually happened. Their comments may be a bit extreme, but I will still

discuss them, in the hope that Members can understand why people are so full of suspicions.

First, before the election, the pro-democracy camp vowed openly that it wanted to take 30 seats in the Legislative Council to bring forth a change in the political balance. This created a political pressure of unprecedented magnitude, with the result that mainland officials hastened to help the registration of electors and offer assistance in canvassing. It was even said that the Central Government Liaison Office in Hong Kong later intervened in the co-ordination of candidates. With all these acts of intervention, a famous talk-show host had to flee Hong Kong, and another had to seek refuge by running in the Legislative Council Election. It was also rumoured that some mainland officials even came to Hong Kong to assist various organizations in their canvassing before the election. It was also speculated that the Chief Executive's Office even wanted to set up a command unit under the personal charge of the Chief Executive. I am interested in hearing what the Secretary has to say about all these rumours.

What is more, the EAC refused the monitoring of international organizations. It did put forward some reasons, but the reasons were hardly convincing, thus causing sceptics to raise so many queries. The greatest query of sceptics is that Hong Kong has held elections for many years, but there have never been so many strange and absurd happenings that run counter to the basic principles of polling. First, it was the sudden adoption of a new type of ballot boxes. Normally, large ballot boxes should be used to accommodate large ballot papers, but in the recent election, small ballot boxes were used for large ballot papers. But there was something still worse. When the inadequate supply of ballot boxes started to emerge, there should still be enough time to ask for instructions from the EAC on the adoption of larger ballot boxes or other contingency measures. The most outrageous mistake was that ballot boxes containing the sacred votes of electors were opened without authorization and in the absence of any representatives of candidates. These mistakes should not have been committed at all. What was even more outrageous was that cartons were used in place of ballot boxes. Cartons are simply no substitutes for ballot boxes. As far as I know, these cartons had never been inspected and approved by candidates. The closure of polling stations and the eviction of agents are even beyond all understanding.

Madam Deputy, many people have told me that they suspected that even if the problem of corrupt practices is not full-scale, it must at least be found in

some individual aspects. They believe that this was already enough to bring about some favourable changes for certain candidates, given the very keen competition in the Election. Madam Deputy, in spite of this, the Democratic Party and I do not believe, nor can we find any evidence, that there were any systematic and predetermined corrupt practices. But the accusations of these sceptics are very serious in nature because they involve the conduct of corrupt practices.

Having said that, Madam Deputy, I must point out that although we do not believe that our civil servants, particularly Mr Justice WOO Kwok-hing, have been so worse as to engage in any syndicated corrupt practices, the happenings do make us think that there were room and opportunities for people to tamper with the Election. This alone can already undermine the whole system. Mr Ronny TONG is therefore right in saying that the credibility of the entire system has already vanished. What we must do now should be to restore its credibility. Dr YEUNG Sum also mentioned this point just now. If anyone still wants to protect the Government on this matter, saying that nothing should be done, for this is tantamount to querying the system, then I must say that they are really very short-sighted. What they are doing will instead serve to destroy the credibility and reliability of the whole system, the very things we want to restore now.

Madam Deputy, we are not saying that we do not trust Mr Justice WOO Kwok-hing, nor do we think that the investigation of the EAC is entirely useless. But what do all these involve? They involve the planning of the election. For example, how did the authorities draw up the plan? How did they conduct simulated voting? How did they train polling officials? What instructions were given to them? And, what knowledge did polling officials have? Why did such confusion occur at the end of the day when contingency measures were called for? What accounted for the apparent and complete loss of control? There are so many problems, and all of them involve the very people responsible for investigation, one of them is inevitably Mr Justice WOO Kwok-hing himself.

Madam Deputy, the situation as it is, one simply should not argue that because there is no election petition from any constituencies, or any individual for that matter, the whole electoral system should be regarded as problem-free or the election outcomes should basically be accepted. This is not the real problem. Rather, we must examine the whole system to see what have gone wrong. That is why we must look into what happened on that day. Our ultimate aim is not

only to convince people that the election outcomes this time are acceptable but also to make them feel that every election in the future can also be accepted. In other words, we want to maintain people's confidence in the system, to avoid the complete erosion of their confidence, and thus to restore the credibility of the system. We must also look into the problem of culpability. This is simply inevitable.

With these remarks, I support the motion.

**MR LEUNG KWOK-HUNG** (in Cantonese): Madam Deputy, as a matter of fact, I was the first one to lodge a complaint about the Election. I remember that at around 1 pm on 13 September, though I did not have any sleep the previous night, I still went to the Central Government Offices and asked to meet Secretary Stephen LAM. I was there for a protest, but that day, they suddenly let me in, so I was able to complain to his subordinate direct. I complained that Mr Justice WOO Kwok-hing should resign and so should Secretary Stephen LAM. A long time has passed, but I have not received any reply so far. The Permanent Secretary has not given me any reply, nor have any of his subordinates.

Therefore, face to face, I now want to ask Secretary Stephen Lam to resign. The more I listen to this debate, the more I think that he should do so because he has not responded directly to Members' concerns. I think we simply cannot tolerate all the things that happened on 12 September. For example, such irregularities as touching ballot papers, the unauthorized clearing of polling stations and the unauthorized handling of ballot papers inside polling stations by polling officials are all unacceptable. These are very serious errors.

Let us for the time being put aside the question of arrangements, that is, the failure of ballot boxes to accommodate ballot papers. Frankly speaking, if a problem of a similar nature happens in a store, it will have to close down. If its containers are not big enough for things, can it possibly avoid the fate of closure? If a shop assistant of a 7-11 store commits such an error, he will be dismissed immediately. How can things be done that way? Of course, the shop assistant only earns some \$10 an hour, but if he performs so poorly, the 7-11 store on the ground floor of my block will certainly dismiss him immediately. I did see the 7-11 store dismiss people. How can this be possible at all? But, well, these are just technical problems.

Mr Justice WOO Kwok-hing's performance was even more disappointing. That day, reporters from practically all the media in Hong Kong were after him for comments on why the situation had been in such a complete mess. He was the one who initiated the counting of votes at polling stations, and his initiative eventually led to utter confusion. Can Members imagine how he answered this question? He said that this was not the point, for they managed to finish vote counting more quickly than before. He even gave a huge array of statistics to prove that the vote counting time had been shortened. Is this not a kind of sophistry? People said that his initiative had resulted in confusion, but he simply replied that his reform did work, for the counting time was one hour shorter. He simply refused to admit his mistake.

He has again refused to admit his mistake. I am certainly not a person with no tolerance. I am not saying that one should be beheaded just because of a single mistake. Last time, he proposed to shorten the polling hours. He also wanted to introduce an initiative. But faced with opposition from all sides, he was forced to keep the original polling hours. It is indeed something very serious when a Judge still regarded himself as such when discharging other public duties. He has refused completely to heed others' advice. Even a Judge cannot possibly do something like this. His attitude will bring disgrace to Hong Kong. How can he live up to our expectations?

Today, we call for the establishment of an independent Commission of Inquiry because we do not want to see any political disputes or give anyone an opportunity to smear the reputation of others. If anyone still refuses, how can we talk about fairness and impartiality? All those in power will claim that they are fair and impartial. But we must realize that it will be useless for people to simply describe themselves as fair and impartial; they must be seen to be so. When others fail to see any fairness and impartiality, how can they help feeling suspicious? It is absolutely unfair to smear the reputation of those who have real causes for suspicions. Have those government officials and Members who oppose the establishment of an independent Commission of Inquiry provided any alternative channels to enable us to see that there was openness and fairness? I mean, not only us, but also the whole world. No. The one who caused all the problems refused the monitoring of international organizations on the polling day. Had there been this kind of monitoring on that day, there would have been a report already. And there would be no need for any independent investigation, right? The monitoring by others is in fact already independent. But, most ridiculous is the argument that it will deal a blow to our national dignity if any

international organization is allowed to monitor the election of Legislative Council Members in the Hong Kong Special Administrative Region, which is under Chinese sovereignty. Are people advocating such an argument in their right mind? It is always an honour to be able to conduct an election that can be freely monitored by others.

Secretary Stephen LAM's performance this time has also been inglorious. As a government official, he should have provided a platform to enable all to see the causes of confusion in the Election. I can tell Members that before there were democratic elections in Taiwan, when the Kuomintang controlled all elections under one-party dictatorship, riots frequently resulted from similar problems. A good example was the case of HSU Hsin-liang, a non-Kuomintang politician who queried the Kuomintang for vote-rigging. Riots broke out, and he was forced to flee the place. I am convinced that if people have any suspicions of secrecy and unfairness, and if there are any disputes about the outcomes of election, riots may break out in Hong Kong. When a riot really breaks out, you people will be the culprits. The request today for an independent inquiry is meant basically to avoid similar mistakes in the future. If there is no inquiry today, there will be mistakes in the future. You people must then be held responsible. The Secretary and Mr Justice WOO Kwok-hing must then all resign.

**MR ALBERT CHENG** (in Cantonese): Madam Deputy, the problems with the 2004 Legislative Council Election were many, including the inadequate supply of ballot boxes which led to the use of cartons as substitutes, the closure of polling stations and the mysteries surrounding what polling officials actually did inside polling stations without the monitoring of others, particularly the agents of candidates. All these are causes of suspicions. In some constituencies, ballot boxes were still found in polling stations even after vote counting. All these problems were covered by the media, including those from the rest of the world, and people all think that they can only happen in Third World elections. This is indeed a disgrace to Hong Kong.

For a very long time, Hong Kong electors or people thought very highly of the fairness, integrity and openness of the elections in Hong Kong. We all had very great confidence in our own electoral system and its operation, and we were proud of all this. However, we all agree that the series of incidents that

happened in the 2004 Legislative Council Election have sounded the alarm, posing a great challenge to the credibility of our electoral system. We now begin to doubt the system. From the angle of crisis management, the investigation of the EAC into its own problems cannot possibly command any credibility. The only way to restore the confidence of Hong Kong people and the world in Hong Kong's elections is the appointment of an independent Commission of Inquiry to conduct in-depth investigations and inquiries and find out the truth. Only this can restore the fair, honest and open image of Hong Kong's elections.

If people or Members really have confidence in the Election and think that the confusion was caused just by a handful of stupid people, then why do they oppose the establishment of an independent Commission of Inquiry to clarify all the questions? In case any operational problems are identified, people can at most criticize those in charge of conducting the election (that is, those who counted the votes, or created such a mess) for negligence, and the reputation of Hong Kong will not be injured. Taking the long view, I must say that since we will still hold many more elections, we should really learn lessons from the experience this time. Only this can ensure that similar confusion will not occur again in future elections.

For this reason, I call upon Members to cast aside their differences. We are not challenging the Government, nor are we making life difficult for Secretary Stephen LAM or even Mr Justice WOO Kwok-hing. The most important point is that all Legislative Council Members are duty-bound to find out the truth and restore the time-tested, open, fair and honest image of Hong Kong elections. This is our unshirkable duty. Anyone who opposes Ms Margaret NG's motion will only make others think that they are trying to gloss over a mistake too obvious to be concealed, afraid of being "caught" and hearing criticisms that the election was marked by corrupt practices. Precisely for this reason, any "royalists", any people who want to support the Government and restore its credibility, must support this motion on urging the Chief Executive of the Special Administrative Region to set up an independent Commission of Inquiry, so as to learn lessons from the conduct of the election and uphold Hong Kong's credibility. I therefore call upon Members to support Ms Margaret NG's motion. I myself will support Ms Margaret NG's motion.

I so submit. Thank you.

**DR KWOK KA-KI** (in Cantonese): Madam Deputy, having listened to Secretary Stephen LAM's remarks on elections, on their objectives and, most importantly, on the absolute need for fairness, honesty and openness, I almost thought that he wanted to call upon this Council to support Ms Margaret NG's motion today. Unfortunately, he instead implored Members to oppose the motion.

The actual fairness of an election cannot be determined by looking at its avowed objectives or any abstract ideals. The actual fairness of an election is determined by how the required electoral arrangements are made, involving the choice of ballot papers and all those decisions on polling hours, locations, polling stations and methods of opening ballot boxes and counting votes. All these are the issues that must be considered over and over again even up to the very last minute of preparing an election. From the reports of countries all over the world on corrupt practices in elections, or from the condemnations of the elections in certain places, we can notice that things usually go wrong when it comes to all those technical, almost minor and thus negligible issues described by the Secretary.

It can be noticed that the two 1 July marches have been followed by Hong Kong people's increasing expectations of elections. The record-high turnout rate this time around can aptly show that people's expectations of the recent election were indeed quite high. I am sure that the Government should have conducted an appropriate assessment beforehand, and it should thus have been able to forecast the turnout rate and make appropriate arrangements. But it is so strange, so very strange, that the Government has so far failed to explain why there were so many errors. Nor can we see any government statements on this.

Like Secretary Stephen LAM, I also hope that elections in Hong Kong can be held successfully. I further hope that all our future elections can be open, fair and honest. But how can we achieve this objective?

The motion today is very straightforward. Ms Margaret NG simply wishes to clear our queries by conducting an independent inquiry and drawing lessons from the mistakes identified. She also hopes that all these problems can be solved in future elections, and that Hong Kong can avoid making the same mistakes again. As far as this objective is concerned, I do not see any difference between me and the Secretary, or even Mr Justice WOO kwok-hing. Our only difference lies in how an investigation should be conducted.

In Hong Kong, it is actually not a novelty to conduct an independent investigation or to appoint an independent body for the purpose. Since the days of the very, very backward colonial administration, we have developed and progressed to where we are; and in many cases, we are proud of our own system. Why? Because in the political system and establishment of Hong Kong, there are many institutions vested with the responsibility of carrying out independent investigations. One of them is the Independent Commission Against Corruption, which is so familiar to us all. There are many others, including the Office of The Ombudsman and various professional monitoring bodies such as the Medical Council of Hong Kong, the Hong Kong Bar Association and The Law Society of Hong Kong. What do members of the public desire most? Autonomy for all these investigative institutions. I believe Members do know that the Secretary, the REO and the EAC headed by Mr Justice WOO all played a vital role in the last Election, so how can the people of Hong Kong accept any review conducted by the EAC or the Constitutional Affairs Bureau? How can the people's doubts be dispelled? It is totally impossible.

Our motion on setting up an independent Commission of Inquiry is actually meant to help Hong Kong and also to directly assist the Government and the Secretary in solving all the problems. As far as this Election and the subsequent inquiry are concerned, improper management will tarnish the reputation of Hong Kong. Although some Members do not think and agree that the arrangements for the recent election will in any way bring any disgrace to Hong Kong people, I must still beg to say that as a resident of Hong Kong, I do feel ashamed.

Mr Justice WOO Kwok-hing is well-known to us all. We all know that he is a Judge. I believe that an independent investigation, or an independent investigation of a judicial nature should be the goal (or even the dream) of the judicial profession. But why is it that when it comes to electoral arrangements, this goal is forgotten so completely? Why is it impossible for the Government to show Hong Kong people in a clearer and much more convincing way that it does have the intention of announcing all the electoral arrangements? What is more, it must not only make claims on fairness and honesty but must also let all in society see that there is fairness and honesty. Why is it impossible to do so? It is not my intention to demand the resignation or "decapitation" of anyone after the completion of an inquiry. I myself do not have such an intention at least. In terms of the investigative process or findings, there may not be too many

differences between the committee mentioned by the Secretary and an independent Commission of Inquiry. But there is one essential difference — the difference in credibility. I am sure that after learning so many bitter lessons and gaining so much experience from numerous incidents in the past, the Government should know only too well that mere mention of fairness and honesty is totally unable to give credibility to any investigation, particularly the investigation into a major incident. I hope the Government can think twice. If the Government still refuses to change its mind, it will deal a blow to the credibility of our elections, and it will also deal a blow to its own credibility. This will not be conducive to the development of Hong Kong, particularly to its political development.

I am of the view that there are good justifications for Ms Margaret NG's motion, and such a motion will also produce positive impacts on the further development of Hong Kong's political system. I hope that all Honourable colleagues can support the motion. With these remarks, I support Ms Margaret NG's motion. Thank you, Madam Deputy.

**DR RAYMOND HO** (in Cantonese): Madam Deputy, the 2004 Legislative Council Election has come to a successful close. During the election period, all those involved, including candidates, electioneering teams, the REO and civil servants taking part in the conduct of the election, underwent an extremely busy time. The high turnout rate of this Legislative Council Election, though not as high as that in Taiwan, is already very encouraging by Hong Kong standards. I hope that in future Legislative Council elections and District Council elections, Hong Kong people will participate even more actively to discharge their civic responsibility.

Many people will probably conduct a review of this past Election. The government departments responsible for conducting the Election are no exception. It is true to say that the recent Legislative Council Election is marked by both encouraging features and problems that warrant a review. One of the encouraging features is that the turnout rate is higher than that of the last Legislative Council Election, showing that the people of Hong Kong are now less apolitical than before. The areas that require a review are connected with the confusion on that day — the inadequate supply of ballot boxes, the use of cartons in place of ballot boxes by polling staff, discrepancies in information between the

poll card and the register of electors and inadequate assistance to those with mobility problems such as people with disabilities and the elderly. I maintain that we should learn lessons from this experience to avoid the recurrence of these mistakes in the next Legislative Council Election.

Government departments and polling staff in charge of the conduct of the Election are of course responsible for the confusion on the polling day to a certain extent. But their hard work during the election period should be appreciated. In the case of polling staff, for example, they had to attend a briefing half a month before the polling day to familiarize themselves with the electoral legislation and procedures. The day before the polling day, they had to rehearse the operating procedures and set up facilities both inside and outside their polling stations. On the polling day, they had to arrive at their polling stations one hour before the commencement of polling, so as to inspect all the polling facilities and ensure their smooth functioning before opening their polling stations. All this can show their serious attitude towards the Election. The counting of votes started after the close of poll and was not completed until two o'clock the next morning. Polling officials had to wait for the approval of the central counting station before they could leave their polling stations. In brief, it was not until 9 am to noon the following day that they could finally leave. In other words, they had to work for some 30 hours before going home. Their contribution to the Election should really be appreciated.

There were indeed some hiccups in the Legislative Council Election this year, but all in all, it was still completed in accordance with the principles of fairness, openness and impartiality. I hope that the authorities can learn from the experience this time and make better preparations for the next Legislative Council Election.

Madam Deputy, I so submit. Thank you.

**MR TOMMY CHEUNG** (in Cantonese): Madam Deputy, in the Legislative Council Election this year, as many as 1.78 million electors cast their votes, and the turnout rate was as high as 55.63%. These two figures are both the highest ever in the history of elections in Hong Kong. These results are certainly very encouraging, but, unfortunately, the electoral arrangements this time around were also plagued with many more problems than ever before, thus depriving the election on 12 September of a perfect ending, much to our regret.

To begin with, just less than half way through the polling day, ballot boxes in many polling stations all over the territory, from Yuen Long in the north to Ap Lei Chau in the south, already started to be filled beyond capacity, leading to the gathering of long queues of several hundred people outside some polling stations. In some cases, polling staff even had to close their polling stations and ask electors to leave for the time being. This caused much delay to electors who wanted to discharge their civic obligation.

Hard pressed by long queues of waiting electors and ballot boxes with no more capacity, some polling staff became so desperate that they started to use screwdrivers, metal rules, bent barbecue forks and cloth hangers to press down the ballot papers inside ballot boxes. In some polling stations, polling staff even used cartons as temporary ballot boxes. This is really absurd.

What is even more baffling is that in an attempt to marshal ballot papers, some polling staff even opened ballot boxes without authorization and in the absence of agents, which might constitute a violation of the relevant electoral guidelines. The confusion continued even after the close of poll, when counting agents were excluded from witnessing the sealing of ballot boxes.

When it comes to the EAC, there was also a rare delay, as it did not manage to compile any tentative statistics on the voter turnout and the turnout rate until seven o'clock the following morning, that is, eight hours after the close of poll. And, complete vote counting statistics for all the 501 polling stations in Hong Kong were not released until three whole days after the election. The utter confusion mentioned above is certainly unheard of in the history of our elections.

While there was utter confusion in the arrangements for direct elections, problems with ballot papers were also found in five functional constituencies. In these cases, the number of cast ballot papers counted exceeded the number of ballot papers issued. Some candidates still say that they reserve the right to take appropriate actions.

The EAC is experienced in organizing elections, but why has it still committed so many errors, so many serious errors, in the direct elections and even functional constituency elections this time around. We maintain that the EAC is obligated to offer a clear explanation to the public.

Like most people, the Liberal Party hopes that the authorities can offer a proper and reasonable explanation on the chaotic and inappropriate arrangements in the Election. We do not wish to see Mr Justice WOO Kwok-hing saying at one time that ballot boxes were quickly filled up because electors did not fold ballot papers properly, but admitting later on that the confusion was caused by the faulty design of ballot boxes and low crisis awareness. I believe members of the public will not be satisfied with these answers. Since Secretary for Constitutional Affairs Stephen LAM announced earlier that the EAC would soon submit to the Chief Executive a report on the improper arrangements in the Election, the Liberal Party will take further actions only after reading Mr Justice WOO Kwok-hing's report on the electoral arrangements this time around.

For this reason, we have decided to adopt an open attitude towards Ms Margaret NG's motion on urging the Chief Executive to set up an independent Commission of Inquiry to investigate the irregularities in the Election. But we still have some doubts which we very much want to clarify. For example, is the establishment of an independent Commission of Inquiry the best way to investigate the irregularities? As we all know, it is a usual practice to appoint a Judge to chair an independent Commission of Inquiry. But this time around, the EAC is involved, and one of the targets of investigation will be a Judge, so will the proposal result in an awkward situation in which a Judge will have to investigate the work of another Judge?

And, besides the establishment of an independent Commission of Inquiry vested with statutory powers, are there any other alternatives? For instance, is it better to set up a Legislative Council Select Committee, or an independent investigation panel made up of independent figures, as in the case of the Harbour Fest? But then, will there be any conflict of roles if the Legislative Council sets up a Select Committee to investigate the irregularities of the Legislative Council Election? The Liberal Party therefore thinks that it will need more time to decide what further steps are to be taken. It thus thinks that it is not the right time to support the demands espoused in the original motion.

What is more, the original motion also proposes "disciplinary measures". But the EAC Chairman, Mr Justice WOO Kwok-hing, is a Judge, not a civil servant or an accountability official. As a result, disciplinary measures cannot possibly be enforced in his case. Besides, when it comes to "disciplinary measures", the officers or staff responsible for implementing the electoral arrangements on that day will also be included. They were mostly temporary

polling staff acting under the instructions of their superiors, that is, the guidelines and instructions of the EAC. These are all factors that must be considered very carefully. Is it fair to these temporary staff, and is it at all reasonable, if disciplinary measures are lightly imposed? And, the Constitutional Affairs Bureau was also involved in the making of the electoral arrangements, so should it share part of the blame at least? We think that all these points warrant further clarification.

Madam Deputy, I so submit, and the Liberal Party will abstain from voting on the original motion.

**MS EMILY LAU** (in Cantonese): Madam Deputy, I speak in support of Ms Margaret NG's motion.

Many Honourable colleagues have spoken on the problems which appeared in this Election. On the speech made by Mr Tommy CHEUNG in particular, I would think that it was very well spoken, especially in the beginning of his speech. He said that the Election had been chaotic and full of mishaps. He mentioned many problems and I am in complete agreement with him. But in the end he reached such a conclusion. Madam Deputy, many Honourable colleagues have also said the same thing earlier, that the chaos and mishaps which marked the Election could only be found in the Third World. But this is not necessarily the case. Madam Deputy, there are in fact some elections in certain Third World countries which are finely carried out while some elections in some First World countries are appalling. Madam Deputy, I think you know that I am referring to the United States. I believe they are getting quite scared now, for they realize that things have gone wrong. It seems that the American Judge who made the ruling in the election last time that BUSH had won is now down with cancer. So they are very worried. I do not think we should say disparaging remarks about Third World countries all the time. I do not know which category I should put Hong Kong in, are we Third World or what?

The chaotic situation which Mr Tommy CHEUNG and other Members have described is really worrying. They talked about the case where a policeman had been asked to be the representative and to hold the ballot box and open it. Such things are incredible. Then someone fetched some cartons and used them as ballot boxes. How could a lock be put on these cartons? Then there was a case in which a polling station was closed for no reason and all the

people there were driven out. As Mr Albert HO has said, things like these could give some people an opportunity to tamper with things. For no one was there and how do we know what was done inside? There is also the case of the number of ballots counted. Nothing was announced after many hours have passed on counting the ballots. Madam Deputy, all these things make us feel very concerned and worried.

Mr Tommy CHEUNG has asked whether or not it is proper to ask a Judge to investigate a Judge. Why not? Of course a Judge can investigate another Judge. If this cannot be done, then Judges will be robbed of many powers. Then can the Legislative Council take up the task and investigate? Of course it can. For Members belong to political parties or groups and they are elected. But Madam Deputy, irrespective of whether a Judge is tasked to investigate another Judge or if a select committee is tasked to do it, the most important thing is to make it open and let many people air their opinions. Not only may Judges speak, the Commission of Inquiry may reach some conclusions and the public can also take part in it. This is the most important thing in the process.

According to Secretary Stephen LAM, how many complaints were received? He said there were 15 complaints and these involved eight polling stations. But are these all? Or are they only the tip of the iceberg? I do not know how Justice WOO has gathered public opinions this time and what he has done to ask people to come out and voice the problems. Maybe we should do as Ms Margaret NG suggested, that is, to hold some public hearings so that the candidates, the electioneering teams, the polling agents and agitated public servants who were denied sleep for more than one day can all come out. These people are so furious and they have asked me where they can lodge complaints. They had no time to eat or sleep and all they did was to carry box after box of ballots. Madam Deputy, why can we not let all the people air their opinions?

Is the kind of investigation carried out by Justice WOO an inquiry? If not, then what can be done to make the public feel that it is fair, just, open and honest? Secretary Stephen LAM said earlier that some mishaps had happened on that day. But are they just mishaps? He thinks that despite all these the election is fair, open and honest. Some Honourable colleagues also think that the events on that day had no effect on the election's credibility. Madam Deputy, I beg to differ. Hong Kong people are so tolerant. Yesterday I went to Pui Ching Middle School to give a talk and a teacher there agreed with the idea that there were

problems on that day but he said that it had not caused any impact. I asked him how he knew. Madam Deputy, we may never know. But I have heard a lot of things and if the inquiry finds out that someone has tampered with things, then if candidates from our party, that is, The Frontier, may lose in the elections and I may lose as well, I would still accept it anyhow.

Madam Deputy, at the end of the day, if problems are found, what will happen? The Election on that day will be declared unfair and partial, and so null and void. What will happen if the Election is declared null and void? Madam Deputy, we will have to hold another election. That of course is shattering to Hong Kong. But that can happen and I trust Ms Margaret NG does realize it and she will take it. She knows that once recommendations are made on improvement and disciplinary measures, the Election will be declared null and void if very serious problems are found. Of course, some people may ask us how we are to take the consequences. I would think that we can certainly take them. Madam Deputy, if we really have the rule of law, when we are convinced that certain things are done wrongly, then we have to shuffle our pack of cards and begin a new game.

Some people are of the view that since Justice WOO has done such a bad job this time, he should be asked to go. He should step down as his term of office will not expire until a few years later. Madam Deputy, what did he say in a press conference? I remember what he said. He asked us not to worry for there would not be any elections in the next few years. His continued occupation of the post will not matter. Madam Deputy, there is one coming up on 21 November and that is a by-election in Tin Wan in Island South. Many problems have arisen concerning the preparations for this by-election. Yesterday and the day before yesterday we faxed a document to the Secretary telling him about the problems. Apart from the confusions found inside the polling stations, there were also those connected with the banners and publicity materials. We have been fined so many times. The Food and Environmental Hygiene Department has said that they have issued 226 penalty tickets to 70 candidates. I have no idea how many tickets the Liberal Party has received. Why are candidates fined? It is because they have no idea under what circumstances they can put up banners. They thought that banners could be hung when they had asked the authorities. But their banners were confiscated and they were fined. Even now we still get these penalty tickets.

Last Saturday, a briefing was held on the by-election in Tin Wan. Madam Deputy, at that time a candidate asked Justice WOO what he would do if confusions happened on the polling day. Justice WOO and his colleagues seemed not to have understood the question and it was only after the question was repeated three times that they came up with an answer and the solution was they should make an application one week in advance. Such problems emerged in the past elections and they may appear again now. Madam Deputy, though the election in Tin Wan is only a very small by-election, we can see that some people have not gained any experience and learned the lessons. So how can we have any confidence in the interim report (on an investigation conducted by themselves) which will be released in early November? How can it be possible that they will bring all the problems to light? Can the Secretary tell us today, on behalf of Justice WOO, how they have consulted the public before compiling this interim report? Have they examined all the complaints? Or if what they did was just looking into those complaints received at that time and consulting the people in the polling stations?

Actually, people who work in the polling stations would also like to lodge their own complaints. Madam Deputy, many civil servants were furious at that time. The way this investigation is conducted is a very closed one and it is done behind closed doors, with those people investigating their own people. Will justice ever be done to the election? Madam Deputy, I hope Members will lend their support to Ms Margaret NG so that Hong Kong will never be brought into disrepute again.

**MR ALBERT CHAN** (in Cantonese): Madam Deputy, ever since the first time I took part in an election in 1985, I have taken part in elections for 13 times, including those for the District Councils, the Regional Council and the Legislative Council. And the number does not include those elections in which I have assisted other people to run in their bid. But never have I seen an election which is as chaotic as this one. On the polling day, we could only see chaos from morning till night, and in the polling stations inside and out. Chaos dominated the scene even when the ballots were counted. Years of chaotic governance by TUNG Chee-hwa has made the Election a total mess. There are things which used to go very well over the past 10 or 20 years or so, those which used to run orderly and for which no complaint has ever been lodged, but I do not know why they could get so confused and things just ran amok. It is like

what MAO Zedong said, that the more things are chaotic the better they are, for power can be seized in the midst of chaos. People can grab more power and strengthen their position in the midst of chaos. The Election this time is certainly a disgrace for Hong Kong. Gone is the credibility of the electoral system in Hong Kong and the prestige associated with it. For many people who joined the electioneering and those who worked in the polling stations, this Election is manifestly unfair.

When the Election was over, I met many civil servants who worked in the polling stations and they were all furious and upset. One person told me that he had informed the REO that there were problems with the ballot boxes at around 10 am. It was 10 o'clock in the morning. I hope the Secretary could look up his records later to see if there were reports about such problems at about 10 am on that day and that some persons had sensed that something might go wrong and that there were not enough ballot boxes. So the Presiding Officer of the polling station concerned had informed the authorities. But no response came even in the afternoon. I just want to know if this so-called accountability system is one which those with authority reign like kings and they can just ignore queries and refuse to respond to them or deal with them. What comes next is the authorities banging the doors behind them and putting up a show of making an inquiry, but it is actually a cover-up and a case of officials coming out to defend the failings of other officials. It is simply a black box and problems are simply ignored.

The problems found in the polling stations this time are simply innumerable. Many Honourable colleagues have talked about those problems related to the ballot boxes and so I will not repeat them. Another problem found in this Election is that many voters were disqualified and their number exceeded that in the past. Previously, those who had moved but did not inform the authorities of the change in address might be disqualified. This time there are some people who have not moved, they are still alive and well, they have been living in their present address for some 10 to 20 years and they have voted in the last District Council elections, but they were disqualified in this Legislative Council Election. After looking into the matter, we found that the REO had sent letters to these people but they were returned and as the REO had not got their reply so they were disqualified. This is absurd and so shocking to learn that voters were disqualified because the mail from the REO was returned. Nothing was done to find out the truth. No questions were asked. No follow-up actions were taken. Voters were disqualified simply because the mail from the REO had been returned.

Besides, there is also the problem of duplicate voting. There was a person who went to vote and found that his name on the register had been struck off, meaning that he had voted. The person said that he had never voted. The Returning Officer took this as a trifle and simply gave the person another ballot paper marked with the word "duplicate" on it. But this officer never took the trouble to explain to that man that his vote was null and void. No explanation was made. The man was happy at first because he could vote, but later on he had doubts because the ballot paper had the word "duplicate" on it. After repeated queries he was told that the ballot paper was null and void. How could such absurd things have happened? For when any person votes on behalf of another person, the matter must be investigated as a criminal offence and it must be reported to the police at once. But the Returning Officer acted in such an absurd way that he pretended nothing had happened. He just gave the man another ballot paper. He did not tell the man that this ballot paper was null and void. One just wants to know what kind of government this is and what kind of an election system that we have.

For problems related to such a mindset and way of doing things, Secretary Stephen LAM just said that these would be handled and looked into later. This Director of Bureau is such an expert in putting things off to a later date. How can he act like this? Madam Deputy, these problems must not be treated like trifles and that they must not be left to be investigated by the REO or Justice WOO. For they will tarnish our reputation, cast a negative impact on the way we handle our complaints, and scrap the authority and reason in it. When an election system and the election results are devoid of credibility and integrity, the voters will lose their confidence and they will not go to vote any more.

Madam Deputy, on the question of the opening of ballot boxes in the polling stations, I have received many complaints from the electioneering teams. Many Honourable colleagues have talked about the closure of some polling stations for some period of time, I would not repeat it for it has been mentioned by many Members. When officers in the polling station asked the people concerned to open the ballot boxes, had the boxes been inspected by the Returning Officer and had he verified the signature? But these did not happen in many polling stations. The polling agents were asked to stand afar and the Returning Officer just opened the ballot boxes as soon as he arrived. Were any changes made to the boxes? Did anyone try to tamper with these boxes? No attempt was made by any independent person to inspect the boxes before they

were opened to count the ballots. Such irregularities are so plentiful that one could spend days talking about them. I have submitted a paper to the REO some time ago and I hope that they can look into the cases seriously.

The number of complaints cited by the Secretary earlier is only the tip of the iceberg. It is because many people have no confidence in the complaint system in the Government and how Justice WOO investigates the failings and blunders of his subordinates. And many civil servants do not dare to come forth to make a complaint in public, for they feel that they are not given adequate protection. I therefore give my full support to Ms Margaret NG's motion. I would think that this will do Hong Kong justice. Likewise it will also do justice to the Presiding Officers of the polling stations and many anonymous heroes who helped in the Election. Many of them are civil servants. Though some Returning Officers and top officials have screwed things up, many civil servants are giving their best to serve Hong Kong and they are dedicated. Thank you, Madam Deputy.

**DR FERNANDO CHEUNG** (in Cantonese): Madam Deputy, when the Legislative Council Election on 12 September was over, media overseas were concerned not just about the implications of the election results on the development of democracy in Hong Kong, they also reported on the confusions on that day. The British Broadcasting Corporation (BBC) and the *Guardian* reported that many polling stations were forced to close as ballot boxes were packed to the full with ballot papers, and as a result many voters had to wait in long queues outside the polling stations. Other foreign newspapers also graphically depicted how Presiding Officers of the polling stations solved the embarrassing problem of fully packed ballot boxes by resorting to cartons, or opening the boxes by themselves to tidy up the ballot papers, and so on. Despite denials made by Secretary for Constitutional Affairs Stephen LAM and EAC Chairman Justice WOO Kwok-hing that the blunders on the polling day were a shame on Hong Kong, the fact is that our reputation is already tarnished.

According to explanations offered by Justice WOO, the confusions in the Election can be attributed partly to the oversize ballot paper. While the ballot paper is so large in size, the ballot box is so small. This, coupled with the fact that voters did not fold the ballot paper neatly, caused the ballot box to hold a number of ballot papers smaller than the authorities had expected.

The question is: Should the authorities not have conducted simulated pollings many times beforehand to test if there were any problems in the entire process? If this was done, why did such a big problem arise? Did the authorities not do anything at all? Moreover, the problem of the insufficient supply of ballot boxes started to emerge at noon time of the polling day, but instructions were given to the Presiding Officers only at 4 pm. Was there negligence on the part of any person and should anyone be held accountable?

And also, with respect to the following four functional constituencies, that is, accountancy, labour, health services and social welfare, the last of which I stood for the election, there are discrepancies between the number of ballot papers issued and the number of ballot papers counted. Some staff of a polling station who declined to be identified said that the authorities in their bid to save money had decided not to deploy a person in each polling station with the duties of reporting and verifying poll statistics. This led to great confusions in ballot counting. I am not sure if this is true and if it is, then who decided to cancel such an important post? Should anyone be held responsible for this wrong decision?

Justice WOO Kwok-hing said that one grew wiser with experience and if no mistakes had been made before, one would never know how mistakes were made. But for the people, they have paid a great price to enable the authorities to grow wiser.

First, many people have lost their confidence in the electoral system of Hong Kong. The EAC has to date received more than 1 000 complaints. In New Territories East, some voters wish to make a petition to challenge the election results. Some people have formed a monitoring group to collect evidence on the irregularities and confusions in the Election. Hong Kong has all along attached great importance to the rule of law, due procedures, justice and impartiality, but these values are undermined in this Election.

Second, some voters were deprived of their right to vote as some polling stations were closed temporarily or they had to wait in long queues outside the polling stations. I recall Secretary LAM was evasive about questions put by reporters after the Election about this. He only said that the turnout rate was high and he was pleased. His reply shows that he did not care too much about the issue. I think Secretary Stephen LAM may not realize that in any democratic society, the rights of every individual citizen are respected. When

voters lose their right to vote as a result of blunders made by the authorities, they cannot make their voice heard. The votes they cannot cast cannot be replaced by others who have voted. We know just from Secretary LAM's nonchalant reply that how much importance the Government has attached to the people's rights.

Elections are vital to the development of democracy. It is an extremely important institutional arrangement to make power in the people a reality. Our most pressing task is therefore to salvage the credibility of this electoral system. Though the EAC has begun its investigation, this will not do much to restore public confidence as it is clearly an attempt by the EAC to probe into itself. The public will not be convinced that this investigation is impartial if no officials who should bear the responsibility are named and no disciplinary measures are recommended.

I therefore urge the Government to set up an independent Commission of Inquiry to investigate the irregularities and general confusion of the Election. This will hopefully ensure that our electoral system will stay fair and open.

I support Ms Margaret NG's motion.

Madam Deputy, I so submit.

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

**MR LEUNG YIU-CHUNG** (in Cantonese): Madam Deputy, in any democratic society, credibility is very important to political figures, no matter if they are engaged in public affairs or any other business. Without credibility, it will mean a standstill to the operations of society. Therefore, I think that this issue of credibility must be addressed seriously. This is particularly the case when the Government is to launch any procedures which hinge on credibility. These procedures must be seen to be fair and impartial before they can be effective and meaningful. Elections are one such procedure. So we must be very careful about elections and pay attention to them.

There is a Chinese saying which says to the effect that a victory can be ignominious. This remark rings a lot of truth. It shows that the Chinese have

traditionally placed great emphasis on the rules of fair competition. The election system in Hong Kong is characterized by small circle elections and some people enjoy the privilege of having two votes or more. The situation is much worse in the functional constituency elections. These small circle elections are totally disproportionate to direct elections in the geographical constituencies. This state of affairs has often been criticized by us and branded as problematic. I do not think that this situation can improve in the near future. But in any case, despite our criticisms made against them, elections held previously in Hong Kong could still be seen as fair, open and honest. We are pleased to see things go smoothly in past elections.

Unfortunately, the Election this time proves to be a great disappointment for the people of Hong Kong. They were all frustrated by the happenings before and after the Election, as well as those on the election day. A far more serious problem is that we are beginning to question the impartiality of the Election. We think that the Government must address this issue and attach proper importance to it. For if not, not only will the credibility of the candidates be at stake, but more importantly, the public will have doubts about the impartiality of the Government. This will reduce public confidence in the Government as well as in the political and legal systems. For the Government, its popularity ratings which are already low may sink further down.

This past Election, no matter in terms of the turnout rate and the performance of voters, is further proof that Hong Kong has all the mature conditions for implementation of universal suffrage. The turnout rate in excess of 50% shows that Hong Kong people have built a culture of active participation in community affairs. It is unfortunate to note, as many reports have described it, that "First World" voters have emerged in Hong Kong, but they are caught in the quagmire of "Third World electoral arrangements". The number of complaints lodged with the authorities concerned before and after the Election has broken all past records. The number of complaints received on the polling day was 1 628 and it was 7.4% more than that of the last term. The total number of complaints during the election period was some 1 800, doubling the number last time. Apart from this surge in complaints, of much more importance is greater attention must be paid by the Constitutional Affairs Bureau and the EAC in the way they handle the matters and the processes involved. Should they be held accountable?

As compared to the fair and impartial elections run smoothly and in good order in the past, the Election this time is really appalling. People can hardly be convinced that the Government can ever make sound electoral arrangements. We are very worried that the disorder and confusion in the Election this time will be used by the Government as a pretext later. A pretext for what? That is Hong Kong is not mature enough to implement universal suffrage. This is most worrying to us. We are very worried that this would become a hurdle to the progress of democracy in Hong Kong.

As I recall, even before the Election was held there were people who said that they would coerce others to vote in favour of certain candidates from certain party and to make sure that people would vote in the way they wanted, people were told to film the voting process with a mobile phone camera. Many Members condemned such acts but the Government did not take any positive action to deal with them. It was only when the Government was under pressure from many quarters that it came out to respond to the issue reluctantly. This made people doubt whether the Government was really favouring some people or that it was being fair and impartial.

Apart from the confusions which appeared before the Election, a question posed in the mind of many people is: With respect to these confusions, did anything go amiss in the decision-making authorities when they made the decisions? From many reports we learn that there were some changes in this Election, such as previously the staff responsible for counting the votes did not have to work round the clock, but this time they had to work round the clock. This arrangement had put off some well-experienced civil servants and they were afraid to take up the job. The result is that some inexperienced staff were recruited to handle all the election work, leading to the abovementioned problems. If this is the case, I think that the Director of Bureau in question must never hope to wash his hands clean in this as this is a responsibility he cannot shirk.

In any case, Madam Deputy, I am of the view that regardless of the confusions in the electoral process, the people of Hong Kong are politically mature. They are enthusiastic about participation. So we are convinced that we are justified in fighting for universal suffrage because we have the conditions. But we must ponder over the Election this time to examine what can be done to improve its operation. That is why I think an independent Commission of

Inquiry must be formed to find out which officials are culpable. For we cannot simply let the matter go and be forgotten.

If no positive feedback comes from the Government, it will only make people cast greater doubts on its impartiality in the entire process. So I hope Members can support the motion today. That will hopefully make the Government know how great an importance we attach to the entire electoral process so that our future elections can be fair, open and honest.

Madam Deputy, I so submit.

**MR FREDERICK FUNG** (in Cantonese): Madam Deputy, the dust has settled over the results of the Legislative Council Election held last month. The new term of the Council has begun operation for some time. But the Hong Kong Association for Democracy and People's Livelihood (ADPL) and I think that the irregularities and confusion on the polling day of the 2004 Legislative Council Election should not be allowed to disappear into oblivion with the lapse of time. Both the ADPL and I support the motion and we urge the Chief Executive to appoint independent persons to form a Commission of Inquiry to investigate into the irregularities and general confusion on the polling day of the Third Legislative Council Election.

Democratic elections are a rational institution in a civilized society where voters can choose capable persons through elections held regularly in the form of "one person, one vote" and equal weight for all votes. Therefore, both the ADPL and I think that it is extremely important that the actual operation of the electoral system must be fair, open and honest. For it is only through entrenching these principles and values that public opinion can be expressed in the election process and that Members endorsed by the public can be elected.

It is unfortunate to see that the application of the above principles to examine the administrative arrangements and operation of the polling day of the Third Legislative Council last month would make one arrive at the conclusion that it is fraught with blunders and confusions, leading to public queries on the results of the election.

On the basis of media reports, complaints from the voters and actual events witnessed by residents, the irregularities and general confusion of the Legislative Council Election can be divided into two categories generally.

The first category is the arrangements in the polling stations. Quite a number of the polling station staff discovered on the morning of that day that there was a shortage of ballot boxes. Such boxes were of a new design and used for the first time this year. The staff reported the problem to the Registration and Electoral Office (REO) but the extra ballot boxes were delivered to the polling stations only in the afternoon. In the interim, people working in the polling stations had to use all sorts of ways, such as inserting rulers into the ballot boxes to flatten ballot papers inside to make room for more. Some fetched cartons and used them as ballot boxes as a stopgap measure. Some opened the ballot boxes themselves without the presence of polling agents on the scene and rearranged the ballot papers by hand. Some polling stations were even closed temporarily when the staff saw long queues forming outside the polling stations and that the extra ballot boxes had not arrived. It is hard to estimate the number of voters who did not cast their votes due to this reason. Both the ADPL and I think that irrespective of the good intentions or otherwise of the staff in the polling stations, and though we do not wish to question their motives, still it makes the public cast doubts on the fairness and confidentiality of the election. This is not only against international practice but also shows that the REO and the departments concerned have failed to sense the possible confusions on the polling day. They made wrong estimations of the capacity of the ballot boxes. They did not make a trial run of the whole process beforehand, nor did they devise any contingency plans and measures.

The second category of problems is related to ballot counting. Under the new arrangements, as soon as the polling has stopped, the polling stations will be converted *in-situ* as counting stations. This is meant to speed up the counting and enhance the efficiency. But ballot counting did not start in many polling stations two or three hours after polling was closed. In some polling stations, the staff there acted allegedly in breach of the electoral laws and refused to let the polling agents enter the precincts of the polling stations to oversee the sealing of the ballot boxes. Besides, there is a discrepancy between the number of ballot papers issued and the actual number counted in the accountancy, labour, health services and social welfare functional constituencies. The discrepancy in the number of votes in the health services sector is as many as 202 votes and the situation is far from normal. Apart from that, though the authorities had claimed that the time used in vote counting would be shortened when the polling stations were used for vote counting, the fact was exactly the opposite. In the Kowloon West Constituency that I stood for the direct election, the authorities

originally estimated that the counting would finish at about 2 am or 3 am, but later excuses like computer errors and other reasons were put up and official announcement of election results were not made until after 7 am the next day. The time taken was a lot more than that used in the last term when centralized counting was adopted. Both the ADPL and I are not satisfied with the counting arrangements mentioned and we fail to see why after so many years of direct elections and after handling them so many times, the civil servants are getting worse in their work. This will create a negative impact on the transparency of the vote counting and some people may become worried that there may be vote rigging. All these serve to show that the departments and staff concerned have not been serious enough with their work.

All in all, both the ADPL and I think that the Government should set up an independent Commission of Inquiry and undertake full-scale investigations into the irregularities and general confusion surrounding the Third Legislative Council Election and make such recommendations as appropriate on improvement and disciplinary measures for those persons found culpable. We would like to reiterate that investigations into the general confusion of the electoral arrangements are aimed at urging the Government to draw reference from past experience and propose improvement measures for future elections at all levels. These will hopefully enhance the fairness of our election activities and restore public confidence in the election system.

Madam Deputy, I so submit.

**MR MARTIN LEE** (in Cantonese): Madam Deputy, first of all I wish to congratulate the Secretary for Constitutional Affairs, for he is going to speak twice. As a matter of fact, for many years I have proposed in the Council that the Government should follow this practice, that is, after the Member who moves the motion has spoken, the public officers should rise and speak on their position. Later on when other Members speak, they will be doing so in full knowledge of both the views of the Government and the Members. So I congratulate him and I hope that debates in future will also follow this practice.

Madam Deputy, the election and the ballot counting this time can only be described as full of blunders. Some Members, for example, Mr TONG Ka-wah, have said that as a result of these blunders, some voters simply went home.

Some of them, however, did return later on. Some other Members have pointed out that some polling stations just closed down for some time because there were just too many people. But the worst thing is that reports of such happenings were aired on the TV all the time and this had certainly dampened the desire of some voters to go to the polling stations and for some people, they did not vote because of that.

Even Mr MA Lik should agree that this would certainly have an impact on the turnout rate. But he said that this had not affected the results. I beg to differ. On the polling day, I was on the street all the time, urging through a loudspeaker people to vote for us. I was also listening to the radio all the time. There was a report on the turnout each hour on the radio. I recall that the turnout was increasing all the time from the morning to about 3 pm. The turnout was rising all the time and this can be seen in the graphs. Unfortunately, the trend then levelled off and the rise stopped. I think it is precisely because of such reports that many voters did not come out to vote.

Did the events make any impact? I think that there was some impact on the democratic camp. Why? As we all know, supporters of the leftist camp would usually go to the polling stations early in the morning and they were transported to the polling stations in coaches. They have amazing organization powers. So even when some unfavourable news had broken, they would not stop going to the polling stations, for some people would bring them there. But as we also know, supporters of the democratic camp would come out late to vote. Some even rushed to the polling stations when voting hours were about to finish. Those who voted last were almost invariably those who supported the democratic camp. So I cannot accept the view that no impact was caused on the election results. But it is hard to tell the extent of the impact.

Madam Deputy, why were so many blunders made? According to some newspaper reports, in the opinion of Mr LEUNG Chow-ting, the chairman of the Hong Kong Federation of Civil Service Unions, the Presiding Officers and those responsible for vote counting were almost all civil servants and in the past a two-shift system was used. The first shift is mainly to oversee things in the polling stations, and it would start from 7 am to 10.30 pm. Staff have to report to duty before 7 am. There may be a short break after 10.30 pm. So this is the first shift. Those who are responsible for counting the ballots will work from 9 pm to the end of the counting on the next day. And for this time, it may be due to a bid to save money — and Mr LEUNG guessed this was the case —

the two shifts were combined into one shift. As people thought that they would need to work for at least 24 hours, so many well-experienced old hands did not want to take up the job because they were worried that the work might be physically too demanding for them. Some civil servants said that those well-experienced persons knew that mishaps would happen and they believed that the front-line staff would certainly be held accountable. So in order not to affect their career advancement, they would simply not want to earn this some \$1,000.

I hope the Secretary can respond to this point later on. I hope he can tell us whether or not this was the case: That two shifts were combined into one to save money, thus making the well-experienced people unwilling to take up the job and that was why people with no experience were called in. The result was that a slight hiccup would lead to a panic and that was why so many blunders were caused.

Madam Deputy, another thing is that when after the ballot counting was over, on the Tuesday immediately after the Election, I called Justice WOO, that is, Mr WOO Kwok-hing, the chairman of the EAC. It was on Tuesday the 14th, that is, at about 9.45 am to 9.47 am that I called him. Why did I remember the time so well? It was because I was hiking in the Peak and it had suddenly occurred to me that it was a very important thing and so I asked my friend who went hiking with me to make a note of the time. What did I say to Justice WOO? I said that I had heard a lot of reports and I knew that a lot of errors had been made, some of them very silly ones. I said that the Legislative Council or some other departments would probably conduct an inquiry into these events and so I hope that they would keep all those things which might be used as evidence later on, for if not, there would be insufficient evidence when an inquiry should really be conducted. I cited an example to him. I said that there were reports that cartons were used in many places to receive ballot papers. Justice WOO was very surprised and he said that no such things would happen and no cartons could have been used. I asked him to take this point down. Later on when he wrote me a letter in return, he said that he had done that. But he only said and I quote: "I said that if the use of cardboard boxes as such was the case, there was no question that the evidence should be preserved." He really thought that had not happened. But later on he heeded my advice and he asked Mr LI Wing to preserve all the evidence. However, he mentioned in his letter that one cardboard box was missing for it had been discarded.

Madam Deputy, lastly, I think that if the Government does not want to let an independent Commission of Inquiry investigate into the matter, it would only make people think that the Government is afraid of letting other people do a good job in making the investigations. But the Government should be well-experienced enough to know that it is no use evading. In the past, the Government did not want itself to be investigated by an independent Commission of Inquiry and so time after time it made mistakes. Often times and in the end it was the Legislative Council which made the investigation. But this is not something we want to see.

Thank you, Madam Deputy.

**MR ABRAHAM SHEK:** Madam Deputy, the problems surrounding the arrangements for the 2004 Legislative Council Election were simply incredible and unacceptable. It is true that there is no proof, at least on the face of it, that the saga of our recent polling day involved fraud or that the final results were unduly affected. Also, there is no evidence that the public has lost its faith in our election system. But it does not mean that the problems can be dismissed lightly. They were more than just mere "inadequacies", as the Secretary for Constitutional Affairs has put it euphemistically in his public speech after the poll.

The scale of the problems was quite unprecedented in Hong Kong's election history. Hong Kong held its first direct elections in the 1980s, therefore, we have had plenty of experience in organizing polls. But this time around, our election veterans appeared to have made mistakes which would be more expected from countries with little democratic election experience. What is more, some of the election complaints are very serious in nature. While the majority of the charges are related to inappropriate administrative arrangements and technical problems, some of them — most noticeably those concerning the opening of ballot boxes during the poll and in the absence of candidates and their agents — point to possible violation of election laws and legal liabilities. Madam Deputy, because of this sad saga, the fairness and openness of our election is now open to challenge. For the sake of the integrity of this election, and the credibility of the Electoral Affairs Commission (EAC), an investigation is not only necessary, but also, it must be done in the most judicious and proper manner.

So, what is the proper method of investigation? According to election procedures, the EAC should submit a review report to the Chief Executive before December this year. The arrangement, which essentially requires the EAC to do a self-assessment on its own problems, has raised doubts about the fairness of the review. In addition, it is not the duty of the EAC to recommend disciplinary actions. Those who hold differing and doubting views favour the setting up of an independent inquiry panel as soon as possible. These are fair arguments, I must admit. But let us not forget that a review is a part of the EAC's statutory duties as stipulated in the Electoral Affairs Commission Ordinance. Also, the EAC has received 42 complaints since the polling day in mid September. The EAC should be given a chance to investigate the complaints and respond to the accusations. It goes without saying that the EAC needs sufficient time to collect information from the relevant polling staff before compiling a detailed, written report to the Government. This is why I believe it will be more appropriate to first let the EAC follow through its statutory procedures. In other words, we should let it finish its review and submit a final report before considering an independent inquiry. In the meantime, we need a little patience. If the final report still cannot adequately address the public's concerns, an independent inquiry should then be conducted to make recommendations for improvements and possible disciplinary measures. After this period, those who remain unhappy with the arrangement will still have another appeal channel: they can petition the Court.

One key issue which the EAC's review must deal with is whether the relevant polling staff have abused their statutory power with regard to the opening of ballot boxes, the use of cardboard boxes to hold ballots, the eviction of candidates from some polling stations and the suspension of polling in the stations. The EAC Chairman has argued that the contingency measures are legal on the ground that they are a necessary evil in preventing polling disruption. The discretionary power, he argued, comes from sections 4(b), 4(h) and 5(g) of the EAC Ordinance respectively. However, what the Chairman has not demonstrated is why the measures were absolutely necessary. Has the EAC exhausted all other possible measures to deal with the shortage of ballot boxes? In any case, opening a ballot box in the middle of the polling process is a very sensitive issue. Considering that there is not one but five complaints involving eight separate polling stations across the territory, the general explanation offered by the EAC Chairman is plainly not sufficient. The EAC must explain in the forthcoming review, case by case, the reasons why the relevant polling

staff considered it appropriate to override the other parts of the election law and invoke the discretionary provisions. Have adequate measures been put in place to ensure that the electoral process could still continue in an open, fair and honest manner? Failing to answer these questions, the EAC would invite an independent probe.

(The PRESIDENT resumed the Chair)

As other democratic countries have shown, it is unlikely that election complaints would overturn election results. But the integrity of those who are elected to power may be negatively affected for a period of time in the face of dubious results or badly handled electoral arrangements. This is what had happened in the recent presidential elections in Taiwan and in the United States four years ago. Therefore, I urge the EAC not to dodge criticisms, but to adopt a practical, responsible attitude in its investigation.

I believe that all the candidates, successful and not successful, of the September election would want to see that elections in Hong Kong are completely fair and open. Madam President, with these words, I so submit.

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

**MR LEE WING-TAT** (in Cantonese): Madam President, I speak in support of Ms Margaret NG's motion. When Mr Tommy CHEUNG of the Liberal Party spoke earlier on, he said that they would abstain. Actually, in this Chamber, abstention is tantamount to voting against the motion. So I hope the Liberal Party will not abstain from voting, for if Members do not vote, it would be better if all Members who oppose the motion will not vote and that may pass the motion.

On the other hand, I wish to discuss a view expressed by Mr MA Lik, Chairman of the DAB, though he is not in the Chamber now. It is because he is the only one from the DAB who has spoken. Actually, Mr MA's speech has the following points.

First, he said that the incident had been a technical error. That I cannot accept. The work of the EAC is not to make arrangements on a technical level, and most of its work involves electoral arrangements, those concerning the planning of the election and manpower deployment in elections. All these cannot actually be considered technical matters. As many Honourable colleagues have said, this involves the way people are hired and many of the staff for this year are not so well-experienced. That is what the civil servants have told us.

Another point which I do not think can be described as a technical problem is crisis management on that day. Crisis management is an issue which every big organization will need to face. It is a test of how organizers and decision-makers will handle a crisis. Apparently, some Counting Supervisors had reported at a very early time on that day the situation truly to the headquarters of the EAC that ballot boxes were in short supply, but many of the extra ballot boxes were delivered only at 4 pm or 5 pm. So it goes without question that this is bad crisis management. All these are not technical problems. If the EAC should investigate into the planning, manpower deployment and crisis management of the Election, I do not think it will come up with anything. Even if something is found, the public may not think that the investigation is fair. So with respect to this, Mr MA Lik is actually not correct. This is not a technical problem.

Second, Mr MA Lik also said that the election was not made any less fair, open and honest, for he does not know those who did not go to the elections were in support of the DAB or the democratic camp. He was also wrong on that count, for in any election, the first and foremost thing which should be upheld is that each and every eligible voter should be given a chance to vote. This is the most important thing. It makes no difference if a voter supports which party or if he only casts a blank ballot paper. For this is his own choice. But if there is anything which will in the end makes it not convenient or not possible for some people to vote, or that these people can only vote after much hardship, then this practice is not acceptable.

Another thing which Mr MA Lik said, or he suggested rather is — as there are Members from the DAB here, I wish to ask them — that the officials responsible should make a review or they should take the initiative to bear the responsibility. I am quoting him. I do not know to whom he was referring,

whether it was Secretary Stephen LAM or Justice WOO Kwok-hing. I think that it should be Stephen LAM, for insofar as electoral affairs are concerned, Justice WOO cannot be said to be an official. He is only the Chairman of the EAC. And when the DAB said that the official responsible should bear the responsibility, what did it mean? Did it mean that they would forget it for Stephen LAM had apologized a while ago? Should he be imposed more severe punishment or be asked to resign? He did not make it very clearly at that time and since there are many Members from the DAB who are present, I really want to know what they have in mind when their Chairman called for the principal officials to bear the responsibility. I also want to know what is meant by the responsibility.

I do not wish to go over the confusions of this Election again. In my opinion, it would be hard not to conduct an independent inquiry if we want to do justice to the voters and salvage the reputation of Hong Kong. With respect to the inquiries I have seen, very often Members from other parties in the Council will say to us that we are trying to blow up the matter or target some officials when we want to conduct an inquiry. Actually, Ms Margaret NG has made a very good suggestion. If I remember it correctly, she urged the Chief Executive to appoint a Judge to do that. I believe that this power to appoint a Judge to conduct an inquiry stems from the power conferred on the Chief Executive by the law and that does not involve any political party. Actually, no political party is suitable to take up such a task, for parties have election interests.

Having said that, there are times when I say to myself not to be too disappointed. For after looking up the records, I found that during the debates held in this Council, the DAB and the Liberal Party had opposed to conducting certain inquiries, such as those related to the short piling incident and SARS at the beginning of the outbreak. Later on, they changed their stand and lent their support. Maybe they had read the reports concerned or they were under some sort of pressure. I hope these two parties will change their mind and support this motion.

There is one very special thing about today's debate as I see it. I am not sure if this is the result of my observations on political mentalities. I have a feeling that the ruling coalition is behaving like this: They support the Government and it is their responsibility to do so. If they are so convinced that

they are justified in supporting the Government, then they would come out and take us on in a very heated debate. They may even come out one after another and make their speeches. Now as the debate is drawing to a close when I speak, only one person from the DAB has spoken and also only one person from the Liberal Party has spoken. I think their mentality is that if the ruling coalition only assigns one person to speak when they support the Government, it would mean that they are not so convinced and so they do not dare to come out to debate with us. But they do not dare to say why. Is this what Mr Jasper TSANG, the former Chairman of the DAB, meant when he said that the ruling coalition had all the disgraces but not the honours? The disgraces are not of his own making. Incidentally, I am not saying "meat" as in pork but "disgrace" though the two words are pronounced the same in Cantonese. Are these disgraces brought by Secretary Stephen LAM or Justice WOO? I do not think these parties should be asked to swallow these disgraces while no honour is given to them. So, perhaps it is due to this reason that each party has only assigned one person to speak in this debate.

Nonetheless, I support Ms Margaret NG's motion and I also hope that all the Members from the Liberal Party will not cast their votes. Thank you.

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

**MR ALAN LEONG** (in Cantonese): Madam President, the motion proposed by Ms Margaret NG today is a matter of enormous import. It does not only have a bearing on the chaos of the 12 September election, affecting the image of Hong Kong in the international community, but also has a direct bearing on the people of Hong Kong in terms of whether they should support a democratic election system.

Madam President, now, I would like to highlight several sections of the Electoral Affairs Commission (Electoral Procedure) (Legislative Council) Regulation (Cap. 541) for Members' reference. Section 47 is about the design of ballot box. It stipulates that "a ballot box to be used for an election is to be so constructed that ballot papers can be introduced into it while it is locked but cannot be withdrawn from it without unlocking it or breaking the seal or the sealing device" (the word "須" used in the Chinese section has the meaning of

must). Madam President, section 48 also requires the Presiding Officer to show to persons in the polling station before the commencement of the poll that all ballot boxes are empty. It goes on stating that, "then the Presiding Officer must lock the ballot box, seal it with a seal provided for that purpose or any other device specified by the Chief Electoral Officer, so that it cannot be opened without breaking the seal or the device". This section further requires that Presiding Officers must place the ballot box for the receipt of ballot papers in their views and must keep it locked and closed. Section 54(5) under the same Regulation states unequivocally that, "a person must not put anything other than a marked ballot paper into the ballot box"; barbecue forks, rulers or screwdrivers are definitely not allowed. Furthermore, Madam President, section 63(1A) under the same Regulation stipulates that when polling stations are converted into counting stations, Presiding Officers should arrange for counting agents and one from each candidate lists to stay in the stations to monitor the sealing of ballot boxes and the conversion of polling stations into counting stations.

The views expressed by Members of the Legislative Council earlier, whether they are in favour of or against Ms Margaret NG's motion, let us know clearly that the *prima facie* evidence is very adequate. The sections mentioned by me earlier have all been violated *prima facie*, which is to say that those acts are actually illegal. Just now, I heard that many colleagues shared the point that the chaotic arrangements of the Election were intolerable. However, for those who oppose Ms Margaret NG's motion, they have but one major reason, they think that since we do not have to wait for long for the report of Justice WOO of the EAC, why can we not wait for the announcement of the report before we make any decision?

I think the waiting is definitely unnecessary. For it is very likely that the election chaos occurred this time were caused by the mistakes of the EAC, or the Chairman of the EAC indeed, in policy-making or execution. This situation will not be reflected in the report of the Chairman of the EAC. The report will also fail to reflect the ethics, conduct or decisions of the EAC or the Chairman of the EAC. If we want to have justice done, such an arrangement is far from adequate. Justice can only be done when it is seen to be done. Certainly, I trust that Justice WOO will be strict and impartial. However, there is always the possibility that he will be held responsible for the mistakes made in the electoral arrangements, and it is thus very inappropriate to let him lead the investigation. No matter what the result of the investigation is, the lack of

credibility of the investigation itself will fail to remove the worries and doubts of the public regarding the chaotic arrangements in this Election.

Madam President, against this background, I implore all Members of this Council to support Ms Margaret NG's motion. Finally, I would like to add a few words. Cases of Judges investigating Judges are found every day in Courts of Hong Kong. For any parties feeling aggrieved by the sentence of the first trial may lodge an appeal to the Court of Appeal; and to the Court of Final Appeal if they remain aggrieved by the sentence of the Court of Appeal. Every day, there are decisions of lower Courts being overruled by higher Courts, which is not at all surprising. Thank you, Madam President.

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

(No Member indicated a wish to speak)

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam President, I am grateful to Members present in the Chamber and other Members for giving us many valuable opinions in the last couple of hours, and for giving me many comments and advice in respect of the polling arrangements in the Legislative Council Election on 12 September. I wish to take this opportunity to further respond to them in a number of aspects.

Many Members mentioned the opening of ballot boxes. In fact, the Electoral Affairs Commission (EAC) gave directions to the Presiding Officers (POs) on the polling day in accordance with its statutory powers. According to the preliminary investigation of the EAC, the POs who opened the ballot boxes on that day had basically acted in compliance with the direction of the EAC in that the opening of the ballot boxes was duly witnessed at the time. I believe the interim report of the EAC will give further explanation on the problems in this aspect.

A number of Members mentioned the use of cardboard boxes. The preliminary investigation of the EAC reveals that individual POs did use cardboard boxes while awaiting additional ballot boxes. As regards what happened at these individual polling stations when cardboard boxes were used, and also how the POs and the people there could ensure fairness, openness and

honesty in the voting process, I believe an explanation will also be given in the interim report.

Mr CHEUNG Man-kwong mentioned that in my explanation to the media on 12 September I said that cardboard boxes had not been used. On that day, I was actually responding to a case concerning a particular polling station. In that afternoon, the DAB issued a press release which said that the PO at the Lutheran Secondary School had considered whether or not to use cardboard boxes. After checking out what happened, colleagues in the EAC told me that no cardboard boxes were used in that polling station, because additional official polling boxes had arrived just in time. The comments that I made on that day referred to this particular case. I said this when I explained the case to media representatives in mid-September.

Members are very concerned about the secrecy of the vote, which must be respected and maintained. On that day, the EAC decided in accordance with the powers conferred on it by law that the POs can open the ballot boxes where necessary to rearrange the disorderly ballot papers inside, in order to make room for more ballot papers to be introduced into them. Knowing that it was an expedient measure, the EAC had ensured that all steps were taken in accordance with the statutory powers and within the parameters of the law. The existing legislation has provided for adequate measures to ensure the secrecy of the ballots cast by all voters. Throughout the voting process, no ballot had been marked, and all the candidates, agents, polling agents and police officers were there to serve as witnesses. This was helpful to ensuring adherence to the principle of an open, fair and honest election.

Two Members asked whether we had allocated less resources to the Registration and Electoral Office (REO) due to budgetary constraints, resulting in the need for it to reduce the number of shifts from two to one in order to cut expenditure. In fact, the Government had earmarked \$275,540,000 for the Legislative Council Election in 2004, and in the 2000 Legislative Council Election, the actual expenditure was \$275,160,000. So, we have provided more resources for the election of the third term of the Legislative Council than those for the second term. It is not the case that this Election was provided with less resources.

On the other hand, I would like to state that insofar as the election of the third term of the Legislative Council is concerned, the resources earmarked for

promotional and publicity purposes were less than those for the second term. The amount was reduced from about \$89 million for the second term to \$50 million this year. Therefore, we had been able to spare more resources for the REO to make other practical arrangements. But despite reduced provision for promotional and publicity work, the effects have not been undermined. We had tried our best to broaden the promotion of the Election with limited resources. The exposure of the Election in the media and its reach to individual members of the public had not been slackened. In fact, in the election of the third term of the Legislative Council, the number of registered voters increased to 3.2 million and as many as 1.78 million voters had voted in the Election, representing a voting rate of over 55% among the registered voters. All these are attributed to the efforts made by our colleagues and also by candidates from various political parties and their supporters over the past months.

Concerning the allocation of resources, apart from promotional and publicity activities, the estimated expenditure for other practical arrangements made by the REO was some \$180 million for the 2000 Legislative Council Election, whereas the general expenditure incurred by the REO in this regard for the 2004 Legislative Council Election was estimated at over \$200 million. So, in response to Mr Martin LEE's question, it is not true that two shifts were combined into one due to financial constraints. Rather, it was due to the EAC's decision to adopt *in-situ* counting as one of the practical arrangements for the Election.

Madam President, many Members questioned whether it is appropriate for the EAC to conduct investigation at this stage. In fact, as the EAC is an independent statutory body responsible for the supervision and conduct of elections, under the electoral legislation, it has the statutory powers to handle complaints arising from its directives. Under the law, the EAC is required to submit a report to the Chief Executive within three months after the completion of each election. The report must include all the complaints received together with the EAC's assessment. Therefore, in reviewing and investigating into the electoral arrangements for the election of this term of the Legislative Council, the EAC is actually performing part of its statutory duties at this stage. After the EAC has submitted its report, the Government will carefully examine its contents and then make decisions on follow-up actions. I very much hope that Members will not rashly pass a judgement on the impartiality or the nature of the EAC's investigation into this Election.

In fact, apart from the EAC which handles election-related complaints, the electoral legislation has provided for another channel. Any person who has doubts about the election results may lodge an election petition to the Court through the mechanism stipulated in the electoral legislation. This is a formal channel of appeal in accordance with the existing judicial procedure. However, I must emphasize that apart from looking into these arrangements, the Government will take further actions to follow up this incident.

Some people have asked: To what extent should I and colleagues in my Bureau be held responsible for this incident and the relevant electoral arrangements? In fact, insofar as electoral issues are concerned, the main duties of the Constitutional Affairs Bureau include the formulation of the overall policy on election, and formulating and tabling at the Legislative Council major legislation concerned. We also have to co-ordinate promotional activities relating to the registration of voters and those aiming to encourage the public to vote. With regard to our duties in these areas, in 2003 we formulated the relevant policy and the principal legislation. The Legislative Council (Amendment) Ordinance 2003, for instance, provides that each geographical constituency shall be composed of four to eight directly-elected seats. Another example is the new electoral arrangement of providing a subsidy of \$10 for each vote obtained.

Legislation aside, earlier on we talked about the financial arrangement in relation to our work in this election, and I have explained to Members the results of our work in these areas, pointing out that with concerted efforts, the number of registered voters and the turnout rate in the poll have increased.

We, being a Policy Bureau, should carry out the duties required of us, and we have tried our best to accomplish our tasks. Having said that, however, there were indeed inadequacies in the electoral arrangements which caused inconvenience to the public and candidates. We need to recount our experience, learn lessons and rectify problems in various aspects.

Madam President, Mr Ronny TONG has spent much effort and time on stating eight points which, in his view, warrant our consideration and follow-up. I think he had stated many important points which indeed warrant our consideration and follow-up work in future. For instance, he made a point about the need to enhance training for POs and colleagues in accordance with the relevant legislation to enable them to become well-versed in the rules and procedures.

Secondly, Mr Ronny TONG suggested us to consider whether there is actually a need to review the arrangement of polling-cum-counting stations and the district-based counting method. I know that on the one hand, many different political parties and groups and candidates think that as there are now 400-odd polling stations, if they can know the situation at individual polling stations or districts, the information will be helpful to them in their future work in districts. However, we all hope to ensure the efficiency and a high accuracy of the counting of votes. I believe these should be the major considerations. In our future review of future elections of the Legislative Council and other elections, we will carefully assess these experiences and considerations and implement new measures accordingly where necessary.

Dr Raymond HO said that more than 10 000 civil servants had assisted us in the polling work and campaign amid difficulties and that their dedication merits commendation. I cannot agree with him more.

Ms Emily LAU asked whether the review and investigation conducted by the EAC at the present stage were comprehensive. I can assure Ms LAU that they have already tried to be as comprehensive as possible.

First, they have actively followed up complaints received from members of the public, candidates and supporters of the candidates.

Second, they have been following up cases referred by Members and various political parties.

Third, all cases covered in media reports have been given attention and followed up by them. So, insofar as the developments to date, the coverage of the interim report has already been broadened as far as possible.

Madam President, I would also like to respond to the comment made by Mr LEUNG Yiu-chung about whether the discussion on constitutional development in 2007 and 2008 or afterwards will be affected by the inadequacies in the administrative arrangements for this Election. I can assure Mr LEUNG that the practical and administrative arrangements in this Election will not affect our consideration of the future constitutional development.

In fact, if we review the arrangements for the election of the third term of the Legislative Council, we can see that the number of registered voters was a

historic high. So were the turnout rate and the number of candidates contesting the Election. This demonstrates the civil awareness in our community under the gradual and orderly development of the constitutional system. The maturity of the public as reflected in their willingness to pay attention to the public affairs of Hong Kong has gradually increased. I believe the experience of this Election will definitely have a positive bearing on the constitutional development in 2007 and 2008 and thereafter.

Mr Albert HO mentioned that from his observations, a fact that can be seen so far is that there is no evidence showing attempts of prearrangement or conspiracy in a bid to influence the election results. I agree with his observations. But meanwhile, we also agree that there are indeed inadequacies in this Election. It is necessary for us to recount experience and learn lessons and to be better prepared in our future work.

We very much cherish the fundamentals and principles of fairness, openness and honesty in the electoral system of Hong Kong. In fact, like Honourable Members and representatives of political parties and factions, colleagues in the Government very much hope to preserve these principles of fairness, honesty and openness. They also hope that the electoral system of Hong Kong will continue to be strengthened. So, I can assure Members that after the EAC has submitted the interim report, we will earnestly study it and will further explain to Members in what areas we will take further actions.

Madam President, I so submit.

**PRESIDENT** (in Cantonese): Ms Margaret NG, you may now reply and you have four minutes six seconds.

**MS MARGARET NG** (in Cantonese): Madam President, my thanks go to the 19 Members who have spoken on my motion. As a matter of fact, my motion aims not only to restore public confidence in our elections but also to reveal our society's attitude towards elections. How much importance do we attach to the right of electors, for example? And, to the electoral system? How high are our standards? If we had attached any great importance to the electoral system, to the secrecy of ballots, and to the right of electors, we would never have

allowed any ballot boxes to be opened so lightly, would never have thought that the problems were just minor hiccups, would never have treated them so casually.

We can see that, to date even at this very moment, Secretary Stephen LAM is still so overly cautious, and his reply is nothing but a stock answer, meant largely to enable him to stay away from any trouble. Madam President, please note that I have never used the adjective "shameless". But even today, he is still reluctant to clarify to us whether the design of the ballot boxes had been seriously tested beforehand before use and why polling staff had to work for 27 whole hours. He is not asking us to defer our decisions; rather, he wants Members to vote down the establishment of an independent Commission of Inquiry right now.

When he spoke on the motion for the second time, he said that there was legal backing for opening the ballot boxes. But Mr Alan LEONG has already read out the relevant legal provisions in detail, so we can see the great importance attached to security and secrecy under the electoral system of our society: ballot boxes must be sealed, locked, kept under safe custody, and locked again. May I therefore ask the Secretary in which sections, chapters and paragraphs of the law is the opening of ballot boxes permitted? Should the power of discretion be exercised to such a great extent? I have read all the provisions. Despite the stipulation on the secrecy of ballot boxes, after he has made such a casual remark, the opening of ballot boxes is no longer a problem. Which are we upholding — the rule of law or the rule of man? According to him, whenever necessary, ballot boxes can be opened. But obviously, there was no such a need on that day. The reason is that polling officials subsequently managed to find some old ballot boxes. It is thus evident that it was not actually necessary to open any ballot boxes and press the ballot papers inside with a ruler. Why then did some polling officials act so rashly, proceeding to open ballot boxes, which under the law, must remain locked at all times, immediately after asking a police officer to witness the process?

Mr MA Lik said that there was confusion, but there was no problem, because no evidence of corrupt practices could be found. This is simply not our standard. Our standard is to ensure as much as possible that throughout the whole process, it will be impossible to engage in any corrupt practices, to get hold of any blank ballot papers, to replace any ballot papers, to destroy any cast ballot papers and to hide any glaring errors from the records, making it

impossible to trace the causes. This is what our electoral system should be all about. Our objective is to make sure that there can always be a prompt and complete explanation for any queries. In order to ensure the integrity of the system, we must abide by the procedures instead of saying that all is fine if the results are not affected. We should deal with the problems before they become serious, or else the system will only degenerate and eventually collapse. But government officials are still saying, "You don't trust us, do you? You don't even trust police officers, do you? We do not support the idea of conducting any independent investigation." This is nothing but bigotry.

I call upon Members to support my motion. Thank you all.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by Ms Margaret NG be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Ms Margaret NG rose to claim a division.

**PRESIDENT** (in Cantonese): Ms Margaret NG has claimed a division. The division bell will ring for three minutes, after which Council will proceed to the division.

**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:**

Ms Margaret NG, Mr CHEUNG Man-kwong, Mr SIN Chung-kai, Ms LI Fung-ying, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Mr CHIM Pui-chung and Ms TAM Heung-man voted for the motion.

Dr LUI Ming-wah, Mr Bernard CHAN, Dr Philip WONG, Mr WONG Yung-kan, Mr Abraham SHEK, Mr WONG Kwok-hing, Mr Daniel LAM, Mr WONG Ting-kwong and Mr KWONG Chi-kin voted against the motion.

Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Vincent FANG, Mr Jeffrey LAM and Mr Andrew LEUNG abstained.

**Geographical Constituencies:**

Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Dr YEUNG Sum, Ms Emily LAU, Mr Andrew CHENG, Mr Albert CHAN, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Mr Alan LEONG, Mr LEUNG Kwok-hung, Mr Ronny TONG and Mr Albert CHENG voted for the motion.

Miss CHAN Yuen-han, Mr CHAN Kam-lam, Mr Jasper TSANG, Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr LI Kwok-ying and Mr CHEUNG Hok-ming voted against the motion.

Mr James TIEN abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 23 were present, eight were in favour of the motion, nine against

it and six abstained; while among the Members returned by geographical constituencies through direct elections, 25 were present, 16 were in favour of the motion, seven against it and one abstained. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the motion was negatived.

**PRESIDENT** (in Cantonese): Second motion: Civil service policy.

### **CIVIL SERVICE POLICY**

**MR WONG KWOK-HING** (in Cantonese): Madam President, I move that the motion, as printed on the Agenda, be passed.

At the end of September, the three Members from the Hong Kong Federation of Trade Unions submitted a written presentation of 30 000-odd words to the Chief Executive to reflect the views of labour organizations. Over half of these organizations are civil service organizations and they have expressed the strong dissatisfaction of civil servants.

Although Mr TUNG gave us six undertakings at the meeting to respond to the aspirations of civil servants, civil service organizations consider this inadequate. They generally call on the Government to draw up a set of long-term policies which belongs to the Government of the Hong Kong Special Administrative Region (SAR) to stabilize the confidence of civil servants.

They strongly questioned the many changes introduced to the Civil Service in the seven years after the reunification, which have led to many more problems. The more obvious examples include the civil service reform, the policy of financial envelopes, the Enhanced Productivity Programme, employment on contract terms, corporatization, privatization, and indiscriminate outsourcing. All these have scathingly shattered the reasonable parts of the civil service system. The terms of employment, career prospects, workload and work pressure of civil servants now are vastly different from those in the past, except for those of a small number of senior officials. The "admirable" civil servants in the past have now become "miserable" civil servants. Their miseries lie in three areas:

First, changing and unstable policies. While the Chief Executive, Mr TUNG Chee-hwa, has verbally made six undertakings which have temporarily set the minds of civil servants at ease, the civil servants worry that a new government will bring new ministers and policies. So, the undertakings made by the incumbent Chief Executive may not be agreed and followed up by the next Chief Executive. They are all the more worried that every Chief Executive of a new term in the future will have different policy objectives and hence affect the stability of the remuneration, benefits and conditions of service of civil servants, which will in turn undermine the confidence of civil servants in the SAR Government.

Second, they feel miserable because for every measure from above, there will always be a counter-measure from below. While Article 100 of the Basic Law provides that the pay, allowances, benefits and conditions of service of civil servants will be no less favourable than before, given the across-the-board implementation of the policy of financial envelopes, all departments, in order to observe their superiors' instruction of compressing expenditure and to meet the increasing needs of the public for their service, have sought to address the shortage of manpower by employing temporary and contract staff in lieu of permanent staff and by indiscriminate outsourcing of services under all sorts of pretexts. This has resulted in such anomalies as people doing the same work not being paid the same and workers with four or five different types of background having been recruited for the same post.

Let me cite a real example. A worker of the Leisure and Cultural Services Department has worked in the same post for six years but remained a temporary worker, and the shortest contract offered at one time was one week. As the 16 000-odd non-civil service contract staff cannot see the future and their situation is one that has no tomorrow, how can there be any morale and efficiency? This has in effect put heavier responsibilities on pensionable civil servants, and the pressure on them, internally and externally, is inconceivable to outsiders. Recently, trade unions of front-line workers in the Food and Environmental Hygiene Department have strongly complained that the Department has reneged on the undertakings made by the Chief Executive on 25 September by unilaterally abolishing the hardship allowance (or obnoxious allowance) payable to front-line workers for 30 years without reaching any consensus with the workers. The Department intends to abolish the monthly hardship allowance of \$641 in full for 777 workers and to cut the allowance by half to \$320.5 monthly for 1 274 workers. In other words, the salary of

front-line workers is not cut by 6% under the "0-3-3" pay reduction schedule. Rather, the pay cut may even be 9% or 12%. To these front-line workers with a low salary, this will only add to their burden. The Government is rubbing salt into their wounds.

Third, they are miserable because government departments will carry out the civil service reform in their own way, that they will cover up what is actually going on, that they will report only the good news while withholding the bad news, and that they do not work in the light of the actual circumstances and fail to honour the undertaking of the Chief Executive to consult civil service organizations on any reform first and implement reforms only after reaching a consensus with them. In fact, many departments have not fulfilled this undertaking. Policies are contradictory due to conflicting interests of different departments. This has seriously undermined the confidence of civil servants, tarnished the image of civil servants and rendered their services to the public inefficient, thus giving rise to a myriad of problems.

Let me cite some examples to explain this situation. For example, the shortage of firemen. Even though there are more fire stations, no additional firemen are provided. With an obvious shortage of ambulancemen, coupled with an increased number of ambulance depots and ambulances but without additional manpower, the rescuers are consistently deprived of reasonable meal breaks as a result.

For another example, manpower shortage in the Immigration Department. Off-duty plainclothes officers are outrageously deployed to check the identity documents of visitors at immigration counters at the border in casual wear. This is indeed a laughing stock in the international community.

The Architectural Services Department, for instance, is responsible for inspecting construction works to ensure their compliance with the standards set out in the contract. The Architectural Services Department has nevertheless engaged an engineering superintendent to conduct inspection but the works concerned may be carried out by the employer of that engineering superintendent. How possibly could there be stringency? How possibly could corruption and conflict of roles be prevented?

Madam President, insofar as these three aspects are concerned, it is necessary for the Government to formulate long-term civil service policies and

cease such wrong practices as blindly cutting the number of staff and blindly outsourcing government services regardless of the workload, in order to allay the concern of civil servants and to restore and foster their confidence.

At present, the civil service system is modelled on the past colonial system. The colonial civil service system has been implemented for many years with its merits and characteristics. However, in this rapidly changing society, it is necessary to make adjustments and improvement in order to keep abreast of the time. But in recent years, such changes as the civil service reform, employment on contract terms, corporatization and privatization have all been piecemeal measures aiming to patch things up. Comprehensive, long-term and consistent planning is lacking, and more importantly, such changes are implemented without the consensus of civil servants.

Madam President, long-term civil service policies do not only refer to the terms of employment of civil servants and details relating to their entry to the Civil Service, promotion, punishment, fringe benefits, and so on. It should also include the existing civil service structure, studies of the Government's role and functions, co-ordination with Policy Bureaux and departments, and ways to build up a good employment relationship.

Madam President, the community has increasingly high expectations of the services provided by the Government. How should the Government respond to these aspirations of the people? Should it simply resort to continued corporatization, privatization and outsourcing of services, or should it seriously conduct a review and consider in which areas should changes be made to the effect that quality and efficient services can be provided by pensionable civil servants? Moreover, should the Government consider employing sufficient civil servants who can meet the requirements to provide the services? All these indeed warrant serious consideration by the Government.

No doubt the post-war success and prosperity of Hong Kong are attributed to a team of quality civil servants. In addition to these 160 000-odd civil servants, there are also more than 100 000 employees of government-funded bodies, totalling more than 300 000 people. If their family members are also factored in and if we calculate on the basis that each family has three members, there are more than 1 million people involved. Should our "admirable" civil servants become "miserable", then the harmony and stability of society will be at stake. For this reason, the SAR Government must expeditiously formulate a set of long-term policies to stabilize the confidence of civil servants.

With these remarks, Madam President, I urge Members to support the motion.

**Mr WONG Kwok-hing moved the following motion: (Translation)**

"That this Council urges the Government, on the basis of full consultation with civil servants, to formulate a policy to stabilize the confidence of civil servants so as to boost their morale, and that the Government should, before formulating such a policy:

- (a) cease the corporatization of departments, contractization of staff employment and indiscriminate outsourcing of services;
- (b) cease employing temporary staff in place of permanent staff; and
- (c) review the policy of imposing operating expenditure envelopes across the board and the practice of reducing civil service pay, benefits and establishment,

so as to consolidate public confidence, give impetus to healthy social interactions, promote social prosperity and help build up the Hong Kong Special Administrative Region."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr WONG Kwok-hing be passed.

**PRESIDENT** (in Cantonese): Mr LEE Cheuk-yan, Mr CHEUNG Man-kwong and Mr Howard YOUNG will move amendments to this motion respectively. Their amendments have been printed on the Agenda. The motion and the three amendments will now be debated together in a joint debate.

I now call upon Mr LEE Cheuk-yan to speak first, to be followed by Mr CHEUNG Man-kwong and Mr Howard YOUNG; but no amendments are to be moved at this stage.

**MR LEE CHEUK-YAN** (in Cantonese): Madam President, there were times when being a civil servant was an honourable job. But in recent years, we have

seen a new phenomenon, that is, many civil servants have begun to feel inhibited from telling other people that they work in the Government. It is because when they say so, they feel that they will be discriminated against. That society has been divided as such is most unfortunate indeed. I know that some people may consider the performance of civil servants disappointing. I do appreciate the many views of the public on the remuneration, benefits and establishment of the Civil Service. I agree that the conflict in this regard has to be addressed. But I am equally concerned that if the public servants degenerate to the public enemy, thus making civil servants feel that they have done something wrong and that they are much hated by the public, this would definitely have a very negative impact on administration by the Government.

Earlier on we debated the confusion in the Legislative Council Election this year. Although I did not speak in the previous debate, I had actually wanted to make a point in this debate on the civil service policy. That is, I think the low morale among civil servants is one of the reasons why the electoral arrangements were riddled with errors. A friend in the Civil Service told me that after attending the first briefing for polling staff, many experienced civil servants learned that the management of polling stations and the counting of votes, which used to be handled separately in two shifts, would be combined as one shift. After learning of this arrangement, they knew that problems would arise and in order not to be held responsible for any anomaly, they had chosen not to be involved. As a result, some polling stations were manned by inexperienced civil servants who were not adequately trained for the task. The experienced ones were all unwilling to take up the job.

Why did those experienced civil servants not reflect to their superiors the confusion envisaged in such arrangement? They should have stated the problem if they anticipated it. They did not do so because they felt that it would be useless. More often than not, they will hear their superiors say that it is most important to achieve savings. On this major premise, they therefore considered it better not to waste their effort. If things go on like this, and with such morale and operation, how possibly could the public be provided with good services?

Madam President, mutual trust is now lacking between front-line workers and the management in the Government. The morale of the civil servants is low, and they are far from enthusiastic and dedicated in work. This will adversely affect the administration by the Government as well as its delivery of services to

the public, and these negative effects were brought to light in the confusion in the election of this term of the Legislative Council. To improve the level of governance, it is most imperative for the Government to rebuild the public's trust in civil servants. Otherwise, the conflict between government officials and the people would be aggravated, hence making the Government's administration all the more difficult. Here, colleagues in my trade union and I urge all civil servants to continue to work faithfully in their posts, just like the front-line civil servants giving play to their professionalism during the outbreak of the Severe Acute Respiratory Syndrome last year. This can actually win the praises and trust of the people. I very much hope that the Secretary can seriously respond to this point here. That is, it is really necessary to address the problem of low morale among civil servants, which is also a theme of the original motion as well as my amendment.

What has caused a lack of mutual trust between the Government and civil servants? One of the reasons is the Government's fondness for *faits accomplis*. For example, in 2002 when the basic salary of civil servants was cut, the proposal was revealed in the Budget speech prior to discussion with the trade unions. Another reason is that no consultation has been conducted at all. As the Secretary clearly knows, I always criticize the Voluntary Retirement Scheme, because although the Government said that consultation had been conducted, none had actually been carried out, for the decision on what grades to be included in the Scheme entirely rested with the department heads who would then implement their decision and require the staff in the grades concerned to retire voluntarily.

Moreover, the Government has given civil servants the impression that it does not keep its promise. I remember that insofar as the "rice bowls" of the civil servants are concerned, the Chief Executive has undertaken not to resort to forced redundancy. But several months later, Secretary Joseph WONG declined to comment on this undertaking. When we later questioned the Chief Executive about this in a Question and Answer Session, the Chief Executive evaded the question, plunging us into sheer puzzlement as to what was on the mind of the Government. How could there be mutual trust? If it can go back on its words, how could there be mutual trust? So, we think that the Government must learn a lesson. Front-line workers often have the feeling that consultation by the Government is nothing more than a pretence and putting on a show, for it has not in the least listened to the views of the staff representatives seriously.

As regards how mutual trust can be established, the first part of my amendment urges the Government to set up a collective bargaining system for civil servants and discuss with civil service unions the formulation of civil service policies in compliance with the requirements of the International Labour Convention Nos. 98 and 151. I must emphasize that the Government is already a signatory to this Convention and so, it has the duty to implement it. The International Labour Organization (ILO) has criticized the Government for not implementing the Convention. Besides, the Government has the constitutional duty to implement the Convention, because Article 39 of the Basic Law provides that the international conventions shall be applied to Hong Kong. If the Government fails to implement it and if Secretary Joseph WONG fails to implement it, it would be tantamount to violation of the Basic Law. This would be even worse than the case of referendum which, as suggested by some people, is a violation of the Basic Law. In fact, conducting a referendum is not a violation of the Basic Law, because this is not stipulated in the Basic Law. However, the Basic Law has provided for the implementation of the International Labour Convention. Failure to implement it will constitute a violation of the Basic Law.

The provisions of the two Conventions actually consist of three requirements. First, to set up an objective mechanism to decide which trade unions are representative and can therefore negotiate with the Government. Very often, it may depend on the number of members of the trade union, or a decision may be taken by conducting a referendum among civil servants who will decide which trade union should represent them. But there must be an objective mechanism for negotiations to be conducted with the Government on civil service policies. Second, the Conventions stipulate that a mechanism be put in place for handling disputes. In this connection, during the enactment of legislation to effect a pay cut for civil servants, many civil service trade unions already requested the Government to settle the disputes by way of arbitration according to the agreement reached with civil servants. However, the Government did not accede to this request eventually and forced the pay cut through, and this has greatly dampened the morale of civil servants. We should, therefore, put in place a mechanism, so that in the event of disputes and when no agreement can be reached, an independent arbitration committee shall be tasked to handle the disputes. This is also a practice adopted in the international community. In fact, this is also a very important step to resolve the mutual distrust between civil servants and the Government. Third, the Conventions hope to make the outcome of negotiation binding. If the outcome of negotiation

achieved by the Government and civil service trade unions after much hard work carries no binding effect, Madam President, like the many motion debates here, it will be meaningless and a waste of efforts. So, the International Labour Convention requires that the negotiation should be binding.

In fact, it is not the most desirable approach for the Secretary to implement by way of legislation the agreement reached with civil servants on cutting the civil service pay in two phases. On every occasion I have reminded the Government not to invariably effect a pay cut by way of legislation. On the contrary, it should enact legislation on the agreement reached out of collective bargaining, making it clear that the agreement reached out of collective bargaining will be respected. Only in this way can the status of civil service trade unions in negotiation be truly respected. If the Government can put in place such a mechanism for collective bargaining, I believe many disputes revolving around civil service remuneration and benefits would be resolved by peaceful negotiation between the two sides.

Madam President, another issue raised in my amendment is to resume the recruitment of civil servants. Why? It is because I have many misgivings about the Government's objective of capping the civil service establishment at 160 000. I do not know how it has arrived at this number. I reckon that the Government came up with it impromptu, and it has never thought that the objective is implausible. Then what will the Government do? The Government has set an objective of 160 000 and required all or most departments to freeze the recruitment of civil servants. But a department which cannot cope with its work is allowed to recruit non-civil servants on contract terms. At present, there are already 16 000-odd non-civil servants employed on contract terms. So, this is a downright rip-off. The Government said that it has to cut the number of staff but eventually, it is found that it cannot do so because government services still have to be provided continuously. So, the Government has resorted to taking advantage of the non-civil servants employed on contract terms by giving them secondary benefits and remuneration but making them do the same work as that of civil servants. However, civil servants do not feel at ease to hand over their work to these non-civil servants employed on contract terms. In an office there may be four types of employees, namely, non-civil servants, civil servants, staff recruited through head-hunter agencies, and staff employed for outsourced services. The same kind of work is carried out by several types of employees. How possibly can operation be smooth?

So, I hope the Government will not deceive itself as well as others, saying that it will reduce the civil service establishment to 160 000 but is actually hiring non-civil servants on contract terms. Why can it not be fairer by resuming the recruitment of civil servants, so that the contract civil servants can become civil servants? Only this is the fairest. Being the largest employer, the Government must have farsighted vision. Lacking such vision will render the non-civil servants on contract terms exploited on the one hand and create succession gaps on the other. As a result, experienced civil servants might be completely gone in the future.

Madam President, I very much hope that the Government can attach importance to the morale of civil servants. Thank you.

**MR CHEUNG MAN-KWONG** (in Cantonese): Madam President, if the motion moved by Mr WONG Kwok-hing today, together with the relaxation of government efforts to slash civil service benefits and allowances, is passed and becomes a policy, the person who will be most affected is Joseph WONG because Joseph WONG will be in the same situation as Stephen LAM. They will both be doing nothing for the next couple of years and they will be Bureau Directors without portfolio. They can both retire early. Actually, some of the contents of this motion are news of yesterday for Chief Executive TUNG Chee-hwa has pledged long ago that the size of the civil service establishment will not be less than 160 000 persons, the corporatization of the departments has ceased and civil servants will not be forced to retire. The civil service reform is over and done with. The TUNG administration is now taking a defensive stand. Stability has become the order of the day. And change has given way to permanence.

The civil service policy of the Democratic Party aims at making progress while maintaining stability. In the interest of stability, we have no intention to force civil servants out of their work. And for the sake of making progress, we hope that the Government will be flexible enough to remove the barriers and capitalize on the advantages. Currently, civil servants on pensionable terms are given a guarantee that they will not be forced to retire and become unemployed. Civil servants are protected by the Basic Law and their pay and benefits will not be worse off than those before the reunification in 1997. So when the job, pay and benefits of civil servants are secure, there should not be any restrictions on

the flexibility of the departments. Those departments that deal with public works, for example, may really have a need to hire contract staff and temporary staff to handle some duties of a short term or limited term nature. Therefore, it is not practical to call for a stop across the board in the contractization of staff employment or in hiring temporary staff. The result will just make the civil service establishment continue to become bloated. When the works projects are completed, or when the Government becomes financially stringent, the departments will become oversupplied with manpower and there will be greater pressure for layoff. This will be disadvantageous to serving staff on pensionable terms and their losses will be much greater than the benefits they will ever receive. The most important lesson which the recession years after the reunification have given us is that we must prepare for the rainy days and do not exhaust our resources. So the direction of the amendment moved by the Democratic Party is to assure reasonable labour protection for civil servants on pensionable terms, while efforts should be made to ensure that the employment of persons outside the pensionable establishment is not done indiscriminately and that the contract and outsourcing systems will not be abused. Of course, the spirit of the amendment should also have included non-civil service contract staff and staff of subvented and statutory bodies, but since the focus of the original motion is on the civil servants, I cannot expand the scope of the amendment to include such staff. This is most regrettable indeed.

Madam President, I have said in this Council that the Government has introduced all sorts of civil service and non-civil service employment terms apart from pensionable terms. The result is that there is an ever-expanding side-growth in the Civil Service composed of staff who share the same work as those on pensionable terms but are paid differently. The result of equal work but different pay is that staff morale will suffer as staff are divided. This will in turn undermine stability. As at 30 September 2004, the size of the civil service establishment stands at 168 500 persons. But the actual number is only 161 600. If we are talking about the actual number of civil servants, it is already close to the target of 160 000 persons to be reached by 2006. Of these 160 000 people, however, only 140 000 are on pensionable terms. For the remaining some 20 000, they are serving with all kinds of employment terms, including supernumerary posts, contract terms, new trial terms, monthly or daily remuneration, and so on. On top of that, there are some 20 000 non-civil service contract staff outside the establishment. In other words, there are presently over 180 000 people having a job with the Government, but only

140 000 are civil servants on pensionable terms. This is not making the Civil Service any slimmer. It is only plastic surgery. Despite an attractive outward appearance, the body is still heavy with stubborn fat.

There are two sides to a coin in all things. The trimming exercise of the Government is an exploitation of the new entrant civil servants. In 1999 the Government launched the civil service reform and the employment terms for new entrants were revised. All new entrants have to complete a three-year probation period and a further three years on contract terms. It is only after six years that they can be considered to be employed as civil servants. Madam President, this changeover period is really much too long and it will only serve to erode and undermine the ambition and youthful vitality of the new entrants. For those employed with the Government on temporary terms, their appointment is the beginning of a nightmare of exploitation. They are called temporary staff but they are in fact employed on a long-term basis. So they are exploited in the name of being employed as temporary staff. It is absolutely unfair and even inhuman. The Democratic Party is of the view that flexibility must never be used as an excuse for exploitation and those contract and temporary staff in the Government must be given a chance to change over to employment on the same terms as other civil servants provided that they have worked for a reasonable period of time and their performance is good. The target size of the establishment may be limited to 160 000 persons, but the Government must never become self-deceptive and take advantage of the weak and the vulnerable, that is, the temporary and contract staff. Therefore, the premise of my amendment is to ensure all employees of the Government are given reasonable labour protection before a review is made of civil service pay and benefits and a reasonable and appropriate establishment of public servants is drawn up.

While Joseph WONG bullies those civil servants who are the most vulnerable, he is submissive to the senior public servants who are the most powerful. According to reports, in a bid to maintain staff morale, the Government does not and dares not abolish those allowances which even the civil servants themselves think are outdated and absurd. These allowances include those for cruise passage, travel, furniture, removal, and so on. All these are allowances to which only the senior civil servants are entitled. These allowances are either permitted to remain unchanged, or reduced slightly, or become accountable or can be converted into cash with a 10% deduction.

For the past few years, government expenditure on the allowances paid to civil servants, including those related to the discharge of their duties or other fringe benefits, have stood at a high level of \$6 billion each year. Last year, the part taken up by fringe benefits was about 80%, that is, \$4.48 billion. From this it can be seen that the spending on allowances related to the discharge of duties is only a minor part while those fringe benefits take up the major part. I fully understand and agree that the Basic Law protects those benefits such as housing allowance and overseas education allowance and a line should be drawn at the year 1997. However, before that time the Government had stopped or greatly slashed the allowances payable to staff of the basic ranks. The hardship allowance for some grades was stopped; the extraneous duties allowance and the special allowance were slashed. All these were done in great haste. If the same principle and speed are applied to the handling of those outdated and absurd allowances enjoyed by senior officials, then I would have no objection. I will give it my full support. But what the Government is doing is to back off on the issue of the allowances enjoyed by senior officials. It is bullying the weak, leaving all the benefits to the enjoyment of those at the top and robbing the poor to feed the rich. How can people be convinced? How can this be called fair? And how can the people place their trust in a government like this any more?

Madam President, I so submit.

**MR HOWARD YOUNG** (in Cantonese): Madam President, in proposing this motion on civil service policy, Mr WONG Kwok-hing obviously did so from the standpoint of civil service unions. This we can all understand. He called for a halt on a series of policies, including a moratorium on the corporatization of departments, the contractization of employees and the employment of temporary staff, and he even queried the outsourcing system. Taken as a whole, this amounts to calling for a halt to the various measures being implemented under the civil service reform.

Of course, the Liberal Party does not approve of any abuse of the outsourcing system or the contract system, or the exploitation of workers under these systems. However, if it is said that not even one cent can be deducted from the pay and benefits to which civil servants are entitled, I believe the overwhelming majority of members of the public will not agree. Therefore, on behalf of the Liberal Party, I propose an amendment to the original motion today

with a view to formulating a set of civil service policies suited to present-day circumstances and to a modern government that emphasizes efficiency.

Madam President, although the Hong Kong economy has shown signs of recovery recently and government revenue from land sales is better than expected, as the Financial Secretary, Mr Henry TANG, pointed out during an interview with the mass media, the revenue of the Government of the Hong Kong Special Administrative Region (SAR), having factored in the worse than expected revenue derived from foreign exchange, will only be slightly higher than originally envisaged. If we are to freeze or abandon all civil service reform measures here and now and do not tackle the fiscal deficit problem at root, I believe this is definitely undesirable to society as a whole.

Therefore, we believe that in formulating a civil service policy tailored to present-day circumstances, civil servants as well as members of the public must be both consulted. Not only should the interests of civil servants be taken into account, so should those of the public, in particular, the views of taxpayers should be considered since civil servants have to serve the people and the people are their boss.

As regards whether the civil service system has succeeded in tailoring itself to meet present-day circumstances, I believe all of us have already formed our own opinions, particularly when the population of Hong Kong is less than 7 million but there are as many as 170 000 civil servants. That means one civil servant serves only 40 members of the public, not including employees working in subvented organizations. On the other hand, in the United Kingdom, one civil servant has to serve 120 members of the public and in Singapore, which is smaller than Hong Kong, one civil servant has to serve 80 members of the public. Furthermore, Hong Kong needs not implement any national defence and foreign affairs policy. In this light, it is only right that the number of civil servants should have been less. May I ask if we can say that our civil service establishment is not bloated?

Furthermore, although the proportion of public expenditure to GDP in Hong Kong has declined slightly from 23% at its peak to 22.5%, annual public expenditure has exceeded \$200 billion in recent years and the pay and subsidies for civil servants and public organizations alone account for about 70% of the Government's recurrent expenditure. If we cannot meet the original target of

lowering the proportion of public expenditure to GDP to less than 20%, we definitely will not be able to put into practice the principle of "big market, small government".

Furthermore, we still have a fiscal deficit of tens of billions of dollars. Even if we stick to the original plan for eliminating the fiscal deficit and if all is well, fiscal balance can be achieved only in year 2008-09. The very high public expenditure is indeed out of joint with our time and the authorities must try its best to enhance the efficiency of civil servants at the same time as it contrives to reduce the level of public expenditure. Only in this way will public funds be used effectively and the expectations of the Hong Kong public and taxpayers be met.

Unfortunately, the civil service reform has recently shown signs of stagnation. For example, it is basically indisputable that the pay of civil servants is higher than that in the private market. A survey conducted by the Liberal Party as early as 2002 found that the pay of civil servants was generally 40% to 60% higher than that in the private market. However, the Government has not launched any survey on the pay level of civil servants at an early date, as the community hoped. On the contrary, it reached a compromise with civil service unions, that is, even if future surveys find that the pay of civil servants is higher than that in the private market, the pay of civil servants will only be frozen and will not be further reduced.

Apart from high pay, civil servants also enjoy a variety of allowances and benefits. In the first half of this year, government expenditure on work-related benefits and general expenditure on fringe benefits and allowances amounted to as much as \$1.159 billion and \$4.523 billion respectively. Mr CHEUNG Man-kwong also mentioned the huge expenditure on these benefits just now. The review conducted by the Government on the diverse subsidy plans for civil servants is equally disappointing. For example, the approach in dealing with the various types of allowances such as leave passage allowance, furniture allowance, removal allowance and air-conditioning allowance gave us the impression that the authorities are not sufficiently resolute.

Madam President, we can read from time to time newspaper articles written by members of the middle class who point out that civil service pay and establishment are excessive, adding a tremendous burden to the Government's fiscal deficit. Given that there are less than 1.2 million taxpayers in Hong Kong

in recent years and they have to shoulder all types of pay, benefits and pensions for 160 000 to 170 000 civil servants, coupled with the trend of an ageing population, there is no wonder that the middle class is concerned that the heavy burden of tax increase will fall on their shoulders. Such thinking is indeed not unfounded.

Therefore, although the Liberal Party agrees that the confidence of civil servants has to be maintained and ways should be contrived to boost their morale and that this is very important, it has also to ask if we have to maintain at all cost a civil service team of a mammoth establishment, the pay and benefits of which are unreasonably high.

It is not the case that we want to target anyone or any organization. We only want to point out that justice lies in the hearts of the people. I hope the Government will not be apprehensive but implement the civil service reform in earnest, so that a set of civil service policies that meets present-day circumstances and the expectations of the public on civil servants can be formulated.

Madam President, I so submit.

**MS LI FUNG-YING** (in Cantonese): Madam President, at the end of last month, the Chief Executive reiterated to Members of this Council his undertakings to the Civil Service, stressing that the number of civil servants would be maintained at 160 000, that there would not be further retrenchment in the Civil Service, that the remuneration of civil servants would not be lower than the level in 1997, and that no changes would be made to the civil service retirement system. Civil service organizations generally welcome the Government's vow not to further grind the axe at civil servants. But this can only prevent the conflict between the Government and the Civil Service from worsening, without resolving the problem of how best the civil service system can be improved.

The Government introduced the civil service reform in 1999. But unfortunately, it transpires that the reform has only been orientated towards the elimination of the budget deficit. From the pay reductions, the reduction of the civil service establishment, contractization to outsourcing, all have pinched on a raw nerve of the civil servants and stirred up waves after waves of conflicts, consequently shattering the basis of mutual trust between the Government and

the Civil Service. In the last couple of years, the Government's measures targeting on the Civil Service have fully exposed the inability of the existing consultative system in the Civil Service to address the conflicts between management and staff. I think we must continue to improve the civil service system in the future to enable it to meet the demands of the time. To this end, we should first improve the mechanism for tug-of-war between management and staff in the Civil Service by setting up a collective bargaining system to resolve their conflicts, thereby avoiding the situation where some well-intentioned civil service policies will turn out to be detrimental to the Civil Service and even to the community at large.

In reply to a written question from a Member of this Council on collective bargaining in the context of the International Labour Convention in February 2002, the Secretary for Education and Manpower said, and I quote, "In respect of collective bargaining, it has always been our policy to encourage and promote voluntary collective bargaining in line with local conditions." (end of quote) I very much hope that it was not just an official reply from the official to dismiss the question from the Member. If it is the policy of the Government to encourage and promote collective bargaining, the Government should take the lead and start from the Civil Service.

Over the past few years, outsourcing is one of the measures that have aroused strong discontent in the Civil Service. I oppose the outsourcing policy currently adopted by the Government under the pretext of cost cutting. To put it plainly, cutting the cost, so to speak, means only to circumvent the civil service pay adjustment mechanism and recruit cheap labour direct. The impact lies not only in whether or not the Government respects the existing mechanism. Worse still, the continued outsourcing of government services has led to man-made surplus of civil servants and hence instigated rounds after rounds of retrenchment under the fine-sounding name of voluntary department schemes. A more serious impact is that the outsourcing of government services has objectively caused the pay levels in the labour market to hit record lows, adding fuel to the flames and dragging down wages in the labour market. A case in point is that a worker employed to provide outsourced cleansing services in the Government is paid \$2,000 monthly only.

The basic rank members of the Civil Service are the first to bear the brunt under such policies as outsourcing of government services and corporatization. After being lambasted for a few years, the civil service establishment has been

reduced from 200 000 in the early stage after reunification to 160 000-odd at present, and will be further reduced to 160 000 in the year to come. Judging from the figure, the Government's objective of "big market, small government", so to speak, will obviously be achieved. But behind this objective the Civil Service has been made to pay a dear price. The continued outsourcing of government services has immediately affected the grass-roots posts in the Civil Service. The recruitment of contract staff by the Government has led to unequal pay for the same post in the Civil Service. Under this so-called flexible recruitment policy, new conflicts have arisen internally in the Civil Service, seriously affecting the morale of civil servants.

Madam President, if we just look at our discussions on the Civil Service in the past few years and juxtapose them with the several undertakings reiterated by the Chief Executive last month, we will find that the civil service reform has not yet come to an end. Today, the civil service policy is again debated in this Council. I hope the Government can really listen to our views seriously and draw lessons from its past mistakes in taking forward the reform, so that it can formulate long-term civil service policies which are supported by the Civil Service and which can meet public expectations, in order to cater for the needs of the time. Thank you, Madam President.

**DR RAYMOND HO** (in Cantonese): Madam President, the Civil Service in Hong Kong has all along been known for its honesty and efficiency. During the transitional period of our reunification with the Motherland, this quality team of civil servants made significant contribution to maintaining the stability of Hong Kong. But in the past seven years, the civil servants, like most Hong Kong people, have suffered from the impacts of economic restructuring, including streamlining initiatives to cut the number of civil servants, expenditure cutting in government departments, outsourcing of work, pay reductions by legislation, and so on. In fact, the existing civil service establishment has already been reduced to around 163 000, which is very close to the target of 160 000 proposed by the Government.

Given that many voters in the Engineering Functional Constituency are civil servants, I have maintained close contact with them during my office in the previous two terms and also in the present term, doing my best to reflect to the Government their views on the Government's civil service policies and measures. From the experience of my contact with them, I came to understand that they do

not blindly put up opposition to any government proposal that would affect the civil service pay. But they hope the Government can, before making decisions on the relevant policies, consult them and communicate with them constructively.

However, the Government has always acted wilfully and unilaterally. It has even incited and leveraged on public sentiments to suppress civil servants, which has seriously jeopardized the goodwill and mutual trust that have been built up between civil servants and the Government over the years. A typical example is the Government forcing through the civil service pay cut by way of legislation in 2002. Before the enactment of this legislation in this Council, I had tried my best to arrange for a dozen trade unions of government engineers to meet with the Secretary for the Civil Service, Mr Joseph WONG, in the hope that communication could start. However, the Government finally insisted on its own way. That the Government had neglected the views and considerations of civil servants was one of the reasons why I strongly opposed the Government's proposal to cut civil service pay by way of legislation.

It is now proven that the Government has not drawn any lesson from the incident of legislating on the civil service pay cut. Recently, with regard to possible staff retrenchment following the adoption of the public private partnership approach at the Sha Tin Water Treatment Works (STWTW), the Government has not taken any action to allay staff concerns. Nor have the authorities concerned communicated with and consulted the staff who may be affected. Despite persistent requests from the 4 000-odd civil servants in the Water Supplies Department over the past six months, they still have not been able to meet with the Secretary. The staff feel helpless and worried, and their morale has been greatly affected.

In order to eliminate the budget deficit, the Government has excessively emphasized control of the expenditure on civil service remuneration and taken a diversity of measures to achieve this objective. A case in point is the introduction of public private partnership to existing government facilities and services, such as the STWTW. This may affect the livelihood and morale of serving civil servants, and may even affect the quality of the services concerned. So, it may not be the best arrangement for the community. We do not wish to see that this reliable service of a high quality for decades would degenerate to feature massive shut-down of water supply anytime or arouse grave public concern over the presence of bacteria in water.

On the other hand, the Government has vigorously worked to cut the number of civil servants. This might ultimately affect the quality of service and cause succession gaps in different grades of the Government. Let me again take the engineer grade with which I am familiar as an example. Young engineers are among those who are sacrificed under the new recruitment policy. While many of them have completed training and job attachment in government departments, many young engineers are not offered a renewal of contract upon expiry of the current contract. In the past five to six years, I have spent much time every year on striving for their retention in government departments. In fact, such a recruitment policy will create a massive exodus of talents and lead to succession gaps in the professional grades. This will also cause certain impact on the completion of \$400 billion-worth infrastructure projects in the next 15 years.

Moreover, in order to reduce the expenditure on civil service remuneration, the Government has adopted and formulated some unreasonable conditions of employment. More notable examples are the difference in the terms of employment for staff recruited at different times or that between pensionable staff and contract staff, resulting in unequal pay for the same kind of work. There is even the anomaly that staff in the lower ranks are paid higher than those in the higher ranks. In the engineering sector there are also similar irrational situations. For example, for those people who have worked as resident site staff in the MTR Corporation Limited (MTRCL) and the Kowloon-Canton Railway Corporation (KCRC), if they take up managerial posts in the Government, their work experience in the two railway corporations will not be recognized and hence will not be factored into the calculation of their increments. But their work in the MTRCL and KCRC has afforded them very important experience in engineering. This practice of the Government is entirely unreasonable.

Over the past seven years I have consistently called on the Government to fully consult the civil servants when formulating any civil service policy. This has all along been my position. Only through communication and negotiation can a proposal acceptable to both sides be achieved and the successful implementation of policies guaranteed.

Madam President, as the economy has started to turn the corner, the Government should grasp the opportunity to formulate a more reasonable civil service policy and establishment which can better cater for the actual circumstances. I so submit.

**MR TAM YIU-CHUNG** (in Cantonese): Madam President, the building of the SAR and the prosperity of society depends on an excellent and dutiful team of civil servants. Ensuring the stability of the civil service team is the foundation of effective governance by the SAR Government. However, in the past few years, because of the implementation of the civil service reform and the urgency in eliminating the fiscal deficit of the Government, civil servants had to face many new challenges.

As a way to save expenses, the measures taken most frequently by the Government are outsourcing and corporatization. We do not oppose to the more cost-effective use of public funds, the enhancement of efficiency or the prevention of wastage, however, the quality of the essential services provided to society, such as security, primary health care and hygiene, must definitely not be compromised because of the need to save expenses.

We oppose the Government's proposals to re-provision the Sha Tin Water Treatment Works and to provide water supply service and related customer services through the public-private partnership mode. The Sha Tin Water Treatment Works supplies water to 3 million people each day, catering to 40% of the demand in Hong Kong. Potable water is a basic need of the people and a safe and stable supply of potable water is the lifeblood of a society. In the past, many public-private partnership programmes on water supply in many countries, including those in the United States, Australia and the Philippines, ended in failure and in some cases, the lives and health of the public were sacrificed. However, the Government has so far failed to prove that it has sufficient monitoring capability to ensure that water will be safe and cheap after a public-private partnership is forged. Therefore, the apparent benefit of this initiative is that the Government can immediately reduce 800 staff members in the establishment of the Water Supplies Department. To pursue a downsizing of the establishment at the expense of the safety of water supply is obviously unwise, furthermore, it will also erode the confidence of civil servants in their job security.

At the beginning of this year, the Efficiency Unit conducted a review of "civilianization" in five disciplined services departments, including the Hong Kong Police Force, the Correctional Services Department, the Immigration Department, the Fire Services Department and the Customs and Excise Department. However, this caused strong reactions in these services, all staff members became jittery and a heavy blow was dealt to their morale. The

"civilianization" review is in fact intended to create the conditions for further outsourcing of the services provided by the disciplined services. However, these "civilianization" measures will seriously damage the team spirit of the disciplined services and weaken their ability to provide emergency support. This will not be conducive to maintaining the professionalism and stability of the disciplined services.

Despite the downsizing of the establishment by the Government, public services will not be reduced as a result. Therefore, in the past several years, the Government still had to employ a large number of contract staff. These contract workers serve the purposes well, however, their pay and benefits are a far cry from those of pensionable civil servants. With the transformation of the contract system into *de facto* permanent status, the differences in pay between civil servants and contract staff doing the same kind of jobs have become more pronounced. Such differences may become the contributing factors to future industrial disputes and put the stability of the Civil Service at stake.

In Hong Kong, land control and lease enforcement constitute a long-term policy and The Ombudsman has also exposed the grave problem of encroachment of government land and unauthorized building works. In the past, the execution of such complicated work was effected by highly experienced and well-trained Lands Officers. However, the department concerned has contractized the permanent posts and kept hiring Lands Officers on a contract basis. The work they do and the on-the-job training they receive are no different from those of permanent staff members but their contracts are renewed only one after another, so that they cannot switch to new terms and fill the vacancies in the permanent establishment. Such a disregard for the manpower shortage of Lands Officers and the replacement of permanent staff by temporary staff will bring about further deterioration in the problems of illegal encroachment of government land and unauthorized building works.

With a view to resolving the fiscal deficit, the Government is striving to reduce expenditure by \$20 billion by the year 2006-07 and to reduce the civil service establishment to 160 000. The attainment of these two goals is a daunting task. If government expenses and the number of civil servants are to be reduced at the same time as the quality of public service is maintained, while avoiding repercussions in the civil service establishment, then communication with civil servants must be enhanced, particularly in respect of pay and benefits.

The Government's proposed move to conduct a pay level survey and to establish a pay adjustment mechanism has entered a critical stage. The aim of reviewing the pay and benefits is to find a pay level acceptable to both management and staff and any adjustment to the pay scale or salary will definitely involve various types of comparative studies. However, the results of such comparative studies cannot be absolutely reliable, and they can only serve as an important consideration in policy formulation. Due to a lack of an absolutely scientific and objective set of comparative procedures, any method for determining pay must be acceptable to both management and staff if it is to serve its intended purpose. This is the "widely acknowledged yardstick and widely acknowledged standard" that civil service organizations have always stressed. In view of this, more discussions should be held with civil servants on the future method of pay adjustment and the gaps should be continually bridged, so that a feasible and mutually acceptable proposal can be identified. Only in this way can the morale and efficiency of the civil service team be upheld.

As regards the target of downsizing the establishment to 160 000 persons, we hope that the Government can abide by its promise of only achieving this through natural wastage and voluntary retirement and no compulsory layoffs should be implemented. Only in this way can civil servants have the peace of mind to perform well in their positions.

With these remarks, I support Mr WONG Kwok-hing's motion.

**MR CHIM PUI-CHUNG** (in Cantonese): Madam President, more than seven years have passed since the transition of the SAR. During the transition, the SAR Government was very concerned about the "two high" policies, one of them being high land premium, the other, high wages, and civil servants in particular were targeted. The first move made by the SAR Government was to introduce the so-called "85 000 policy" which dealt a severe blow to the property market and because of this blow, a lot of people were rendered owners of negative-equity assets. The SAR Government was aware of the blunder it had made and devised many methods that managed to make the property market turn round gradually from its downward slide in the past six years.

Meanwhile, the Government was also fully aware that the pay of civil servants in Hong Kong was substantially higher than that in many other regions

and that the pay of some senior civil servants even stood at unreasonable levels. In view of this, the Government made some adjustments in the past. After a number of consultations and dialogues, all parties understood that it was necessary to effect a reduction of 6%, to be implemented in two years. We can see that the number of civil servants in Hong Kong will have fallen from nearly 190 000 at its peak to 160 000 on completion of the plan, which is a 15% adjustment. Of course, some of the work processes have been outsourced and this is indicative of the over-recruitment back then.

We understand that throughout those years, circumstances have been changing and it is only recently that inflation has returned. In times of deflation, the inflation rate is higher than 20%. In other words, the purchasing power of most civil servants, in particular that of senior civil servants, has increased by about 14% in real terms after the pay has been reduced by 6%. I am neither envious nor jealous of this high-pay policy for the Civil Service. In fact, we can see that since the transition up to now, the Government has always stressed that the Civil Service is a quality team. We also understand that at the peak, there were 180 000 civil servants who had mouths to feed in their families. On the basis that there are three to four members in the family of each civil servant, any measure pertaining to civil servants will affect over 10% of the population in Hong Kong. In other words, their influence is significant.

However, Madam President, no matter what, things have always been changing and personally, I hope that the Government, being an astute leader, must definitely keep the interest of all parties in mind. I also understand that the Government is still beset by a fiscal deficit and if all the terms and conditions of civil servants are reviewed with excessive generosity, I do not believe that the budget of the Government can return to the black in the year 2007-08 without any comprehensive plan. I have said that Article 107 of the Basic Law does not stipulate that a fiscal deficit should be avoided "as far as possible", but rather, "avoid deficit" is what it dictates in a straightforward manner, however, the SAR Government has failed to achieve this. On the day I swore in, I gave a letter to the Secretariat reminding them that this is what matters most. In fact, the SAR Government is doing something that contravenes the Basic Law. Many barristers seated here also understand this problem but no one has made a point of raising it. Therefore, I call on the SAR Government to gain an in-depth understanding of the situation and the mentality of civil servants when engaging in dialogue with them. But at the same time, I also make an appeal to civil servants that in working in and serving society, apart from getting pay and

conditions that are better than those of the general public, they must have a mindset of serving society, so that apart from working dutifully in their posts, they can also be constructive to the public and society as a whole. We understand that after their posts were reshuffled, many senior officials under the so-called accountability system enjoy conditions and pay that are much better than those they enjoyed before the transition. Of course, after their contracts have expired or after a change in the incumbent of the Chief Executive office, they have to look for other jobs. However, there is no cause for worry because they only have to serve a very sanitization term and the restraints and restrictions imposed on them are not many.

We also have to understand that civil servants should not consider themselves a cut above and being the master of the people. When fighting for their conditions, they have to understand that if they go too far in doing so and are being unfair to the public or people in other sectors, they will be criticized by society. Although there are still two years and eight months before Mr TUNG's term ends, no matter how, he has to pluck up his courage and create a fairer, more reasonable and harmonious environment for society as a whole. Only in this way will there be high hopes for the SAR. As partakers in politics, we should not foment discord or incite them over their contradictions, instead, we should hope that all of us can break down the differences in our positions, backgrounds and circumstances and foster mutual understanding.

**MR PATRICK LAU** (in Cantonese): Madam President, I agree with what Mr CHIM Pui-chung has just said, that the formulation of a civil service policy by the Hong Kong Government, the largest employer in Hong Kong, would have far-reaching implications on the families of 160 000 civil servants. Therefore, the Government should think twice before formulating any civil service policy and should not act hastily.

Since the Government devoted its efforts to such measures as the Enhanced Productivity Programme, recruitment of civil servants on contract terms, corporatization of departments and outsourcing of services, many controversies have been aroused. Indeed, these measures have caused disturbance among civil servants and dealt a blow to their morale and confidence. However, can an outright removal of the outsourcing, contract system and corporatization initiatives be a complete solution to the problem? I think it depends on the perspective taken in making the judgement.

Using the construction industry as an example, many of the workers are civil servants, but quite a number belong to the private sector as well. Therefore, whatever civil service policy is formulated, there are bound to be divergent points of view from people with different vested interests. For example, the Government has outsourced some of its building projects to private companies at the moment. Outsourcing of government services may make existing civil servants feel insecure, but a complete removal of the system will cause non-civil service workers to lose their bearings or even their existing employment opportunities. Therefore, I think the Government should make appropriate adjustments under the existing mechanism to struck the right balance, so that both civil servants and employees of private companies will not be too seriously affected.

Madam President, civil servants recruited on contract terms can only exert themselves to the fullest extent to achieve the best performance in the fear that their contracts may not be renewed. They may feel they are unfairly treated because they receive different pay for the same work when compared to their non-contract civil servant counterparts. On the other hand, non-contract civil servants are also subject to great pressure because of the aggressive attitude of the contractual staff. They have to work twice as hard to avoid being eliminated. From a negative perspective, both contract and non-contract civil servants suffer tremendous pressure at work, affecting their morale and emotional health. However, from a positive point of view, healthy competition results in improved efficiency of the whole Civil Service, hence improving economic efficiency of society, which is good news to taxpayers and the general public of Hong Kong. However, the Government should handle the tension between its contract and non-contract staff with care in order to avoid any impact on the quality of its services provided to the public.

Madam President, no policy should ever be subjected to abuse. However, we need a good mechanism to check whether any policy has in fact been abused. I think the Government should carefully examine all the relevant policies and formulate a good and sustainable monitoring system whereby regular reviews of the effectiveness of each and every policy will be carried out and reasonable adjustments made according to the effectiveness of the policies concerned. On the premise of balancing public interest, an updated civil service policy should be formulated to create a responsive, efficient and economically efficient civil service to deliver service for the good of the community.

Madam President, I so submit.

**MR LEUNG KWOK-HUNG** (in Cantonese): In fact, when I was contesting the election, many civil servants asked me to make their voices heard, because many issues relating to them have not been reflected in this Chamber. I always hold that civil servants should put up a reasonable fight. I am speaking not only for the civil servants, but also for all workers in employment in Hong Kong.

There is the view that the pay of civil servants is too high. This is a question of relativity. Given the bursting of the economic bubbles, the wages and conditions of service in the private sector have all taken a dive, a nosedive, for years. When the wages and conditions have dived to a sufficiently low level, the reduced wages are then used to draw a comparison with the pay of civil servants. I must first ask: Under what circumstances were the wages and conditions of service adjusted in the private sector? They were adjusted in times of an economic recession and massive retrenchments. In other words, a large pool of unemployed workers has caused reduced wages and price of labour. The civil servants have been spared from such unreasonable retrenchment and pay reduction not because they had privileges, but because the Government could not take these measures immediately. Therefore, inducing the entire working class in Hong Kong to become diametrically opposed to civil servants is impractical and unjustifiable.

The problem lies not in an excessively high pay for civil servants. The problem is that when economic crises emerge, the Government and the business sector have passed the evil consequences resulted from their evildoings to the labour sector and when another evil consequence is subsequently resulted, it is passed onto the civil servants. I agree with the reform of civil service policies. The reform of civil service policies may not necessarily lead to collective retrenchment and pay reduction. Reform is reform. Pay reduction and retrenchment may not necessarily be involved in order to carry out reforms. I do not see any reasonable argument of the Government that can sufficiently prove that the budget deficit is caused by the civil servants.

In fact, in Article 107 of the Basic Law there are the words "strive to". Has the Government striven to achieve a fiscal balance? Let me cite an example. When I met with Mr TUNG, he talked on and on about his opinions. I told him that cutting the Comprehensive Social Security Assistance payment for the elderly and the disabled can only save very little money. But it will cost a fortune to build an opera house in New Territories West and so, can this project be suspended? He did not give me a reply. He only asked me if I meant that

the people do not want opera. I told him that if they want it, they can go to Australia. Whoever likes the Sydney Opera House can fly there to enjoy operas. In fact, a Member of this Council, namely, Mr James TIEN, did fly to Japan for an opera on the day when Mr TUNG attended a Question and Answer Session here. He is rich and he can go there for an opera. Why should public money be spent on a grandiose but impractical and unnecessary cluster of opera houses? Will this aggravate the budget deficit? Is he telling us that it is right to do so? Why should he increase expenditure for unnecessary causes and make his subordinates bear the brunt? He did not reply.

This has made me think of a father who is indulged in all kinds of bad habits, such as frequenting brothels, gambling, drinking and smoking, and he told his own children that he was financially stringent for he had to smoke, drink and dance all night long and so, he asked his children to be more frugal. This is the logic of the Government. So, I absolutely cannot agree with any retrenchment and pay reduction in the Civil Service. Nor can I accept the Government using outsourcing, privatization, "across-the-board" measures, the envelopes, and so on, to cut the benefits and pay of civil servants who have been providing services to Hong Kong. If such reduction is necessary, it should be immediately effected in those government bodies, such as the Trade Development Council, the organization headed by Joseph YAM, the name of which I do not remember. Senior officials should be the first to be given a pay cut, particularly Mr Joseph WONG who likes to call on people to accept a pay cut for the overall interest of society. He should be the first to be given a pay cut. Being a public officer, he must take the lead to do what he preaches, and in order to demonstrate his morality, he should be the first to accept a pay cut on his own initiative, in order to inspire other people to follow suit, rather than only asking other people to accept a pay cut.

This Council is indeed full of people who stay aloof and who ostensibly talk about principles but seek benefits at the expense of others. I have only one point to make in conclusion. Things have developed to such a sorry state because of the outsourcing system. It is because the Government has been outsourced. Ever since the Chief Executive was returned by 400 people, the Government has outsourced itself to bigwigs and moguls. It is outsourced to a new contractor every four years. Such outsourcing is something that we should oppose. Not only must we oppose bad policies. We must also oppose this sort of outsourcing. I profoundly believe that if Members of this Council are all returned by direct elections, the benefits of civil servants would not have been

repeatedly trampled on and their dignity would not have been trampled on. Here, I hope that my speech can recover some dignity for civil servants and the working public in Hong Kong.

**MS MIRIAM LAU** (in Cantonese): Madam President, Mr Howard YOUNG has earlier on given his views on the original motion moved by Mr WONG Kwok-hing and why he proposed an amendment. In the following speech, I will comment on the amendments proposed by Mr LEE Cheuk-yan and Mr CHEUNG Man-kwong separately.

Mr LEE Cheuk-yan urges that the Government should, in discussions with civil service unions, comply with the provisions of the International Labour Organization Convention Nos. 98 and 151, namely, there should be protection of the right of workers to organize and to bargain collectively, and protection against acts of prejudice by reason of union membership or because of participation in union activities; also, any decision to vary a fundamental term of policy should be preceded by proper negotiations with staff representatives.

I wish to point out that the SAR Government has always attached great importance to communication with its employees. At least, this is the situation apparent to our eyes. For example, it is reported that when the Chief Executive, Mr TUNG Chee-hwa, recently met union representatives including Mr WONG Kwok-hing, he mapped out six major "no change" pledges, including:

- (a) civil service pay would not fall below 1997 levels;
- (b) civil service pensions will not be curbed or subject to taxation;
- (c) there would be no forced redundancies;
- (d) no further cuts to the Civil Service after it has reached the target size of 160 000 persons;
- (e) the civil service reform will proceed in an gradual and orderly manner and it will be ensured that existing employees will have the peace of mind when reforms are introduced and implementation will not be rash. Furthermore, civil servants will be consulted and consensus will be reached before reforms are implemented according to these four major principles; and

- (f) corporatization will be halted but public private partnerships, that is, PPP, will not be.

From this, it can be seen that the SAR Government is indeed a very good employer. If employees have the slightest objection, anything is negotiable. Their pay does not have to be reduced, subsidies do not have to be slashed and reforms will not be implemented, or at least not too quickly. However, is this fair to members of the public and consistent with the principle of making the best use of public funds?

Mr LEE Cheuk-yan also proposes in his amendment that the target of reducing the civil service establishment to 160 000 by 2006-07 should be aborted and he is also concerned that if the Government does not recruit staff employees for a long time, an internal chasm may be created and the operation of the Government will be affected. Therefore, he proposes that the recruitment of civil servants be resumed. However, I wish to point out that, as pointed out by Mr Howard YOUNG just now, our civil service establishment is by no means small but rather, it is a giant with quite a massive body that has reached dangerous proportions or has even become obese and there is no alternative but to downsize. Even though some departments are admittedly experiencing manpower shortages, should such instances occur, the Government can still make effective use of internal resources within some of the needy departments and redeploy manpower before considering recruiting additional manpower in the light of actual need.

Madam President, concerning the amendment proposed by Mr CHEUNG Man-kwong, the Liberal Party agrees with most of the proposals in it, for example, to consult the public when formulating a civil service policy, the recognition that the policy on civil service pay and benefits warrants a review, and the proposal to draw up a reasonable and appropriate establishment of public servants, and so on. We agree with all of these and their emphasis happens to be the same as that of the amendment proposed by the Liberal Party.

However, one of his proposals is to cease the corporatization of departments, which is at variance with our position. This is because if the reform is halted, the Government will appear to be inefficient. The aim of corporatization is to enable the Government hand back to the market what the market can do, so that the Government will not compete with the public for profit

and be rendered inefficient. Therefore, the Government should corporatize departments the functions of which overlap with those offered in the market, for example, the corporatization of land administration, water supply, mapping and surveying, and so on. In other words, consideration should be given to the suitability of such initiatives.

In addition, concerning the policy on the contract system for non-civil servants and the outsourcing of services, the Liberal Party is of the view that the authorities should not bring it to a halt all of a sudden because problems have emerged. It is only necessary to make improvements in response to the problems. The reason for the Government's introduction of the contract and outsourcing systems is to enable government departments to deploy resources flexibly according to actual needs and to hire staff to serve the public with flexibility.

In recent years, in order to reduce the unemployment rate, the Government has additionally employed a considerable number of temporary or contract staff and those whose contracts were renewed have increased from 6 000 in 2001 to 12 700 in 2003. This is a measure taken in view of the circumstances. If we insist on imposing requirements and time limits on temporary posts, this will only reduce the flexibility of the Government in recruiting staff and weaken the market's function of self-adjustment.

Nevertheless, the Liberal Party agrees that if workers on temporary, outsourced or contract terms are subjected to unreasonable exploitation or even deprived of the basic rights to which they are entitled, the authorities are duty-bound to protect their interests.

With these remarks, Madam President, I oppose the other two amendments but support the one proposed by Mr Howard YOUNG.

**MISS TAM HEUNG-MAN** (in Cantonese): Madam President, I believe no one will doubt the importance of a stable civil service system to the Government of the Hong Kong Special Administrative Region and the community as a whole, and no one will oppose the Government's principle of fiscal prudence. Today, a number of colleagues have proposed amendments to this motion of "Civil service policy" under debate in this Council, reflecting that the civil service system is an issue of great concern. Some colleagues have looked at this issue

from the angle of labour rights and interest, whereas some have suggested that the civil service policy should serve to balance the interests in society, put public money to good use and enhance efficiency.

Five years ago, our community was struggling under the unprecedented impact of the financial turmoil. Faced with the enormous pressure of a fiscal deficit, the Government took advantage of this development and seized the opportunity to downsize the Civil Service in the name of "reform". On the one hand, actions were targeted on civil service remuneration, including tabling twice before this Council extremely controversial legislation on civil service pay reduction. Apart from this, the Government has continuously corporatized individual grades and departments, introduced the Voluntary Retirement Scheme for civil servants, recruited contract staff, outsourced professional work process and services, and so on. By adopting a multi-pronged approach, the Government aims only to arrest the over expansion of the Civil Service by compressing the civil service establishment, with a view to controlling and reducing the operational expenditure. Judging from various angles, the so-called civil service reform of the Government is basically meant to achieve savings only.

I think if we adopt the mentality and logic of the Government, thinking that cost cutting can be achieved and the fiscal deficit eliminated through downsizing the civil service establishment, or that the civil service policy is equivalent to labour issues without considering the matter comprehensively, the root of the problem cannot be reflected. Nor can the problem be truly resolved.

Madam President, it is the duty of Members of the Legislative Council to monitor the effective utilization of public money and ensure fiscal prudence in the Government. In the report submitted by the Director of Audit to this Council every year, the "value-for-money audit" principle precisely aims to examine whether government departments, in discharging duties and functions using public coffers, can achieve cost-effectiveness in terms of economy, efficiency and effectiveness, in order to ensure that the taxpayers' money and the precious manpower capital are put to good use.

I must point out that from the angle of cost-effectiveness, corporatization of government departments has a positive side, for it helps do away the mentality of civil servants of "having an unbreakable rice bowl" and "getting the same pay irrespective of performance". Besides, through the self-financing mode of

operation, the productivity of staff in the department can be stimulated which will in turn facilitate the efficient and effective delivery of service by the department. However, in order to implement reforms of the civil service system, it is necessary to conduct thorough consultation among civil servants and the public to ensure that the changes are made in the overall public interest.

I have noted that while the original motion and its amendments appear to point to different directions, they all agree with the importance of stabilizing the confidence of civil servants and their morale, because stabilizing the confidence and morale of civil servants is indeed very important to maintaining the effective operation of the Government and easing tensions in society.

I hope Members will recall that five years ago the Government published the Civil Service Reform Consultation Document. Two months later, civil servants organized many large-scale processions and assemblies, and a number of these actions were taken to oppose corporatization of departments. In the past, civil servants would never openly challenge and oppose government policies in order to abide by their political neutrality. But the collective movements of civil servants at that time had not only aroused great reverberations in the community, but also reflected the unease and anxieties of civil servants about their career prospects.

I think the Government should always bear in mind the lessons drawn from its hasty implementation of policies on many occasions, such as the civil service reform five years ago and the enactment of legislation to implement Article 23 of the Basic Law last year, which have aroused strong reactions in society. The Government, in adjusting policies in the future, should conduct thorough consultations and discussions. Apart from observing fiscal prudence, it should enhance the transparency of policy formulation, so that the ultimate proposal will be endorsed by civil servants and the public and also in the interest of the general public.

Finally, Madam President, I wish to make one point and that is, disregarding in which direction the civil service policy will develop, the review of government bureaucracy as well as its management and operation should not be neglected.

The community has strong feelings about the bureaucratic management culture and red tape in the Government. For example, I have personally handled a case concerning the return of public facilities to government

management at Galaxia, and in this case, several departments were involved but officials on different levels carry out their own work separately without systematic communication. This has often resulted in the slow handling of a case, and there is no efficiency or flexibility at all.

Another example is a case criticized in the Director of Audit's report a few years ago about front-line cleaning workers of the Food and Environmental Hygiene Department. There were as many as over a dozen levels of management staff above these cleaning workers. Too many bureaucratic hierarchies can directly affect the top-down supervision of the work efficiency and performance of front-line workers, thus making it difficult for the management to promptly discover dereliction of duty by workers. Worse still, it will be easy for one to hide the truth from his superiors and mislead his subordinates.

Therefore, even though there are strategies for corporatization or regulation of the staff establishment, if the reform of the organizational structure in departments is neglected.....*(the buzzer sounded)* Madam President, a few words only — it may not necessarily achieve the objectives of putting public coffers to good use and enhancing.....

**PRESIDENT** (in Cantonese): Miss TAM Heung-man, please sit down.

**MR RONNY TONG** (in Cantonese): Madam President, Honourable colleagues, given that "trimming" has now become a fashionable trend, there is nothing wrong for the Government to "trim" the civil service. As some figures have shown, the deficit of the Special Administrative Region (SAR) has remained high, accounting for over 20% of the Gross Domestic Product, over the past couple of years. This year, the deficit stands at 22.5%. Despite deflation, our public expenditure has continued to grow at a rate of between 12% and 14% over the past couple of years. "Trimming" is therefore warranted.

Nevertheless, I am of the opinion that the Government has acted too hastily and gone to the extreme. Last year, the Chief Executive, Mr TUNG, even claimed to trim the civil service establishment from 198 000 in 2000 to 160 000 in 2006-07. This sweeping proposal has brought a great shock to the morale and stability of the Civil Service. Yet, the crux of the problem was the

"smearing" remarks made by the Government after its implementation of the "0-3-3" trimming proposal, which had given the public an impression that Hong Kong civil servants were being lazy. This is probably one of the reasons for a sharp decline in the morale of civil servants. Furthermore, the Government has allowed department heads to recruit non-civil service contract staff under a fixed contract of no longer than three years and introduced the Voluntary Retirement Scheme. The fact that the same jobs are simultaneously performed by employees on different terms but with different pay has further impacted on the civil service system and the morale of civil servants seriously. It is even more questionable that the Government, having slashed more than 25 000 posts since 2000, has recruited 16 000 non-civil service contract staff as at the end of last year. With 7 000 of these non-civil service contract posts lasting more than two years, the Government can merely save \$770 million or so, or less than 2% of the total amount of the deficit, ultimately. Hence, has the Government truly examined the necessity of slashing these posts, or is it doing all this merely for the sake of implementing its "trimming" programme? In the absence of full consultation and careful planning, these immediate reforms have eventually forced the civil servants, who have all along remained silent, to take to the streets in protest. Their previously harmonious relationship with the Government is presently filled with suspicion and mistrust.

In brief, the policy formulated by the Government in this respect can be described as "too hasty and untimely". The SAR Government has, in a matter of five years, implemented more than 10 major reform initiatives pinpointing civil servants, and each of these initiatives has pinched the nerves of Hong Kong's governance system. Like body-trimming enthusiasts who wish to achieve their goal within a short period, the SAR Government has resorted to such drastic means as "self-induced vomiting or taking laxative" to reap quick results. These methods, achieving the effect of hurting one's own body, will eventually inflict multiple bodily injuries and cause permanent damage.

Broadly speaking, I personally support the reform initiatives proposed by the SAR Government. Corporatization, for instance, can improve the quality of public services while enhancing the economic effectiveness of government departments. However, these initiatives were proposed at a time when Hong Kong economy was in the doldrums and the unemployment rate was standing high at 7%. The Civil Service was supposed to serve as the nucleus to stabilize Hong Kong's labour market. Launching the corporatization scheme at a time of

high unemployment will possibly breach the last line of defence of our labour market, thus leading to greater socio-economic instability. The eventual victim will still be this community of ours.

Recently, the Chief Executive, Mr TUNG, made a number of pledges with respect to the civil service reform to soften the hastily-implemented reform initiatives for the time being. I believe these measures are wise. However, softening the reform is not the same as aborting it. In the long run, the Government must, taking into account the morale of the civil service team, social stability and in the interest of achieving economic effectiveness, conduct a fresh review of the establishment, pay and benefits of civil servants and relaunch the civil service reform at an opportune moment after full consultation with its employees.

For the abovementioned reasons, I have great reservations about any sweeping proposals. I feel that the SAR Government should carefully review the entire civil service policy and adopt "trimming" measures without jeopardizing the civil service morale in the light of the current circumstances. As such, I will abstain from voting on Mr WONG Kwok-hing's motion. Given that there is a sweeping decision in paragraph (c) of Mr LEE Cheuk-yan's amendment, I will also abstain from voting on his amendment. Nevertheless, I will support the amendments proposed by Mr CHEUNG Man-kwong and Mr Howard YOUNG separately.

I so submit. Thank you, Madam President.

**DR KWOK KA-KI** (in Cantonese): Madam President, I greatly welcome this motion debate proposed by Mr WONG Kwok-hing on this question: the morale of the civil service. Actually, as pointed out by a number of colleagues in their speeches earlier, the problems with the Civil Service, dating back to years ago, have lasted quite some time. It can be said that some policy blunders were to blame for the civil service reforms launched years ago and still underway today. Nevertheless, what has actually happened is, in the course of the reforms, some people have been made to pay a price. These people are mostly contract staff, corporatized employees and employees of outsourced services, employed as a result of the implementation of major civil service reforms since 1997. Though performing equal work, they receive unequal pay.

I am particularly impressed by the reports over the past two days that Secretary Joseph WONG had indicated that no revisions would be made to some of the special benefits enjoyed by senior civil servants. These benefits include the sea passage, furniture allowance, overseas education allowance enjoyed by senior civil servants, and so on. Insofar as any reforms and social policies are concerned, what matters most is fairness and impartiality. It is immensely ridiculous that the Government is taking the lead to be an unscrupulous employer. Why can we tolerate some employees — simply because they were unfortunately appointed after civil service reforms — having to perform the same duties as those performed by civil servants appointed before the reforms and yet receiving much less pay? They either do not enjoy any prospects or benefits, or have their benefits heavily slashed. Why are these new appointees made to bear all the blunders of the Government, including the financial burden created by itself?

I do not mind the Government carrying out comprehensive reforms in a bold manner. However, such reforms must not affect the socially disadvantaged groups which have the least bargaining power. Today, our government is flooded with a large number of these socially disadvantaged groups. Under the government framework, there is actually nothing these contract staff can do, for they must keep their jobs. As Members are aware, given the prevailing high unemployment rate, they cannot but swallow their pride and accede to any requests made by the Government. As Members are also aware, they have to work overtime frequently without harbouring any wishful thinking that they will receive appropriate returns or rewards.

While I agree that it is imperative for the Government to carry out reform and resolve its deficit problem, I feel indignant that the Government has taken the lead to behave like an unscrupulous employer. We have often described ourselves as a society of tolerance and justice. Can someone tell me what justice and tolerance mean? Why can the Government tolerate the employment of these new contract staff, temporary staff, and employees of outsourced services who are offered wages at such a shameful rate on such terms of employment? It was only until last year when some colleagues in this Council had raised this matter that the Government changed the outsourcing system.

Have those government officials responsible for steering the civil service policy noticed these problems? Have they ever assessed that the victims are not only the suppressed civil servants? Actually, sectors outside the Government,

including the business sector, have always been following the lead of the Government. Seeing that the Government can easily squeeze some employees to the fullest by paying a price like this, the business sector is following in the Government's footsteps by offering the same terms of employment. The Government has often told us that it will take the lead to do something good. For instance, we have often been told how the Government takes the lead in terms of human resources by employing members of the socially disadvantaged groups, people with a disability, and so on. However, we will find it very disappointing should we continue to listen to and look back at what the Secretary and the Bureau under his jurisdiction have done over the years.

In the course of reform, the Civil Service will undergo corporatization and contractization, as well as outsourcing of services. It is most important that the principle of fairness is adhered to. If it is thought that some existing civil servants on contract terms or some erroneous policies have resulted in numerous ridiculous allowances and certain special expenses incurred by civil servants employed under the old system, the Government should not make employees under the new system, contract staff, temporary staff and employees of outsourced services to foot the costs. It is quite irresponsible of the Government to do something like this.

This time, different amendments have been introduced by several colleagues. Although their observations and their views on different terms or demands differ, their demands generally reflect that they share the view that the Government's civil service policy is unfair and a failure. I hope Secretary Joseph WONG can take this opportunity to introduce a fairer revision. In particular, a fair review of members of the socially disadvantaged groups being victimized under the existing system should be conducted with a view to making their conditions of employment more reasonable.

With these remarks, I support the views put forward by all colleagues. Thank you, Madam President.

**MR LEUNG YIU-CHUNG** (in Cantonese): Madam President, concerning debates on the civil service policy, this topic will come up for our debate here almost once a year. We have consistently stressed that any impact on the civil servants will mean impact on not only the civil servants themselves or their families, but most importantly, the community at large. It is because the

100 000-odd civil servants are tasked to maintain the smooth operation of the entire community. If they are impacted upon, this smoothness will definitely be affected. But much to our regret, it appears that the Government has not listened to our views over the years and insisted on grinding the axe at civil servants.

Why should we have to raise this issue for discussion again in the Legislative Council only four months later? Apart from the reason that the Government intends to grind the axe at the civil servants which will demoralize the civil servants, another reason for a revisit of this issue today is that the Chief Executive made six undertakings on 10 October. We wish to discuss these six undertakings and examine their impact on the civil servants. Of course, I reckon that the Chief Executive might be well intentioned in making these six undertakings, hoping to give a boost to the civil servants or to stabilize their work attitude. This is a positive way to look at these six undertakings. However, can the problems be solved after undertakings were made in these areas? Madam President, I do not think so. His undertakings will still bring many problems to the existing operation, and the problems have remained unsolved. He has undertaken to, among other things, cease retrenchment when the number of civil servants is reduced to 160 000. Madam President, the problem is that there are at present 168 500 civil servants, and it means that 8 500 civil servants will have to go. Come to imagine this: If each of these 168 500 civil servants is thinking about whether he or she will be among the 8 500 civil servants to be dismissed, and if everyone keeps on thinking about this with such unstable emotion in them, their performance at work will definitely be affected.

Moreover, on the question of pay reduction, he said that pay reduction will be unnecessary when the objective of eliminating the deficit is met. But the problem is that the present level is already the lowest as stipulated in the Basic Law and so, their pay cannot be reduced any further. The civil servants are already very dissatisfied with the pay reduction. So, the problem is still there. This shows that the realistic problems still have not been addressed. On the other hand, we are worried about the solutions to problems in other aspects for which no undertaking has been made? Will the problems be aggravated and continue to deteriorate? We are very worried about this.

Many colleagues mentioned earlier that the Government might continue to cut civil service benefits. Let us not talk about the benefits for the time being.

Even if the undertakings are honoured in the future, how will things go on afterwards? For instance, if the objective of 160 000 is met and there is no further retrenchment, what will happen if the workload of civil servants has increased excessively in the future? Will the Government continue to recruit non-civil service contract staff or temporary workers or even resort to outsourcing? Members should remember that during the debate on 2 June this year, I said that while the recruitment of non-civil service contract staff or temporary workers or even workers for outsourced government services would no doubt give the Government flexibility in recruitment, but the problem was that the employer's responsibilities might be evaded. Meanwhile, this may also damage the close partnership among the employees, because if two systems exist under one roof or in an institution, that is, if an employee is recruited on permanent terms and his employment is stable, whereas another employee is recruited on contract terms or a temporary basis, what will be the relationship between them? A situation like that described in the complaints received by us before will very likely arise. That is, the permanent staff is likely to pass the work to the temporary or contract staff whose situation will become even more miserable, because not only is his employment unstable, he also has to cope with an increasing workload and yet, he has to put up with it, hoping that his contract can be extended. So, this is unfair and inappropriate, absolutely not conducive to the long-term development of the relationship among employees.

Furthermore, as many colleagues have also mentioned earlier, outsourcing will make the situation even worse. As we can see from many types of outsourced work, the working hours and the wages of workers employed for such work are very undesirable. I remember that a university student has recently said that some workers employed by the university for the outsourced cleaning work are paid only \$3,800 monthly, and he said that this is a disgrace to the university. Madam President, today, I would like to say that such a level of wages is not just a disgrace to the university, but also a disgrace to the community. As a worker is paid at a rate which cannot even meet the basic living standard, should it not be a disgrace to the community? So, despite the six undertakings, many people are still very concerned about the situation in other aspects, but the Government has not shown us clearly how it is going to work out solutions to the problems. We hope that the Government can tell us specifically how the emotions of civil servants at work can be stabilized and how their true concerns can be allayed, so that they do not have to worry every day about whether they will be made redundant, and whether they will become contract staff, temporary staff or staff for outsourced services. All these are

very important and have significant implications on the community. I hope the Government can think about these issues and not to be too shortsighted. In the short term, it may be a very good measure, for it can cut government expenditure. But in the long term, it is not a good thing because it will cause problems in the implementation of government policies and by then, even if the Government backtracks, it will not only tarnish the image of the Government but also drag the operation of the entire community into troubles. So, I hope the Government can consider this issue with a long view and not to be too shortsighted.

Madam President, I so submit.

**MS AUDREY EU** (in Cantonese): Madam President, our highly efficient Civil Service has always been a cornerstone of Hong Kong's success. However, the great number of unbelievable blunders made by the Government in recent years has inevitably induced doubts about whether or not the repeated occurrence of the so-called "isolated incidents" has actually demonstrated that there are problems with the existing system, or the civil service policy.

Members cited the numerous blunders during the Legislative Council Election in the debate on Ms Margaret NG's motion earlier. After all, this incident has reflected poor experience and ability to respond to emergencies on the part of the responsible staff. Furthermore, Madam President, you should recall the repeated discovery of bloodworms in public swimming pools, and yet the Leisure and Cultural Services Department, seemed to be powerless to do anything, could merely resort to the most passive means by closing its swimming pools one after another. Are these problems related to the loss of experienced staff as a result of the Government's implementation of the Voluntary Retirement Scheme or employment of temporary staff in place of permanent staff?

The Chief Executive recently proposed six guidelines on the civil service policy as the keynote to stabilize the confidence of civil servants. However, it was very strange that the public was informed of this new policy through the media coverage of a closed-door meeting between Mr TUNG and Members from the Hong Kong Federation of Trade Unions in which the former presented this new policy. I wonder if this is an idea of Mr TUNG or a policy formulated by the Government out of collective wisdom. I hope Mr TUNG can give us an account first in this Council in future whenever the Government comes up with a new policy.

The motion under discussion today, including the original motion and three amendments, seek to stabilize the confidence of civil servants and boost their morale. I believe all Members support this major objective. However, we will find it very difficult to vote on a "Christmas tree" motion like this — I compare this motion to a Christmas tree because many other parts are attached. Members may support one part but object to another; they may also strongly support certain parts but strongly object to others, thus the choice is very difficult when it comes to the vote. However, Madam President, stability does not mean ossification. In my opinion, the civil service policy must retain a suitable degree of flexibility before resources can be deployed flexibly and services provided in a more effective manner.

Compared with the private sector, the Civil Service is a very stable system. To start with, it is protected by Article 100 of the Basic Law; secondly, Mr TUNG already undertook a long time ago that retirement would not be made mandatory. In other words, the pay and posts of serving civil servants are already fully protected. Hopefully, it is not necessary to impose excessive constraints on the civil service policy.

I have carefully considered some of the concrete proposals presented in the original motion and various amendments. However, I must ask this question: What does it mean by ceasing corporatization and contractization? Does it mean that corporatization and contractization are disallowed at any time, on any occasions or by any departments? Or does it merely mean excessive corporatization and contractization are disallowed in order not to affect the stability of the Civil Service? In the case of the latter, there will naturally be no problems. In the case of the former, however, there is a possibility of making the system too rigid. Given that public money is involved, the efficiency of resource utilization has to be taken into consideration. Should temporary jobs be justified, why can the Government not recruit contract staff on a temporary basis? For these reasons, I have reservations about this part of the motion.

Nevertheless, I want to particularly emphasize that I strongly support the proposal raised by Mr LEE Cheuk-yan in his amendment to "resume the recruitment of civil servants". In order to achieve its goal of compressing the civil service establishment, the Government has strictly frozen the recruitment of civil servants and recruited a large number of non-civil service contract staff

instead. This will definitely produce an adverse effect on the quality of service. There are problems of low morale and high wastage with non-civil service contract staff because their pay compares less favourably than their civil servant counterparts and they have no prospects. The fact that the Government has to deploy a huge amount of administrative resources because of its frequent need to recruit replacements and provide necessary training means that the Government is actually spending more rather than less in a disguised form.

Madam President, I have to particularly point out that it is impossible for the Government to outsource certain types of work due to their job nature. Moreover, it is difficult for the Government to absorb existing talents in the private market. The freezing of recruitment of civil servants over a long period will thus lead to a gap, and this is not conducive to succession planning. In this connection, I wish to make particular reference to the law draftsmen at the Department of Justice (D of J). Madam President, as you are aware, we are frequently required to hold meetings with these law draftsmen in our daily work. We fully appreciate that law draftsmen can acquire their professional skills and draft legal provisions in a concise and precise manner only through exposure over a long period of time. However, law drafting cannot be outsourced because sensitive information is invariably involved. At the same time, private practising lawyers, even though they may have long-time practising experience, are not necessarily experienced in law drafting. For these reasons, a stable and quality law drafting service can be ensured only by regular recruitment of personnel in this area for long-term internal grooming. This is of vital importance to Hong Kong as a city governed by the rule of law.

It is understood that this is already the third year the D of J freezes its recruitment of law draftsmen on civil service terms. According to my knowledge, the Department has 18 lawyers with drafting experience ranging from five to 10 years, and only three lawyers with drafting experience of less than five years. This is evidently the result of the freezing of recruitment by the D of J. Coupled with the retirement and resignation of a number of experienced law draftsmen over recent years, I am worried that, should no remedies be taken, a talent gap will appear in a certain number of years, thereby affecting the quality of legislation and even the rule of law. Madam President, we can see from the case of the Land Titles Bill that the Government has to recruit private lawyers from outside the Government to continue drafting the law upon the resignation of its veteran law draftsmen. This is definitely not a satisfactory arrangement.

I believe, as long as the Government is prepared to negotiate with the civil servants with a cool and reasonable attitude instead of acting in the way of the big suppressing the small and abusing its discretion in order to choose the expedient and frugal way out, the flexibility of the civil service policy will not necessarily lead to exploitation. Instead, it can be transformed into a favourable condition to enhance efficiency.

Madam President, I so submit.

**MR ALAN LEONG** (in Cantonese): Madam President, we can see that today's motion and amendments, as well as past discussions and today's discussion on such policies as reviewing the conditions of service for civil servants, are swaying between two considerations — first, protecting the interest of government employees; and second, controlling public expenditure. It seems that slashing the pay and benefits of civil servants is the only way to eliminate the deficit. This approach, though simple, is extremely dangerous. The quality of public services and governance will only be sacrificed in the midst of disputes.

Our civil service team has always been known for its cleanliness, professionalism and efficiency — Hong Kong has recently been chosen as having the cleanest and most efficient civil service team in Asia. The civil service reform has been going on since the release of the Civil Service Reform Consultative Document five years ago. After years of surgery and restructuring, the civil service team has still not been revamped as anticipated. On the contrary, its morale has hit rock bottom.

Throughout the five years of reform, the Government has devised a dazzling variety of terms of appointment. They include: supernumerary posts, non-civil service contract staff, new probationary terms introduced in June this year, voluntary retirement schemes with different terms, and so on. As a result, the proportion of staff on pensionable establishment within the civil service system has fallen sharply to less than 70%. Many of my friends and neighbours, who are civil servants themselves, have complained to me that, even though they are working together in the same government department day and night and performing the same tasks, they are treated in four or five different ways. In other words, they are given unequal pay for equal work. Without an extraordinary level of emotional quotient and balancing ability, it is indeed impossible for them to work with one mind and maintain high morale.

The reform has also created other difficult situations — front-line staff are complaining that the Government is "fattening the top while trimming the bottom". Even though the newly recruited contract staff have spared no efforts in their work to fight for contract renewal, they might be put under probation for three years and a further three years before their contracts are terminated in the end. On the contrary, the prospects of their average pensionable colleagues are far more explicit. When the job market begins to improve, competent contract staff will very soon be absorbed by the private sector. In that eventuality, not only will the civil service reform have failed to achieve the effect of eliminating the weak and retaining the strong, it will also have affected the stability of the Government as a team. As the Government has ceased recruiting civil servants for years, a gap has already appeared in the middle management of a number of government departments, particularly in professional grades and disciplined forces. Accumulation of experience is vital to nurturing talents.

In introducing the reform, the Government hoped to use a more flexible system of employment, pay and allowances, appraisal and termination to link pay and benefits with performance, restructure its establishment, and save public expenditure. The civil service reform should not be limited to bargaining over "fat chicken or thin pigeon" or a "war of trimming a workforce of 190 000 to 160 000". The Government should start by first determining why reform is necessary, which government departments have to be reformed and how the reform should proceed. Otherwise, we would suffer the disadvantages before we could get the benefits of reform. Even the hundreds of millions of dollars thus saved in expenditure cannot compensate for the lowering of morale and the adverse effect on the quality of governance.

I believe civil servants are most frustrated by the Government's hasty apportioning of blame on its opponents. Furthermore, the Government's negative labelling has prompted the media and public to criticize civil servants as selfish persons with vested interests, thus aggravating civil servants' resistance to reform. This is not helpful to dispelling the clouds to truly find out the problems confronting the civil service system. The Hong Kong Special Administrative Region Government must not shirk its responsibility for the agitation of civil servants and the loss of direction in reform.

The issue of whether public services should be corporatized calls for much deliberation. It is indeed questionable as to whether the Government can make

profits while fully protecting public interest with its continued equity injection to set up statutory bodies to operate public services and perform official duties a la the commercial *modus operandi* of private enterprises. Subsequent to the corporatization of the Hong Kong Dance Company and the Hong Kong Repertory Theatre, arts bodies have to operate in a market-oriented model, thus robbing the resources for promoting arts projects with poor box office receipts in a disguised manner. This is similar to the case of the British railway, in which we can see the occurrence of frequent accidents and a surge in accident rates after the corporatization of the company. According to the conclusion of relevant studies, it was entirely attributed to the fact that the private company had introduced less safety measures for the sake of saving costs. It can thus be seen that services and public interest must be carefully balanced in considering corporatization. The authorities concerned must give serious consideration to services relating to the basic needs of daily life and public safety.

Madam President, I hope today's discussion can induce the Government to demonstrate its sincerity and courage in truly resolving the problems and make it understand that the civil service policy is more than labour disputes and achieving budgetary balance in terms of scope and consideration. Instead, it is related to the Government's overall concept of public service provision and has an impact on the quality of governance. To enable civil servants with the highest sense of duty to join hands to propel the entire Government, provide more quality services, and upgrade the quality of governance, the Government must define its goal of civil service reform, and affirm the contributions of the civil servants and their right to participate in the reform.

Madam President, I so submit.

**MR KWONG CHI-KIN** (in Cantonese): Madam President, I personally have a profound understanding of the low morale experienced by civil servants in recent years because my wife is a civil servant. Over the past couple of years, I frequently found myself listening to my wife's complaints with great patience or, exactly, pretending to be listening very patiently. Just as Mr WONG Kwok-hing asked earlier, "Why have the civil servants, who used to be considered such a 'brilliant' team in 1997, changed in such a dramatic manner after 1997 as becoming so 'miserable'?" I think the SAR Government must seriously review the matter.

Over the past couple of years, some major experiments have been conducted on society by introducing "radical" reform in order to deal with problems of the Civil Service and have, as a result, triggered numerous problems and criticisms by a large number of front-line civil servants, that the Government's civil service policy has merely served to "fatten the top and trim the bottom". Many colleagues hold the view that the pay of civil servants is excessively high and, for this reason, it is indeed inappropriate of us Members from the labour sector to frequently protect the interest of civil servants without regard to public interest. Mr Alan LEONG was right in pointing out earlier that it would be over-simplistic to directly link the problems confronting the public or the deficit problem with civil service pay.

Actually, Madam President, civil service pay has always remained more or less the same. Whether it is high or low depends on how one looks at it. When the market situation was thriving, I heard some of my friends laughing at my wife by saying something like this: "I really admire you. You civil servants are great people." This is because, at that time, employees of private companies would receive bonuses equivalent to several months of salary. Some of them might even receive a pay rise several times higher than their original salary. Yet, civil servants have never been treated like this. Even when there was a pay rise, it was merely limited to 10%. A pay rise exceeding 10 % would have been considered extremely high. As such, civil service pay was low when the market situation was good. However, the last couple of years has seen a changing economic environment. It was not the case that civil service pay was too high. As shared by many colleagues, it was only that wages in society have fallen too sharply. We must not grind our axe at the civil servants because of the changing social environment. The deficit problem is multi-faceted. I personally believe that the deficit is mainly attributed to the Government's decision to abandon its high land price policy after 1997. Prior to 1997, we often said that our tax rate was low. Actually, the amount of tax we paid before 1997 was very high. Moreover, every family spent a large proportion of their income on mortgage repayments.

Madam President, Hong Kong is a society that upholds the rule of law. Article 100 of the Basic Law has afforded civil servants basic protection by providing that their pay and benefits must be no less favourable than before 1997. Furthermore, civil servants are protected by contracts signed upon their appointment. Some Members suggested earlier that some obsolete benefits should be scrapped. Right, the employer and employees can negotiate if both

parties are willing to do so. However, the Government must not unilaterally slash or scrap certain benefits bundled into the contract at will, because this is in breach of the contract. The Government has once paid a heavy price for attempting to unilaterally effect a pay cut by enacting legislation. Having grown smarter, the Government later reached a "0-3-3" pay cut package with civil service unions through consultation. Madam President, under the current social environment, even if civil service pay compares higher than the pay received by people of other social strata, there is no simple way to deal with it, for Hong Kong is governed by the rule of law. We must be law-abiding, and we must comply with the Basic Law and contract stipulations. We can merely adopt the proposal of "keeping the old and reforming the new" raised by the Chief Executive by resolving our problems slowly and gradually over a period of 10 or 15 years.

Madam President, I would like to say a few words on the issue of contractization of work. Actually, the Government's "trimming" exercise over the past couple of years has triggered many problems. As a saying goes, when the top has a policy, the bottom will come up with a counter-measure. Let me cite clerical staff as an example. As the Government has often insisted that there is an over-supply of clerical staff, government departments are not allowed to recruit clerical staff. However, after paying visits to civil service unions, we found out that clerical staff had been renamed as assistants because many government departments were not allowed to employ clerical staff. This has given rise to a number of strange phenomena. May I ask to what extent should the Civil Service be trimmed? Is it the slimmer the better? Actually, the Government should seriously review its employment of staff on contract terms. In our view, this policy is seriously flawed. Back in 1999, the Government proposed a "3+3" civil service reform package whereby a three-year contract would be granted after a three-year probation period. Should there be a need to retain certain posts, consideration would be given to employ the relevant staff on a permanent basis. The civil service unions we contacted generally welcomed this proposal. Owing to its tight budget, however, the Government has resorted to imposing expenditure envelopes across the board and constantly slashing resources. The "3+3" system now exists in name only. If this system is to be retained, the Government should employ permanent staff rather than hiring so many employees with short-term contracts on a temporary basis. As pointed out by many colleagues just now, a gap will appear in a number of government departments should they stick to their usual practice of employing temporary staff on short-term contracts. I have been told by a Head of Department that he

anticipated the appearance of a gap in his department in five years' time. We were also told by some of the law enforcement staff of the Food and Environmental Hygiene Department (FEHD) that the FEHD was having a serious ageing problem, particularly with the staff responsible for catching "litterbugs". I hope the Government can give the existing 16 000 contract staff a chance to switch to the permanent establishment.

Madam President, a subsidiary of the Hong Kong Federation of Trade Unions — the Government Employees Association — handed each Member a letter outside the Legislative Council Building today in the hope that Honourable colleagues can support Mr WONG Kwok-hing's motion. I would like to quote a paragraph from the letter: "The Government Employees Association is of the view that the SAR Government should see civil servants as an important source of manpower and a vital force in maintaining social stability. Furthermore, it should strengthen communication with civil servants as its partner in the reconciliation of conflicts. Despite obstacles confronting Hong Kong currently, we should face them together. Instead of regarding civil servants as an obstacle to its attempt to reduce its deficit, the SAR Government should conduct communication with civil servants in a dispassionate manner with a view to resolving problems together." Madam President, these words from the Government Employees Association do fully reflect the wishes of civil servants. I so submit. Thank you.

**DR FERNANDO CHEUNG** (in Cantonese): Madam President, before the reunification, both the Chinese and British Governments were very positive about the contribution of Hong Kong civil servants and highly praised them for their cleanliness and efficiency, and their role as a vital force in stabilizing society. After the reunification, however, everything has changed. Because of its deficit problem, the Government has to reform the civil service system in a bold and resolute manner. In the past couple of years, the civil service team was considered redundant, inefficient and a burden to public finance.

The Chief Executive has made a goal to compress the establishment of the Civil Service to 160 000 before the expiry of his tenure. As of June this year, the size of the Civil Service has actually been trimmed to 161 000. Yet, we see that the Government has, at the same time, recruited a large number of employees on non-civil service terms to undertake the work formerly performed by civil servants.

Currently, most of the non-civil service employees and most types of outsourced work are needed on a long-term basis. Examples are ancillary cleansing workers in hospitals, cleaners performing municipal work, and so on. However, the Government has opted to employ them on a temporary basis or short-term contracts perpetually, so that it can conveniently lower the pay of these non-civil service employees or even cease their employment at any time. It can be said that these non-civil service employees, virtually unprotected, are being exploited by the Government.

The Government has indicated that, in order to save expenditure, it will spare no efforts in slashing the number of front-line civil servants. However, senior government officials are treated with great leniency. According to the statistics provided by the Civil Service Bureau, the number of Model Scale I civil servants, or the most basic rank civil servants, was slashed by up to 30%, from some 18 000 in the year 2000 to some 13 000 last year. The number of civil servants on the Master Pay Scale, or middle and senior civil servants, was reduced from some 109 000 to some 98 000. This slash of approximately 10% was far below that of the grass-roots civil servants. It is even more surprising that the number of directorate civil servants has, instead of falling, risen by 6%, from 1 148 in 2000 to 1 220 last year.

Now it is said that the Government will announce its proposal of reviewing civil service allowances next month, and there are plans to retain the sea passage and furniture allowance.

What are the justifications for the Government to allow senior civil servants to apply for the sea passage and, at the same time, constantly slash the posts of grass-roots civil servants, while it is simply hopeless for temporary contract staff to switch to permanent posts regardless of their length of service? If the Government is determined to slash expenditure on civil servants, why does it merely pinpoint the grass-roots staff? How can the Government convince the public and make them believe that it is not "fattening the top and trimming the bottom" and "allowing government officials to defend one another"?

Actually, the Government should not merely focus on achieving its goal of contracting the civil service establishment to 160 000 and thus continue to slash manpower. Most importantly, the Government should come up with a reasonable establishment to maintain the quality of public services and deploy resources effectively while, at the same time, being responsible to its staff. Can

the Government consider converting non-civil service employees who are employed on a temporary basis or contract terms to permanent staff if they are providing essential services to the public and the nature of their work is no different from that of other civil servants? Furthermore, as the territory's biggest employer, there is no reason for the Government to take the lead to shirk its responsibility towards its employees by way of contractization and outsourcing. This is indeed not justified.

The morale of government staff has remained extremely low over the past couple of years. Recruiting manpower on different contract terms will eventually create numerous problems related to unequal pay for equal work in government departments. If we still believe civil servants are a stabilizing force in society and affirm the contribution of civil servants, this phenomenon must be addressed.

Madam President, I so submit.

**MR ABRAHAM SHEK:** Madam President, our public spending accounts for more than 20% of our Gross Domestic Product (GDP). Civil service payroll takes up 70% of government spending. Civil service reform is a necessary item on the agenda of the SAR Government.

In March 1999, the Government released a consultation document on civil service reform which was long overdue. The main objective was to put forward proposals to restructure civil service administration so as to make it more flexible, efficient and adaptable to changes in social demands. Civil service reform is an important move to enhance good governance of the SAR Government. As the occurrence of several maladministration incidents exposed the weaknesses of the old bureaucratic government, the community generally believed that there was a vital need to introduce civil service reform.

Over the five-year reform, the principle of "small government" has always been upheld. Through process re-engineering, organizational review and outsourcing, the civil service establishment has been reduced from around 198 000 in early 1999 to 169 000 in June 2004. It is not the number which is important, rather, it is the will and determination of the Government to change which is significant.

The community has high expectations of an efficient, accountable and meritocratic government. Throughout these five years, there has been good progress in operating expenditure reduction, administrative efficiency enhancement, better allocation of resources and improvement of the culture of service. Although civil service reform has encountered resistance, the community at large still has a positive feedback to it. I firmly believe that both the public and the civil servants will not support any move which may bring civil service reform to a halt.

I have strong reservations on today's motion. The Honourable WONG Kwok-hing calls for a comprehensive review on civil service reform, with a view to putting sectorial interests above the interests of the community. In this regard, I think it is acceptable to make some slight adjustments to the scheme. However, I am not supportive of the demands to cease the contractization of staff employment, outsourcing of services, as well as employing temporary staff in place of permanent staff.

Halting the above measures not only delays the progress of the civil service reform, but also adversely affects the effectiveness of the reform. In addition, it brings about an unfair treatment between the new recruits and the serving staff. Over the past five years, the total civil service establishment has eliminated 20 000 headcounts through a combination of measures, including the launching of the voluntary retirement scheme, natural attrition, corporatization of departments and outsourcing of services. Redundant staff have either resigned voluntarily or unwillingly in the best interests of the community.

Temporary employment, contractization and outsourcing of services can enhance flexibility and cost-efficiency. The SAR Government is not the forerunner in this respect. This is a worldwide trend. Governments of many developed nations have adopted these measures to optimize the use of human resources. In fact, there is a genuine need to employ temporary staff to take up ad hoc projects, such as the Smart Identity Card Replacement Exercise, and so on. As for the contractization of staff employment, there have been both positive and negative comments heard in the community. In my view, the process should continue. The Government can even consider improving the contractization arrangement by introducing a mechanism whereby temporary/contract staff with good performance could be employed on permanent terms. In this regard, there is no reason to cease the contractization of staff employment.

Madam President, civil service reform not only affects the civil servants, but also the overall interests of our community. It is a response to social development and changing demands of our citizens. Over the past five years, civil service reform has encountered great resistance, and the morale of civil servants has been partially affected. I believe this is largely due to the Government's insufficient communication with the civil servants and its hasty implementation. There is a need for the Government to review. Also, the Government should provide more flexibility when implementing these measures. Take targeted voluntary departure scheme as an example. A longer transitional period can be allowed for the affected staff as the case may be. I am sure it would help facilitate the implementation of the scheme.

The Honourable LEE Cheuk-yan, the Honourable CHEUNG Man-kwong and the Honourable Howard YOUNG have made amendments to the original motion respectively. Mr LEE Cheuk-yan's amendment has urged to abort the target of reducing the civil service establishment to 160 000 by 2006-07 and determine the number according to actual needs. Personally, I do not support his idea as the term "actual needs" is rather subjective and it will derail the reform. As for the amendments made by Mr CHEUNG Man-kwong and Mr Howard YOUNG, I believe their suggestions are acceptable.

Mr CHEUNG Man-kwong's amendment is more concrete and practical. He has retained the original motion of ceasing the corporatization of departments. More importantly, he has not urged the Government to postpone the target of inducing the establishment to 160 000 by 2006-07. He has also earmarked certain areas for the Government to make improvements.

Regarding Mr Howard YOUNG's amendment, the emphasis has been placed on full consultation with the civil servants and the public prior to the formulation of a civil service policy. I agree that the public should have a right to express their views on civil service reform, in particular, the way to optimize the use of public funds and enhance the efficiency of the Civil Service.

With economic recovery, the deficit problem of the Government is being alleviated gradually. However, if our public expenditure still accounts for 20% of the GDP..... (*the buzzer sounded*) Thank you, Madam President.

**MR ALBERT CHAN** (in Cantonese): Madam President, when it comes to discussions on problems related to the civil servants and the issue of their massive cut in number, one has a strong feeling that this is like kicking away someone after his service is no longer required. Many years ago when TUNG Chee-hwa was running for the office of Chief Executive, he lavished praises on the civil servants, saying that they were outstanding. Many other top officials, like Chief Secretary for Administration Donald TSANG, also said on many occasions before and after 1997 that the Civil Service was outstanding and vital to Hong Kong. But once TUNG has been elected Chief Executive and once these top officials have assumed power, they have never ceased their relentless efforts to reduce the number of civil servants. Secretary Joseph WONG has even become the executioner, doing the best he can to axe the Civil Service. The outsourcing and contractization modes are adopted and they are pushed with vigour in the civil service reform. The result is that civil service morale has suffered greatly, and the quality of civil servants has also been seriously affected. Whenever civil servants are given the opportunity to opt for voluntary retirement, it does not matter whether the package offered is lean or lucrative, provided that it is not a dismissal, many civil servants would gladly take it. Even if the cash compensation will not be sufficient to maintain a living after retirement, many people would still choose to leave the Civil Service.

There is an interesting piece of news. We may treat it as a joke, see it as a tragedy. The United States Army once outsourced the job of hunting Osama bin LADEN but the organization given the job did such a poor job that bin LADEN escaped. We all know what catastrophes he has brought to the world later on. The same thing is happening in Hong Kong. The Government is outsourcing a lot of its services and contractizing a lot of its jobs. The result is a change in public services for the worse and a lowering of service quality. It is Hong Kong and its people who will suffer.

The people who reap the most benefits in outsourced government services are the contractors. Many of these contractors come from those giant business consortia which support the Chief Executive in his run for a second term. This is a kind of collusion between the Government and big consortia. A few years ago, I read in the newspaper that while Mr TUNG was saying that many public services would be outsourced, another newspaper reported that someone from the top management of a consortium had said that they were setting up a group to study into how such services were to be provided. What a coincidence! Similar things often happen. While the management or the bosses of these

consortia know what is going on, Members of the Council and the public are kept in the dark. It is like what happened in the saga of the home production target of 85 000 flats.

This kind of outsourcing, corporatization and contractization will only divide society, make the people poor and play down the importance of the civil servants. It is because the bosses of these contractor firms are often acting like the superiors of the civil servants. They control the services and make decisions to hire staff. Excessive outsourcing, corporatization and contractization of public services will lead to more corruption. It is because the actual expenditure on these public services may be as much as millions or even billions of dollars. This is extremely tempting for top officials. The situation is worse when we see that principal officials have very intricate links with the giant consortia, for they go to work for these consortia after retirement. We can never trust the existing administrative framework can ever handle such problems without bias. So we are totally justified in our worries that there may be a transfer of benefits and collusion between the Government and the businesses. The public is therefore totally distrustful of the Government and the top officials.

Therefore, to stabilize society as a whole, to reduce improvishment and to curb division, we must stop outsourcing public services and services delivered by public servants. We must stop the exploitation of public servants in the name of contractization. If a stable civil service team is to be built, if the members of this team are to be instilled pride and self-confidence, and if this team is to be rebuilt into one which is over and above mediocrity, then we must provide reasonable employment terms when the staff are hired. Outsourcing and contractization should never be included in such terms. We must strive to steer Hong Kong out of the doldrums, and to make this possible we need leadership by an excellent civil service team.

Madam President, Secretary WONG is going to repeat many of the arguments he has presented before. He will say how efforts will be made to ensure that there will be no layoff. He will say that the job security those incumbents will not be threatened by outsourcing and contractization, that they will all keep their jobs, and so on. All these sound extremely pleasing to the ear, but they are actually a distortion of the truth. It is only presenting a less ugly side of things. I hope Mr WONG will assume a new role. He should stop playing the role of an executioner. I hope he will stop sending a chill down the

spines of civil servants. I hope he can look back at the contribution made by the civil servants all through the years. I hope he can do something to make the 160 000 incumbent civil servants continue to serve Hong Kong with peace of mind. I hope he can act with his heart and in his conscience — though I am not sure if they are still there — and do what he can to enable civil servants lead a peaceful life.

**MR BERNARD CHAN:** Madam President, I have discussed the issue of morale with civil servants in the past, and it is obvious to me that this is a serious matter for them.

They are frequently criticized by the media and by other commentators — including some Members of this Council — for being overpaid and overmanned. They are blamed for the budget deficit and for the rising taxes, as if these things were their personal fault.

This is extremely unfair. Our individual civil servants have not invented the current system of conditions of service — they have inherited it from the past. They have also inherited a tradition of pride in their work and a dedication to deliver high quality service. I strongly believe that those traditions are as important to Hong Kong's future success as the rule of law, freedom of speech or low taxes. If we want to keep those high standards, we have to pay for them.

However, there is something that everyone in the public sector must understand, and that is, the Government has a duty to ensure that the public's money is spent efficiently. The Government has a fiduciary duty, and I think a constitutional duty — and many people would say a moral duty — to use our communal resources to benefit the community as a whole, not just a particular group.

This means the Administration has a duty to ensure that the Civil Service is properly funded. It must be able to attract and keep good quality people to provide the high standards of service which we want. But it does not mean that the Government should tolerate over-spending or waste.

This motion asks the Government not to corporatize departments, not to hire people on contracts or as temporary staff, not to outsource, and so on. But

no responsible government can promise never to do those things. What if it is in the community's interests to outsource some work, or to hire temporary staff?

The Civil Service's morale is important, and its ability to perform its tasks to a high standard is essential. But the interests of public-sector employees cannot override the interests of the rest of the population of Hong Kong — that is unrealistic and unacceptable. It certainly would not help promote public confidence or social prosperity which this motion mentions.

The best way to maintain good morale among civil servants is to give them reassurance. In my experience, some of them may have unrealistic fears about future reforms. The best way forward is to have honest and open dialogue between the Government and its employees — not a promise to maintain inefficient practices. Thank you.

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

**MS EMILY LAU** (in Cantonese): Madam President, I am not a member of the "royalist camp". However, I strongly agree with the comments made by Mr Bernard CHAN just now. Today, many Honourable colleagues have mentioned the morale of civil servants and the civil service policy. I do have some personal views on such issues, and I also wish to tell civil servants that I am very much concerned about their morale. I feel that whether they can work with an eased mind has a significant bearing on the future development of Hong Kong.

Some people feel that as the wages in the private sector have fallen during the past few years, so in comparison, the civil service pay has become relatively high. Madam President, I already said that the civil service pay was too high several years before the transfer of sovereignty. Why did I say so at that time? It was because I had heard a lot of people from overseas countries or foreign officials deployed to Hong Kong say that the civil servants of Hong Kong were so fortunate as they could enjoy such high salaries. Even Mr KWONG Chi-kin of the DAB, oh, not the DAB, it should be the FTU, he also confessed just now that the present salaries of civil servants are still on the high side. However, I also share his viewpoint that this problem cannot be solved in the short term, and it will probably take more than 10 years to solve. But the issue still has to be tackled any way.

Just as Mr LEE Cheuk-yan has said, nowadays civil servants often dare not reveal their identity as such because many members of the public appear to hold some kind of hostility towards them, and I feel most sorry about this. I believe not too many people would adopt such a hostile attitude to the civil servants, though many people have told me (especially after I have become the Chairman of the Finance Committee), "Great, great, you act on our behalf to monitor the Government, and do not let it squander." I believe some of the people want me to monitor how the civil servants spend money. Some Honourable colleagues have commented just now that civil servants are still enjoying some outdated benefits. Secretary Joseph WONG dares not and is unwilling to touch on this issue, and what upsets us most is that all such benefits are those currently enjoyed by the senior civil servants. Secretary Joseph WONG has neither proceeded to abolish such benefits, nor has he conducted any discussions with them for possible reduction or abolition of such benefits. And that explains why we feel that the Government is fattening the top echelons and slimming the bottom ranks.

Dr Fernando CHEUNG has just pointed out that, the total number of civil servants has dropped, though some non-civil service contract officers have been employed instead. In spite of this, the number of directorate officers has increased 6% between 2001 and 2004. This is totally unacceptable to me, and also incomprehensible. I hope Honourable colleagues can also agree that, in line with the past arrangement, we shall not allow any proposed increase in the number of directorate officers. Madam President, in fact I personally agree to reducing the number of directorate officers because at the moment we have some 1 220 directorate officers, or even more. Why should we have so many directorate officers? I agree that we may need to have more officers providing services at the front line, but I oppose any increase in the number of directorate officers.

Madam President, I wonder if you still remember, during our discussion on Accountability System for Principal Officials in 2002, we did discuss to which portfolio labour affairs should be assigned. Some Members said that they were not sure where this area of affairs should be placed, and that labour affairs should not be put under the scope of industrial and commercial affairs. We were at a loss as to what to do, so we tried placing it under different portfolios in our discussion. Mr CHAN Kam-lam put forward his insightful

suggestion, saying that labour affairs should be put together with civil service affairs. There was a long silence in the meeting right after he had made this suggestion. I immediately raised my hand to show support. Madam President, I must be the one who showed the greatest support for this suggestion. Nowadays, we Hong Kong people must not treat our civil servants badly. Among the three Secretaries of Departments and 11 Directors of Bureaux, one of them is looking after the well-being of the civil servants. What harm will it do if this Bureau also takes care of the labour force of several million people, so that they can enjoy the same benefits as the civil servants? Yet, Mr CHAN Kam-lam eventually withdrew his suggestion, and no one was interested in pursuing it, possibly because everyone felt that it would be beyond Hong Kong's capability to make these several million people enjoy such good treatment. Therefore, I certainly feel that we should accord good treatment to our civil servants, but we also hope that we can have a clean Civil Service in Hong Kong.

Madam President, the civil servants also live in Hong Kong, so they should not be detached from other structures. In particular, when the private sector has experienced such a severe economic downturn, what actually can we do? We cannot change the benefits of civil servants because the Government is not in a position to reduce their salaries, which have been stipulated in their contracts. Only the terms of civil servants who joined the Government after 2000 can be altered slightly. In the past, their terms and conditions could not be changed at all, and their salaries could only go up and up and up, and they could enjoy two pay rises each year — one pay increase and one pay increment.

Therefore, Madam President, I hope a consensus can be reached in society on how to tackle the issue of the remuneration of civil servants. This is really a complex issue. The civil servants agree to collective bargaining, and I agree that we can hold discussions with them. I believe some of the civil servants do understand that it is necessary for us to take the interests of the entire community into account in our discussion. Just now, Mr Patrick LAU (some voters in his constituency are civil servants, but some are not) even suggested stopping outsourcing services, but what about the non-civil servant voters after this is implemented? Madam President, as a Chinese saying goes, "The palms of the hands are flesh and the backs of them are also flesh." Well, sometimes my words may not be appealing to the ears of civil servants, but I believe (some of my voters are also civil servants while some are not) that I still have to balance the different interests of different parties. What I have to do is to make sure

that society can afford it. Although we say that because of the contract obligations, we cannot change the terms and conditions, it would not be too "ridiculous" if we offer different terms to newly recruited staff. Of course, I would not accept it if the terms are too harsh. For example, a salary of \$2,000 to \$3,000 for employing a new staff member is certainly unacceptable. But if we cannot change the existing terms of civil servants, are we not going to employ any more new recruits? Or should we still insist that whenever we employ any new recruits, the same old conditions of service must apply?

Therefore, I think it is easy for us to make criticisms, but the Secretary actually can do better in certain aspects. However, when the whole community has to face certain problems, then let us face them squarely. I am an elected Member. If most of my voters think that I have spoken something inappropriate, all right, Madam President, I am willing to step down. However, I still have to bring up certain issues. I am not trying to challenge the highly formidable and gigantic Civil Service. I just hope that the civil servants can listen to the voices of some members of the public and let us find a solution together. I certainly do not want to see the morale of the Civil Service sink to a low level, but in the meantime, I also want to maintain the morale of the rest of the population which comprises several million people.

**MR ALBERT CHENG** (in Cantonese): Madam President, Ms Emily LAU said that the salaries of civil servants were too high. Yes, the salaries of senior civil servants are very high and they can also enjoy the luxury of sea passage now. With 1 220 directorate civil servants, do we have too many of them? If this figure is compared to the total number of 160 000 civil servants (the actual figure must be more than this), then it is by no means excessive because among these 1 220 directorate civil servants, most of them are professionals. In a stable society and when the economy of a society is stable, we must have a stable civil service. In fact, Hong Kong has a small government, without the need to spend any money on national defence and foreign affairs. The Hong Kong Government is people-oriented. Of course, a great part of its expenditure is salary. This is natural as we do not have to spend money on purchasing defence weapons, or on overseas expenditure.

Before I present what I intend to say, I would like to quote two paragraphs from a letter addressed to all Honourable colleagues by Mr WONG Kwok-hing.

I very much welcome this motion moved by Mr WONG Kwok-hing. However, I support the amendment of Mr LEE Cheuk-yan. In his letter, Mr WONG Kwok-hing writes, "Dear colleagues, Re: The motion debate on civil service policy. During the seven years after the reunification, the civil service system has undergone all kinds of changes. From the officially launched civil service reform to the Enhanced Productivity Programme, as well as other measures such as the contract system, corporatization, indiscriminate outsourcing services and financial envelopes, and so on, all such measures have caused direct impact on the civil service system. The civil service system has been shattered, and the remuneration, prospects, workload and work pressure cannot be compared to those in the past, and this has severely affected the morale of civil servants as well as their confidence in employment prospects." Madam President, Mr WONG Kwok-hing writes this in the last paragraph of his letter, "The success, prosperity and stability of Hong Kong depend heavily on an excellent civil service that can move forward with time. Therefore, the SAR Government must expedite the formulation of a long-term policy that can consolidate the confidence of civil servants, give impetus to healthy social interactions, promote social prosperity and help build up the Hong Kong Special Administrative Region."

Civil servants have to enforce the policies of the Government. We often say that we pay high salaries to the civil servants in order to foster a clean administration. It is most important that the civil servants should be able to serve the people in a most impartial and uncorrupt manner. Sometimes we may criticize some civil servants as being too rigid or bureaucratic. However, insofar as the civil service system is concerned, if we want them to maintain an attitude that is neither too arrogant nor too modest in serving the people, and ensure the provision of a quality service, then sometimes we may have to tolerate the rigid and bureaucratic system. Of course, we hope to have an efficient civil service. But in the meantime, we must also safeguard the posts of the civil servants, so as to enable them to discharge their duties in a fair and impartial manner. Otherwise, they will not be able to maintain their political neutrality.

We used to have a Civil Service with a strength of 200 000 persons. The civil servants have all along enjoyed a good reputation. Some years ago, local civil servants took great pride in being members of the most excellent civil service. Now, they have become "rats passing the streets", targets of public attacks. This is entirely attributable to the fault of the Government. For an

incompetent government which cannot improve the economy, it has to find a convenient scapegoat. And the easiest way is to divide the community — describing civil servants as "enjoying a good life but reluctant to work hard", receiving high salaries and holding the mindset of "working hard or not earn the same salaries". Can Joseph WONG conjure up any magic? I know some Honourable colleagues can play such magical tricks, but Joseph WONG surely cannot. How can he reduce the 200 000 civil service posts to 160 000? Were those 40 000 ex-civil servants never required to work in the past? If so, then Joseph WONG should resign, and then Donald TSANG should also resign; the top officials should resign collectively as well because they had tolerated 40 000 civil servants remaining idle. Now, the Government can still function properly after the civil service establishment has been reduced to 160 000, and the Government will become even more efficient? Joseph WONG does not know how to conjure magic.

Joseph WONG was once a veteran civil servant too. As you are of the same breed, why should you treat your kind so badly? Now, most of the civil service posts have been replaced and filled by non-civil service contract staff. In addition, there is the outsourcing of services. Some people have described it as "one country, two systems". Here, it is not just "one country, two systems", but actually it involves "three systems", because we have permanent civil servants, contract civil servants and outsourced workers. If we really want to maintain the stability of the SAR, just as we would frequently say, we must have a stable Civil Service that can serve the people with impartiality and political neutrality.

I hope that the Government can stop the outsourcing of services. Those non-civil service posts are most crucial. At present, some non-civil service employees are filling non-civil service posts. If these posts are permanent, I think they should be converted into permanent civil servants. If our Civil Service does have a manpower need, such additional hands should not be recruited through the non-civil service system. I say this because we can see many such recruitment advertisements for non-civil service posts in the newspapers every day. We should not contract out such posts. Therefore, I support Mr LEE Cheuk-yan's amendment, in that we should resume the recruitment of permanent civil servants; we should immediately stop the exploitation — through exploitation, the Government makes some people do work that originally should be undertaken by civil servants; through outsourcing,

the Government exploits these people. Therefore, I hereby hope that Members can support Mr LEE Cheuk-yan's amendment.

I so submit. Thank you.

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

**MR SIN CHUNG-KAI** (in Cantonese): Madam President, first of all, please accept my apologies because I have been, like a student, talking in class with classmates nearby. I should not do that, but I have really done it. However, I have already warned the colleague sitting in front of me not to lure me into talking anymore. *(Laughter)*

Madam President, on the issue of civil service reform, its implementation depends a lot on timing and determination. I can still recall that, when the Government launched the civil service reform in 1999, the Democratic Party showed great courage by coming forward to support its implementation of the reform. Later, Honourable colleagues from the FTU, including Mr CHAN Kwok-keung, led the civil servants in staging a demonstration. He said the FTU would support his election campaign to contest a seat in the Legislative Council only if he led that demonstration. That was what he said. However, the Government had still done something in spite of such tremendous pressure. Yet, the Government "started it vigorously, but finished it miserably". The Government retreated in 2001. After this retreat, it has so far not been able to solve the problem. The fiscal deficit is not created by the civil servants — a remark made by Mr KWONG Chi-kin, which I agree. However, the time has changed. In the past, we have never experienced any fiscal deficit, but now we are confronted with the fiscal deficit. In addition, our entire system lacks flexibility. What shall we do? We must find a solution to the problem. For the option of slashing the salaries of civil servants, the Government fears that it will induce more lawsuits which would eventually lead to the submission of the cases to the Court of Final Appeal for judgement. So, all it can do is to reduce the salaries of the civil servants to the 1997 level.

However, five years have passed since 1999, we are still unable to solve the problem at the present stage. Can we be sure that the fiscal deficit will not

emerge again? So far we still have not been able to solve the fiscal deficit. Many Honourable colleagues have made severe criticisms just now, but what kinds of concrete proposals have they actually put forward? How can the problems be resolved? Converting the staff to permanent staff? Restoring the civil service system? What other methods can be used to solve the problems? Even Members who have criticized the Government cannot put forward any proposals to solve the problem. If tax increases are proposed, the Legislative Council will not agree either.

The Financial Secretary will prepare a tax reform proposal by the end of this year, which will include the introduction of the sales tax. I cannot see that he will have adequate votes in this Council to support his proposal. The Democratic Party has stated clearly that we will not support his proposal.

What actually are the measures that can "pay the bill" and solve the fiscal deficit that amounts to tens of billion dollars? It is very easy for us to move a motion to criticize the Government, so is raising our hands to support it. However, what will the Government do if it cannot have enough money to make salary payment to its employees? We must consider this issue. Even the Government of the Orange County was once caught in bankruptcy. What shall we do if our Government really goes bankrupt? Who will be responsible for making payment for the payrolls? Are the civil servants going to ask Secretary Joseph WONG to pay them their salaries? Even if they express a willingness to accept slashed salaries, is this feasible? When shall we be able to solve this problem?

Having said this, however, I just feel that the Government should grasp the right opportunity to launch the civil service reform. As a matter of fact, the Government so far has not been given the right opportunity. It is because, before 1997, the civil service establishment expanded rapidly. At that time, the Government had ample reserves, so it can hire additional staff. But after 1997, when we have the fiscal deficit, the Government will certainly face extremely strong opposition in launching the civil service reform.

Let me quote an example, to which Miss CHAN Yuen-han may object. But this is really a good example. I can still recall that it was 1995 when I first joined the Legislative Council and became a Member. At that time, the

Electrical and Mechanical Services Department established a trading fund. At that time, the unions opposed it vigorously. Then I was the man within the Democratic Party charged with the responsibility for the affairs of public utilities. I recommended the Party to support the move. Consequently, with the support of the Democratic Party, the Bill was passed. Now, a decade has lapsed, as I recall the incident, I feel that if the Department had not introduced the reform then and would proceed as late as now, then the colleagues in the Department must find the process much more painful than that of 10 years ago. It would be much easier to implement a reform when the economy was booming than at a time of economic downturn, and it would be easier for them to resolve the difficulties. As such, union leaders should think about this: Will they be doing bad things with their good intentions in their present fight for the benefits of the employees? They must think carefully about this issue. When we are in good economic conditions, it is easier for us to carry out reforms. However, when we do this, we will face some other criticisms, namely, "Why should we proceed with reforms when our accounts look so good?" When the hard time comes, we will naturally face layoffs; by then, people dismissed will complain that they have difficulty in finding employment.

In fact, the situations in some major corporations are quite similar. For example, a certain telecommunication company in Hong Kong had monopolized the market during the period before 1997. It had wanted to implement a reform. However, the pace of its reform was too slow, and it failed to complete the reform before the opening up of the market, and the competition from the relevant companies was very fierce. So insofar as its staff were concerned, they were subject to very great pressure.

It is easier for private companies to lay off their employees, but it is not possible for the Government to do so. Therefore, if the Government cannot lay off its staff, what should it do? The Government still has one "ultimate weapon", that is, it can introduce tax increases. However, it is not so easy for the Government to implement tax increases, because it has to submit its proposals to the Legislative Council for endorsement. When the Government has submitted its proposals to the Legislative Council for approval, voters will urge Members not to support tax increases. The Democratic Party opposed tax increases last year. We objected to raising the salaries tax, though we were in favour of introducing an increase in profits tax.

However, if the Government fails to achieve fiscal balance, it may have to propose tax increases. By then, are we going to give our support? If not, without implementing any tax increases, how can it solve the problem of finding sufficient money to pay for the salaries of its staff? Apart from scolding the Government for being unscrupulous (it is great fun to scold the Government, and maybe all of us should come forward and scold it), we still cannot solve the problem. In today's motion, it is mentioned that the Government should cease the corporatization of departments. All right. I feel that, under the present circumstances, actually not too many departments can be corporatized, so it is acceptable to stop doing it for a while. However, it is impossible to say that the Government will never restore the civil service system or the employment of permanent staff — "never say never".

In fact, this is an international trend and a trendy practice, since I think that this is a more flexible way of employing staff. The pension system or the permanent civil service system is no longer an international trend. Instead, it is against the international trend. Of course, I also feel that it is necessary for us to have a core and stable civil service framework. Therefore, ultimately we need to have the stable systems of civil servants as well as contract civil servants, and it is necessary for the two different modes of employment to co-exist.

Lastly, in my opinion, insofar as today's motion is concerned, it is nothing more than our attempt to tell our voters that we have fulfilled our duties in this regard. However, while I am doing this, I would also think in this way: The civil servants are undoubtedly our voters, but so are the remaining 3 million or so taxpayers. So when we examine the civil service issue, we should not look at the problem of the system only, but we also have to consider the community as a whole.

With these remarks, I support Mr CHEUNG Man-kwong's amendment.

**MISS CHAN YUEN-HAN** (in Cantonese): Madam President, I would like to share some of my thoughts and feelings. I believe Members will get a clearer idea the more they debate in this Chamber. The civil service policy has been debated as a question in this Chamber numerous times before. We, Members of the FTU, have all along been looking at the issue from the angle of the labour

sector. It is our hope to point out clearly the crux of the problem to Members through this debate.

I consider the comment made by Mr SIN Chung-kai in his speech (I greatly enjoyed his speeches for he would very often express his viewpoints sincerely) earlier that this debate was conducted for the sake of accounting to voters unfair. The civil service reform has induced enormous repercussions in the community, as well as among civil servants, who are terribly upset. At the same time, many Hong Kong people, stirred by these repercussions, have presented diverse views on the civil service reform, and their views have even turned out to be confrontational eventually. I believe all of us, including Secretary Joseph WONG, do not wish to see this happen. The current atmosphere is unfavourable. It seemed that it was inappropriate of us to speak in defence of civil servants when we discussed the civil service policy in the residents' meetings convened by us.

Should this Chamber be able to give play to its vital role of digging out the truth, we would be able to present the facts through our debates. We will not object to the civil service reform if its objective is to make good use of resources to ensure that money is well spent. I believe even the civil servants will not object. However, the crux of the problem is that, in the course of reform or when the Government is faced with a deficit, the civil servants, who have virtually no bargaining power, are made to bear the blame fully. I wish to emphasize that they have no bargaining power. It is a fact that civil servants in the lower and middle ranks have been hardest hit. I am not referring merely to the grass-roots staff. I believe even Mr Patrick LAU will agree that professional civil servants are being affected as well. They will lose their bargaining power when they are no longer considered valuable in the market.

Next, I would like to point out that, as stated by Mr SIN Chung-kai earlier, it is not timely to carry out reform. Mr SIN was right. Reform is no cause for fear when there are many jobs in the labour market. This is because, in the course of reform, there are at least job opportunities in the market. The current situation is that the Government is exerting enormous power over the already miserable people, for no other jobs are available in the market. Not only are grass-roots civil servants facing this situation; even professional grade civil servants, who are hoping that Mr Patrick LAU can speak for them, face with the same situation.

Strictly speaking, the Government is engaging in foul play. It has chosen to carry out the civil service reform in the worst situation. Worse still, it has triggered confrontation between civil servants and the public. Ms Emily LAU's remark that civil service pay was still very high is indeed open to interpretation. Just as Mr KWONG Chi-kin pointed out earlier, civil service pay would be considered low, rather than high, when the economic conditions were good. Now that they are bad, it is natural that civil service pay is considered high. The problem is that the Government and civil servants are bound by contracts. Both parties have to talk before pay can be cut. Like business negotiations, both parties have to talk. Therefore, we have to be fair. We must not refuse to talk to civil servants because they are just talking about their own situation and, on the contrary, biased towards the Government which is actually the one who is refusing to talk. Strictly speaking, the principal culprit is the Government.

Since the proposal of reforming the Civil Service was mooted by the Government on 8 March 1998, I have been listening to the views expressed by the civil servants. I find that not a single civil service group opposes the reform, only that they consider the timing not right. Furthermore, they have never been consulted throughout the process of reform. And I think this is the crux of the problem.

I hope friends from the Article 45 Concern Group and those who are not prepared to vote in support of us today, including Mr Abraham SHEK, can understand that the problem lies with the fact that reasonable discussion or argument has not been possible. With Hong Kong being bitterly hit by economic turbulences, the labour sector has seen wages falling generally. Is it fair that civil servants are apparently taken as the main culprit? I believe all of us will agree with reasonable utilization of resources. Members who cared to enquire with government departments would be told that more money might have been saved had the Government discussed with them. For instance, the PPP, soon to be implemented by the Water Supplies Department (WSD), is intended to save resources. However, the Government is not prepared to talk to the WSD staff. Under its general policy, the Government is not prepared to talk to its staff. I hope Honourable colleagues can appreciate the fact that neither do civil servants advocate wastage nor squander the taxpayers' money. I believe they will not agree with doing this.

Yet, why do we not ask the senior management why such an establishment can be retained when it is found to be overlapping, fraught with problems and demonstrating signs of nurturing loafers? I wish to tell colleagues that it is basically impossible for the Government, after years of civil service reform, to nurture loafers. What is the current situation? Most government departments are understaffed. Members may wish to enquire with the Lands Department (LandsD) in order to find out the seriousness of the manpower shortage there. The LandsD, responsible for land resumption, is prepared to set up a new wing recently because it does not have the manpower to resume many of the lands in the New Territories and, as a result, the lands have turned into "dark lands". We can also find the same situation in the Food and Environmental Hygiene Department (FEHD). I recall a senior official from the FEHD telling me before transfer to another department: "Sister Han, many of the departments relating to building works have a problem of manpower shortage. Actually, all government services have the problem as a result of the current practice of slashing resources across the board."

Madam President, as the problems have developed to the present stage, I would like to appeal to the Government not to divert its spearhead by creating a superficial phenomenon that civil servants have turned into a burden of the Government and thus led to a deficit, and not to hold that the civil servants are responsible for the Government's failure to perform effectively. On the contrary, we must not connive at the Government's behaviour of presenting us with a seemingly true but actually false picture. Otherwise, the Government might not be able to carry out a real reform in the end. Instead, it will only continue to adopt ridiculous management practices and act like a tyrant. The first to bear the brunt of the consequences will definitely be the civil servants.

Madam President, I would like to make a brief point here. Though the FTU has proposed in the motion to halt several initiatives, we are not suggesting that outsourcing of services be ceased. This is not what we want. It is only that the Government has unsettled civil servants in the lower and middle ranks. Being affected, they have requested discussions with the Government. I hope Members can look at the issue from this angle. For this reason, I very much hope that Members can understand that we have proposed this motion not only to account to our voters, but also, and most importantly, do justice to the civil servants.

Thank you, Madam President.

**MS MARGARET NG** (in Cantonese): Madam President, in fact I just wish to make one supplementary point. This motion is on the Civil Service as a whole. But, I think it is necessary for me to mention problems related to outsourcing. Certainly, insofar as the legal profession is concerned, there are some special situations. I note that neither the original motion nor the amendments have objected completely to any outsourcing of services; all that it is said is a call for the cessation of indiscriminate outsourcing of services. As a matter of fact, insofar as the legal profession is concerned, in particular the Department of Justice, if outsourcing of services can be utilized properly, it can actually help reduce the manpower in the Civil Service, that is, the manpower of government counsels in the Department.

What are the advantages of outsourcing? Firstly, as the cases are handled on a case-by-case basis, so if there is a suitable outsourcing policy, it will not be necessary for government departments to keep so many government counsels, thereby achieving the effect of "downsizing" the establishment. Secondly, lawyers have many different specialties. This is especially so for civil cases, in which many new specialties have emerged recently. It is impossible to find all such specialties among government counsels. Therefore, if outsourcing is implemented, the Department of Justice does not have to employ lawyers of all kinds of specialties in each division on a permanent basis, and all it needs to do in time of litigation is to seek the assistance of solicitors or barristers with the relevant specialty. Thirdly, the Government can enjoy better flexibility in the two following scenarios. When there are more cases, it can contract out more cases; when there are fewer cases, it can contract out fewer cases. And there is no need to retain so many in-house government counsels. Fourthly, there is a special feature in the legal profession, namely, there are two sides in litigation: the prosecution and the defence, especially in criminal cases. So there are two sides. If no cases are outsourced for a long time, some lawyers may only be doing the work of the prosecution, and some may just be doing the work of the defence. If this situation should continue, there will be no exchange between both sides, just because there are too many government counsels. In fact, the number of cases will not increase so quickly. So what will happen is: Less and less cases will be outsourced, but government counsels and lawyers in private practice will become two different teams, and there seems to be no communication between both. This is not a beneficial development for either side.

Sometimes when we do some law drafting work or work on the bills, we would find that (such as when we handled the Land Titles Bill in the last term) we need to know how the related laws would operate in the actual commercial context. So if government counsels keep working with government counsels, and lawyers in private practice keep working with lawyers in private practice, then such experience could not be reflected in the bill they draft. For this reason, such two-way or reciprocal exchanges are extremely important.

We can see that there are less and less outsourced magistracy cases. Although the Secretary for Justice told us that the number of outsourced cases had increased slightly, the overall situation still leaves much to be desired. During the past few years, we have enacted some legislation on indefinite terms of imprisonment and the terms of juvenile murderers. These prisoners may petition the Judges to pass them a definite term of imprisonment. This is an issue that has a bearing on personal freedom. We have read from the newspapers that the government counsels told the Courts that, as too many applications had been filed at the same time, the manpower of the Department of Justice became very much stretched all of a sudden. In fact, for cases that involve personal freedom and the timing of the release of these people, why must they be handled by in-house government counsels of the Department of Justice? Why can they not be contracted out? This is a point that very much merits our consideration.

Madam President, to put it simply, we certainly have some other avenues that can allow us to focus better on discussing the issue of outsourcing cases. However, regarding the situation mentioned by me, we can consider it as an example that illustrates how proper outsourcing may help the Government to "downsize" its establishment. However, when making the decision to contract out cases, we must have gone through the deliberation process in figuring out what is the best approach to handle the cases in question. I hope the Secretary for Justice can understand the rationale that, under such circumstances, good outsourcing of services will help the "downsizing" of the Department, and "downsizing" is an issue that some professional departments should consider with priority.

Madam President, I have made this point only to supplement the debate today. Thank you.

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

**MR JAMES TIEN** (in Cantonese): Madam President, we can see several themes from the wordings of today's original motion and amendments — requesting the Government to fully consult civil servants, to formulate a policy to stabilize their confidence, to boost their morale, and to ensure that all employees of the Government are given reasonable labour protection, and so on. Of course, no one will object on hearing these demands. However, a demand for giving a certain sector so-called reasonable labour protection is made only when it is felt that the sector is not treated reasonably. This motion moved by the FTU will impress others that Hong Kong civil servants are not protected — their working condition is deplorable, their pay is lower than that in the private sector, and all the allowances and benefits enjoyed by them are comparatively less favourable. Yet, is this really the case?

No one, including the Liberal Party, will deny the fact that Hong Kong has an excellent team of civil servants. Yet, however excellent the team is, money has to be well spent when it comes to administering a place. At present, civil servants can seek medical treatment at public hospitals free of charge. Neither are they required to apply for leave to seek medical consultation — many employees of the private sector are required to pay for medical consultation. Children of civil servants can receive free education. Being part of the community, civil servants are also wage earners. Of course, some civil servants of more senior levels are professionals and belong to the middle class; there are also a large number of grass-roots civil servants, who can be compared to the grass-roots staff in the business sector and private organizations. Is it really the case that, as commented by Miss CHAN Yuen-han, they are being treated so unreasonably that efforts have to be made to ensure that they are given reasonable labour protection?

According to an opinion survey conducted by the Hong Kong General Chamber of Commerce (HKGCC) two years ago by comparing civil servants and employees of most of the major companies under the HKGCC, the pay of civil servants was 40% higher. Other benefits, such as housing allowance, were even beyond comparison. The HKGCC already suggested the Government at that time to carry out its own survey should it consider the relevant figures incorrect. Now, two years have passed, the Government still lacks the courage

to carry out its own survey. What can it do should the figures really turn out to show such a huge gap with the private sector, compounded by deflation or pay rises over the past two years?

Even the Liberal Party appreciates the difficulty confronting the Government. The Basic Law has guaranteed that the civil service pay cannot be slashed to below the pre-1997 levels. Given that civil servants are still receiving higher pay than employees of the private sector by 30% to 40%, what can the Government do? As the Chief Executive had already agreed to the "0-3-3" package, the Liberal Party could only give its support eventually, albeit with reluctance. However, the actual situation is that the Government's estimated expenditure for 2004-05 stands at \$212.2 billion, with expenditure on civil servants and employees of subvented organizations accounting for 70%, or approximately \$150 billion. If the civil service pay level is really higher than that of the private sector by 30% to 40%, it would translate into a sum between \$30 billion and \$40 billion out of the \$150 billion.

If we look back and think, the Government has to distribute its resources to the entire community in order to achieve a balanced community. A discussion held on the second stage of slashing Comprehensive Social Security Assistance rates for the elderly and people with disabilities two weeks ago not only stirred up a heated controversy in the community, but also attracted a lot of views from Honourable colleagues from the social welfare sector. How much is involved? The answer is \$360 million, or just a little more than \$300 million. We have also talked about the new university reform, or the "3-3-4" model. How much additional spending will be incurred as a result of one extra year of university study? The answer is \$1.8 billion. The diesel duty of \$1.11 as proposed by Ms Miriam LAU will account for \$1.1 billion of loss in revenue to the coffers. I will now come to larger figures — tax revenue raised in order to cope with the deficit for the past two years. I very much share the view of Mr SIN Chung-kai. How much has been raised in terms of salaries tax levied on the middle class in the past two years? The answer is 1.5%, or \$6.8 billion. At the same time, profits tax saw a rise of 1.5%, or 3.5 billion. The two taxes represent \$6.8 billion and \$3.5 billion respectively. Other social issues of concern to Members of this Council add up to merely hundreds of millions of dollars, or \$2 billion at the most. If the \$30 billion spent on civil service pay can be saved (civil service pay is really higher than the pay of employees of the private sector), a number of problems can be resolved. As mentioned by Mr Howard YOUNG when he spoke on behalf of the Liberal Party, our current expenditure has been reduced from 23% to 22.5% of our GDP. In the absence

of expenditure on national defence and diplomacy, the proportion of our public expenditure as a share of GDP should stand at 18% to 20%. The Government has always maintained that it is trying to achieve this goal. Unless its current practice is changed, it will be impossible for the Government to achieve it in the foreseeable future.

But then, the Liberal Party would like to ask, "What can the Government do to make improvement, should it have a lot of money?" Miss CHAN Yuen-han is of the view that the current problem is caused by the deficit. In our opinion, however, regardless of whether there is a deficit problem, this issue has to be addressed. Back in the years 1998 and 1999, no one would take notice of this issue because the Government was extremely well-off. Now, the Government, short of money, has to raise taxes. Both the middle class and the business sector have to pay more tax. But then, the benefits of the socially disadvantaged group have to be slashed again, though only hundreds of millions of dollars can be saved in the end. In our opinion, the Government should examine the lion's share of its expenditure instead. Of course, it is another matter if the Government concludes that nothing can be done after completing its study. However, I disagree with the remark made by Miss CHAN Yuen-han on behalf of the FTU, that the Government has to ensure that all civil servants enjoy reasonable labour rights in saying that the pay of 180 000 civil servants and employees of subvented organizations is much lower than that of the ordinary members of society. This is indeed untenable.

From the angle of voters, however — I am no longer representing chambers of commerce; I am now a directly-elected Member of the New Territories East Constituency, and many of my voters are civil servants — I would like to express my sincere gratitude to some of the civil servants for still supporting us, although we are maintaining this position. For this reason, I believe civil servants do not think it is not necessary to address the issue. A better solution is: to determine the outsourcing of services according to the actual need. We feel that many obsolete allowances should be reviewed and scrapped in a legitimate manner. We do understand that it is difficult for the Government to deal with certain benefits stipulated in the contracts signed in the past. Broadly speaking, we hope the Government will address this issue again.

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

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): Mr WONG Kwok-hing, you may now speak on the three amendments. You have up to five minutes to speak.

**MR WONG KWOK-HING** (in Cantonese): Madam President, first of all, I would like to extend my sincere thanks to those Members who have spoken on this motion this evening. So altogether 27 Members have taken part in such a heated discussion. For their eloquence, I am most grateful. While I certainly welcome the amendments of Mr LEE Cheuk-yan and Mr CHEUNG Man-kwong, I cannot agree to the amendment of Mr Howard YOUNG. Having heard Mr Howard YOUNG deliver his speech, I became all the more convinced that his amendment, just as some civil service unions have put it, has a dagger concealed behind it.

Mr CHEUNG Man-kwong said that the reform was yesterday's story, and the issue was no longer relevant. However, from this evening's debate, we can clearly see that the reform is not yet over and is still relevant. The road of reform ahead of us is still full of many tough challenges. From this evening's debate, we can see that the Liberal Party, being the representative of the business sector, does not view civil service reform rationally. I would like to thank Mr CHEUNG Man-kwong and Mr LEE Cheuk-yan for moving their amendments. I feel that their amendments have very great complementary value to my original motion. Of course, some of their opinions may not be the same as mine, but I still think that I can recommend them to Members for support. As for the speech of Mr Howard YOUNG, it simply upset me. As for the speech of Mr James TIEN, it was an attempt to place the FTU's consistent correct propositions in conflict with the people of Hong Kong. To such opinions, I definitely cannot agree, and I think I must refute them.

Firstly, I think, through their speeches, they are trying to put civil service reform in confrontation with the interests of Hong Kong people, and they are trying to describe the pay and benefits of civil servants as the sole cause of the fiscal deficit, the sole factor in solving the fiscal deficit and is completely responsible for the heavy burden of the taxpayers, saying that they have brought about such a heavy burden to society. I feel that this is completely distorting the truth, putting the cart before the horse. In fact, the great remarks made by Long Hair this evening did have a point. He said that any judgement on the level of civil service pay as to it being too high or too low is a matter of relative

comparison. I find this remark very impressive. Many Honourable colleagues, including those from the engineering sector, legal sector, and so on, have in fact conveyed this viewpoint as well. We cannot examine this issue by looking at only one side of it. Therefore, I think it is unfair of the Liberal Party to describe the remuneration of civil servants as a burden, as the cause for Hong Kong's fiscal deficit and put the blame on them for the Government's inability to solve the fiscal deficit.

It is most puzzling to me that they have employed the simple mathematical approach of division in illustrating the problem. I trust that the governance of a society and an administration cannot be done by simply dividing the number of people by the number of civil servants. What is more, a Member commented that my original motion contained too many "cessations of policies". As a matter of fact, regarding the "cessations of policies", if you take a good look at my original motion, you will know that what I am saying is not to waste the resources, not to use the resources excessively, and not to do it across the board. All such practices should be stopped. We should be prudent in handling such issues. We are not demanding the Government to stop employing contract staff immediately. Instead, we are requesting the Government to live up to its original undertaking of implementing the "three-three system"; that is, an officer should be offered employment for three years on a trial basis, then offered a three-year contract, and then finally his employment should be converted to a permanent one. Besides, the original motion proposes that the Government should formulate a policy that can consolidate the confidence of the civil servants; this is actually the greatest reform, and should be the main direction of the reform. It is exactly because the SAR Government, ever since its establishment, has never formulated a comprehensive civil service policy that can consolidate the confidence of the people (*the buzzer sounded*), so the Government needs to consider this carefully. Thank you, Madam President.

**SECRETARY FOR THE CIVIL SERVICE** (in Cantonese): Madam President, I owe my thanks to Mr WONG Kwok-hing for moving this motion and Members who spoke just now for putting forward their views on civil service matters. The discussion today has fully reflected the importance the Legislative Council attaches to civil service policy. Members' views are indeed very valuable and can serve as future reference for formulation of civil service policy. I shall take a closer look afterwards.

If I am going to respond to all Members' views and queries, it might take over an hour. What I choose to do is make my speech in two parts. Since some of the Members here are new to the Legislative Council, I shall first give an overview of the civil service policy of the SAR Government. We have a clear set of civil service policy and a whole series of reform measures to underpin such policy. After that, I shall respond to the views expressed by Mr WONG Kwok-hing, Mr Howard YOUNG, Mr CHEUNG Man-kwong and Mr LEE Cheuk-yan in their motion and amendments to motion as well as suggestions made by some Members. Owing to time constraint, I might not be able to respond to all your points. But I am sure that in future we shall have more opportunities to strengthen communication, at meetings of either the Legislative Council here or the panel relating to public service.

First of all, the Chief Executive has stressed on various occasions that the Civil Service is a cornerstone of the effective governance of the SAR Government. The tremendous contributions made by the Civil Service have enabled us to experience a smooth transition upon reunification and Hong Kong to enjoy the status as Asia's world city. The achievements of our Civil Service have in fact earned recognition and acclaim both within and beyond the region. Some Members have also given praises to them earlier.

Our Civil Service is a valuable asset of Hong Kong. So it goes without saying that the Government cherishes the contribution of civil servants and will endeavour to maintain a quality Civil Service. Contrary to what a few Members claimed, the Government has never encouraged the media to discredit the Civil Service. I have stated this categorically before and this has to be put on record today. Common sense tells us that such beliefs carry no truth. The Government and the Civil Service have all along been working hand in hand together. So why should the Government take the lead to blemish the most valuable asset of our society? The SAR Government has a set of well-established civil service policy. We are committed to maintaining a clean and efficient Civil Service that strives for excellence to implement the policy of the Government as well as provide cost-effective and quality services for the community. This policy is fit for the present-day circumstances as well as in the long run. In putting this policy into force, we strictly abide by four principles:

- (a) Civil service policy must be in line with the governance direction of the SAR Government as well as the overall interests of the community.

- (b) The distinct qualities of the civil service system such as permanence, professionalism, political neutrality and uncorrupt administration must be preserved and enhanced.
- (c) The civil service system must be kept under regular review to ensure that it keeps abreast of the present-day circumstances.
- (d) Civil service initiatives must be implemented on the basis of lawfulness, reasonableness and fairness and upon thorough staff consultation.

When discussing civil service policy, two premises must not be overlooked. First, civil service policy cannot be treated as an isolated issue and it must synchronize with other government policies. For instance, when the Government sets a definite target to restore fiscal balance, we need to consider what contribution can be made by the Civil Service as far as expenditure and staffing are concerned. I must however clarify that this does not imply or mean that the Government is holding the Civil Service responsible for the fiscal deficit. Another scenario is, when the Chief Executive announces "big market, small government" as a principle of governance, we need to study what measures can facilitate private sector participation in the provision of public services and what corresponding changes should be made to the civil service structure. All in all, as Mr CHIM Pui-chung and some other Members have said, civil servants should render full support to the implementation of government policies and take pride from it.

Second, civil service policy must reflect the overall interests of society and respond to the needs of the community. Therefore, before any measure affecting the interests of civil servants is implemented, we must undertake full consultation with the staff and listen to the views of the Legislative Council as well as the community. In this process, various parties, with different points of view or on different bases of vested interests, are bound to express diverse or even opposing or conflicting opinions. The debate just now is already an illustration of this. It is almost impossible for the Government's final decision to win the entire support of all civil servants, Legislative Council Members or members of the community. This is the case when adjusting civil service pay by legislative means and will probably prevail in the future review of allowances. Regarding the review of civil service allowances, I shall respond to this afterwards. Madam President, I have come to accept the reality that it is always

politically correct to criticize the performance of the Secretary for the Civil Service for having fallen short of expectation.

To carry out the abovementioned policies and principles and to ensure that Hong Kong continues to have a progressive and world-class Civil Service, we must keep the civil service system under review. For this reason, the SAR Government has been carrying out civil service reform since 1999 and considerable achievements have already been scored. For instance, as mentioned by some Members just now, the civil service establishment has been streamlined from about 198 000 to the present level of 168 000. Besides, we have introduced the provident fund schemes to replace pension schemes and this helps us achieve substantive long-term savings. Through two stages of pay adjustments, we shall bring back civil service pay to 1997 level in dollar terms. Indeed, our reform goes beyond manpower and remuneration matters. Procedures for handling disciplinary cases and persistent substandard performers have been streamlined and we have imposed heavier punishment on officers with underperformance or misconduct. The reform also reinforces civil service training. We encourage online learning and shall increase secondment opportunities in the Mainland or overseas.

Now I would like to express my views on the motion moved by Mr WONG Kwok-hing and the three amendments subsequently proposed. Actually, the suggestions made by these four Members have two common themes. First, it is their wish that the Government can formulate civil service policy that can boost the confidence and morale of civil servants. Second, they hope that an outstanding and efficient Civil Service can promote the prosperity of our society and the development of our SAR. The Civil Service Bureau has indeed been working towards these two goals, which I am absolutely in support of.

Mr LEE Cheuk-yan suggested aborting the target of reducing the civil service establishment to 160 000. I find it hard to give my support. In his policy address, the Chief Executive has clearly set this target which tallies with the public expectation of downsizing the Government in view of a consistently large fiscal deficit. Despite this, we have pledged not to force any civil servant to leave the service through redundancy plan. Another point I wish to make is, our prevailing general civil service recruitment freeze also facilitates departments to streamline manpower resources.

In response to the query raised by Ms Audrey EU, the general recruitment freeze in fact has flexibility. Exemption will be granted provided that heads of

departments see genuine needs to recruit from outside the Civil Service. Over the past year, we have granted approval to certain disciplined and civilian grades to recruit over 600 civil servants. If any head of department, including the Secretary for Justice, has a justified need for external recruitment, then we may consider or even approve his application under the existing mechanism.

In their amendments to motion, Mr Howard YOUNG and Mr CHEUNG Man-kwong suggested that the Government should consult the public when formulating civil service policy. Mr YOUNG also made an unequivocal request that the Government should balance public interests. I fully agree that in devising civil service policy or measures, we need to take public opinion into full account. I hope that in future, Members can help us achieve the best balance by offering their wisdom on issues like pay level survey and review on allowances.

Mr CHEUNG Man-kwong requested the Government to strengthen the protection for non-civil service contract (NCSC) staff in terms of job security and remuneration. I wish to point out that as a good employer, the Government has already drawn up detailed guidelines on the scope of work, terms of appointment and remuneration package of NCSC staff and heads of departments must follow. As a general principle, the terms of appointment for NCSC staff must not be inferior to those offered in the market or stipulated by the Employment Ordinance. Departments can employ NCSC staff only when the situation so justifies and must review the situation regularly.

Mr WONG Kwok-hing calls for the cessation of indiscriminate outsourcing of services and review of the financial envelope system. As a matter of fact, we do not allow discriminate outsourcing by any department. From mid-2004 onwards, we stipulate that the pay offered to non-skilled workers on NCSC terms should not be lower than the prevailing market pay for that particular job category as indicated by the relevant survey of the Census and Statistics Department. I would like to emphasize that the Government has not resorted to forced redundancy because of outsourcing.

The financial envelope system aims at allowing bureaux or departments greater flexibility in deploying resources within their own operating expenditure envelopes. With the target of resuming fiscal balance by 2008-09, the resources allocated to each bureau will inevitably be less than before. As the Financial Secretary has stressed openly, the Government will not take an across-the-board approach in reducing resources.

From an objective point of view, the amendment to motion proposed by Mr Howard YOUNG stresses that the civil service policy formulated by the Government should have regard for the present-day circumstances as well as public interests. He urges the Government to optimize the use of public money and improve the efficiency of the Civil Service. He also finds it vital to boost the confidence and morale of the Civil Service. Though I may not entirely agree with what he has just said, from an objective point of view, I can see the positive side of his amendment and consider it worthy of our support.

Now I turn to views expressed by some of the Members because I see the urgency to clarify these points. Mr WONG Kwok-hing mentioned the review of hardship allowance payable to staff of the Food and Environmental Hygiene Department. Let me explain that the review is still in progress and the Government has not yet come to any decision.

This is not the first time Mr LEE Cheuk-yan has suggested introducing the right to collective bargaining to the Civil Service. I am afraid once again, the Government has to reject this view. First of all, civil service policy is not the outcome of collective bargaining just between the employer and employees. We must consider the opinion of the public, including the Legislative Council. Second, we already have an elaborate consultation mechanism in place. Before we implement any policy affecting the Civil Service, we need to consult staff thoroughly.

Mr CHEUNG Man-kwong has again, in his usual passionate and moving tone, criticized me for exploiting the lower-rank while shielding the higher-rank. Actually on behalf of the senior officers, I have something fair and just to say. First, the remuneration of all grades and ranks have to be scrutinized by the Government, approved by the independent advisory bodies on civil service salaries and conditions of service, and endorsed by the Legislative Council. The problem of shielding simply does not exist. As a matter of fact, it is impossible to act in favour of any grade or rank without causing great repercussion within the Civil Service.

Both Mr CHEUNG Man-kwong and Mr KWOK Ka-ki mentioned review of civil service allowances. I would not discuss the issue here because the consultation paper has not yet been released. It is just that there has already been certain speculations by the media. I hope that you will grasp the truth and

refrain from jumping to a hasty conclusion that we are shielding senior officers. Apart from expatriates who joined the service before 1984, senior and directorate officers recruited afterwards are not entitled to sea passage (that is, ship allowance). Second, for overseas education allowance, there are currently some 5 000 recipients, out of some 130 000 eligible civil servants. Most of them are at middle and lower ranks. Provision of furniture and domestic appliances or the relevant allowances is not a privilege enjoyed solely by directorate staff. At present, 24 000 civil servants (Appendix 1), including lower-rank officers from the much-admired disciplined forces, are enjoying this benefit. We shall look into this again in future.

In undertaking reviews of civil service pay and allowances, we shall definitely ensure fairness and reasonableness. There will be no bias for any grade or rank. Mr LEUNG Kwok-hung just now suggested that Directors of Bureaux, including me, should take the lead if civil service pay has to be further reduced. I completely agree with him. In fact, in 2002 when we first introduced a pay cut, the pay of all Directors of Bureaux was reduced by 4.42%, which is the largest reduction among civil servants. For the "0-3-3" pay reduction plan which you always hear of, the largest reduction amounts to about 6% and phase two reduction will take effect in January 2005. Actually, in April 2003, the pay of all Directors of Bureaux was already cut by 10%, more than the cut under the "0-3-3" plan. I fully agree that in certain situations, senior public officers should take the lead and set an example.

Madam President, I have already spoken for 20 minutes and it is time for a conclusion. I certainly appreciate Members' concern over the stability and morale of the Civil Service. To ensure stability and boost morale is actually a focus of our civil service policy. I believe the public would like to see our Civil Service seek constant improvement and strive for excellence. For this reason, we shall carry on with our civil service reform to further enhance the civil service system, though the pace might need to be refined in the light of the current situation. Over the course of reform, we might not be doing to the satisfaction of all, but we are willing to adapt when necessary. It is imperative that we insist on our direction of reform, otherwise the world-class Civil Service that we always take pride in will be shaken. I understand fully the worries of some of the civil servants. But let us bear in mind that day in day out, our civil servants spare no effort to deliver more and better services to the community. After reunification, opinion polls indicate that the efficiency of our Civil Service

receives the high acclaim of the community. To ensure a high level of integrity, we are dedicated to maintaining a clean Civil Service. For instance, according to the latest figures released by the Independent Commission Against Corruption, reports against malpractices involving government departments in the first eight months of this year showed a drop of 17% over a year earlier. I therefore hope that you will look at the situation from a wider perspective, instead of magnifying the issue of low morale among civil servants.

Finally, I must reiterate that in the course of reform, it is incumbent on us to strike a balance between the interests of the community and those of the Civil Service. I am confident that on the principle of lawfulness, reasonableness and fairness, all issues can be solved with the widest possible consensus provided that we fully consult the staff and pay heed to the opinions of the Legislative Council as well as the public. Thank you.

**PRESIDENT** (in Cantonese): I now call upon Mr LEE Cheuk-yan to move his amendment to the motion.

**MR LEE CHEUK-YAN** (in Cantonese): Madam President, I move that Mr WONG Kwok-hing's motion be amended, as set out on the Agenda.

**Mr LEE Cheuk-yan moved the following amendment: (Translation)**

"To add "that, subject to compliance with the requirements of the International Labour Convention Nos. 98 and 151," after "That this Council urges"; to delete ", on the basis of full consultation with civil servants, to formulate" after "the Government" and substitute with "discuss with civil service unions the formulation of"; to delete "cease employing temporary staff in place of permanent staff; and" after "(b)" and substitute with "resume the recruitment of civil servants; (c) abort the target of reducing the civil service establishment to 160 000 by 2006-07, and determine the civil service establishment according to actual needs; and"; to delete (c)" and substitute with "(d)"; to delete ",," after "civil service pay" and substitute with "and"; and to delete "and establishment" after "benefits"."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr LEE Cheuk-yan to Mr WONG Kwok-hing'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.

(Members raised their hands)

Mr LEE Cheuk-yan rose to claim a division.

**PRESIDENT** (in Cantonese): Mr LEE Cheuk-yan has claimed a division. The division bell will ring for three minutes, and then we shall proceed to the division.

**PRESIDENT** (in Cantonese): Will Members please proceed to vote. Mr Albert CHENG, please cast your 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:

Ms LI Fung-ying, Mr WONG Kwok-hing, Dr KWOK Ka-ki, Dr Fernando CHEUNG and Mr KWONG Chi-kin voted for the amendment.

Dr Raymond HO, Dr LUI Ming-wah, Mr Bernard CHAN, Dr Philip WONG, Mr WONG Yung-kan, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Abraham SHEK, Mr Vincent FANG, Mr Daniel LAM, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong and Mr Patrick LAU voted against the amendment.

Ms Margaret NG, Mr CHEUNG Man-kwong, Mr SIN Chung-kai and Miss TAM Heung-man abstained.

**Geographical Constituencies:**

Mr LEE Cheuk-yan, Miss CHAN Yuen-han, Mr LEUNG Yiu-chung, Mr Albert CHAN, Mr Frederick FUNG, Mr LEUNG Kwok-hung and Mr Albert CHENG voted for the amendment.

Mr James TIEN, Mr CHAN Kam-lam, Mr Jasper TSANG, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr TAM Yiu-chung, Mr LI Kwok-ying and Mr CHEUNG Hok-ming voted against the amendment.

Mr Albert HO, Mr Martin LEE, Mr Fred LI, Mr James TO, Dr YEUNG Sum, Ms Emily LAU, Mr Andrew CHENG, Ms Audrey EU, Mr LEE Wing-tat, Mr Alan LEONG and Mr Ronny TONG abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 24 were present, five were in favour of the amendment, 15 against it and four abstained; while among the Members returned by geographical constituencies through direct elections, 27 were present, seven were in favour of the amendment, eight against it and 11 abstained. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negatived.

**MS MIRIAM LAU** (in Cantonese): Madam President, I move that in the event of further divisions being claimed in respect of the motion on "Civil service policy" 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, 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 "Civil service policy" 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 CHEUNG Man-kwong, you may move your amendment.

**MR CHEUNG MAN-KWONG** (in Cantonese): Madam President, I move that Mr WONG Kwok-hing's motion be amended, as printed on the Agenda.

**Mr CHEUNG Man-kwong moved the following amendment: (Translation)**

"To add "and the public" after "consultation with civil servants"; to delete "a policy" after "to formulate" and substitute with "policies"; to add "and ensure that all employees of the Government are under reasonable labour protection" after "to boost their morale"; to delete "before formulating such a policy" after "and that the Government should," and substitute with "at the same time as it formulates such policies"; and to delete ", contractization of staff employment and indiscriminate outsourcing of services; (b) cease employing temporary staff in place of permanent staff; and (c) review the policy of imposing operating expenditure envelopes across the board and the practice of reducing civil service pay, benefits and establishment, so as to consolidate public confidence, give impetus to healthy social interactions, promote social prosperity and help build up the Hong Kong Special Administrative Region" after "(a) cease the corporatization of departments" and substitute with "; (b) ensure that the employment of persons outside the pensionable establishment, including those employed on contract terms as well as under outsourced service contract, is not done indiscriminately to replace staff on the pensionable establishment, and enhance the protection for staff employed on non-civil service terms in regard to their posts, pay and benefits; (c) formulate a policy, with restrictions and time limits, on the employment of temporary staff to prevent exploitation by the Government in the name of flexibility; (d) review the policy on civil service pay and benefits; and (e) draw up a reasonable and appropriate establishment of public servants". "

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr CHEUNG Man-kwong to Mr WONG Kwok-hing'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.

(Members raised their hands)

Mr CHEUNG Man-kwong rose to claim a division.

**PRESIDENT** (in Cantonese): Mr CHEUNG Man-kwong has claimed a division. This Council will proceed to the division immediately after the division bell has been rung for one minute.

**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:

Dr Raymond HO, Ms Margaret NG, Mr CHEUNG Man-kwong, Mr SIN Chung-kai, Mr WONG Yung-kan, Ms LI Fung-ying, Mr WONG Kwok-hing, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Mr WONG Ting-kwong, Mr Patrick LAU and Mr KWONG Chi-kin voted for the amendment.

Dr LUI Ming-wah, Mr Bernard CHAN, Dr Philip WONG, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Daniel LAM, Mr Jeffrey LAM and Mr Andrew LEUNG voted against the amendment.

Miss TAM Heung-man abstained.

**Geographical Constituencies:**

Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Miss CHAN Yuen-han, Mr CHAN Kam-lam, Mr LEUNG Yiu-chung, Dr YEUNG Sum, Mr LAU Kong-wah, Ms Emily LAU, Miss CHOY So-yuk, Mr Andrew CHENG, Mr TAM Yiu-chung, Mr Albert CHAN, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Mr LI Kwok-ying, Mr Alan LEONG, Mr LEUNG Kwok-hung, Mr CHEUNG Hok-ming, Mr Ronny TONG and Mr Albert CHENG voted for the amendment.

Mr James TIEN voted against the amendment.

Mr Jasper TSANG abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 24 were present, 12 were in favour of the amendment, 11 against it and one abstained; while among the Members returned by geographical constituencies through direct elections, 27 were present, 24 were in favour of the amendment, one against it and one abstained. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negatived.

**PRESIDENT** (in Cantonese): Mr Howard YOUNG, you may move your amendment now.

**MR HOWARD YOUNG:** Madam President, I move that Honourable WONG Kwok-hing's motion be amended, as set out on the Agenda.

**Mr Howard YOUNG moved the following amendment: (Translation)**

"To add "and the public" after "full consultation with civil servants"; to add "civil service" after "to formulate a"; to add "that fits present-day circumstances while, at the same time, taking into account the need" after "policy"; to delete "so as to" after "confidence of civil servants" and substitute with ", "; to delete ", and that" after "boost their morale" and substitute with "and balance public interests, hence"; to delete ", before formulating such a policy" after "the Government should" and substitute with "carefully examine the effectiveness of the following policies"; to delete "cease" after "(a)"; to delete "indiscriminate" after "staff employment and"; to delete "cease employing" after "(b)" and substitute with "the employment of"; to delete "review" after "(c)"; to delete "across the board and the practice of reducing" after "operating expenditure envelopes" and substitute with "and the arrangements in respect of"; and to delete "consolidate public confidence" after "so as to" and substitute with "optimize the use of public funds, enhance the efficiency of the civil service"."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr Howard YOUNG to Mr WONG Kwok-hing'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.

(Members raised their hands)

Mr CHAN Kam-lam rose to claim a division.

**PRESIDENT** (in Cantonese): Mr CHAN Kam-lam has claimed a division. The division bell will ring for one minute.

**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:**

Dr Raymond HO, Dr LUI Ming-wah, Ms Margaret NG, Mr Bernard CHAN, Dr Philip WONG, Mr WONG Yung-kan, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Daniel LAM, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong and Mr Patrick LAU voted for the amendment.

Mr CHEUNG Man-kwong, Mr SIN Chung-kai, Ms LI Fung-ying, Mr WONG Kwok-hing, Dr Fernando CHEUNG and Mr KWONG Chi-kin voted against the amendment.

Dr KWOK Ka-ki and Miss TAM Heung-man abstained.

**Geographical Constituencies:**

Mr James TIEN, Mr CHAN Kam-lam, Mr LAU Kong-wah, Ms Emily LAU, Miss CHOY So-yuk, Mr TAM Yiu-chung, Ms Audrey EU, Mr LI Kwok-ying, Mr Alan LEONG, Mr CHEUNG Hok-ming and Mr Ronny TONG voted for the amendment.

Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Miss CHAN Yuen-han, Mr LEUNG Yiu-chung, Dr YEUNG Sum, Mr Andrew CHENG, Mr Albert CHAN, Mr Frederick FUNG, Mr LEE Wing-tat, Mr LEUNG Kwok-hung and Mr Albert CHENG voted against the amendment.

Mr Jasper TSANG abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 25 were present, 17 were in favour of the amendment, six against it and two abstained; while among the Members returned by geographical constituencies through direct elections, 27 were present, 11 were in favour of the amendment, 14 against it and one abstained. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negated.

**PRESIDENT** (in Cantonese): Mr WONG Kwok-hing, you may now reply and you have four minutes 49 seconds.

**MR WONG KWOK-HING** (in Cantonese): Madam President, I would like to tender my sincere thanks once again to Members for participating in such a heated discussion. I have moved this motion debate just to illustrate that the formulation of civil service policy is not striving narrowly for the interests of civil servants, nor is it narrowly about labour relations. This subject involves the overall interests of the Hong Kong community as a whole, and in fact this also has something to do with the interests of the business sector. The crux of the matter lies in whether or not we can look at the problem from a holistic perspective and in the interest of society as a whole. Civil servants do not oppose reforms, and in fact they support reforms. Therefore, we should not look at civil servants or civil service unions through tinted glasses. In fact, they have made a lot of positive and detailed suggestions on the civil service reform. This is the first point I would like to make.

Secondly, I must respond to Secretary Joseph WONG. He started his speech by saying that the Government has a clear set of civil service policy. I think he had presented his ideas very eloquently in his speech which lasted for 20 minutes or so. But this remark was the only exception, to which I must disagree. If the Government already has a clear set of policy, we would not have three amendments today, nor would 27 Members have to express their opinions for four hours. Members' forceful expression of views on the subject fully illustrates that there are problems with the policies of the Government.

Our speeches fully illustrate that the SAR Government must address squarely the aspirations of Members, civil servants and civil service unions.

Thirdly, I think we can feel satisfied with the discussion this evening. I wish to compare it to *Outcry* (吶喊), a literary work of LU Xun. I think most Members, with the exception of those from the Liberal Party, have spoken in full conscience on the existing problems and to air the grievances for the civil servants. I feel that this is exactly what LU Xun has said: That we have spoken from the bottom of our heart for righteousness and genuine fairness.

Our speeches have unveiled different aspects of the reality, having criticized all sorts of efforts to degrade, to divide, to vilify, to weaken the Civil Service, which aim at dealing heavy blows to the dignity and morale of the Civil Service. Members have in particular pointed out that front-line and grass-roots civil servants, who have the least bargaining power, are in fact facing impoverishment. The major reason for such impoverishment is the Government's outsourcing policy. A cleaning worker of the Food and Environmental Hygiene Department earns less than \$4,000 a month. Secretary, are you aware of this fact? Honourable colleagues of the Liberal Party, do you know this truth?

We are now unveiling such facts to the world. Are we going to allow such conditions to continue existing in Hong Kong? Is this a true reflection of Hong Kong's success? As such, even though the motion debate of this evening may end up naught, I still hope that the Secretary will not act like an ostrich by burying his head in the sand. He must address squarely the questions and aspirations put forward by Members. I hope he can hear the "outcry" made by us on behalf of the civil servants, and I also hope that the Chief Executive can really hear that as well. If the Government still does not properly consider, design, plan, and study a set of civil service policies that can consolidate the confidence of civil servants, it will eventually suffer the bad consequences.

With these remarks, I urge Members to support my original motion. Thank you, Madam President.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by Mr WONG Kwok-hing, as set out on the Agenda, be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Mr Howard YOUNG rose to claim a division.

**PRESIDENT** (in Cantonese): Mr Howard YOUNG has claimed a division. The division bell will ring for one minute.

**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 WONG Yung-kan, Ms LI Fung-ying, Mr WONG Kwok-hing, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Mr WONG Ting-kwong and Mr KWONG Chi-kin voted for the motion.

Dr Raymond HO, Dr LUI Ming-wah, Mr CHEUNG Man-kwong, Mr Bernard CHAN, Mr SIN Chung-kai, Dr Philip WONG, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Daniel LAM, Mr Jeffrey LAM, Mr Andrew LEUNG and Mr Patrick LAU voted against the motion.

Ms Margaret NG and Miss TAM Heung-man abstained.

Geographical Constituencies:

Mr LEE Cheuk-yan, Miss CHAN Yuen-han, Mr CHAN Kam-lam, Mr LEUNG Yiu-chung, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr TAM Yiu-chung, Mr

Albert CHAN, Mr Frederick FUNG, Mr LI Kwok-ying, Mr LEUNG Kwok-hung, Mr CHEUNG Hok-ming and Mr Albert CHENG voted for the motion.

Mr James TIEN, Mr Albert HO, Mr Martin LEE, Mr Fred LI, Mr James TO, Dr YEUNG Sum, Ms Emily LAU, Mr Andrew CHENG and Mr LEE Wing-tat voted against the motion.

Mr Jasper TSANG, Ms Audrey EU, Mr Alan LEONG and Mr Ronny TONG abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 25 were present, seven were in favour of the motion, 16 against it and two abstained; while among the Members returned by geographical constituencies through direct elections, 27 were present, 13 were in favour of the motion, nine against it and four abstained. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the motion was negatived.

#### **NEXT MEETING**

**PRESIDENT** (in Cantonese): I now adjourn the Council until 2.30 pm on Wednesday, 3 November 2004.

*Adjourned accordingly at seven minutes past Eleven o'clock.*

**Appendix 1**

**REQUEST FOR POST-MEETING AMENDMENTS**

**The Secretary for the Civil Service requested the following post-meeting amendment**

**Line 8, first paragraph, page 170 of the Confirmed version**

To amend "At present, 24 000....." as "At present, 26 000....." (Translation)

(Please refer to line 8, first paragraph, page 885 of this Translated version)