

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 2 May 2007

The Council met at Eleven 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

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

THE HONOURABLE MARGARET NG

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

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE CHEUNG MAN-KWONG

THE HONOURABLE CHAN YUEN-HAN, J.P.

THE HONOURABLE BERNARD CHAN, G.B.S., J.P.

THE HONOURABLE CHAN KAM-LAM, S.B.S., 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 CHIN-SHEK, J.P.

THE HONOURABLE LAU KONG-WAH, J.P.

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

THE HONOURABLE ANDREW CHENG KAR-FOO

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

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, S.B.S., 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., J.P.

DR THE HONOURABLE JOSEPH LEE KOK-LONG, J.P.

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

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

PROF 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

MEMBER ABSENT:

THE HONOURABLE MA LIK, G.B.S., J.P.

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

PROF THE HONOURABLE ARTHUR LI KWOK-CHEUNG, G.B.S., J.P.
SECRETARY FOR EDUCATION AND MANPOWER

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

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

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

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 VIVIAN KAM NG LAI-MAN, ASSISTANT SECRETARY GENERAL

MRS JUSTINA LAM CHENG BO-LING, 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>
International Organizations (Privileges and Immunities) (United Nations and Associated Personnel) Order.....	60/2007
Fugitive Offenders (Safety of United Nations and Associated Personnel) Order	61/2007
Road Traffic (Traffic Control) (Addition of Traffic Signs) Regulation 2007	62/2007
Fire Safety (Buildings) Ordinance (Commencement) Notice	63/2007

Other Papers

Report of the Bills Committee on Accreditation of Academic and Vocational Qualifications Bill

Report of the Bills Committee on Employment (Amendment) Bill 2006

ORAL ANSWERS TO QUESTIONS

PRESIDENT (in Cantonese): Questions. First question.

Public Transport Fare Adjustments

1. **MR ANDREW CHENG** (in Cantonese): *Regarding the fare adjustments of public transport, will the Government inform this Council:*

- (a) *of the principles it has adopted for vetting and approving fare increase applications made by public transport operators, and whether it had rejected any of such applications in the past 10 years; if it had, of the operator involved and the reasons for rejection for each case;*
- (b) *whether it had, in the past 10 years and in the capacity as the largest or the sole shareholder, directed or requested the MTR Corporation Limited and the Kowloon-Canton Railway Corporation (the two railway corporations) to lower their fares in line with deflation; if it had, of the relevant details; if it had not, the reasons for that; and*
- (c) *whether it plans to remain, on a long-term basis, as the majority shareholder in the two railway corporations, in order to retain its influence on matters such as fare determination, which involve significant public interest; if not, of the relevant details?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): President,

- (a) the Government considers a basket of factors when assessing fare adjustment applications from public transport operators. In general, this includes changes in operating costs and revenue of the operators, their financial performance, public acceptability and affordability, and the quality and quantity of service provided. In particular for franchised buses, the Chief Executive in Council endorsed a new fare adjustment mechanism on 10 January 2006 which introduced a formula as an additional factor. This new mechanism enables bus fares to be adjusted upwards and downwards in response to prevailing economic conditions, and improves the objectivity of the fare adjustment process.

Of the public transport fare increase applications processed by the Transport Department in the past 10 years, 17 applications involving 34 green minibus routes were rejected. The rejections were made on the ground that the financial conditions of these routes could continue to support their operation.

As for railways, since railway operation involves huge capital investment, both the Kowloon-Canton Railway Corporation (KCRC) and the MTR Corporation Limited (MTRCL) have autonomy to determine their own fares under the Ordinance or the Operating Agreement. They are not required to submit applications to the Government for fare adjustment. For the period from 1997 to 2006, both corporations increased their fares in 1997, and have frozen the fares since then taking into account the social and economic conditions.

- (b) It has always been the Government's advice for the railway corporations to take into account public acceptability and the need to strike a balance between their operating conditions and market competition when setting their fares. Public transport operators, including the two railway corporations, are also encouraged to introduce concessionary measures to passengers having regard to their respective operating conditions in order to alleviate the burden of travelling expenses on the public. Both the MTRCL and the KCRC enjoy fare setting autonomy. In accordance with the spirit and system of free enterprise, the Government will not direct the two corporations on how to set fares as these are commercial decisions. This is in line with the requirement for the two railway corporations to operate according to prudent commercial principles. The corporations are also governed by independent Boards of Directors and managed by professional management teams which on one hand ensure that the railway corporations will provide efficient services and on the other hand obviate the need for the Government's subsidy on their operation, thereby protecting the public interest.
- (c) In 2000 when the MTRCL was listed, the Government undertook to remain the major shareholder of the Corporation and to continue to hold the legal and beneficial interest in not less than 50% of the ordinary share capital of the Corporation and not less than 50% of the voting rights at annual general meetings of the Corporation for at least 20 years from the date of listing. This undertaking will not be altered as a result of the rail merger. It reflects the Government's commitment to the continuous development of railway system and shows local and overseas investors as well as credit rating agencies

that the Government is determined to support the Corporation in its continuous provision of quality railway services and expansion of the transport infrastructure. The Government's support is an important factor in maintaining the Corporation's credit rating and can reduce its costs of borrowing. At present, the Government holds approximately 76% of the Corporation's share. Regarding the KCRC, the Government, as its sole shareholder, has no intention to change the *status quo* after the rail merger.

As a matter of fact, though the two rail corporations enjoy fare setting autonomy, they are obliged to operate according to prudent commercial principles. Fare adjustment is a commercial decision for the railway corporations to be approved by the Board of Directors/Managing Board, rather than for the major shareholder.

MR ANDREW CHENG (in Cantonese): *Madam President, for example, in the Managing Board of the KCRC, which is wholly owned by the Government, the Secretary as the government representative once asked the top managers of the railway corporation not to further increase their salaries or accept any bonus in view of the recent "mutiny" and various service interruptions. But no one listened to her. As for the setting of fares, the main reply mentions that the Government will only offer advice and encouragement. As a result, despite the cumulative deflation rate of 10% over all these years, none of the railway corporations has been willing to introduce any fare reduction. Secretary, under the existing policy The two railway corporations will merge pretty soon, so will the Secretary exercise the Government's power and request the single railway corporation in the future not to increase its fares at least during the first two years after the passage of the legislation? This is precisely a resolution passed by the Bills Committee on Rail Merger Bill.*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): Mr CHENG has in fact answered his own supplementary question because, as also mentioned in my main reply, the two railway corporations enjoy fare setting autonomy under the law. And, as a listed corporation, the MTRCL is required to operate according to prudent commercial principles, therefore, fare adjustments are the commercial decisions of the two

railway corporations. Their Boards of Directors are responsible for vetting and approval, and the Government cannot issue any orders to them.

MR RONNY TONG (in Cantonese): *President, it seems that the Government has made it very clear that as a shareholder of the MTRCL, it will not do anything to induce the railway corporation to improve its services and maintain fares at reasonable levels. And, it must also be noted that the provisions of the Mass Transit Railway Corporation Ordinance and the Operating Agreement are all about general principles only. Regarding the actual operation of the MTRCL, will the Government please inform this Council what specific measures it has to induce the railway corporation to respond positively to people's aspirations, one example being our request for the provision of half-fare concession to people with disabilities? At various meetings, the Government replied that it found this request basically reasonable. But this is just lip-service. Are there any specific measures to make the MTRCL respond positively to people's aspirations?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): Naturally, as a shareholder of the MTRCL or the KCRC, we can give our advice, and we have in fact been doing precisely this. In the past, from 2000 to 2004 and even 2005, when Hong Kong was caught in deflation and poor economic conditions, we did request the MTRCL to review the situation and examine whether or not there were any ways to relieve people's burden. One of the measures was the provision of various concessions, such as fare concession, a 20% discount on return fares, and the monthly tickets issued by the KCRC. And, fare concessions were offered to the elderly in some cases. As a matter of fact, a considerable number of concessions were introduced in the past few years under such measures, and they were maintained for prolonged periods. These measures were introduced by the two railway corporations in response to Hong Kong's economic conditions, as a means of relieving people's plight.

In regard to people with disabilities, the two railway corporations will offer free rides to them on the International Day of Disabled Persons every year, with a view to encouraging them to integrate into society. As for barrier-free access, the two railway corporations have also invested hundreds of millions dollars in providing various facilities to people with disabilities, so that they can

travel freely on modes of public transport without any hindrance. The topic under discussion, that is, the provision of further fare concessions to people with disabilities, involves both welfare and transport policies, so the two Bureaus concerned have already set up a working group on the matter. There are now some preliminary responses and findings. We are currently holding discussions with various public transport operators (because if the welfare policy is also involved, we must approach not only the two railway corporations but also all public transport operators). For the sake of fairness, we must also consider all the major public transport operators. We are currently doing all these things.

MR RONNY TONG (in Cantonese): *President, the Secretary has not answered my supplementary question actually. My supplementary question is: Apart from persuasion, are there any concrete measures? Will the Government consider the possibility of answering people's aspirations through the enactment of legislation, for example? The Government has not replied to this question. All the time, the Government has been talking only about persuading the MTRCL.*

PRESIDENT (in Cantonese): You need not comment on her reply. Secretary, do you have anything to add?

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): President, in my main reply, there is already an answer to this question. Since the MTRCL is a listed corporation in Hong Kong and we must respect free economy, what the Government can do is limited. Policy-wise, the Government is certainly very clear that its degree of participation in transport alignments and construction planning can be very great. But when it comes to actual operation, we must respect the operation of the free market. That being the case, how can we strike a balance? Invariably, we must seek to do so by holding negotiations and forging a consensus.

PRESIDENT (in Cantonese): Ten Members are waiting for their turns to ask supplementary questions. Will Members please be as concise as possible when asking supplementary questions, so that more Members can ask theirs.

MR LEUNG KWOK-HUNG (in Cantonese): *Part (b) of the Secretary's main reply says, " In accordance with the spirit and system of free enterprise, the Government will not direct the two corporations on how to set fares as these are commercial decisions." Then, the last paragraph of part (c) says, "Fare adjustment is a commercial decision for the railway corporations to be approved by the Board of Directors/Managing Board, rather than for the major shareholder." The Board of Directors and Managing Boards are composed of shareholders, right? And, since the Government is the major shareholder, may I ask why it is impossible for the Government to control the Board of Directors and Managing Board? Let us look at The Link Management. The foreign hedge funds can control their Board of Directors and adopt radical strategies to "make money". Given that the Government acted on behalf of Hong Kong people and made use of our public money to become a shareholder of the MTRCL, why is it impossible for it to adopt a more radical approach, so as to do something for Hong Kong people, that is, to lower fares?*

PRESIDENT (in Cantonese): Please sit down after asking your question. I will call upon the Secretary to give a reply.

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): The rights of the Government as the major shareholder of the MTRCL are set out very clearly. The Hong Kong Special Administrative Region must abide by the principles of corporate management. Pursuant to the MTRCL's Articles of Association, provided that the Financial Secretary Incorporated holds 50% or more of the Corporation's share, it can invoke the relevant clause to appoint any Director as the Chairman of the Board of Directors. President and Members, as a shareholder of the MTRCL, the Financial Secretary Incorporated appoints officials from the Financial Services and the Treasury Bureau as its representative in annual shareholders' meetings. At such meetings, shareholders shall make major policy decisions, including voting on the appointment and dismissal of Directors. As a shareholder of the MTRCL, the Government may also receive dividends. Such is the existing system, under which the Government cannot make any unilateral decisions.

MR LEUNG KWOK-HUNG (in Cantonese): *President, the Secretary has not answered my supplementary question. I said that as the major shareholder, the*

Government should be able to adopt more radical measures to do something for Hong Kong people. The Secretary has not answered whether or not the Government is able to do so.

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): The shareholders or directors of listed corporations, or Board members to be exact, must abide by all the legislation on corporations. After accepting the responsibility, they must truly act in the best interest of the corporation. Naturally, to a certain extent, the public may ask for a fare reduction or ideally, a waiver of all fares. But in case a company suffers losses all the time after its establishment, its board of directors must be held responsible. The Link Management mentioned by Mr LEUNG just now is different, for it aims entirely to pursue the best interest of the company. From this perspective, its Board of Directors has discharged its duty. However, in the case of the MTRCL, if it were to do the opposite thing, it would fail to act in its best interest.

In connection with public transport, is it really in the best interest of the public if all such services are provided free of charge, with the Government bearing all the costs? In many cities of other advanced countries, public transport is fully subsidized by the Government, but we can observe that there are many quality problems. This explains why the commercial approach is adopted in Hong Kong, and the investment mode and financing that comes with it. As all can see, our service standards are very high. In order to deal with the problem of expensive fares, especially for long-distance passengers, we have sought to effect the merger of the two railway corporations, so as to achieve the synergy required to reduce basic fares. We are currently proceeding with this. We must follow the proper procedures under the law and act in accordance with the free market principles.

MR DANIEL LAM (in Cantonese): *President, will the Government review the need for the continued existence of fare setting autonomy after the rail merger?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): The scheme was formulated at the time of the MTRCL's listing, and it is in line with the principles of commercial operation in the free market. Although the MTRCL enjoys such autonomy, it cannot lightly increase its fares

and must still take account of many other objective circumstances. Under the existing framework, that is, the framework of fare setting autonomy, there can only be fare increases and fare reductions are not possible. As a result, no matter what the Government does, it cannot make the railway corporation reduce its fares. But like it or not, we cannot remove the autonomy, and even in the rail merger, we cannot add any provision to remove it either, because the MTRCL will not give its consent. The MTRCL does have some grounds for such refusal, because it is already a listed corporation, so any such fare increases or reductions must require the consent of small shareholders for their passage. In regard to the conditions of a merger like this, the major shareholder cannot make all the decisions and there must also be the consent of small shareholders. To a certain degree, the interests of small shareholders may clash with those of the public transport operator. But we must still try to strike a balance here. The upward and downward fare adjustment mechanism introduced by us can in principle and in practice limit the rate of fare increases and force the transport operator to reduce fares. This is already a big progress because, in respect of fare management, there will be a mechanism that can better protect passengers' interests. As for the removal of fare setting autonomy, I do not think that it is at all feasible.

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

DR LUI MING-WAH (in Cantonese): *I suppose two things are certain. First, the public transport services in Hong Kong are excellent in quality, comparing favourably to those in any other countries. Second, we are also certain that transport fares account for a very high proportion of Hong Kong people's incomes. In respect of the latter, the Government has shifted the responsibility to transport operators, arguing that they enjoy fare setting autonomy and must operate in accordance with commercial principles. However, the Government is the major shareholder with a representative on the Board of Directors, and, all fare increases must be passed by the Board of Directors. For this reason, may I ask the Government what role it has been playing in the whole process? The Government owns more than 90% of the shares. But what is its degree of representation? Just 10% or what? In any case, not in the majority, right? What quantitative criteria does the Government adopt to assess whether there should be any fare increases?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): As mentioned in my main reply, the Government considers a basket of factors when assessing fare adjustment applications. Naturally, on our part, we must consider public acceptability and affordability. But we will also take account of changes in operating costs and revenue of the operators, their financial performance and the quality and quantity of service provided. Having examined all these factors, we will further consider the overall economic conditions of society. Members should also be aware that there has been no fare increase since 1997. In other words, the two railway corporations have not introduced any fare increases since that particular year. Actually, they did feel the pressure of fare increases at that time. They faced rising operating costs because the prices of many things had risen. However, seeing that the overall condition of the economy could not possibly support any fare increases, the boards of directors consequently did not increase the fares. In other words, they did not base on pure commercial considerations to increase their fares. And, there is also the factor of competition, of course. Since other modes of transport are their competitors, the two railway corporations must follow suit when other public transport operators reduce their fares, or they may lose passengers. This is an obvious factor. To sum up, we will make a final decision only after considering the overall situation.

DR LUI MING-WAH (in Cantonese): *President, the Government has failed to answer one point. My question is about quantitative criteria. The Secretary has enumerated so many factors, but she has not quantified them. For example, what percentage change in the CPI should justify a fare increase? What should be the increase in operating costs that justifies a fare increase? What indicators must be attained before a fare increase is introduced? The Secretary has not offered any answer in this respect. If she cannot give any answer now, can he provide a written reply later?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): Actually, there is already a upward and downward fare adjustment formula for franchised bus operators. I believe Dr LUI is also aware of this formula. Currently, computations are based on various indicators related to inflation and price indices as well as wages. There will also be a similar fare adjustment mechanism for the single railway corporation after the

rail merger. With the addition of the productivity factor, the outcomes of computations will be some sort of quantitative criteria.

PRESIDENT (in Cantonese): Second question.

Automatic Discharge from Bankruptcy

2. **MR LEUNG KWOK-HUNG** (in Cantonese): *The Bankruptcy (Amendment) Ordinance 1996 (Amendment Ordinance), which set up the automatic discharge system, has commenced operation since 1 April 1998. In this connection, will the Government inform this Council:*

- (a) *given that the Amendment Ordinance provides for a transitional arrangement for bankruptcy orders made not less than 42 months before the commencement of the Ordinance, of the number of persons who were not automatically discharged from bankruptcy because of this arrangement, and whether it has assessed if this arrangement contravenes the recommendation of the Law Reform Commission (LRC) of Hong Kong in paragraph 17.66 of the Report on Bankruptcy that "Any person bankrupt under the present provisions should be able to apply for discharge at any time after the introduction of the new provisions if they fall within the criteria recommended for discharge in their particular circumstances";*
- (b) *of the respective numbers of persons who had been adjudged bankrupt for more than four years and eight years but not discharged from bankruptcy in each of the past three years, as well as the reasons for that; and whether the Government has assessed if the requirement that bankrupts who have been adjudged bankrupt for many years shall continue to repay their debts is a violation of the intent of setting up the automatic discharge system; and*
- (c) *given that the trustee is required to publish a notice in the newspaper not less than three months before the expiration of the four-year bankruptcy period to give creditors a chance to raise objection to the discharge of bankruptcy, of the total expenditure*

incurred in publishing the relevant notices under the name of the Official Receiver as the trustee in respect of bankrupts who had been adjudged bankrupt for more than eight years, as well as the amount of payments the Official Receiver's Office (ORO) received from such bankrupts for debt repayment purposes?

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

- (a) Although I have explained the relevant law in response to a question raised by Mr LEUNG Kwok-hung about two years ago on the same subject, I am happy to do so briefly again.

Prior to the commencement of the Amendment Ordinance on 1 April 1998, there was no automatic discharge of bankrupts. A bankruptcy order would normally last for a lifetime, unless a bankrupt applied to the Court for discharge and the application was approved.

The Amendment Ordinance sought to implement the LRC's recommendations on bankruptcy law. One of these recommendations was to permit automatic discharge of bankrupts. In essence, a first-time bankrupt can now be automatically discharged from bankruptcy four years after his bankruptcy order takes effect, unless the Court orders that the bankruptcy period be extended to a maximum of another four years on the application of his trustee or creditor who makes a valid objection. Hence, the maximum length of the bankruptcy period is normally eight years under the present regime.

In introducing a new regime permitting automatic discharge, the Amendment Ordinance adopted the LRC's recommendation by providing a transitional arrangement for those persons adjudged bankrupt before the operation of the Amendment Ordinance on 1 April 1998. In this regard, section 30C of the Ordinance is relevant. To illustrate, if the bankruptcy order of a first-time bankrupt was made not less than 42 months before 1 April 1998, the

bankrupt would be automatically discharged on 1 April 1999, unless during the 12-month period between 1 April 1998 and 1 April 1999 an objection was filed by the trustee or a creditor and dealt with by the Court. According to paragraph 17.66 of the LRC's Report, "the twelve-month period should give the Official Receiver sufficient time to review all cases of bankruptcy and decide which of them warrant objection being made to the court".

As Mr LEUNG pointed out, in the same paragraph of the LRC's Report, it was recommended that "any person bankrupt under the present provisions (that is, the old provisions that preceded the Bankruptcy (Amendment) Ordinance 1996) should be able to apply for discharge at any time after the introduction of the new provisions if they fall within the criteria recommended for discharge in their particular circumstances". This recommendation was adopted when the former Legislative Council enacted the Amendment Ordinance, which added section 30B to the Ordinance. Section 30B of the Ordinance empowers a bankrupt to apply to the Court for early discharge, in which case the Court shall consider whether the bankrupt should be disallowed from early discharge based on a set of criteria about the bankrupt's financial situation and conduct.

As at 1 April 1998, there were 3 378 bankrupts with bankruptcy orders made for over 42 months, in which case the transitional arrangement in section 30C of the Ordinance applied as mentioned. Among these bankrupts, 3 280 were automatically discharged on 1 April 1999. Nine were no longer bankrupts on 1 April 1999 as they had made payments to their creditors, and thus had their receiving orders and adjudication orders rescinded and annulled respectively by the Court, in the 12-month period between 1 April 1998 to 1 April 1999. The remaining 89 bankrupts had not been automatically discharged on 1 April 1999 due to, among other reasons, objections by trustees or creditors, but 72 of them were subsequently discharged or had their bankruptcy orders annulled.

- (b) With respect to the past three years, the following table sets out the number of bankrupts not discharged four or eight years after the date the bankruptcy orders were made for Members' reference:

<i>Year</i>	<i>Bankrupts not discharged four years after the date the bankruptcy orders were made</i>	<i>Bankrupts not discharged eight years after the date the bankruptcy orders were made</i>
2004	251	54
2005	414	62
2006	438	89

They were not discharged for a number of different reasons set out in section 30A of the Ordinance. Among them, there were cases where the trustees or the creditors made valid objections in accordance with section 30A(4) and, as a result, the Court ordered that their bankruptcy period be extended. In some other cases, in accordance with section 30A(10)(a), the bankruptcy period did not commence to run as the bankrupts had left Hong Kong before the commencement of the bankruptcy and had not returned.

We do not think the relevant statutory provisions are inconsistent with the objective of "rehabilitation" underpinning the "automatic discharge" regime. Under the present regime, a first-time bankrupt can be automatically discharged from bankruptcy four years after his bankruptcy order takes effect, unless the bankrupt has failed to co-operate with the trustee or has conducted himself unsatisfactorily, resulting in the Court ordering the extension of the bankruptcy period according to section 30A(4) on the application of the trustee or creditor who makes a valid objection. In addition, only the Court is empowered, under section 30A(9), to order, as a condition of granting the discharge, that the bankrupt shall continue to make contributions to his estate after the discharge, provided that the contributions shall not continue for longer than eight years from the date the bankruptcy order was made. The above statutory provisions were enacted under the Amendment Ordinance by the former Legislative Council which incorporated the relevant LRC's recommendations.

- (c) The ORO does not have a breakdown of the expenses in relation to notices on the relevant persons adjudged bankrupt for over eight years. Nor does the ORO keep statistics on the amount paid by those bankrupts to repay their debts.

MR LEUNG KWOK-HUNG (in Cantonese): *Secretary Frederick MA's reply reveals one problem, that is, the Government is acting in accordance with the Ordinance.*

However, after the Amendment Ordinance has come into operation, there are still 3 252 bankrupts whose bankruptcy periods have exceeded four years or eight years, so they should be automatically discharged. When applying the Ordinance, the Government equated the one-month transitional period to an extension and these people missed the opportunity to be discharged early due to the wrong application or interpretation of the Ordinance. Concerning the Administration's wrong understanding of the recommendation of the LRC, which made it impossible for a lot of people to be discharged early or drove many people to desperation and even suicide, does the Secretary not think that an apology should be tendered to this Council or to the public?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): I have pointed out clearly in the main reply that this transitional arrangement was made according to the recommendation of the LRC and this measure was also accepted by the former Legislative Council. Therefore, if an apology has to be tendered, it is probably those people who enacted the legislation and not the Government that should do so because we are only following the Ordinance when taking actions. Some of the Members in the Bills Committee back then are still Members of this Council. I cannot see why Mr LEUNG demanded an apology from the Government and I wish to understand the logic.

PRESIDENT (in Cantonese): Has your supplementary not been answered?

MR LEUNG KWOK-HUNG (in Cantonese): *He has asked me a question.*

PRESIDENT (in Cantonese): You are not a government official, so you cannot answer questions during Question Time of the Legislative Council.

MR LEUNG KWOK-HUNG (in Cantonese): *No, I also want to*

PRESIDENT (in Cantonese): If you want to elucidate, this is not allowed.

MR LEUNG KWOK-HUNG (in Cantonese): *No, I only want to put a follow-up to the Secretary.*

PRESIDENT (in Cantonese): The follow-up that you put must be part of the supplementary you put just now.

MR LEUNG KWOK-HUNG (in Cantonese): *Yes, it is.*

PRESIDENT (in Cantonese): If the Secretary has not answered your supplementary, can you please repeat the part that has not been answered in the supplementary you put just now?

MR LEUNG KWOK-HUNG (in Cantonese): *In fact, the Secretary said in the reply that those people who had enacted the legislation should apologize but this is not correct because the people who had enacted the legislation did not know that*

PRESIDENT (in Cantonese): Mr LEUNG Kwok-hung, now is not the time for you to debate with the Secretary. You can only put the part of your supplementary that has not been answered by the Secretary, all right?

MR LEUNG KWOK-HUNG (in Cantonese): *All right, I get it. Secretary, it is stated clearly in paragraph 17.66 of the LRC's Report that any bankrupt should be able to apply for discharge at any time after the commencement of the new provisions. In any event, the maximum bankruptcy period of eight years cannot be extended. Moreover, in order to extend the bankruptcy period of four years to eight years, it is necessary to comply with the requirements of S30A, including satisfying the reasons set out in S30A and complying duly with S30A(5) by giving notice three months before the end of a four-year bankruptcy period and with*

S30A(6) by giving notice 14 days in advance of the end of the bankruptcy period to the Court of the objection to discharge from bankruptcy.....

PRESIDENT (in Cantonese): Mr LEUNG Kwok-hung, what you have raised is not part of the supplementary you put just now. I think you may have to put another supplementary. I suggest that you press the button and wait. I will let other Members raise their queries first before letting you raise yours.

MR LEUNG KWOK-HUNG (in Cantonese): *OK, no problem.*

MR JAMES TIEN (in Cantonese): *Madam President, the Secretary points out in the first paragraph of part (b) of the main reply that there are 89 bankrupts not discharged eight years after the date the bankruptcy orders were made and the second paragraph also points out that one of the reasons is that those people have left Hong Kong or have not returned. Under the existing bankruptcy orders, after bankrupts have repaid their creditors the debts, they can of course be discharged early. If all bankrupts make use of the pretext of leaving Hong Kong and do not return, may I ask the Secretary if it is the case that these people will never be discharged from bankruptcy?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, perhaps let me explain a little bit.

According to the Amendment Ordinance, if a bankrupt complies with all requirements within the four-year period, he will be automatically discharged from bankruptcy, however, if his creditors or the trustee holds different views and consider that he has not conducted himself satisfactorily, they can make an objection to the Court and apply for an extension of the bankruptcy period. Therefore, a bankruptcy order can last for a maximum of eight years. However, some bankrupts have left Hong Kong before bankruptcy and never returned. If they do not return, it is not possible for the period to commence, that is, we can start to time the period only after they have returned and applied to go into bankruptcy. Therefore, sometimes, this is how bankruptcy orders lasting more than eight years come about.

Given this, Members can see from the figures in the main reply — just now, I did not want to waste Members' time, so I did not go into the details — 89 bankrupts were not discharged eight years after the date the bankruptcy orders had been made, however, within a year after the eight-year period, as I have said, 72 of them were discharged and only more than a dozen were not. Why? This is because these people have never returned, so their bankruptcy periods have not commenced to run. All these are issues of a more technical nature, however, the ORO acts according to the spirit of the legislation and everything has to go through the Court. It is not possible for the Official Receiver to take matters into his own hand.

MR ALBERT HO (in Cantonese): *I do not know if the Secretary was aware at the time he was preparing this main reply that the departments under him, and the ORO in particular, had received a number of complaints about some principles and policies adopted by trustees in outsourced cases at present, including raising objections against bankrupts who can be automatically discharged on the ground that the bankrupts had conducted themselves unsatisfactorily before bankruptcy, not during the period of bankruptcy.*

May I ask the Secretary firstly, if the Secretary is aware of these complaints, whether he thinks that the policy of these trustees in outsourced cases is correct and whether it has conformed with the principle mentioned in the third paragraph of part (b) of the main reply; secondly, if the Secretary thinks that such is questionable, the departments under his charge (including the Official Receiver) have the power to monitor the practices adopted by these trustees in outsourced cases? Or is it the case that he does not care at all and even if he knows that these bankrupts are not represented, he will just leave it to the Court and let legal action take place? May I know how the Secretary would deal with this and if there is any monitoring?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): First, on Mr Albert HO's query concerning complaints, insofar as outsourced cases are concerned, if I remember it correctly, Members will all recall that this was discussed in the Legislative Council and outsourcing was supported by the Legislative Council. If there are problems in outsourcing, we

very much wish to know where the problem lies, moreover, we very much want to listen to opinions. We will not leave any problem not addressed.

I do not wish to comment on this issue of outsourcing because I do not know how many cases of complaint relate to outsourcing, however, perhaps I could give Members a clearer indicator. As Members all know, in the past several years, there were a lot of bankruptcy cases and the number is more than 20 000. From January 2002 to March 2007 — this is a rather long period spanning more than five years — the ORO received 111 cases of complaint from members of the public and referrals. Among these complaints, 57 cases were against the ORO for handling cases of liquidation or bankruptcy improperly; 23 cases were against the attitude of and work done by its employees and 15 cases were related to the time it took the ORO to deal with enquiries and reports, three cases were against the improper conduct of bankrupts and there were 13 other miscellaneous cases.

Moreover, of these 111 cases of complaint, we have completed the investigation on 102 of them and 95 of them were found to be unsubstantiated, five were substantiated and the other two cases were partially substantiated. I wish to show Members with these figures that in terms of proportion, there were not many.....in terms of proportion, of course, we hope that there is no complaint, however, given that over 20 000 cases of bankruptcy have to be dealt with in a year, this figure does not appear to be very large. If Mr Albert HO is aware of any complaint that relates to outsourcing, the Official Receiver and I, as a Secretary under the accountability system, certainly want to learn about them. Therefore, we can by no means say that what we do is completely correct and if there are inadequacies in the services we provide to the public, we will heed all sound advice.

MR ALBERT HO (in Cantonese): *President, there is one point that the Secretary has not replied to, that is, whether the conduct of a bankrupt before bankruptcy can be a ground for objecting to the automatic discharge of a bankrupt.*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, I wish to seek clarification on one point. In

saying "before bankruptcy", does he mean that the bankrupt did something improper before bankruptcy? On this, since I am not the head of the department responsible for day-to-day operation, I dare not give Mr HO a reply here. Although my reasoning tells me that this should not be the case, I will give Mr HO a reply in writing. (Appendix I)

PRESIDENT (in Cantonese): Third question.

Regulating Pollutant Emissions from Vessels

3. **MR JAMES TIEN** (in Cantonese): *Madam President, in the election platform for his re-election campaign, the Chief Executive indicated the need to gradually introduce requirements for the use of high-quality fuel by vessels. The Government will also make subsidiary legislation in the first half of this year to implement the requirements in the international conventions on regulating pollutant emissions from vessels. In this connection, will the Government inform this Council whether:*

- (a) *it will include merchant vessels and ferries engaged in inner harbour routes in the scope of the regulation regime on pollutant emissions; if so, whether the Government has assessed the impact of such regulation on ferry fares, and whether it will take measures to mitigate such impact; if it will not take mitigation measures, of the reasons for that;*
- (b) *it has studied the feasibility of following the practice of certain ports in Europe and America, which have introduced a "Green Port Policy" requiring berthed cargo vessels to switch off their engines and use the electricity on shore instead, so as to reduce emissions; if it has, of the details of the study; if not, whether it will conduct such a study; and;*
- (c) *it has studied the impact of air pollutants emitted from vessels, which stay along the two sides of the Victoria Harbour and even around Sha Tin, on public health; if it has, of the details of the study; if not, whether it will conduct such a study?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): President,

- (a) Annex VI to the "International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto" (MARPOL) specifies the requirements on the control of vessel emissions of ozone depleting substances, nitrogen oxides, sulphur oxides and volatile organic compounds: the sulphur content of fuel used in sulphur oxide emission control area may not exceed 1.5% m/m; whilst in other areas, the sulphur content of fuel may not exceed 4.5% m/m. The Merchant Shipping (Prevention of Air Pollution) Regulation, currently being drafted by the Economic Development and Labour Bureau and the Marine Department, will fully comply with the principles and requirements put forth by the MARPOL Annex VI, extending the requirements on sulphur content of fuel under the MARPOL to all vessels operating in Hong Kong waters, including ocean-going vessels, Hong Kong's local ferries and vessels only plying between Hong Kong and the Mainland. Since the majority of local vessels (including ferries) are now using diesel fuel with sulphur content of 0.5% m/m, the implementation of the above regulation would have no impact on local ferries.
- (b) In recent years, many ports in Europe and America, such as Seattle, Los Angeles, Juneau and Gothenburg, and so on, have started to encourage berthed cargo vessels to switch off their engines and switch to shore power supply to reduce emissions and avoid polluting the environment near the terminals. For container terminal though, only one berth at the port of Los Angeles provides shore power. A number of complementary measures are required before cargo vessels can switch off their engines and switch to shore power supply after berthing. These include the shore power facilities on board and the power supply systems on shore and at the terminals. In this respect, there is not yet a common standard for shore power supply and facilities on board within the international shipping industry. The International Maritime Organization (IMO) is now discussing a unified standard of shore power supply for vessels. The Marine Department will look into the technical feasibility of such standard after it is devised by the IMO.

- (c) Beyond doubt, emissions from vessels impact on pollution and health to some extent. In 2002, the Environmental Protection Department (EPD) commissioned a study on the correlation between air pollution in Hong Kong and its impact on health to assess the impact of Hong Kong's main air pollutants (such as nitrogen dioxide, sulphur dioxide and respirable suspended particulates) on public health. The study, conducted by the University of Hong Kong and The Chinese University of Hong Kong, estimated that about 8 000 people were admitted to hospital each year for respiratory and cardiovascular diseases of which air pollution is a possible cause, and the medical costs incurred (including consultation and hospitalization fees) amounted to about \$1.7 billion annually. Since air pollutants originate from many sources such as motor vehicles, power stations, vessels and regional air pollution, the impact of an individual pollution source on public health cannot be quantified from monitoring data in the study.

Regarding the quantities of pollutants generated, the emissions inventory of the territory compiled by the EPD in 2005 indicated that the amounts of particulates, sulphur dioxide, nitrogen oxides and volatile organic compounds emitted by vessels accounted for 7%, 5%, 18% and 0.8% respectively of all pollutants generated locally. As the expanse of the sea facilitates the dispersal of pollutants, vessel emissions have less impact on air quality and public health than those from traffic and transportation, that is, motor vehicles and pollution sources.

MR JAMES TIEN (in Cantonese): *Madam President, since our container terminals are situated in Kwai Chung, a core part of our urban area, if large vessels berthing in Hong Kong keep emitting pollutants, we shall be more adversely affected than overseas cities.*

Madam President, I also understand why the Secretary said that the option of using shore power supply was not feasible. But I wish to raise this follow-up question. As far as I know, when cargo vessels or large vessels arrive at the container ports of major cities, I find that they are equipped with two oil tanks. One of them contains high-quality fuel. When a vessel has to berth near a

harbour, it would use the high-quality fuel in this tank. Once it sails to the high seas, it will resume using the ordinary fuel, and most of the large vessels are equipped with two oil tanks. However, as far as I understand it, such large vessels are not required to use high-quality fuels when berthing in Hong Kong. May I ask the Secretary whether she knows this? If yes, will such vessels be required to use high-quality fuel as well when they are berthing in Hong Kong?

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): The MARPOL, which I have just mentioned, does mention this point.

This international convention mentions control areas. Nowadays, there are two control areas in the world: One in the Baltic Sea and the other in the North Sea. Each of these two areas is very extensive. Within these areas, the sulphur content of fuel used on board cannot exceed 1.5% m/m. So all large vessels passing through these two areas have to switch to using another type of fuel. The fuel normally used by these vessels may have a sulphur content of 4.5% m/m or below. But when these vessels sail into these two control areas, they have to use fuel with a sulphur content of less than 1.5% m/m. For ocean-going vessels, they can really do this.

However, these vessels will only agree to do this within an extensive area. After they have switched to using another type of fuel, they would maintain using it throughout their voyage in the whole area. We in Hong Kong are aware of such a practice, and we have explored this through the Economic Development and Labour Bureau. But the reply we received is, since the territory of Hong Kong is too small, it does not satisfy the criteria for establishing a control area. If we want our city to be included in an emission control area, we must team up with countries along the Pacific coast, such as the coastal area in the eastern part of the Mainland, Korea, Japan and the Philippines. Although this is our target, a lot of manpower and time will be required in negotiation before we can secure the agreement of so many countries and territories. However, this would help to improve the vessel pollution problem of the entire region.

PRESIDENT (in Cantonese): There are altogether 11 Members waiting to raise supplementary questions.

MS MIRIAM LAU (in Cantonese): *Madam President, the Secretary pointed out in the end of part (a) of the main reply that local vessels were using fuel with sulphur content of 0.5% m/m. If so, this standard is substantially lower than those of the international convention, the sulphur contents of which are 1.5% m/m and 0.5% m/m respectively. And the Secretary said in the reply that local vessels would not be affected, that is, they are not affected by the international convention. And even though we have enacted the Merchant Shipping (Prevention of Air Pollution) Regulation, local vessels are still not affected. If so, can the Secretary tell us, when the Chief Executive mentioned in his platform "the need to gradually introduce requirements for the use of high-quality fuel", what actually was he referring to?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): I believe Ms Miriam LAU knows the present situation very well. For all our vessels, be they ferries or pleasure boats, they all use industrial fuel with a sulphur content of 0.5% m/m. Although the figure of 0.5% m/m is substantially lower than the figure of the international convention which is 4.5% m/m, it is already 100 times higher than that of the diesel used by motor vehicles. The sulphur content of vehicular diesel is 0.005% m/m. Many people who care about environmental protection have already switched to using diesel with a sulphur content of 0.005% m/m. For example, many pleasure boat owners have told me that they have been doing that voluntarily.

Can we make our ferries switch from using fuel with a sulphur content of 0.05% m/m to 0.005% m/m? The answer lies exactly in the word "gradually", as the Chief Executive said. Why? All the Members of the Panel on Transport know that, this would exert very great pressure on the fares of the ferry services because the fuel with a sulphur content of 0.005% m/m is more expensive than the fuel with a sulphur content of 0.05% m/m. Therefore, we have to examine how we can secure the support of the people when this measure is actually implemented, and on the other hand, we must ensure that it would not make the ferry companies incur heavy losses in operation. In fact, they are already facing fiscal deficits due to the high fuel costs.

MR ALAN LEONG (in Cantonese): *In the last part of the her main reply, the Secretary pointed out that the expanse of the sea facilitates the dispersal of pollutants, so emissions from vessels have less impact on air quality and public*

health than those from land pollution sources. I believe the Secretary does not mean that she would just sit back and do nothing. But may I ask the Secretary, while she has mentioned just now the availability of the fuel with a sulphur content of 0.005% m/m, whether actually in the Government's planning it would consider setting the next target and at what time it can be attained?

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): We are doing such work gradually. For example, the Government has already specified that all government vessels must use fuel with a sulphur content of 0.005% m/m. The next step in our plan would be targeting at pleasure boats because this will not affect their effectiveness in operation.

With regard to ferries, that is, ferry services operating on a fare-charging basis, we shall have several ferry service contracts to be put out for new tender in the third and fourth quarters of 2007. By then, we shall see how this can be implemented while striking a balance between this requirement and the fares.

MS EMILY LAU (in Cantonese): *President, if fuel of better quality can be used, it will certainly help alleviate the air pollution problem. But apart from the pressure on ferry fares, some fishermen came to my office because they had received the notification from the Marine Department, requiring them to upgrade the engines of their fishing boats in future. They are also under enormous pressure. I have also written to the Secretary in this connection.*

President, may I ask the Secretary, since she has provided financial assistance to vehicles, if she will provide the same to vessels? Or is this issue under consideration?

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): Of course, regarding the plan as a whole, we shall consider the cost-effectiveness for all parties concerned, the impact on the people and the industries.

Regarding the quantities of pollutants generated mentioned by me earlier, we must look at the contribution of the vessels to the overall quantity, that is, the

percentage it accounts for before deciding their priorities. We have chosen commercial diesel vehicles simply because their percentage is the highest, just second to the power plants. Will financial subsidies be provided to vessels? This is an issue under consideration by the Government.

MR CHAN KAM-LAM (in Cantonese): *President, in part (b) of her main reply, the Secretary mentioned that vessels may switch to using shore power supply after berthing at ports. In fact, is it necessary for us to wait until the IMO has decided on a unified standard before we can implement this? Can we determine our own standard? In fact, it would not have much bearing on the engines on board the vessels. The most important issue is whether our power supply facilities and system are ready. Can the Secretary discuss our existing policies in the light of this issue?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): The so-called shore power supply is cold-ironing in English. The environmentalists have had a rather heated discussion on this subject. There is a successful example in Long Beach, Los Angeles. This means that it is technically feasible.

With regard to cargo vessels, both vessels and cruise liners have been doing this since cruise liners are already equipped with such facilities, which enable them to be connected with shore power supply once they have berthed at the terminals. But such a practice is not common among vessels. Therefore, first of all, the vessels concerned must have the machines that can be alternated; and that there are power supply facilities ashore. For vessels, it would still take a longer time because there are many different types of them. We must first unify their power supply and berthing standards. Hence, we must wait for the IMO to set the common standards. If the incoming vessels are all of different types, it would be very difficult for us to work in co-ordination with them.

Recently, I had a discussion with the Director of the Environmental Protection Bureau of California. The Californian Government has provided a huge amount of financial subsidies for implementing emission reduction measures, and this is one of them. They have provided subsidies for this

purpose and they hope that they can expeditiously work out a standard for North America or even the entire continent of both North and South America. After they have worked out the standard, Hong Kong will next explore how the fees should be charged for the power supply — that is the costs for the provision of such facilities, not the electricity tariffs — how the costs involved should be shared by the user and the shipping company. If there are international standards, international vessels can then berth at our ports and make use of our technologies. Otherwise, even if the facilities are available, they may not match with the incoming vessels, then it would be a great waste. Therefore, this has to be done by the international organization.

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

MR SIN CHUNG-KAI (in Cantonese): *I would like to follow up part (b) of the main reply No, it should be part (a) of the main reply, that is, the part on local vessels using diesel with a sulphur content of 0.5% m/m. I would like to ask this: Is this the sulphur content of the fuel which they are alleged to be using, or did the Government frequently conduct investigations to confirm that they are really using diesel with a sulphur content of 0.5% m/m? Sometimes when I watch the black smoke emitted by vessels plying to and from Macao or the Mainland, I feel that, insofar as my layman wisdom is concerned, they are causing great pollution. Is the sulphur content of the fuel they are using really as low as suggested by the Secretary? In particular, after such vessels have been refuelled in the Mainland, how low actually is the sulphur content of their fuel? Has the Secretary ever conducted any random checks?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): Of course, by our vessels, I am referring to our ferries, that is, those vessels plying in Hong Kong are using industrial diesel with a sulphur content of only 0.5%. Just now Mr SIN Chung-kai mentioned some vessels plying in Macao or Zhuhai might have used diesel with a higher sulphur content. The detection of such irregularities depends on the enforcement actions taken by

us from time to time, and the Marine Department is responsible for undertaking such work in this aspect.

MR SIN CHUNG-KAI (Cantonese): *President, the Secretary has not answered my supplementary question, that is, whether this sulphur content of 0.5% m/m is just a figure claimed by them or it has been verified by her.*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): It is stipulated in our law that the standard should be 0.5% m/m, and it is also stipulated that the sulphur content of the industrial diesel sold here cannot exceed 0.5% m/m. If the vessels concerned do not comply with the law, that is, if they have refuelled outside Hong Kong using diesel with a sulphur content which is not 0.5% and then sail into Hong Kong waters, we shall take prosecution actions against them. (Appendix 1)

PRESIDENT (in Cantonese): Fourth question.

Legionnaires' Disease

4. **MR TAM YIU-CHUNG** (in Cantonese): *President, it has been reported that, among some 3 000 water samples taken from cooling tower systems of buildings and tested by the Hong Kong Productivity Council (HKPC)'s laboratory since 2004, nearly 30% were found to have Legionella pneumophila. In this connection, will the Government inform this Council:*

- (a) *of the respective numbers of persons infected with Legionnaires' Disease (LD) and died as a result in each of the past three years;*
- (b) *whether it had regularly taken and tested water samples from cooling tower systems of buildings in the past three years; if it had, of the annual number of water samples taken for testing, and the number of cooling towers the water samples from which were found to have Legionella pneumophila in excess of the prescribed standard; and*

- (c) *whether it has plans to take measures to enhance the prevention of LD (including taking and testing more water samples from cooling tower systems of buildings for testing, enacting legislation to require owners of such systems to cleanse and disinfect their facilities on a regular basis, and so on), so as to safeguard public health?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): President, LD is caused by bacteria *Legionella pneumophila*, which is found in the natural environment, such as lakes, rivers, ponds and soil. It also exists in water supply systems such as cold and hot water systems and cooling towers. LD is mainly acquired by inhalation of airborne droplets and mist contaminated by the bacteria but the infection rate is very low. There is currently no evidence that LD is transmitted by person-to-person contact or by eating or drinking. However, patients who are immunocompromised, smokers, alcoholics, the elderly (aged over 50) — so people aged over 50 regarded as elderly (*laughter*) — and males are more susceptible to this disease.

- (a) The number of diagnosed and reported LD cases and the number of consequent deaths in each of the past three years are as follows:

<i>Year</i>	<i>Number of cases of infection</i>	<i>Number of deaths</i>
2004	3	0
2005	11	1
2006	16	3
2007*	2	1

* As at 23 April 2007

- (b) The Electrical and Mechanical Services Department (EMSD) launched a cooling tower inspection programme in Hong Kong in 2001 with a view to collecting information on and taking water samples from cooling towers throughout the territory to find out their operating conditions. The programme was completed in 2005. During the programme period, the EMSD collected information on some 12 000 cooling towers and some 10 000 water samples¹ for testing their bacterial content. The number of water

¹ As some of the cooling towers were installed on external walls or canopies, or had ceased to be used, water samples could not be taken for laboratory testing.

samples taken throughout the programme and the number of water samples exceeding acceptable level² in terms of their bacterial content are as follows:

<i>Year</i>	<i>Number of water samples</i>	<i>Number of water samples exceeding the acceptable level in terms of their bacterial content</i>
2001	74	1
2002	4 587	426
2003	2 966	310
2004	1 130	101
2005	1 300	54
Total	10 057	892

Among the 10 057 water samples taken from the cooling towers, 892³ of them exceeded the acceptable level in terms of their bacterial content. The cooling towers in question were cleansed and disinfected immediately. The EMSD also notified all the persons-in-charge of the cooling towers of the test results and asked them to pay attention to the operation and maintenance of the cooling towers.

- (c) LD is a statutory notifiable disease in Hong Kong. The Centre for Health Protection (CHP) of the Department of Health conducts detailed epidemiological investigations on every LD case. The CHP also conducts joint visits with the EMSD to the places where a patient has stayed before the onset of LD, including his home, workplace and the shops he has patronized, to trace the suspected source of infection and collect environmental specimens for analysis.

It is well documented that cooling towers were sources of LD outbreaks overseas. However, the reported cases of LD in Hong

² It is recommended in the technical guidelines of the Occupational Safety and Health Administration of the Department of Labor of the United States, that cooling towers have to be cleansed and disinfected when the concentration of *Legionella pneumophila* exceed 1 000/ml.

³ The EMSD and the HKPC presented in a different way the discovery of *Legionella pneumophila* in water samples taken from cooling towers. The HKPC published the number of all water samples containing *Legionella pneumophila* whilst the EMSD considered that only water samples with *Legionella pneumophila* concentration exceeding 1 000/ml should be regarded as exceeding the acceptable level. This resulted in the disparity in their findings.

Kong were sporadic which made it very difficult to confirm the sources of infection. The Government has no plan to enact legislation that requires the owners of cooling towers to cleanse and disinfect the facilities regularly. The EMSD will collect water samples from cooling towers to find out their operating conditions.

Regarding the prevention of LD, the Government set up the Prevention of Legionnaires' Disease Committee in 1985. The Committee published the first edition of the Code of Practice for the Prevention of Legionnaires' Disease in 1994 to provide reference to the industry on LD prevention. Subsequent reviews or revisions have been carried out from time to time and the updating of the latest edition will complete at the end of 2007. The Committee also organizes seminars and discussions to attract local and foreign experts on LD prevention to deliver subject talks while its members frequently attend seminars held in other regions to exchange views with overseas experts. In 2006, the EMSD published a code of practice on the use of evaporative cooling towers, in addition to organizing talks, to help the industry design, operate and maintain cooling tower systems properly.

To safeguard public health, the EMSD writes to owners of cooling towers regularly to remind them to pay attention to the operation and maintenance of the cooling towers.

MR TAM YIU-CHUNG (in Cantonese): *President, may I ask the Government whether it notices the great disparity in the number of water samples with bacterial content exceeding the prescribed level between water samples tested by the EMSD and the HKPC, and the reasons for the disparity? Does it have the figures for 2006 for further illustration?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): President, the EMSD and the HKPC use different ways to present the discovery of Legionella pneumophila in water samples taken from cooling towers. The HKPC only publishes the number of water samples containing Legionella pneumophila, but the figure published by the EMSD includes all samples with Legionella pneumophila concentration exceeding

1 000/ml. As such, the principles applied in presentation are fundamentally different.

MR TAM YIU-CHUNG (in Cantonese): *The Secretary has not answered the part on the figures of 2006.*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): Sorry, I did not hear the question clearly just now, will

MR TAM YIU-CHUNG (in Cantonese): *Yes, President. As the information provided by the Government makes no mention of the water samples taken in 2006 and the respective findings, so I asked the Secretary whether she has such information.*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): In 2006, the EMSD collected 149 water samples from cooling towers in total, of which, the bacterial content of only one sample exceeded the acceptable level.

MS LI FUNG-YING (in Cantonese): *President, the Secretary said that the Government had no plan to legislate to require owners of cooling towers to cleanse and disinfect the facilities regularly, but letters were issued regularly by the EMSD to request owners to pay attention to the operation and maintenance of cooling towers. What specific measures has the Government put in place to monitor whether or not the owners have actually done so, or to ensure that the letter issued can serve this purpose?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): President, with regard to many operations, the enactment of legislation by the Government is not necessarily a way to compel the public into compliance. Particularly, the operation and maintenance of cooling towers have to be undertaken by professionals, and the operation of the professional sector in Hong Kong has all along been effective. For this reason, a code of

practice has been issued. This code of practice is very important, for the trade can follow this to attain the standard prescribed by the Government. This is in fact the most efficient way and a practice adopted in many places.

If the trade fails to do so, the EMSD may find out. As I have said in the main reply, so far, no causal effect of any single case of LD in Hong Kong can be established, which means no cooling tower can be identified as the source of infection. As cases of this type are epidemic in nature, when the source of infection of a lot of people infected by the disease can be traced to a certain location, evidence of confirmed cases will then be considered established. If this really happens and it is found that the code of practice on the use of cooling towers has not been observed, I think Ms LI knows what will happen. As in the case of labour laws, sometimes when the persons concerned fail to comply with the best practice, they will be prosecuted and incriminated, for these people who are professionals are obliged to follow the practice. However, there has been no such case in Hong Kong. Therefore, at this stage, insofar as the control of LD is concerned, we rely on the self-regulation of professionals accompanied by regulation via the code of practice, for we consider this already effective.

MR ALBERT CHAN (in Cantonese): *President, persons at the age of 50 are suddenly named by the Secretary as the elderly, it makes me feel 10 years older suddenly. I wonder if this new definition of the Government will allow those aged above 50 to apply for the "fruit grant", so to speak.*

President, my supplementary question is a follow-up to the question asked by Ms LI Fung-ying just now. Earlier on, there was hearsay that the former Secretary for Transport had died of this disease. The Secretary mentioned earlier that an epidemic caused by Legionella pneumophila was possible under certain circumstances and conditions, and it was lucky that this had not happened in Hong Kong. However, regarding the bacterial content of water samples exceeding the prescribed level, President, according to the figures of the past few years provided by the Government and taking the average of 100 samples a year, one sample is found to exceed the acceptable level. That is to say, the potential risk is not low, for there are numerous cooling towers in the territory. In that case, it means the risk of an outbreak caused by these bacteria exists. If the Secretary does not impose regulation by means of legislation on the ground that no case of outbreak has so far been found, does it mean the Government will only do something when someone really dies of this disease?

Does the Government want to wait until many people die of this before making any effort to improve the situation? How can the Government ensure that, with the bacterial content of one out of 100 cooling towers exceeding the prescribed level, an outbreak of the disease will not occur?

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): May I defer to Secretary Dr York CHOW for an answer to Mr Albert CHAN's question on a medical issue: Why some people but not others will contract the disease when they are exposed to the bacteria?

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): President, I would like to explain briefly the 32 reported cases in Hong Kong in the past four years. The Department of Health (DH) has conducted epidemiological studies on each of these cases. In respect of those 32 cases, investigation was carried out by the DH to confirm whether or not there were cooling towers in places visited by the patients or places with which they had contact. A total of 37 cooling towers were examined and 42 water samples were taken for bacteriological culture. Among the 42 water samples tested, only 11 samples contained this type of bacteria, the discovery rate approximating to 26%, which was said to be comparable to the figure of water sample tests done by the HKPC. We cannot say that all or some of the 32 patients contracted the disease from those cooling towers. In respect of the so-called cause of disease, there is no direct causal link between the 32 cases found in Hong Kong and cooling towers.

According to overseas literature, a conclusion of causal effect is only established when a large number of people contract the disease in the same place, and that the bacteria are found in the cooling towers of the building concerned. I have also asked the same question and consulted a number of experts on health or communicable diseases. They consider that cases discovered overseas may be caused by other factors, for cooling towers in Hong Kong operate nearly all year round, but certain cooling towers overseas may only be in use for several months a year. When water is left in the cooling towers for a certain period, it may easily become a breeding ground for the bacteria. This is certainly a theoretical assumption of them, and there may still be other reasons which we do not know. However, for the time being, in respect of the situation in Hong

Kong, we can state clearly that a conclusion on the direct causal effect between these 32 patients and those cooling towers can hardly be drawn.

MR ALBERT CHAN (in Cantonese): *President, the Secretary has not answered my question on how to ensure that an outbreak of disease caused by the bacteria will not happen.*

PRESIDENT (in Cantonese): Which Secretary will answer this question? Secretary Dr York CHOW or Secretary Dr Sarah LIAO?

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): President, I think what I can say now is that in respect of communicable diseases, it is most important that when the first patient appears, epidemiological studies are carried out immediately to identify from where the patient contracts the disease, hoping that the disease will not continue affecting other people. Since LD is now one of the diseases required to be reported, once a patient is diagnosed with the disease, the DH will surely follow up the case. At present, all hospitals in Hong Kong may conduct rapid tests on urine via the DH or at the hospital. Any patient suspected to have contracted the disease will know whether he is suffering from LD within one day, and follow-up actions will be taken right after that.

Since immediate follow-up actions are taken whenever problems arise, the risk of an outbreak is greatly reduced.

MR WONG KWOK-HING (in Cantonese): *President, it is a universal truth that prevention is better than cure. According to the Secretary's main reply, the EMSD launched a cooling tower inspection programme in 2001, over 10 000 water samples were tested in five years, and the bacterial content of nearly 10% of water samples exceeded the prescribed level. Since the Government has already expanded so much resource on the programme, why legislation is not enacted? May I ask the Secretary of the money spent on this programme and the manpower involved in testing some 10 000 samples? Why is legislation not enacted to spare the Government from conducting another round of inspection when necessary? Is this not a waste of money and manpower?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): President, I do not have the figures at hand for calculating the money spent on the investigation. In fact, a number of years have to be spent on the investigation programme to collect information to understand LD cases in Hong Kong. We cannot enact legislation hastily. Besides, the enactment of legislation does not mean no expenditure will be incurred, for inspections have to be conducted for the purpose of law enforcement. However, we now make use of the code of practice and inspections conducted by professionals to regulate the use of cooling towers, and such self-regulation is in general more effective than enacting legislation. Moreover, the disease has not yet reached an epidemic stage, in other words, an outbreak of the disease has never been discovered. Studies since 1985 all point in this direction and the situation is under control. We think the various measures now taken by the EMSD are the most effective. After all, legislation is no guarantee that the bacteria will not appear.

MR WONG KWOK-HING (in Cantonese): *President, the Secretary said that she could not tell me how much money and manpower had been spent during the five-year programme. It speaks volumes about the Government's inadequate carefulness in considering the factors of not enacting legislation. Therefore, President, will the Secretary provide us with the information indicating the amount of money and manpower spent on this investigation programme after the meeting?*

PRESIDENT (in Cantonese): Mr WONG Kwok-hing, I am not in a position to request the Secretary to answer you in a certain way or that she must give you an answer. Let me see whether the Secretary has anything to add?

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): I would check whether or not we have the figures of those years. If yes, I will provide the answer. (Appendix II)

PRESIDENT (in Cantonese): We have spent more than 20 minutes on this question. Last supplementary question.

MISS CHOY SO-YUK (in Cantonese): *President, apart from cooling towers, the bacteria causing LD may also be found in other facilities which generate water vapour, such as fountains, massage parlours or Jacuzzis, and even certain steaming or medical equipment. Will the Secretary consider imposing regulation on those places? If not, will she consider introducing regulation to prevent the breeding of Legionella pneumophila in those places?*

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

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): President, as I said earlier, Legionella pneumophila actually exist in the natural environment too. I have spent a few years on the study of the bacteria, for I was engaged in occupational safety and health work at that time. The condition the bacteria require for survival is very stringent. The breeding of the bacteria is particularly easy in a temperature zone. Moreover, the presence of certain type of metal, such as galvanized zinc, is required for the survival of the bacteria. Therefore, the air-conditioning system is particularly suitable for the breeding of the bacteria. I dare not say the bacteria are not found in other places, for the bacteria are also found in soil. More so, legionella is not only a type of bacteria as we think so, for many types of bacteria are also known as legionella, but the strength of the pneumophila strain is the most powerful, for the symptoms displayed are similar to those of pneumonia. The strength of this type of pneumonia bacteria varies. Studies have been conducted for a long time to identify places where the bacteria will likely appear in the environment of Hong Kong. At last, we find that it is the air-conditioning system. The bacteria will certainly be found in other places, but the priority of conducting tests at those places is low. I have mentioned the issue of expenses earlier. As for Jacuzzis, disinfection should be done; otherwise, there will be other bacteria. The Government indeed required these facilities be disinfected, so they are different from air-conditioning systems.

PRESIDENT (in Cantonese): Fifth question. Mr LI Kwok-ying, the Member who should ask this question, has lost his voice today. (*Laughter*) He lost his voice because of illness. Mr CHAN Kam-lam will ask the question in his place. However, Mr LI Kwok-ying has actually returned to the Chamber. According

to Rule 26(6) of the Rules of Procedure, if a Member is present in the Chamber, the Member may not ask another Member to ask the question on his or her behalf. For this reason and at my request, Mr LI Kwok-ying has left the Chamber. *(Laughter)* I have to explain it clearly and let Members know why Mr LI Kwok-ying is not in the Chamber.

Retrofitting of MTR Platform Screen Doors

5. **MR CHAN KAM-LAM** (in Cantonese): *President, given that the MTR Corporation Limited (MTRCL) has been charging an extra \$0.1 for each MTR Octopus journey since July 2000 to fund the platform screen door (PSD) retrofit programme, will the Government inform this Council whether it knows the total amount of extra fares which has been paid by MTR passengers so far?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): The MTRCL announced in 1999 its plan to proceed with the PSD retrofitting programme in phases in 74 platforms of 30 underground stations built in the 1970s and 1980s on the Kwun Tong Line, Tsuen Wan Line and Island Line.

The PSD retrofitting programme is a highly expensive project which includes various contracts for design, manufacturing, installation, testing and delivery of the PSDs, modification of the environmental control systems (which comprise the ventilation, air-conditioning and smoke extract systems), construction of equipment rooms, and modification of signalling system for the new operating environment with PSD retrofitted. The total project cost of the MTR PSD retrofitting programme valued \$2 billion. In the light of the substantial investment for the retrofitting programme, MTRCL proposed to collect 10 cents per Octopus MTR journey from passengers to fund half of the total project cost, that is, \$1 billion.

In response to the major works contracts of the retrofitting programme being awarded in 2000, the contribution from passengers has been arranged through the collection of 10 cents per Octopus MTR journey from passengers since 3 July 2000 to fund half of the total cost. The MTRCL also informed the Legislative Council Panel on Transport and the Transport Advisory Committee on the arrangement.

As at 31 December 2006, the contribution of 10 cents for each Octopus passenger trip collected by the MTRCL totalled about \$470 million. The collection of the 10 cents passenger contribution will therefore continue until it reaches \$1 billion, while the PSD retrofitting works at all 74 platforms of 30 underground stations were completed in the first half of 2006.

MR CHAN KAM-LAM (in Cantonese): *President, the retrofitting of PSD is very important to the safety of passengers on the platform. The Government has undertaken that it will continue to retrofit PSD on other above-ground stations after completing the PSD retrofitting works at the 30 stations.*

Will the Secretary urge the MTRCL to conduct this study and when the study result will be released? With respect to the project cost, I believe the passengers are willing to continue to contribute to the cost.

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): With respect to retrofitting PSD, we have all along been following up the matter with the MTRCL, that is, on conducting a feasibility study of retrofitting automatic doors. We know that the MTRCL set up a working group in the middle of last year to look into the feasibility of retrofitting PSD on above-ground platforms, and to collect information on the costs of such works.

The MTRCL plans to find out first the feasible options to the technical issue of the loading of the platform overhang and identify various problems, such as noise, stemming from the relevant projects. After gaining an understanding of such, it will explain the situation to the neighbouring residents affected with a view to seeking their understanding and support. The MTRCL anticipates that the study on the loading of the platform overhang and on the modification of the loading of the platform structure should be completed by end-2007.

MRS SOPHIE LEUNG (in Cantonese): *President, the Government stated in the third and fourth paragraphs of the main reply that in pursuance of the PSD retrofitting programme, an extra 10 cents per Octopus MTR journey has been charged from passengers since 3 July 2000. As at 2006 — almost six years*

later — only about half of the contribution from passengers is collected. That is to say, it will take about six more years to collect the other half of the contribution. Will the Secretary please tell us whether there will be any new developments, such as repair and maintenance works or additional works, of the PSD retrofitting programme in six years' time, that is, 2012? Will the collection of the 10 cents passenger contribution need to be continued?

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): Thank Mrs Sophie LEUNG for her thorough consideration. In fact, we also hope that with the increasing MTR patronage, we do not need to wait for another six years. As at 31 December 2006, the contribution totalled \$470 million. Members of the Legislative Council should know that the contribution goes to the construction cost. With respect to the repair and maintenance cost in future, we can find another time to discuss it.

MR LEUNG YIU-CHUNG (in Cantonese): *President, the Secretary said in reply to Mr CHAN Kam-lam just now that a study on the feasibility of retrofitting PSD on non-underground platforms has to be done and its report will only be ready next year the soonest.*

I remember when the Disneyland Resort Line was inaugurated last year, it successfully introduced to the station semi-enclosed PSD, that is, it is not totally enclosed but just half-enclosed. The MTRCL stated at the time that it would consider using the same form of PSD, why then does it have to consider using a new form of PSD now? I wish to ask the Secretary: Is it true that the approach adopted in the Disneyland Resort Station is truly not feasible such that she has to consider new approaches, or that the present form of PSD is already the form used in the Disneyland Resort Line? If the latter is true, why then more studies are required? Is she stalling and unwilling to take action?

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): First of all, I have to clarify that the time of completion of the study mentioned by Mr LEUNG just now is next year, but what I said just now is end 2007, not next year. We are not stalling because the MTRCL has already summarized its past experience in conducting PSD retrofitting works and in the

design of the Disneyland Resort Line, that is, the experience in designing a half-height PSD. Such experience has been incorporated into the present study. No matter the PSD is of full-height or half-height, we still need to look into the loading issue because we are now adding the PSDs to the platform, which is different from the case of the Disneyland Resort Station where the PSDs were already included in its original design. In the case of adding PSD, we have to study the loading of different stations and consider problems different from those encountered in the retrofitting works of underground stations. Hence, we will continue the study until end of this year.

DR RAYMOND HO (in Cantonese): *Compared to the existing underground stations, it should be easier to retrofit full-height or half-height PSD at above-ground stations. If the MTRCL considers that it is feasible to retrofit PSD on some of the stations — those which have been studied — can full-height or half height PSD be retrofitted in those above-ground stations first, instead of conducting the retrofitting works all in one go, so as to step up the safety level?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): I believe the MTRCL wishes to make a comprehensive consideration when conducting the study in order to know the cost of retrofitting PSD at above-ground stations as they also need to determine a budget for that. As Mrs Sophie LEUNG has pointed out just now, how to ensure that the collection of the 10 cents passenger contribution can continue to be accepted by the public is one of the reasons for comprehensive consideration.

MR LAU KONG-WAH (in Cantonese): *President, there are altogether 30-odd stations but in fact eight of them have not yet installed PSD. The Secretary said that some \$400 million have been collected now which includes contribution from residents using those eight stations. These people, who have been contributing money daily in the past six years, which amounts to about \$100 million, have yet to see PSD installed at their stations. Secretary, do you not find this fair? If not, how will you make up for them? The eight stations are Kwai Fong, Kwai Hing, Tsuen Wan, Ngau Tau Kok, Kwun Tong, Kowloon Bay, Heng Fa Chuen and Chai Wan. These residents have been paying money for six years.*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): I believe the aim of the PSD retrofitting works is to benefit all passengers, including those from Tsuen Wan, Kwai Fong — no, sorry, it should be Chai Wan, Kwai Fong, and also Tsuen Wan, Heng Fa Chuen, and so on. These passengers will also travel to other stations. On the whole, I believe the people of Hong Kong are not that calculating. The most important thing is that the overall safety index can be enhanced so that they can feel at ease when travelling on the MTR.

PRESIDENT (in Cantonese): Mr LAU Kong-wah, has your supplementary question not been answered?

(Mr LAU Kong-wah indicated by shaking his head)

MISS TAM HEUNG-MAN (in Cantonese): *President, I know that the people of Hong Kong will not haggle over this with the Government, but they do worry about the safety issue.*

Several Members have talked about the safety issue just now. Although the public are still waiting, I believe they do not mind contributing 10 cents. However, as Dr Raymond HO stated just now, even if we have to wait for the study result, which may indicate that it is not feasible to retrofit PSD at some of the stations, those stations where PSD can be retrofitted do not need to wait for the release of the comprehensive plan. Public safety is important. If we need to wait for the release of the comprehensive plan, we may have to wait until end 2008. In the meantime, can active consideration be given to an early retrofitting of PSD at stations where this can be done instead of waiting for the retrofitting works to be carried out at all stations in one go? Is this possible?

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): I wish to clarify again that it should be end 2007, not end 2008. The study will be completed by end 2007. As a matter of fact, both retrofitting in phases and in one go have their pros and cons. As to safety, we always seek to do more at a faster pace whenever possible. However, speaking from the

overall management of a works project, it will definitely be more cost-effective to have a comprehensive plan in place. I believe Dr HO will agree to this point.

However, has the situation now reached such a critical stage that we cannot wait for another day? I think it has not reached such a stage. If it concerns safety issues of an urgent nature, it should certainly be dealt with immediately; but as we are talking about enhancing the safety index, we have to give it overall consideration.

MISS TAM HEUNG-MAN (in Cantonese): *President, I was referring just now to the comprehensive plan mentioned by the Secretary. I know that the study will be concluded in 2007, but the comprehensive plan will not be released until 2008. When will the comprehensive plan be ready? If it is 2008, the public will have to wait for another year, right?*

PRESIDENT (in Cantonese): Secretary, you do not have anything to add, do you?

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): I do not have anything to add.

MR WONG KWOK-HING (in Cantonese): *President, at present, the \$400 million-odd contribution collected for the retrofitting cost earns an interest. I wish to ask the Secretary: Should the interest not be returned to the people? Thus, taking into account the income yielded from the interest, should the period for collecting the 10 cents contribution be shortened?*

Moreover, the Secretary stated just now that the contribution is not for the repair and maintenance cost. I will definitely voice my objection if the repair and maintenance cost is also included in the calculation. May I ask the Secretary to clarify, given that the contribution for the retrofitting cost collected has reached over \$400 million, whether or not the period for collecting the contribution should be further shortened after deducting the amount of interest?

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): I do not have the breakdown here to show how the \$1 billion is calculated. However, that is an accumulated contribution and any interest accrued thereof is credited as the income of that account. All in all, it was decided at that time that the collection of contribution would stop at reaching \$1 billion. There will of course be interest accumulated all along, but there will not be excessive contribution.

MR WONG KWOK-HING (in Cantonese): *President, can the Secretary clarify her reply just now? Is it that the collection of contribution will stop at reaching the exact amount of \$1 billion? I wish she can state it clearly.*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): President, I believe this is what I said. The collection of contribution will stop at reaching \$1 billion. According to the agreement, the collection of an extra 10 cents for each Octopus passenger trip will stop at reaching \$1 billion.

MR WONG KWOK-HING (in Cantonese): *That is calculated together with the amount of interest, right?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): Yes.

MR LAU KONG-WAH (in Cantonese): *President, the Secretary stated in her reply to my supplementary question that the residents are not that calculating, but she can go to the districts and listen to the views of the residents living in those eight districts and she will find that they do mind because they have contributed the money but the PSDs have yet to be installed. Moreover, has the Secretary ever explored the reasons why the MTRCL, in the past six years, has never conducted the study? And why has it not conducted the study until now and the result will not be ready until end of this year? This is incredible. Why does the study have to be conducted at this time, and what is the definite timetable of installing PSDs at those eight stations?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): I have already stated in my main reply just now that we have been following up the retrofitting of PSD with the MTRCL, and during this process, experiences are summarized on the retrofitting of PSD and the design of the Disneyland Resort Line since it started operation. Of course, it has been some time since then. If you say you wish to speed up the process, it can always be done. However, they really only started to conduct a detailed study in these few years — that is, summarizing past experience — and they are now conducting the feasibility study specifically.

PRESIDENT (in Cantonese): Mr LAU Kong-wah, has your supplementary question not been answered?

MR LAU KONG-WAH (in Cantonese): *President, the Secretary has not answered when a definite timetable for installing PSDs at those eight stations will be available.*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): In this respect, we have to consult the MTRCL and find out the actual feasible timetable before I can provide an answer to the Member. (Appendix III)

MISS TAM HEUNG-MAN (in Cantonese): *I wish to ask a follow-up. The Secretary mentioned just now that the study result will be ready by end of this year and to be followed by the comprehensive plan. May I ask the Secretary when the anticipated time for the comprehensive plan is, such that we or the public can learn more about the projects concerned?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): The study result will be ready by end of this year. With respect to the future plan and the way forward of the entire project, as we have already mentioned, in view of the fact that the project will be conducted above ground and that it is subject to many constraints such as noise and disturbances to the neighbouring residents, we need to conduct a public consultation after the plan is released and then proceed to hammer out the timetable and works procedures,

such as the amount of works to be done each day, whether or not works can be conducted at night, and so on. We thus do not have a definite timetable yet.

PRESIDENT (in Cantonese): Miss TAM Heung-man, has your supplementary question not been answered?

MISS TAM HEUNG-MAN (in Cantonese): *Regarding the point on consulting the public, as mentioned by the Secretary just now, how long will it take? Since this also belongs to part of the timetable.*

PRESIDENT (in Cantonese): It is not part of your supplementary question just now. We have spent more than 17 minutes on this question. Last supplementary question.

MR WONG KWOK-HING (in Cantonese): *May I ask the Secretary whether or not the MTRCL has to collect the full amount of \$1 billion before it has the motivation to retrofit PSD at above-ground stations? Is it that as long as the target sum is not reached, it will not have the financial motivation to take active action? I wish the Secretary to expound on the correlation between the two. Is the MTRCL really sincere in putting the safety of the people first?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): I believe it is mainly out of the feasibility of some technical issues that the MTRCL has to conduct a thorough study before putting forward its plan. I believe this bears little relevance to the ongoing collection of the 10 cents contribution.

MR WONG KWOK-HING (in Cantonese): *In other words, if PSDs have to be retrofitted at above-ground stations in future, no money will be charged?*

PRESIDENT (in Cantonese): Mr WONG Kwok-Hing, it is not part of your supplementary question just now. Last question seeking an oral reply.

Street Lights

6. **MRS SELINA CHOW** (in Cantonese): *President, it has been reported that the Highways Department (HyD) has installed some 40 street lights in Pak Tam Au Village on Pak Tam Road in Sai Kung earlier. However, the authorities have indicated that as some green groups and residents consider that the street lights may affect the ecological environment in the vicinity, so far only a few of those street lights have been put to use. In this connection, will the Government inform this Council:*

- (a) *whether it has assessed if the above incident involves mistakes in planning; if an assessment has been made, of the results;*
- (b) *whether, in the past three years, it had held off the use of street lights after installation upon the request of organizations in the community; if it had, of the number of street lights involved; and*
- (c) *of the expenditure in the past three years relating to those street lights which have not yet been put to use after installation?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese):

- (a) New street lighting programmes can be generally grouped under two categories, *viz* programmes to tie in with the opening of new roads and programmes to improve street lighting to cater for needs. The HyD assesses the requirements for new programmes each year and incorporates proposed lighting works into its annual Public Lighting Programme for approval by the Vetting Committee on Public Lighting comprising the HyD, the Home Affairs Department (HAD) and the Police.

Pak Tam Road is inside Sai Kung Country Park. Street lighting is provided at the south and north ends for a total road length of about 2.65 km. Only the middle section, which is about 2.90 km long, is not provided with street lighting.

Between 2001 and 2002, the HyD received requests from the local community (including Sai Kung North Rural Committee and village representatives) for street lights installation at selected locations at the middle section of Pak Tam Road to enhance traffic and personal safety. After assessing their requests, the HyD concluded that overall road safety would only be marginally improved if street lights were installed at selected locations only. It therefore proposed installing street lights for the entire middle section. The proposal was approved by the Vetting Committee on Public Lighting in 2005.

Since the installation involved works inside the country park, the HyD submitted an application to the Country and Marine Parks Authority in June 2005 and was subsequently given approval in July 2005. Works were carried out until January 2006 when objection from some residents within the Sai Kung Country Park led to the shelving of the remaining works.

The decision to implement lighting works at the middle section of Pak Tam Road was meant to enhance the safety of road users. The proposal was planned and implemented according to the established mechanism and there were no planning errors. The HyD is actively identifying viable options and holding discussions with Sai Kung North Rural Committee, which supports the lighting works, and the objecting residents, with a view to resolving the issue as soon as possible.

- (b) In the past three years, in addition to the 37 street lights on Pak Tam Road the HyD held off from use upon public requests, five street lights in Yuen Long were not put into service immediately upon installation due to objection from villagers. Nevertheless, they are now in use after active discussions with the local community by the HyD.
- (c) At present, a total of 107 installed street lights are yet to be in use, incurring a cost of some \$860,000. Apart from the 37 street lights on Pak Tam Road, the remaining 70 will be put into service upon completion of the respective road works.

MRS SELINA CHOW (in Cantonese): *President, although the works involved does not seem to be that large in scale, the process is rather strange. This is because the Secretary says in paragraph 4 of part (a) that the HyD submitted an application in June 2005 and the works were given approval subsequently. Then works were carried out until January 2006 when objection from some residents led to the shelving of the remaining works. The works in question went through so many procedures, including the Vetting Committee on Public Lighting — I think many officials had also spent a lot of their precious time on it as well — may I ask why after such a lengthy process the procedures were just like putting the cart before the horse? Why was the matter not handled from a professional point of view, that is, lights would only be installed when there is a demand for them or when there is a need for them? If there is a need for their installation, the decision should be based on professional and safety considerations. But why were things done and then undone, works approved and then shelved, and lights put up and then not used? The process is so strange and perhaps the Secretary can explain this to us.*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): We understand very well the Member's concern. The works in question was approved only after going through some established procedures and various departments had also gauged the views of the residents concerned. However, as we can see from other cases, often when planning on our part is not yet finished and before the people can see how the street lights are to be installed, they may not understand too well how street lights would affect the surroundings. As in the cases cited by me, after our colleagues have explained again to the members of the public concerned and talked with them, we hope that everyone can accept the arrangement eventually.

From the perspective of the Government, we know that what we do is something that must be done for the sake of road safety and so, with respect to the concern expressed by some people, we would do our best to explain the case to them, hoping that they can accept it. If we do not spend time on consultation and talks, conflicts may arise, which are unnecessary. So we would do our best to co-ordinate things and once this is done, we will proceed with the matter according to the procedures.

MR JAMES TO (in Cantonese): *President, I think it would set a classic example in this Council in this discussion on a few dozen street lights in the oral question session. However, since this question is already raised, I would like to ask the Government this question. On the objection from the residents, is it due to the fact that they think that the way these street lights are installed would not help improve road safety or that they think that road safety can be improved after the installation, only that they hope that some modifications can be made under some circumstances, such as on the illumination angle of these street lamps, the intensity of the lighting, and so on, which can both take into account road safety as well as addressing the people's concern? If this is not the case, should the Government not take speedy action to do it? Because the Government cannot expect to shirk its responsibility should an accident occur.*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Of course, the reason why we install street lights in the first place is because the villagers in Sai Kung requested it. There is a stretch of the road that does not have any street lights. Members can imagine that in the past, many roads in the villages did not have any lights, but with urban development or progress in society, as we have heard earlier, the HyD has in place an annual programme to improve lighting. Of course, the greater the degree of illumination, the more helpful it will be to the safety coefficient.

As for the present case, Pak Tam Road is situated in a country park and some of the environmental protection activists live in that country park area and they do not think there is any need to increase street lights there. They have certain views on the issue. They think that the activities of insects and nocturnal animals would be affected. From our point of view, of course, we need to work out the safety coefficient. We need to know things like the number of villagers there who will use the road lights. We asked the Rural Committee. They said that there would be no need to install so many street lights and only a few would be necessary for lighting purposes. We carried out the works not only on the basis of HyD standards. What the villagers want is different from what we have worked out after employing some professional methodology. We would discuss with them whether there would be more pedestrians using the road at certain time slots or if there are more chances of pedestrians walking on it, and whether the situation would be different late at

night. We would discuss with the villagers and other residents in the country park area on these issues.

I also agree that lighting is not an absolute matter. There are people who are used to living in very dark conditions and they can still see very clearly in the dark. But it would mean danger for outsiders visiting that place. Of course, residents and villagers are required to have a special permit before entering that country park. Other vehicles are not allowed except in certain special circumstances.

As for their view that installing more street lights would pose obstructions to the nocturnal ecology in the country park and the astronomical and star-watching activities there, I think these are all secondary to the safety concern. What we should do is to examine if there is still any possibility of discussion and finding any common ground based on the safety concern. Should that fail, we will have to proceed according to the original plan.

MRS SOPHIE LEUNG (in Cantonese): *President, I wish to raise a supplementary question based on the explanation offered by the Secretary just now. The Secretary says in part (a) of the main reply that new street lighting programmes can be generally grouped under two categories, viz programmes to tie in with the opening of new roads, and that means the place will be made very bright and very safe after the installation; the other are programmes to improve street lighting to cater for needs and it also implies that the place will also be made very bright and very safe. May I ask the Secretary if there are any programmes which cater for lighting needs within the confines of a country park, that is, somewhere in between the two categories mentioned? Are there any street lamps installed which can provide softer lighting to tie in with the particular circumstances? Is any consideration given to this third category of lighting needs?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): I wish to thank Mrs Sophie LEUNG for raising this supplementary question. This is precisely a problem which our engineers are working on. Apart from the question of night-time lighting, we can also look into the question of how much lighting is required. Works are presently not just

being carried out in the highways in the rural areas, as we are concerned about energy conservation, so we are also conducting some reviews. During the peak hours in the highways, as there are more vehicles, the distance between them may be rather short, so lighting would have to be enhanced by some measure. At night, such as the time between 2 am and 5 am, we can reduce the lighting a bit. This is done for a number of reasons. First, it is to see if softer lighting can be used in these circumstances to tie in with the conditions in the country park. Then there are also energy conservation reasons. We are actually studying into these issues now at a professional level.

MS MIRIAM LAU (in Cantonese): *Madam President, the Secretary has been quite tough when it comes to improving road safety. Even when there may be opposition views, if the Secretary thinks that she is right, she would still proceed as planned. However, this time around she is saying that consultations would be carried out. This means she has to take a lot of things into consideration and listen to views from all quarters. Certainly, I do not oppose listening to dissenting views, but it is really very important for road users when it comes to road safety, especially the question of lighting on the roads. And these road users may mean both drivers and pedestrians, including residents and villagers living nearby. Besides listening to the views expressed, would the Secretary really commence the works concerned only after the differences are ironed out or would she rather take forward these street lighting programmes for the sake of road safety regardless?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Thank you, Ms LAU, for the supplementary question. When dealing with the issue of safety in transport, we really have to take into account views from all quarters and ample time must be given to discussions. But at the end of the day, safety is still the first and foremost concern. I believe our policy on that will never change. As for the case now at hand, as I have just said, it involves some very direct conflicts between villagers and some other people in that area and these two groups of people both hold divergent views. It is now said that not so many street lights are needed. We should hear what they have to say on that and what in fact are the reasons for their saying so and why there was a request made at the beginning to install more street lights. We also want

to find out if there is really such a need to install so many street lights. After holding discussions, emphasis is still on the principle of road safety.

MS EMILY LAU (in Cantonese): *President, I am sure the public would be amazed to see the problems exposed by this incident of installing a few dozen street lights. In 2001, some people made a request and it was only in 2005 that the proposal was approved by the Committee. Then an application was submitted to an Authority and approved was also given. Then in January 2006, some residents put up objection. Now it is May 2007 and not much progress has been made. President, the matter is just about installing a few dozen street lights and that is all. Things still remain unchanged from 2001 to 2007. What should we do then? Next month our Finance Committee will hold a special meeting to discuss some works projects. President, of course, these projects are not about installing street lights. But as the installation of street lights has led to such a state of affairs, how can the public be convinced that other large-scale works projects can proceed smoothly? I really do not know how to ask this question. But it does not matter. President, just now the Secretary has said that it is only when some people see the street lights that they would raise their objection. However, this may not necessarily be the case. While this may be true for some members of the public, other members of the public may not know that the authorities are engaging in consultations and they have no idea that the authorities are carrying out such a works project. So as we have said on a number of occasions, if the authorities are to do it, there must be consultations first.*

President, now I wish to raise my supplementary question which is very simple indeed. In January 2006, some residents raised objection and now it is May 2007, what have the authorities done in the meantime? Has the problem been solved through dialogue between the parties concerned so that progress can be expected?

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): With respect to this supplementary question raised by Ms Emily LAU, actually the advance work for projects of any size is equally difficult and consultations have to be very thorough. The works on this occasion involves the HyD and the HAD. As regards the consultation process, I think something may be lacking in the representativeness of the places in which consultations

were held. If a lesson can be learned from this, it should be in each works project..... especially when the place is so small and one can even count the number of households there, people would naturally think that they have a direct concern about this project. So when the authorities installed the street lights, the people would all know about it. I do not know exactly what people were consulted at the beginning. I only know that the Rural Committee was certainly consulted, but not other residents. This is why it is only until now that they express their views. I believe with respect to the entire public works project, our colleagues should follow the relevant code of practice concerned even with reference to these minor projects. In other words, consultation should be carried out at an advance stage.

MS EMILY LAU (in Cantonese): *President, the Secretary has not answered my supplementary question. Now it is May 2007, that is, one and a half years after objection was raised, is the Secretary aware that the problem is now addressed or not?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): We have put forward a proposal to address the problem. We have proposed to the two groups of people that lighting would be adjusted according to two time slots. The first one is during the evening from sunset to 10 pm which is the time when franchised buses operate. The second is early in the morning, that is, from 4 am to sunrise and this is the time when many goods vehicles would use the roads. During the time from 10 pm to 4 am, all the street lights along Pak Tam Road will be dimmed so as not to affect other activities going on in the Sai Kung Country Park. In addition, the HyD will use shaded lighting appliances to control the direction of the light and light emitted from the street lights in order to reduce the impact on the environment, but without compromising the lighting function. We are working through the HAD in the hope of coming to a consensus.

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

DR KWOK KA-KI (in Cantonese): *President, the Government has spent a number of years just to install some street lights. First, the Secretary says that*

\$860,000 was spent. Since so many top officials and their subordinates have spent so much time on the matter, I think the administrative costs will certainly add up to more than \$860,000. May I ask the Secretary through the President how many street lights the Bureau or the HyD is still considering to install under similar circumstances? What specific measures has the Bureau put in place after this event to ensure that similar silly mistakes will not be repeated?

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Actually, I think the lighting works on Pak Tam Road only shows that our society is changing all the time. Previously, people may not be too concerned about such matters, but now, with increasing transparency, members of the public are more concerned about the environment in which they live. It follows that there are bound to be more and more incidents of this sort and this is not due to the so-called silly mistakes on our part, but the higher demands we have on the environment. After learning from the experience this time around, we will conduct more thorough consultations on construction projects at the district level and we will also let the people know what kind of direct impact will the completed project have on the environment. Besides, discussions will be held on installation matters in assemblies at different levels instead of merely through one channel. I think this is a responsibility which the Government must bear. The public should also know that the time taken will certainly be longer given the extensive consultations and discussions held. Although this may sound contradictory to the point made in the recent discussions to speed up the public works projects, we would try to see how things can be done and whether some overlapping or parallel practices can be employed. That is to say, how projects can all proceed at the same time without having to wait for the completion of one project before the commencement of the next.

DR KWOK KA-KI (in Cantonese): *The Secretary has not replied to the question on where else can we find the same situation with respect to works projects and if none can be found, can additional information be provided after the meeting?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): I have said before that we have many road works projects but they may not fall into this category. So I do not have any list of works projects that can be provided for Members' reference.

PRESIDENT (in Cantonese): Oral questions end here. A total of six oral questions were raised during the oral question session today which lasted more than two hours. And of these six questions, five were replied by the Secretary for the Environment, Transport and Works. Dr LIAO, you must have had a hard time today.

WRITTEN ANSWERS TO QUESTIONS

Outreach Services for Residents in Residential Care Homes for Elderly

7. **DR FERNANDO CHEUNG** (in Chinese): *President, under the Visiting Medical Officer/Community Geriatric Assessment Team Collaborative Scheme (the Collaborative Scheme) launched by the Hospital Authority (HA) in October 2003, medical staff are dispatched to residential care homes for the elderly (RCHEs) to provide them with regular multi-disciplinary outreach medical consultation and after-care services (outreach services). It has been reported that the Health, Welfare and Food Bureau has imposed a cap on such services in order to control expenditure and the RCHEs being denied such services are all privately-run institutions. In this connection, will the Government inform this Council:*

- (a) *among the residents presently staying in private RCHEs and subsidized RCHEs, of the respective numbers and percentages of elderly persons whose levels of impairment have been assessed as "mild", "moderate" and "severe" under the Standardized Care Need Assessment Mechanism for Elderly Services;*
- (b) *of the respective numbers of visits to private RCHEs and subsidized RCHEs by the medical staff, the respective numbers of attendances by elderly persons for outreach services, as well as the annual expenditure and unit cost of such services, in each of the past five years; and*
- (c) *of the respective numbers of applications by private RCHEs and subsidized RCHEs for outreach services rejected in each of the past five years, the reasons for rejection and their percentages among all such applications?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Chinese): President, the Administration's subvention to the HA for 2007-2008 is estimated to be \$28.63 billion, representing an increase of roughly 2.4% when compared to the revised estimate of \$27.96 billion for 2006-2007. The subvention is in the form of a block grant for the HA's deployment.

The HA's Community Geriatric Assessment Teams (CGATs) have been providing outreach medical consultation and after-care services to the elders in RCHEs since 1994. In October 2003, the HA implemented the Collaborative Scheme to recruit private medical practitioners on a part-time basis to render support to the CGATs by helping out with the outreach work in RCHEs. Given the difficulty in recruiting private medical practitioners to participate in the Collaborative Scheme, at present the HA mainly recruits qualified medical graduates on a contract and full-time basis to help out with the outreach work in RCHEs to render support to the CGATs.

My replies to the specific questions are as follows:

- (a) The requirement for applicants of the subsidized long-term care services to undergo the Standardized Care Need Assessment (the Assessment) to ascertain their impairment levels for service matching (including community care services and/or subsidized residential care places) was introduced in November 2000. Elders who were admitted to subsidized residential care places prior to that date were not required to go through the Assessment. With the Assessment in place, all the applicants for the government-subsidized residential care places and the self-financing places in contract homes have to be assessed, but not for those applying for self-financing places not in contract homes. Against this background, the Social Welfare Department (SWD) can only provide information on the impairment levels of elders who have gone through the Assessment and are currently staying in the government-subsidized residential care places and the self-financing places in contract homes, as follows:

<i>Types of RCHE</i>	<i>Number of elders who have gone through the Assessment and are staying in the government-subsidized residential care places and the self-financing places in contract homes (as at end February 2007)</i>		<i>Total number of elders staying in particular types of residential care places (as at end February 2007)</i>	<i>Number of RCHE residents assessed to be of mild/moderate/severe impairment level as a percentage of the total number of RCHE residents in particular types of RCHEs</i>
	<i>Impairment level on admission</i>	<i>Number of elders</i>		
Homes for the Aged	Mild	1 453	5 597	26.0%
Care-and-attention Homes	Moderate	12 508	48 817	25.6%
Nursing Homes	Severe	1 604	2 101	76.3%
Total	-	15 565	56 515	27.5%

- (b) The HA does not have records on the number of visits to RCHEs by the CGATs and the Visiting Medical Officers (VMOs) of the Collaborative Scheme in each year. The statistics on the number of attendances are however available.

The number of attendances served by the CGATs at the private and subsidized RCHEs respectively in the past five financial years is as below:

<i>Year</i>	<i>Number of attendances at private RCHEs</i>	<i>Number of attendances at government-subsidized RCHEs</i>	<i>Total number of attendances</i>
2002-2003	about 355 000	about 45 000	about 400 000
2003-2004	about 330 000	about 50 000	about 380 000
2004-2005	about 400 000	about 70 000	about 470 000
2005-2006	about 460 000	about 70 000	about 530 000
2006-2007	about 465 000	about 70 000	about 535 000

Since October 2003, the VMOs of the Collaborative Scheme have taken on the following number of attendances. The HA does not have a breakdown on the attendances in terms of the types of RCHEs. However, we believe that the majority of them was taken up by elders in private RCHEs.

<i>Year</i>	<i>Total number of attendances</i>
2003-2004 (since October 2003)	about 30 000
2004-2005	about 78 000
2005-2006	about 87 000
2006-2007	about 100 000

The CGATs also provide in-patient services in hospital wards apart from the outreach support to RCHEs. The HA does not have a breakdown on the cost of the CGAT's outreach services to RCHEs alone. Only the overall cost of the CGATs' services is available. The total costs for the CGATs and the Collaborative Scheme in each of the past five financial years (counted since October 2003 for the Collaborative Scheme) are as below:

<i>Year</i>	<i>Total costs of the services of the CGATs and the Collaborative Scheme</i>
2002-2003	\$140.1 million
2003-2004	\$159.5 million
2004-2005	\$184.9 million
2005-2006	\$188.7 million
2006-2007	\$192.3 million

The above statistics show that, in the past five financial years, the HA has allocated additional resources each year to strengthen the outreach services. Also, there has been an increase in the total number of attendances.

- (c) At present, most of the RCHEs have made their own arrangements to appoint private medical practitioners to provide medical care to their residents in accordance with the advice laid down in the Code of Practice for Residential Care Homes for the Elderly issued by the SWD. The CGATs and the Collaborative Scheme are currently

providing outreach services to some 660 RCHEs (that is, 89% of all the RCHEs). In view of the growing number of RCHEs, the CGATs and the Collaborative Scheme were unable to provide services to about 50 RCHEs which had asked for the services in the past few years.

Dog Poisoning

8. **MR BERNARD CHAN:** *President, it has been reported that a dog poisoner has struck again on Bowen Road and Black's Link recently, killing at least two dogs and injuring others. Similar incidents had happened in the past but no one has been arrested in relation to such incidents. In this connection, will the Government inform this Council of the number of dog poisoning cases, including fatal ones, reported in the past five years, broken down by year as well as by the district and road at which the cases took place; and the actions the Government had taken to tackle such cases?*

SECRETARY FOR SECURITY: President, the police only maintain statistics of dog poisoning cases occurring on Hong Kong Island, as such cases rarely occur in other parts of the territory. The detailed breakdown of the number of such cases, as reported, by year and location is set out at Annex. There were 37 dog poisoning cases on Hong Kong Island reported to the police over the past five years, and dogs were actually poisoned in 20 of these cases (and eight of the cases were fatal). When compared to the preceding five-year period, the number of fatal cases dropped by 67% (or 16 cases). However, due to insufficient evidence, no suspects were arrested.

The police attach importance to tackling the matter. Apart from stepping up patrol at blackspots in the early mornings and evenings, the police have also taken various steps to draw public attention to the matter. These include distribution of leaflets to morning walkers at blackspots to collect intelligence and to alert them of the matter; posting police reward notice (\$50,000) at blackspots (between July 2005 and January 2007) to solicit information on dog poisoning, and alerting/educating the public on the proper handling of dogs (including the wearing of muzzles and prevention of dogs from eating

unidentified food which may be poisoned bait) by publicizing the issue in the television programme "Police Report".

The Force also co-operates with other departments on joint efforts to address the issue. Recently, it conducted a joint operation with the Food and Environmental Hygiene Department along Black's Link and Bowen Road in November 2006, cautioning dog owners against, *inter alia*, dog poisoning cases. It has also worked with the Society for the Prevention of Cruelty to Animals and Dog Lover Community to remind their members to better handle their dogs.

On promoting responsible pet ownership and deterring animal abuse, the Government has increased the maximum penalty for cruelty against animals through amending the Prevention of Cruelty to Animals Ordinance (Cap. 169) in end 2006. And recognizing the importance of public education in the fight against animal cruelty, the Agriculture, Fisheries and Conservation Department (AFCD) has issued some 3 500 advices in 2006 to appeal for responsible pet ownership. Two relevant announcements of public interests were broadcasted on 27 television channels and 12 local radio channels since February 2007. The AFCD has also distributed VCDs of the announcements to all schools in Hong Kong with a view to educating children about responsible pet ownership. It is hoped that by raising statutory penalty and stepping up promotion, animal welfare could be better safeguarded in Hong Kong.

Annex

Breakdown of dog poisoning cases occurring on Hong Kong Island by year

(A) Breakdown by type of cases

	2002	2003	2004	2005	2006	2007 (January - March)	Total
Cases of dogs actually poisoned (numbers in brackets indicate fatal cases)	3 (0)	4 (2)	2 (1)	5 (2)	2 (1)	4 (2)	20 (8)
Incidents in which only poison bait was found	1	2	4	4	4	2	17
Total	4	6	6	9	6	6	37

(B) Breakdown by location

	2002	2003	2004	2005	2006	2007 (January - March)	Total
<i>Happy Valley Area</i>							
Black's Link	2	2	3	5	2	3	17
Bowen Road	1	2	3	3	3	3	15
Wan Chai Gap	1	0	0	1	0	0	2
Stubbs Road	0	0	0	0	1	0	1
Total	4	4	6	9	6	6	35
<i>Peak Area</i>							
Magazine Gap Road	0	1	0	0	0	0	1
Peak Road	0	1	0	0	0	0	1
Total	0	2	0	0	0	0	2

Granting of Tenancy Agreement for Operating Cross-boundary Heliports in Hong Kong

9. **MR LEUNG YIU-CHUNG** (in Chinese): *President, regarding the granting of tenancy agreement for operating cross-boundary heliports in Hong Kong, will the Government inform this Council:*

- (a) *of the factors considered in granting the tenancy agreement for the cross-boundary heliport on the rooftop of the Macao Ferry Terminal in Sheung Wan this year, and whether such factors include the ability of the bidder to boost the helicopter passenger volume; if not, the reasons for that; if so, of the weighting of such factor; and whether it has considered if the successful bidder will charge different fares and offer different concessions to different groups of passengers, such as those visiting the casinos, tourists and business travellers;*
- (b) *given that currently there are approximately 100 000 helicopter passenger trips per year, of the Government's projected future increase in the passenger volume of helicopter services; whether it has assessed if the fares for the coming 10 years set by the operator successful in the present bid will be higher than the level of the current ones, as well as the impact of the fare increases on passenger volume;*

- (c) *whether the authorities have considered alternative operation modes for cross-boundary heliports other than granting tenancy agreements, so as to avoid the development of the industry concerned being hindered by excessively high tenancy costs; if not, the reasons for that; and*
- (d) *whether it will explore how more contractors could be encouraged to engage in the cross-boundary helicopter service industry in order to enhance competition and facilitate the development of the helicopter transport industry; if not, the reasons for that?*

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

- (a) Taking into account the findings and recommendations of the Consultancy Study on Helicopter Traffic Demand and Heliport Development in Hong Kong (the Consultancy Study) conducted in 2002, the Government proposed in January 2004 to expand the heliport at the roof-top of the Macau Ferry Terminal (MFT) at Sheung Wan. To meet forecast demand for cross-boundary helicopter service up to 2015, an additional landing/take-off pad and a connecting taxiway will be added to the existing landing/take-off pad under the expansion plan, which will increase the capacity of the MFT heliport by 80% to 55 200 movements a year. To implement the plan, the Government conducted an open tender exercise in last July. The exercise was completed in January this year and we will shortly grant the right to expand and operate the heliport through a tenancy agreement. The tenancy agreement will last for 18 years starting from July this year.

The tenancy agreement concerns the expansion and operation of the heliport rather than the provision of helicopter services. The main considerations in assessing the bids included the proposals on construction and operation submitted by the bidders as well as the level of rental offered to the Government. As regards the future volume of helicopter passengers and the fares and concessions offered to different types of passengers, these would be affected by the demand and supply of the relevant services as well as prevailing market conditions.

- (b) The Consultancy Study projects that the number of cross-boundary passenger trips would grow at an average rate of about 9.4% per annum between 2001 and 2020.

According to the tenancy agreement, the heliport will be open for common use by all helicopter service operators on a fair and equal basis. The charges to be levied by the heliport operator on helicopter service operators shall be non-discriminatory and subject to the approval of the Civil Aviation Department (CAD). As regards the fares of helicopter services, they will be determined by individual helicopter service operators taking into account their own operating costs and market conditions.

- (c) The operation and management of a cross-boundary heliport through the granting of a tenancy agreement to a private organization is an established practice that has been working effectively. The rental level under the agreement is established through an open tender exercise.
- (d) It has been the Government's long-standing policy to encourage more operators to provide cross-boundary helicopter services to enhance competition. The CAD will monitor the operation and charges of the heliport operator to ensure fair and equal access to the heliport by all helicopter service operators.

In addition, to facilitate the long-term development of cross-boundary helicopter services, the Government has reserved a site in the Kai Tak Development Area for use as a second cross-boundary heliport in future.

Consultation Statistics of Prince Philip Dental Hospital

10. **DR KWOK KA-KI** (in Chinese): *President, Prince Philip Dental Hospital (PPDH) is a publicly-funded organization which provides dental services to two categories of patients, namely, teaching patients (TPs) and private fee paying patients (PFPPs). If the dental problems of a patient are considered to be suitable for teaching purposes after screening, the patient will receive treatment as a TP, and are required to pay nominal fees only. As to PFPPs, they must be referred by registered medical or dental practitioners and*

<i>Financial Year</i>	<i>2001-2002</i>		<i>2002-2003</i>		<i>2003-2004</i>		<i>2004-2005</i>		<i>2005-2006</i>	
<i>Patient category</i>	<i>TP</i>	<i>PFPP</i>	<i>TP</i>	<i>PFPP</i>	<i>TP</i>	<i>PFPP</i>	<i>TP</i>	<i>PFPP</i>	<i>TP</i>	<i>PFPP</i>
<i>b) amount allocated to the University of Hong Kong</i>										
<i>c) amount allocated to hospital staff as income</i>										
<i>d) others (please specify)</i>										
<i>(8) Number of staff in each rank and their average salary</i>										

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Chinese):
 President, PPDH is a teaching hospital which provides clinical teaching facilities for undergraduate and postgraduate students of the Faculty of Dentistry of the University of Hong Kong (HKU). As stated in the question, PPDH serves two kinds of patients, namely TPs and PFPPs. For TPs, patients are required to undergo an initial screening upon their first attendance and will be registered as TPs if their dental problems are found to be fit for teaching purpose. Consultation appointments will then be arranged for them by PPDH according to the teaching schedule of the Faculty of Dentistry as well as their types of dental problems.

For private patients, they are required to have a referral letter issued by a registered medical practitioner or a dentist, recommending a referral for specialized treatment at PPDH. Only dental specialists with considerable clinical experience can provide treatment to private patients, and the time they spent on attending to private patients each week cannot exceed two half-day sessions.

In connection with the above question, PPDH provides the required information at Annexes 1 and 2.

Annex 1

Financial Year	2001-2002		2002-2003		2003-2004		2004-2005		2005-2006	
	TP	PFPP	TP	PFPP	TP	PFPP	TP	PFPP	TP	PFPP
(1) Total number of patients	111 504	3 289	117 944	2 921	107 839	2 757	119 014	2 539	126 504	2 762
(2) Average, minimum and maximum fees for each consultation										
Minimum	\$37	\$100	\$37	\$100	\$45	\$100	\$45	\$300	\$45	\$300
Maximum	\$19,430	\$80,000	\$35,000	\$50,000	\$51,130	\$65,000	\$29,035	\$38,620	\$27,310	\$229,170 (Note 1)
Average	Patient fees include treatment fees and charges for the dental appliances/materials used. As PPDH provides a wide range of services (such as Oral Rehabilitation, Oral and Maxillofacial Surgery and Orthodontics, and so on) and the fees and dental appliances required for different services vary substantially, no precise figures on the average fees can be made available.									
(3) Total amount of consultation fees	\$3,711,394	\$2,677,036	\$3,978,077	\$2,453,365	\$4,326,919	\$2,582,440	\$5,335,277	\$2,718,197	\$6,877,027	\$3,945,833
(4) Maximum, minimum and average waiting time	<p>TP: Depending on the teaching schedule of the HKU and the nature of a patient's dental problems, the waiting time may range from several weeks to several months under normal circumstances. For certain services such as Orthodontics, since the course of treatment required is relatively longer, the waiting time would also be longer.</p> <p>PFPP: The waiting time will depend on the daily schedule of individual dentists and the average waiting time is around three to four weeks.</p>									
(5) Number of dentists providing services to the specified category of patients	PPDH: 12 HKU: 38	PPDH: 0 HKU: 22	PPDH: 13 HKU: 39	PPDH: 0 HKU: 18	PPDH: 13 HKU: 30	PPDH: 0 HKU: 17	PPDH: 13 HKU: 32	PPDH: 0 HKU: 16	PPDH: 13 HKU: 34	PPDH: 0 HKU: 15
(6) Average amount of time spent by each dentist in a week on the consultation of the specified category of patients	<p>PPDH TP: 40 hours PFPP: 0 hours</p> <p>HKU TP: Please refer to Note 2 PFPP: Please refer to Note 3</p>									

Financial Year	2001-2002		2002-2003		2003-2004		2004-2005		2005-2006	
	TP	PFPP	TP	PFPP	TP	PFPP	TP	PFPP	TP	PFPP
(7) Details of the allocation of consultation fees received:										
a) amount retained by the Hospital	\$3,711,394	\$1,073,932	\$3,978,077	\$911,877	\$4,326,919	\$964,421	\$5,335,277	\$1,129,987	\$6,877,027	\$1,581,634
b) amount allocated to the University of Hong Kong	\$0	\$1,603,104	\$0	\$1,541,488	\$0	\$1,618,019	\$0	\$1,588,210	\$0	\$2,364,199
c) amount allocated to hospital staff as income	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
d) others (please specify)	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
(8) Number of staff in each rank and their average salary	See Annex 2									

Remarks:

Note 1

The fee for the treatment and materials was high due to the relatively high complexity of the patient's surgery which involved Implant and Oral and Maxillofacial Surgery. The second highest fee in that financial year was \$45,000.

Note 2

The HKU is not able to provide exact figures. In general, a member of the teaching staff works for 10 four-hour sessions each week, six of which involve provision of services to patients while the remaining are for researches, administrative work and seminars.

Note 3

The HKU is not able to provide exact figures. However, according to the guidelines issued by the HKU, only dental specialists with considerable clinical experience can provide treatment to private patients and the time they spent on attending to private patients each week cannot exceed two sessions.

Others

- PPDH: Prince Philip Dental Hospital
- HKU: Faculty of Dentistry of the University of Hong Kong
- The information given in respect of the HKU in items (5) and (6) is provided by the Faculty of Dentistry of the University of Hong Kong.

Number of staff in each rank and their average salary

Rank	2001-2002		2002-2003		2003-2004		2004-2005		2005-2006	
	No. of staff	Average monthly salary (\$)	No. of staff	Average monthly salary (\$)	No. of staff	Average monthly salary (\$)	No. of staff	Average monthly salary (\$)	No. of staff	Average monthly salary (\$)
(A) Dental Services										
Nursing Officer	1	50,365	1	50,365	1	48,140	1	46,328	1	45,240
Registered Nurse	5	32,955	5	32,955	5	32,415	5	31,175	5	30,430
Radiographer II	2	27,552	2	28,869	2	29,739	2	29,533	2	24,485
Dental Technician I	36	37,616	36	37,820	36	37,200	36	34,903	35	34,570
Instructor in Dental Hygiene	0	-	0	-	0	-	1	22,096	1	24,590
Dental Hygienist	8	24,359	8	24,488	7	22,083	6	20,922	6	22,990
Senior Certificated Dental Surgery Assistant	8	30,100	8	30,100	7	29,610	7	28,473	7	27,790
Certificated Dental Surgery Assistant	109	20,493	107	21,361	106	21,471	105	20,915	105	20,594
Senior Dental Technician Instructor	1	63,195	1	63,195	1	60,405	1	58,130	1	56,765
Dental Technician Instructor	4	47,590	4	47,590	4	46,810	4	45,016	4	43,940
Junior Hospital Dental Officer	12	25,356	13	24,974	13	24,197	13	22,590	13	21,315
(B) Administrative and Clerical										
Comptroller	1	106,150	1	106,150	1	104,615	1	100,669	1	98,300
Executive Officer I	1	47,590	1	47,590	1	46,810	1	45,375	1	34,920
Executive Officer II	2	31,785	2	32,717	2	32,863	2	32,274	2	22,079
Purchasing Officer	1	47,590	1	47,590	1	46,810	0	-	0	-

Rank	2001-2002		2002-2003		2003-2004		2004-2005		2005-2006	
	No. of staff	Average monthly salary (\$)	No. of staff	Average monthly salary (\$)	No. of staff	Average monthly salary (\$)	No. of staff	Average monthly salary (\$)	No. of staff	Average monthly salary (\$)
Assistant Purchasing Officer	1	34,505	1	34,505	1	33,940	1	32,640	1	31,860
Personal Secretary I	1	27,445	1	27,445	1	26,995	1	25,961	1	25,340
Fire, Safety and Security Officer	1	23,533	1	24,703	1	25,512	1	24,728	1	24,135
Clerical Officer I	4	27,445	4	27,445	4	26,995	4	25,961	4	25,340
Clerical Officer II	19	18,713	19	19,131	17	19,070	17	15,283	16	17,800
Clerical Assistant	24	13,936	24	14,416	23	14,578	23	14,356	23	13,600
Office Assistant	8	12,105	8	12,105	8	11,915	8	11,450	7	11,170
(C) Others										
Hospital Foreman	1	16,480	1	16,480	1	16,086	1	15,589	1	15,190
Darkroom Technician	1	13,745	1	13,745	1	13,425	1	13,005	1	12,690
Artisan	1	13,745	1	13,745	1	13,425	1	13,005	1	12,690
Head Watchman	1	13,745	1	13,745	1	13,425	1	13,005	1	12,690
Operating Theatre Assistant	2	15,520	2	15,520	2	15,153	2	14,683	2	14,330
Watchman	8	10,755	7	11,462	6	10,916	6	10,611	6	9,894
Workman I	8	10,339	7	11,500	6	11,232	5	10,880	5	10,615
Workman II	39	10,420	39	10,034	36	10,135	34	9,454	32	9,289

Banks Charging Service Fees on Low-balance Accounts

11. **MR ALBERT CHAN** (in Chinese): *President, recently, I have received quite a number of complaints from members of the public pointing out that some banks have, without prior notice, deducted money ranging from tens of dollars to \$300 from their savings accounts as service fees for accounts with a balance lower than \$5,000, and they also consider the fees to be too high. In this connection, will the Government inform this Council:*

- (a) *of the number of complaints received in each of the past two years about fees charged on low-balance accounts, together with a breakdown by the banks involved;*
- (b) *of the number of aforesaid complaints in which the banks had levied a fee without prior notice to customers, and the number of such cases settled in favour of customers; and*
- (c) *whether it will introduce measures to ensure that such fees are set at a reasonable level, and customers are notified before the fees are levied; if it will, of the details of the measures; if not, the reasons for that?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Chinese): President, the setting of fees and charges for banking services is a commercial decision for banks. Under the free market principle, the Administration does not consider it appropriate to interfere with such commercial decisions. Having said that, the Hong Kong Monetary Authority (HKMA) will continue to ensure that banks maintain a high degree of transparency with respect to their fees and charges for banking services. Specifically, banks are required under the Code of Banking Practice to make readily available to customers details of their fees and charges, and notify affected customers in advance before any change of such fees and charges takes effect. These requirements aim to provide consumers with adequate information so that they can make informed choices when selecting banking services. It is also worth noting that there are banks which do not levy charges on low-balance accounts and many banks offer waivers of such charges for underprivileged groups such as social welfare benefit recipients. Our detailed responses are as follows:

- (a) and (b)

From time to time, the HKMA receives complaints concerning the fees and charges of banks. Since the setting of fees and charges is a commercial decision, the HKMA will normally ask the complainants to reflect their opinions to the banks concerned directly. Given the existing arrangement, the HKMA does not keep track of the number of complaints about fees and charges for

banking services, and thus is unable to provide the requested statistics.

However, the HKMA will follow up a complaint if it is alleged that a bank fails to comply with the Code of Banking Practice in giving an advance notice to affected customers before changing its fees and charges. Over the past two years (January 2005 to date), there were three complaints of this nature. None of them was found by the HKMA to be substantiated.

- (c) Under the free market principle, it is inappropriate for the Government to regulate the setting of bank charges and interfere with the commercial decisions of banks. We believe that competition will ensure that banks set their fees and charges at a reasonable level, having regard to their operating costs and the demand of their customers.

That said, the HKMA will continue to ensure that banks comply with the transparency and notification requirements in relation to bank charges in the industry's Code of Banking Practice. In particular, institutions should make readily available to customers details of their fees and charges. They should also give at least 30 days' notice to affected customers before any change in their fees and charges takes effect. These requirements ensure that customers are provided with adequate information which enables them to make informed decisions in selecting banking services.

Promotion of Breast-feeding of Babies

12. **MR LI KWOK-YING** (in Chinese): *President, on the promotion of breast-feeding of babies, will the Government inform this Council:*

- (a) *of the respective numbers and percentages of babies born in private and public hospitals each year from 2000 to 2006*
 - (i) *who were breast-fed before their discharge from hospitals, and*
 - (ii) *who continued to be breast-fed for four to six months afterwards;*

- (b) *of the measures in place to monitor the advertisement claims for breast milk substitutes (including milk powder formulae for new-born babies and those for older babies) to see if they contain misrepresentations or misleading statements; the number of relevant complaints received by the Government in the past three years, and the follow-up actions taken;*
- (c) *of the number of samples of breast milk substitutes taken in the past three years by the relevant government departments for laboratory tests on their nutrient components, and whether the nutrient components of any of these samples were found to be inconsistent with those stated in the advertisement claims or product labels; if so, of the follow-up actions taken; and*
- (d) *of the new measures to promote breast-feeding of babies, and the criteria adopted for assessing the effectiveness of these measures?*

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

- (a) (i) Public and private hospitals in Hong Kong make regular reports on the percentage of discharged babies who had been breast-fed to the Department of Health (DH). These reports show that the percentage increased from 55.3% in 2000 to 69.6% in 2006. Details are as follows:

<i>Year</i>	2000	2001	2002	2003	2004	2005	2006
Number of discharged babies who had been breast-fed	29 944	28 967	30 646	29 467	32 821	39 354	45 705
Percentage of discharged babies who had been breast-fed	55.3%	60.1%	63.5%	62.6%	65.9%	68.9%	69.6%

- (ii) In addition, the DH conducts regular breast-feeding surveys in its Maternal and Child Health Centres (MCHCs). Between the years 2000 and 2004¹, the percentage of babies breast-fed continuously for four months and six months increased from 19% to 25% and from 14% to 17% respectively. Details are as follows:

<i>Year of birth of the babies</i>	<i>2000</i>	<i>2001</i>	<i>2002</i>	<i>2004</i>
Percentage of babies breast-fed continuously for four months	19%	20%	25%	25%
Percentage of babies breast-fed continuously for six months	14%	15%	16%	17%

- (b) According to section 61 of the Public Health and Municipal Services Ordinance (Cap. 132), it is an offence for any person to give or display with any food or drug on sale a label which falsely describes the food or drug, or is calculated to mislead as to the nature, substance or quality of the food or drug. Moreover, it is unlawful for any person to publish, or be a party to the publication of, an advertisement of any food or drug with false descriptions. These provisions are applicable to any food for human consumption and also to infant formula.

In the past three years, the Food and Environmental Hygiene Department (FEHD) received one complaint about an advertisement on infant formula. After investigation, the FEHD issued a written warning to the agent concerned. Besides, the DH and the Television and Entertainment Licensing Authority (TELA) received one complaint about the claims made in respect of a breast milk substitute, and the TELA is taking follow-up action on that complaint. The DH has also issued letters to all milk powder dealers in Hong Kong, reminding them to ensure that proper promotion tactics are used for their breast milk substitutes.

¹ The breast-feeding survey has been conducted by the DH every two years since 2002. The percentage of breast-fed babies born in 2006 will only be available upon completion of the survey to be conducted in the middle of this year.

- (c) In the past three years, some 400 samples of infant formula were taken by the FEHD for chemical and microbiological tests and the findings were satisfactory. The FEHD has not conducted any laboratory tests specifically on the nutritional content of the breast milk substitutes.
- (d) The DH has been committed to promoting, protecting and supporting breast-feeding. It has also formulated a Breast-feeding Policy that encourages and supports mothers to breast-feed their babies through different means, including making more mothers and their family members aware of the benefits of breast-feeding through publicity and education; provision of training to nurses and medical practitioners of MCHCs so as to equip them with proper knowledge and skills to counsel mothers on breast-feeding; setting up support groups for mothers to share their experience on breast-feeding; and offering proper assistance and advice to mothers encountering difficulties in breast-feeding through the Breast-feeding Hotline. In recent years, there is a rising trend of breast-feeding in Hong Kong, which shows that the efforts of the DH, Hospital Authority and other stakeholders in promoting breast-feeding are paying off to a certain extent. The DH will keep up its efforts in implementing relevant initiatives in a bid to encourage more mothers to choose breast-feeding.

Privacy Protection

13. **MS EMILY LAU** (in Chinese): *President, on 14 March this year, the Privacy Commissioner for Personal Data published an investigation report on the alleged disclosure, by a local e-mail service provider, of the personal data (including the Internet Protocol (IP) address) of one of its account subscribers to mainland law-enforcement agencies. The investigation found that the service provider had not contravened the Personal Data (Privacy) Ordinance (the Ordinance). In this connection, will the executive authorities inform this Council:*

- (a) *given that it may be possible to ascertain the identity of an individual when an IP address is combined with the identifying particulars of the individual, whether the Government will consider including IP*

addresses and other identifying particulars of individuals in the scope of protection under the Ordinance; if not, of the reasons for that;

- (b) whether the Ordinance applies when none of the acts of collection, holding, processing and use of the personal data takes place in Hong Kong; and*
- (c) whether they will consider amending the Ordinance to enhance privacy protection?*

SECRETARY FOR EDUCATION AND MANPOWER (in the absence of Secretary for Home Affairs) (in Chinese): President,

- (a) "Personal data" is defined in section 2(1) of the Ordinance to mean any data which satisfy the following three criteria :
 - (i) relating directly or indirectly to a living individual;
 - (ii) from which it is practicable for the identity of the individual to be directly or indirectly ascertained; and
 - (iii) in a form in which access to or processing of the data is practicable.

An IP address when combined with other identifying particulars relating to a living individual may be regarded as personal data for the purpose of the Ordinance. Whether an IP address together with any identifying data constitute "personal data" under the Ordinance will depend on the specific circumstances surrounding the case.

- (b) The Ordinance regulates an act or practice undertaken by a data user and the term "data user" is defined in section 2 of the Ordinance to mean "a person who either alone, or jointly or in common with other persons, controls the collection, holding, processing or use of the data". The applicability of the Ordinance in a particular case would depend on whether an alleged data user has control, in or

from Hong Kong, over the collection, holding, processing or use of the personal data.

- (c) The Commissioner is undertaking a comprehensive review of the Ordinance and will examine, among others, whether the existing provisions of the Ordinance still afford adequate protection to personal data having regard to developments, including advancement in technology, in the last decade. The Administration will consider the Commissioner's proposals when available.

Promotion of Energy Conservation

14. **MR FREDERICK FUNG** (in Chinese): *President, the Consumer Council recently tested nine refrigerator samples bearing energy labels under the voluntary Energy Efficiency Labelling Scheme (EELS) operated by the Electrical and Mechanical Services Department (EMSD), and the energy efficiency of three of the samples was found not up to the grades listed on the labels. At the same time, the Consumer Council offered electricity-saving tips for using refrigerators. In this connection, will the Government inform this Council whether in the past five years:*

- (a) *it had tested the above and other products bearing energy labels; if so, of the test results (including the percentage of products the energy efficiency of which was consistent with the grades listed on the labels), and whether manufacturers or importers were found to have used the above scheme to mislead consumers into believing that their products had higher energy efficiency; and*
- (b) *apart from the above scheme, whether there were other measures to promote among the public energy conservation and energy-efficient use of electrical appliances; if so, of the details of such measures and the expenditure involved?*

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

- (a) The EMSD conducts random sample testing on products listed under the voluntary EELS to check whether their energy efficiency is consistent with the grades specified on the labels. In the past five years, the EMSD conducted sample testing on 91 models of household appliances, 84% of which were found to have energy efficiency grades consistent with those specified on the labels. The EMSD will inform the corresponding manufacturers or importers if the test results of their products are inconsistent with the grades specified on the labels, and follow up them on the grading of the labels.

The voluntary EELS operated by the EMSD has a comprehensive registration mechanism in place, including requiring the manufacturers or importers of the products to submit to the EMSD test reports on energy efficiency issued by accredited laboratories. The differences in the results of the random sample tests and the energy efficiency grades on the labels found in the past were due to irregularities in the manufacturing process of the products, causing inconsistency between the energy efficiency performance of the products and the test results submitted during the registration of the products under the voluntary EELS.

- (b) Our policy objective is to increase and sustain conservation of energy in order to reduce the growing trend of energy use. To achieve this objective, the Energy Efficiency Office was set up under the EMSD in 1994 to promote energy conservation and co-ordinate the Government's efforts in this area. Government bureaux and departments have been taking the lead in energy conservation. Over the past 13 years, the Energy Efficiency Office of the EMSD has been implementing a range of programmes and initiatives to promote energy saving, including:
- (i) implementing a number of voluntary energy efficiency registration schemes such as the Hong Kong Energy Efficiency Registration Scheme for Buildings and the EELS;
 - (ii) promoting effective energy management methods. For example, the EMSD conducted 90 energy audits in

government buildings over the past three years, encouraged government departments to implement energy saving management measures and installed energy saving equipment in government premises;

- (iii) introducing energy saving technologies to the public;
- (iv) promoting water-cooled air-conditioning systems;
- (v) establishing energy end-use database and energy consumption benchmarks and indicators to monitor energy uses in Hong Kong; and
- (vi) organizing various public education and promotional activities.

In the past five years, the EMSD's financial provisions under the Energy Efficiency and Conservation, and Renewable Energy Programme are as follows:

<i>Year</i>	<i>Financial Provision (\$m)</i>
2002-2003	62.2
2003-2004	40
2004-2005	36.6
2005-2006	81.2
2006-2007	106.7

Emotional Health of Disciplined Services Officers

15. **MR LAU KONG-WAH** (in Chinese): *President, regarding the emotional health of disciplined services officers (DSOs), will the Government inform this Council:*

- (a) *of the respective numbers of DSOs in various disciplined services seeking assistance in the past three years because of emotional problems;*

- (b) among the aforesaid cases, of the respective numbers of those requiring further follow-up actions and those in which the DSOs concerned were diagnosed with emotional or mental illness, and the number of DSOs who left the service due to emotional problems; and
- (c) of the assistance rendered by the authorities to DSOs who are troubled by emotional problems, as well as the ways to help relieve DSOs of the stress at work and in other areas?

SECRETARY FOR SECURITY (in Chinese): President,

- (a) According to departments' information, the number of DSOs seeking assistance in the past three years because of emotional problems, broken down by disciplined services is as follows:

<i>Disciplined services</i>	<i>Total number in the past three years</i>
Hong Kong Police Force (HKPF)	607 ¹
Immigration Department (ImmD)	47
Fire Services Department (FSD)	11 ²
Correctional Services Department (CSD)	186
Customs and Excise Department (C&ED)	24 ³
Government Flying Service (GFS)	1

¹ The figure refers to the number of police officers seeking general psychological counselling services in the past three years.

² The figure reflects the FSD officers who sought assistance from the stress counselling team only. The counselling team provides assistance to members who may have suffered from trauma or stress after attending traumatic incidents.

³ The figure reflects the number of the C&ED officers who sought assistance from the outside counselling agency hired by the C&ED to provide counselling service to its staff.

- (b) Among the above cases, the number of those requiring further follow-up actions, those in which the officers concerned were diagnosed with emotional or mental illness, and those who left the service due to emotional problems is set out below:

<i>Disciplined services</i>	<i>(i) Number of officers requiring further follow-up actions</i>	<i>(ii) Number of officers in column (i) diagnosed with emotional or mental illness</i>	<i>(iii) Number of officers in column (i) left the service due to emotional problems</i>
HKPF	607 ⁴	49	2
ImmD	47 ⁴	43	0
FSD	0	0	0
CSD	96	4	0
C&ED	2	2	1
GFS	1	1	0

⁴ Certain form of follow-up action is taken for officers seeking assistance. These actions include follow-up telephone calls, assessment on psychological adjustment, professional counselling and external referrals as necessary.

- (c) Assistance rendered by departments to DSOs who are troubled by emotional problems takes the following forms:
- (i) provide counselling service to staff through in-house professionals (for example, clinical psychologists) or dedicated unit, hiring of outside counselling service or hotline counselling services administered by the Civil Service Bureau and non-governmental organizations;
 - (ii) monitor staff performance and emotions by the supervisors;
 - (iii) make referrals of emotionally-troubled staff for follow-up treatment; and
 - (iv) make suitable posting arrangement to help with their rehabilitation.

Prevention is better than cure. Measures taken by the disciplined services to help relieve officers of the stress at work and in other areas include:

- (i) organize seminars, talks and training in induction courses and refresher courses to equip staff members with skills to handle work pressure and emotional problems;
- (ii) organize recreational activities to alleviate work pressure;
- (iii) promote a caring culture;
- (iv) encourage the practice of healthy lifestyle through departmental publications with a view to enhancing their physical, psychological and financial well-being and building up officers' resilience in face of adversity; and
- (v) review the work pressure on staff from time to time and offer prompt assistance to those in need.

Refund of Rates to PRH Tenants

16. **MR LEUNG YIU-CHUNG** (in Chinese): *President, in presenting the Budget for the current financial year in February this year the Financial Secretary stated that rates for the first two quarters of the current financial year would be waived. It has been reported that the Hong Kong Housing Authority (HA) will not refund the rates for the first quarter of the current financial year to public rental housing (PRH) tenants until July this year. In this connection, will the Government inform this Council whether:*

- (a) *it has assessed if the delay in refunding the above rates is unfair to PRH tenants; if an assessment has been made, of the results; and*
- (b) *it will request the HA to immediately refund the rates for the first quarter of the current financial year to PRH tenants; if not, the reasons for that?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Chinese): President, PRH tenants are only required to pay rents to the HA. They do not have to pay rates, Government rents or management fees separately. In this year's Budget, the Financial Secretary announced that rates concession would be

provided for the first two quarters of 2007-2008. The HA, though not legally obliged to pass the rates concession on to the tenants, has, following the past practice, decided to deduct the savings in rates from the rents payable by the tenants on a pro-rata basis, so that PRH tenants can benefit from this measure. The concession will be deducted from the rents payable by the tenants for July and October 2007.

The Rating and Valuation Department conducts revaluation of rateable values of all properties in Hong Kong on an annual basis. Given that the rateable values of PRH flats are assessed in blocks, the HA has to calculate the rent deduction for each tenant on the basis of the amount of rates concession for each block and the area of each flat. The HA received in mid-April the results of the revaluation of rateable values for 2007-2008. To effect the rent deduction, it takes time to make adjustment to the computer system of the Housing Department in order to accurately calculate the amount of deduction to which each of the 600 000 plus PRH tenants is entitled.

In addition, for the PRH tenants moving in or out during the first two quarters of 2007-2008, the amount of rent reduction for them has to be calculated separately on a pro-rata basis since their tenancies do not cover the whole period of rates concession. The HA needs to calculate at the end of the relevant quarters the amount of deduction for each tenant, and deduct the amount from the rents for the months of July and October accordingly.

To enable tenants to benefit from the rates concession as soon as possible, and having regard to the above factors, we consider it a reasonable administrative arrangement to deduct the amount of rates concession from the rents for the months of July and October. This arrangement can also ensure that the rent reduction for each tenant is calculated accurately and fairly.

Minimum Allowable Wage of Foreign Domestic Helpers

17. **MS EMILY LAU** (in Chinese): *President, regarding the minimum allowable wage (MAW) of foreign domestic helpers (FDHs), will the executive authorities inform this Council:*

- (a) *how often the MAW of FDHs is reviewed;*

- (b) *of the indicators, data and formulae currently adopted by the authorities for determining the MAW of FDHs; and*
- (c) *as the Hong Kong economy and the employment situation have improved over the last two years, whether the MAW of FDHs will be adjusted upwards and restored from the current level of \$3,400 per month to the level in 1998 (that is, \$3,860 per month); if so, of the implementation date; if not, the reasons for that?*

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

- (a) The Administration reviews the MAW for FDHs regularly. The review is generally carried out on an annual basis.
- (b) and (c)

In accordance with the long-established mechanism in reviewing the MAW and deciding whether the level is to be adjusted, the Administration takes into account the prevailing general economic condition and employment situation, as reflected through economic indicators which include the relevant income movement, price change and labour market situation. The Administration is currently reviewing the MAW in accordance with the mechanism as described above. The outcome of the review would be announced upon completion of the review.

New Dawn Project

18. **MR FREDERICK FUNG** (in Chinese): *President, regarding the New Dawn Project (the ND Project) implemented by the Social Welfare Department (SWD), will the Government inform this Council:*

- (a) *of the number of parents and child carers participating in the ND Project since its implementation and the districts where they live; the number of participants who have their Comprehensive Social*

Security Assistance (CSSA) payments deducted for not fulfilling the obligations under the ND Project and the amount involved; the number of participants who have been exempted from the mandatory requirement to seek employment and the reasons for the exemption; the number of participants who have succeeded in securing full-time and part-time employment, the types of their jobs and range of wages, as well as the number of such participants who have got out of the CSSA net, the number of participants whose CSSA payments have not been deducted because their earnings from employment have been disregarded by virtue of the provision of disregarded earnings (DE) arrangements under the CSSA Scheme and the total amount of earnings disregarded; and the number of participants whose CSSA payments have been deducted because their earnings have exceeded the "no-deduction" limit and the amount involved;

- (b) how it ensures that participants of the ND Project will be paid reasonably and will not be discriminated against; of the criteria adopted by the non-governmental organizations (NGOs) running the ND Project to determine whether the employment terms and conditions are reasonable, as well as the measures to assist the employed participants in staying in employment and getting promotion opportunities;*
- (c) whether it will consider, by following the practice in the United Kingdom, improving the ND Project by offering one-year "on-the-job allowance" to single parents who have been on CSSA for a long time so as to encourage employment, and offering more allowance to recipients who live in districts with a higher cost of living; and*
- (d) of the results of the assessment and study of the ND Project, which have been commissioned to the University of Hong Kong (HKU), and the date of their publication, and whether it will consider switching the ND Project to a voluntary one?*

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

- (a) The ND Project has been implemented since April 2006. Up to the end of March 2007, the ND Project had a total of 7 886 participants comprising 4 992 single parents and 2 894 child carers on CSSA. Please refer to Annex for the distribution of participants in the 18 districts.

Up to the end of March 2007, a total of 5 087 eligible single parents and child carers on CSSA had \$200 deducted from their monthly CSSA payments due to their failure to comply with the project requirements.

Up to the end of March 2007, a total of 9 539 single parents and child carers on CSSA were exempted from participating in the ND Project mainly for the following reasons:

- (i) have to take care of vulnerable family members such as disabled, senile or in ill-health;
- (ii) already engaged in paid employment with monthly working hours of 32 or more;
- (iii) being recently bereaved;
- (iv) have special problems based on the social worker's assessment; and
- (v) aged over 59 years and five months.

Up to the end of March 2007, a total of 2 215 single parents and child carers on CSSA participating in the ND Project have secured paid jobs, with 836 of them taking up full-time paid employment and 1 379 part-time paid employment. The success rate is about 28%. Among them, a total of 158 participants left the CSSA net after successfully securing employment. The participants who have successfully secured employment mainly work as cleaners, services workers, shop sales, domestic helpers and in other elementary occupations. The average monthly wage is \$4,400 for full-time employment and \$1,600 for part-time employment.

Under the DE arrangement, up to the end of March 2007, 57 participants with a monthly wage of \$600 or below had their earnings fully disregarded, 1 758 participants with a monthly wage ranging from \$601 to \$4,399 had their earnings partially disregarded, and 400 participants with a monthly wage of \$4,400 or above had their monthly earnings disregarded up to a maximum of \$2,500. Take the above participants who had secured employment as examples. The participants who have full-time employment with an average monthly wage of \$4,400 can receive \$2,500 more from their monthly CSSA payments and wage than the amount when they were not employed. The participants who have part-time employment with an average monthly wage of \$1,600 can receive \$1,100 more from their monthly CSSA payments and wage than the amount when they were not employed. The increase in the total income helps improve the living standard of the families.

- (b) The SWD provides participants of the ND Project with personalized employment assistance services and refers them, where appropriate, to join the New Dawn Intensive Employment Assistance Projects run by NGOs, so that they can receive appropriate employment assistance services which meet their needs, including the provision of updated labour market information. The NGOs render assistance to project participants when they have an employment offer, by helping them better understand their working capacity and experience, as well as their work skills and knowledge to facilitate their consideration of whether the employment terms and conditions are reasonable and whether to take up the job. The NGOs also provide participants with pre-employment and post-employment assistance if they encounter difficulties. In addition, the NGOs arrange retraining courses for participants to attend to enhance their work skills and competitiveness, thereby improving their promotion prospects.
- (c) The DE arrangement under the CSSA Scheme allows CSSA recipients, including single parents, to retain part of their earnings. This will increase their family income without affecting their eligibility for CSSA. The arrangement is designed to encourage the recipients to seek employment and become self-reliant in a bid to achieve the dual objectives of improving their living standard while

enriching their working experience and enhancing their capacity to lead a financially independent life. We believe that the measures of the Support for Self-reliance Scheme, coupled with the DE arrangement, will provide incentive for the recipients to seek and remain in employment.

In addition, the Administration is now planning to introduce a one-year "Pilot Transport Support Scheme" in mid-2007 to encourage unemployed and low-income people in financial difficulties who live in remote areas to seek jobs and work across districts. Eligible participants of the ND Project can apply for the allowance designed to help them seek jobs and work across districts provided that they are not concurrently receiving similar employment-related transport subsidy benefits.

- (d) The SWD has commissioned the HKU to conduct an evaluation of the ND Project. The study is under way and scheduled to be completed in mid-2007.

The Ending Exclusion Project (EEP), launched by the SWD in March 2002 to assist single parents on CSSA with young children to seek employment. However, participation under the EEP was voluntary and the outcome was not encouraging. In view of our experience with the EEP, the SWD introduced the ND Project. Participation in the ND Project is mandatory for all single parents and child carers on CSSA with the youngest child aged 12 to 14 to seek employment entailing not less than 32 hours a month. The ND Project's aim is to better help the recipients to end social exclusion, to build up their capacity for joining the labour market and start the process of becoming self-reliant through paid employment as soon as their family circumstances permit. Exemptions from joining the ND Project are allowed where justified, for example, the recently bereaved, those who have recently been victims of domestic violence and those having to care for a disabled family member.

We will review the various measures under the ND Project in light of the findings of the HKU's study with a view to providing more appropriate services for employable single parents and child carers.

Distribution of ND Project participants in the 18 districts
(as at the end of March 2007)

Hong Kong Island

<i>District</i>	<i>Number of Participants</i>
Central and Western	86
Eastern	376
Southern	169
Wan Chai	51
Total:	682

Kowloon

<i>District</i>	<i>Number of Participants</i>
Kowloon City	196
Yau Tsim Mong	267
Sham Shui Po	797
Wong Tai Sin	784
Kwun Tong	874
Total:	2 918

New Territories

<i>District</i>	<i>Number of Participants</i>
Tai Po	297
Tuen Mun	606
Yuen Long	993
North	389
Sai Kung	322
Sha Tin	604
Tsuen Wan	299
Kwai Tsing	679
Islands	97
Total:	4 286

Total Number of Participants: 7 886

Combating Sale of Counterfeit Goods

19. **MR LAU KONG-WAH** (in Chinese): *President, on combating the sale of counterfeit goods, will the Government inform this Council of the following in the past two years:*

- (a) *the number of enforcement actions taken by the Administration to combat or clamp down on shops selling counterfeit goods, and whether such enforcement actions were mainly conducted in the form of "undercover" operations; and*
- (b) *the number of complaints received by the Administration relating to the sale of counterfeit goods, broken down by nature of business, as well as the quantity and value of counterfeit goods seized, broken down by the categories of the goods?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in the absence of Secretary for Commerce, Industry and Technology) (in Chinese): President,

- (a) The statistics relating to the enforcement actions taken by the Customs and Excise Department (C&ED) against shops and stalls selling counterfeit goods are given below:

<i>Year</i>	<i>2005</i>	<i>2006</i>
Number of cases	760	612
Number of persons arrested	487	412

The C&ED combats various counterfeiting activities through in-depth investigations based on intelligence and stern raiding actions. Under special circumstances, the C&ED conducts "controlled buying" operations (by "undercover" staff) to help collecting evidence.

- (b) The number of complaints relating to sale of counterfeit goods received by the C&ED in the past two years is as follow:

<i>Year</i>	<i>2005</i>	<i>2006</i>
Number of complaints	2 144	1 999

(The C&ED does not have a breakdown by nature of business)

The number of complaints received far exceeds the number of cases acted on. This is because: some complaints are repetitive (that is, more than one complaint received for the same case); some involve goods which are found not to be counterfeit; some do not have accurate or sufficient details for further follow-up; some involve unregistered trade marks; and some are cases where no trained personnel is available in Hong Kong to give authoritative advice on the counterfeit nature of the goods involved.

The quantity and value of goods seized in the past two years are as follows:

<i>Year</i>	<i>2005</i>	<i>2006</i>
Clothing (Number of pieces)	75 411 \$4,615,000	49 509 \$3,497,000
Leather goods (Number of pieces)	52 802 \$3,228,000	19 305 \$1,722,000
Watch (Number of pieces)	15 697 \$3,141,000	13 200 \$2,115,000
Pharmaceutical products (Number of pieces)	3 450 \$77,000	1 279 \$36,000
Miscellaneous (Number of pieces)	307 001 \$27,346,000	384 209 \$3,634,000
Total (Number of pieces)	454 361 \$38,407,000	467 502 \$11,004,000

Laboratory Equipment of Food Research Laboratory

20. **MR FRED LI** (in Chinese): *President, it has been reported that the Food Research Laboratory of the Food and Environmental Hygiene Department (FEHD) has purchased a large quantity of sophisticated laboratory equipment since its establishment in 2002, but some items of the equipment have never been used. In this connection, will the Government inform this Council:*

- (a) *of the name, costs, reasons for procurement and frequency of utilization of the laboratory equipment purchased for the above Laboratory since 2002;*

- (b) *whether it has reviewed the utilization of such equipment; if it has, of the findings of its review; if not, the reasons for that; and*
- (c) *of the ways to raise the utilization rate of the laboratory equipment that has been used infrequently?*

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

President,

- (a) The Food Research Laboratory of the FEHD was established in 2002 to conduct research on risk assessment and to develop food safety standards. Like other laboratories, the Food Research Laboratory procures the necessary equipment by stages and has so far purchased 65 pieces of equipment at a total cost of about \$30 million. Different equipment features different functions and some are tailor-made for specific purposes. For instance, analysis instruments are used to analyse materials of different nature and concentration, such as heavy metals, environmental pollutants, pollutants generated in food processing, additives such as preservatives/sweeteners/colouring materials, nutrients, allergens, natural toxins, mycotoxins, and so on. Other equipment items include general purpose instruments like water purifier, chemical solvent vaporizers and chemical extractors for handling specimens.
- (b) The Food Research Laboratory differs from general monitoring laboratories in that it uses a variety of analysis instruments as required for the specific objectives, nature, scope of individual projects as well as the subject chemicals to be analysed and their detection thresholds. Whilst a research project may use a variety of analysis instruments, the same instrument may also be used in a variety of projects. For instance, gas mass spectrometer may be used in research on chloropropyl alcohol, benzene and DDT. But special purpose equipment, such as water purifier, will record a utilization rate lower than those for general purposes. The utilization of specific instruments will also vary according to the themes of different research projects.

In the past few years, the Laboratory has conducted nearly 60 research projects, including about 20 large-scale thematic risk assessment researches on food safety. It has also studied and developed a number of analysis methods for materials including trans fatty acids, water soluble dietary fibers, propenamide, and so on. These studies have helped to facilitate risk assessments and generate scientific data for food safety management. Some of the research findings have been submitted to international organizations, such as the World Health Organization, to facilitate their risk assessment for food safety at the international level.

- (c) In procuring and using equipment items, the Food Research Laboratory always takes into account the project objectives and the need to optimize resources. The lifespan of these laboratory instruments are generally designed for seven years or more but are expected to last longer since they are mainly used for research purposes in the Laboratory. Most of the 65 equipment items acquired have been used in different research projects and will be used again in future. The remaining few items (five) that have not yet been used will feature in projects scheduled for the current year, which include research on nutrients and microelements in food. The Food Research Laboratory will continue to monitor the equipment utilization to meet the needs of future research projects.

BILLS

First Reading of Bills

PRESIDENT (in Cantonese): Bills: First Reading.

REVENUE BILL 2007

REVENUE (NO. 2) BILL 2007

CLERK (in Cantonese): Revenue Bill 2007

Revenue Bill (No. 2) Bill 2007.

Bills read the First time and ordered to be set down for Second Reading pursuant to Rule 53(3) of the Rules of Procedure.

Second Reading of Bills

PRESIDENT (in Cantonese): Bills: Second Reading.

REVENUE BILL 2007

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, I move the Second Reading of the Revenue Bill 2007 (the Bill).

To give effect to the proposals introduced in the Budget 2007-2008, two Bills are submitted to the Legislative Council today. This is the first Bill submitted.

This Bill seeks to amend the Dutiable Commodities Ordinance (Cap. 109) and the Stamp Duty Ordinance (Cap. 117) to give effect to two of the tax relief proposals published in the Budget 2007-2008.

The first proposal in the Bill seeks to reduce the duty on alcoholic beverages with an alcoholic strength not more than 30% (other than wine) from the existing *ad valorem* rate of 40% to 20%, and that on wine from the current 80% to 40%. It is estimated that the relevant measures will cost the Government about \$350 million in revenue a year.

We are of the view that the lowering of the relevant rate will help promote the development of the local catering industry, tourism and wholesale and retail alcoholic beverage trade, thereby benefiting the community at large.

The second proposal of the Bill seeks to reduce the stamp duty rate on transactions of properties valued between \$1 million and \$2 million from 0.75% to a fixed amount of \$100, which is the same level of duty for properties with a value below \$1 million.

It is estimated that this measure will benefit about 30 000 home buyers and cost the Government about \$250 million in revenue a year.

The two proposals stated in the Bill have taken effect since 11.00 am 28 February under the Public Revenue Protection (Revenue) Order 2007 which

gives legal effect to the proposals for a maximum of four months. In other words, if the Bill cannot be passed before 28 June, these measures will cease taking effect on that day. Therefore, the Government hopes that the Legislative Council will scrutinize and pass the Revenue Bill 2007 as soon as possible.

I so submit. Thank you, Madam President.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Revenue Bill 2007 be read the Second time.

In accordance with the Rules of Procedure, the debate is now adjourned and the Bill referred to the House Committee.

REVENUE (NO. 2) BILL 2007

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, I move the Second Reading of the Revenue Bill (No. 2) 2007 (the Bill).

The Bill seeks to amend the Inland Revenue Ordinance (Cap. 112) to implement four tax relief proposals on salaries tax published in the Budget 2007-2008.

As the Government's financial position has greatly improved following the strong recovery of Hong Kong economy, the Financial Secretary proposed in the Budget this year a series of tax relief measures to share the fruits of economic prosperity with the community. The first proposal of the Bill is a one-off reduction in salaries tax and tax under personal assessment for 2006-2007 by 50%, subject to a ceiling of \$15,000. The amount waived will be deducted from the taxpayer's final tax payable for 2006-2007. This one-off relief measure will cost the Government about \$8.1 billion in revenue in 2007-2008.

The second proposal in the Bills seeks to revert the marginal tax bands and tax rates to their 2002-2003 levels to alleviate the additional tax burden borne by taxpayers in the past few years when Hong Kong economy was in the doldrums.

It is proposed that each marginal tax band will be widened from \$30,000 to \$35,000 and the highest two marginal tax rates will be reduced from 13% and 19% to 12% and 17%, respectively. But the basic allowance and standard rate will remain unchanged.

The third proposal in the Bill seeks to increase the child allowance. It is hoped that this measure will ameliorate the burden of parents in raising their children. We propose to increase the child allowance from the existing \$40,000 to \$50,000 for each child and to introduce an additional child allowance of \$50,000 in the year of assessment in which the child was born.

The fourth proposal of the Bill seeks to increase the maximum amount of deduction for self-education expenses from \$40,000 to \$60,000, aiming to encourage employees to seek continual self-advancement through learning to cope with the development of a knowledge-based economy in Hong Kong.

These three tax relief measures, which are not one-off measures, are expected to benefit 1.1 million taxpayers and cost the Government about \$4.9 billion in revenue a year.

To conclude, the proposed measures mentioned above will enable taxpayers to share the fruits of economic prosperity, achieving the target of leaving wealth with the people.

I so submit. Thank you, Madam President.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Revenue (No. 2) Bill 2007 be read the Second time.

In accordance with the Rules of Procedure, the debate is now adjourned and the Bill referred to the House Committee.

Resumption of Second Reading Debate on Bills

PRESIDENT (in Cantonese): We now resume the Second Reading debate on the Accreditation of Academic and Vocational Qualifications Bill.

ACCREDITATION OF ACADEMIC AND VOCATIONAL QUALIFICATIONS BILL**Resumption of debate on Second Reading which was moved on 6 July 2005**

PRESIDENT (in Cantonese): Mr TAM Yiu-chung, Chairman of the Bills Committee on the above Bill, will now address this Council on the Committee's Report.

MR TAM YIU-CHUNG (in Cantonese): President, my speech will be a bit longer today, for I will first report in my capacity as Chairman of the Bills Committee on Accreditation of Academic and Vocational Qualifications Bill (the Bill) on the work of the Bills Committee, and then express views on the policy aspect on behalf of the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) and the Hong Kong Federation of Trade Unions (FTU).

The Bill seeks to provide for accreditation of academic and vocational qualifications under the Qualifications Framework (QF) administered by the Hong Kong Council for Academic and Vocational Accreditation (CAVA), and for related and consequential matters.

During the scrutiny of the Bill, Members expressed prime concern about the establishment of the QF and the impact of its implementation on existing employees. Members are of the view that a consensus should be reached within an industry before the QF is implemented in that industry. Some Members have expressed concern that although the QF is not a mandatory system, some employers may require employees to obtain recognized qualifications under the QF, thus indirectly turning these qualifications into *de facto* "work licences", causing adverse impact on the employment of low-education and low-skilled employees. These Members opine that an exemption system should be put in place for existing employees in order not to affect their employment opportunities.

The Administration has explained that it is the Government's policy that the QF will not be implemented in a particular industry unless a consensus is reached within that industry. The implementation of the QF in a certain industry depends on the participation, commitment and support of the industry.

The authorities have no intention or wish to turn qualifications recognized under the QF into "work licences".

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

To allay Members' worries, the Administration has undertaken to report to the Panel on Manpower the progress of the implementation of the QF in individual industries every six months. At the request of Members, the Secretary for Education and Manpower will state this point and reaffirm the Government's policy in implementing the QF in his speech to be delivered later on.

The Bills Committee has discussed in depth the mechanism for the "recognition of prior learning" (RPL). Members are particularly concerned about how employees with low educational attainment could acquire qualifications under the QF and have pointed out the difficulties of some employees in providing proof of working experience. Some Members have suggested that labour unions should be allowed to issue certification of years of working experience to employees for applying for qualifications recognition.

The Administration has explained that the number of years of service and relevant experience will form the basic requirements for recognition. According to the recommendations of various Industry Training Advisory Committees (ITACs), the minimum years of service required for recognition of qualifications at Levels 1 to 4 under the QF will be one year, three years, five years and six years respectively. The authorities will apply flexibility and allowance in handling applications for qualifications recognition at Levels 1 and 2. Applicants can present valid evidence of years of service, such as attestation issued by employers, business registration certificates, or other supporting information (including certificates and diplomas issued by training providers, attestation issued by labour unions, and so on), to prove his possession of the relevant experience and competency standards. For recognition of qualifications at Level 3 or above under the QF, a higher standard of proof is required. Apart from considering the years of working experience of the applicant with respect to relevant competence, the applicant is also required to undertake certain assessments.

To address the concerns of the industries, the Administration has proposed to introduce transitional arrangements for workers applying for recognition of QF qualifications at Levels 1 to 3. During the five-year transitional period, workers may apply for recognition of QF qualifications at Levels 1 to 3 basing on their years of working experience and relevant experience without taking any assessments. After the end of the transitional period, all levels of qualifications must be attained through assessment.

The Administration intends to introduce a two-year pilot scheme for the printing and publishing, watch and clock, and hairdressing industries upon the enactment of the Bill. The authorities have undertaken to conduct a review of the pilot scheme one year after its implementation, and to report to the Panel on Manpower the results of the review.

To implement the mechanism for the recognition of prior learning, assessment agencies will be appointed to assess the skills, knowledge or experience acquired by workers under the QF. Members have pointed out that as Vocational Training Council (VTC) is also a training provider, its appointment as an assessment agency may give rise to doubts about its impartiality in conducting assessment.

The Administration has expressed that the roles of the VTC as a training provider and an assessment agency will be clearly separated. The appointment of the VTC as an assessment agency is only for the first three industries covered in the pilot scheme. The authorities will decide whether or not more than one assessment agency should be appointed for each industry having regard to the results of the review of the pilot scheme.

To facilitate the implementation of the QF, the Administration has proposed to provide assistance to education and training providers which have to undergo accreditation by the CAVA, assessment agencies appointed by the Secretary for Education and Manpower and employees undertaking assessments on recognition of prior learning. The assistance to be provided includes accreditation grants for self-financing programmes, full subsidy of accreditation fees of subsidized courses, a discount on qualifications registration fee, a one-off start-up grant to assessment agencies, as well as a 50% subsidy of assessment fee on recognition of prior learning, subject to a maximum of \$1,000, to an

employee upon his/her passing the assessment of recognition of prior learning and completion of a QF-recognized training course.

Deputy President, in respect of the provisions of the Bill, Members have grave concern about the mechanism for reviewing the decisions and reviews made by the Accreditation Authority and the Qualifications Register (QR) Authority. Members have pointed out that since members of the review committee will be appointed by the Accreditation Authority or the QR Authority and the final decision on reviews will be made by the same body, the review mechanism may lack independence and credibility. Members have suggested that an appeal body with the power to reject the final decisions of the authorities concerned should be established, and the holding of hearings should be allowed.

Having considered the views of Members, the Administration will propose an amendment to Part 3 of the Bill to modify the mechanism. The Administration will set up an independent Appeal Board to consider appeals against decisions and determinations made by the Accreditation Authority or the QR Authority. The power of the Appeal Board includes varying or reversing the decision and determination of the authorities concerned, and allowing parties concerned to make oral representations at a hearing. The Chairman, Deputy Chairmen and panel members of the Appeal Board will be appointed by the Secretary for Education and Manpower. They will not be members of the Accreditation Authority or the QR Authority, and should be persons with expertise or experience in quality assurance or accreditation matters, or with good standing in the field of education or training or in any industry.

In response to Members' concern, the Administration will add a provision for the establishment of a rules committee to draw up rules on appeals. The rules committee shall consist of the Chairman, all Deputy Chairmen, and six to eight members selected by the Secretary for Education and Manpower. At the request of Members, the Administration has undertaken to consider setting out in the rules the timeframe for handling appeals by the Appeal Board.

The Administration has also undertaken to step up publicity on the differences between the above appeal mechanism and the review mechanism under clause 35 in the handling of decisions and determinations unrelated to the QF.

Clause 13 of the Bill provides that any person who publishes or causes to be published an advertisement which wrongly claims, represents or holds out that a qualification is recognized under the QF or that a person or body is an appointed assessment agency, commits an offence and is liable on conviction to a fine of \$50,000. Members are concerned that the defence under clause 13(4)(a)(iii) would put a heavy burden of proof on those engaged in the publishing or advertising business as they are not familiar with the QF or the QR. In this connection, the Administration will move an amendment.

Given that a contravention of clause 13(1) would constitute an offence, Members have queried whether or not it is necessary to require an advertisement relating to the QF and QR to contain information of all six items listed in the provision. Having considered Members' views, the Administration will introduce amendments to require an advertisement to include information of the following three items: the QF level of the relevant qualifications, the registration number of the relevant qualifications, and the validity period of the relevant qualifications.

With regard to the composition of the CAVA, some members consider that representatives from labour unions should be appointed to the CAVA to represent the views of employees. The Administration has explained that members appointed to the CAVA would cover a wide range of expertise in different sectors and industries, including representatives of employees with expertise in vocational education and training. The name of the Hong Kong Council for Academic Accreditation will be changed to Hong Kong Council for Academic and Vocational Accreditation by an amendment.

Under clause 4 of the Bill, the Accreditation Authority may determine the fees to be charged for the conduct of accreditation tests and charge such fees. Members have expressed concern that if the accreditation fees for learning programmes are too high, the fees may be transferred onto the learners. Members are also concerned about how the authorities can monitor the fees charged.

The Administration has assured the Bills Committee that the overall development costs for the CAVA to establish a quality assurance mechanism will be borne by the Education and Manpower Bureau and will not be transferred to the accreditation fees. With the implementation of a much streamlined and "fitness for purpose" quality assurance process under the QF, the fees incurred

under the existing process will be further reduced. The Administration has pointed out that under clause 34 of the Bill, the CAVA shall submit, at least five months before the close of each financial year, a statement of its fee charging policy on the accreditation exercises for the following financial year to the Secretary for Education and Manpower for his prior approval.

At the suggestion of Members, the Administration will move an amendment to the effect that fees to be charged by the Accreditation Authority will be subject to the prior approval of the Secretary for Education and Manpower. The Administration will also introduce similar amendments to the Hong Kong Council for Academic Accreditation Ordinance, so that the accreditation fees charged by the CAVA for work unrelated to the QF will also be subject to the prior approval of the Secretary for Education and Manpower. Moreover, the authorities will also make an amendment to require the CAVA to submit a schedule of its accreditation fees and review fees to be determined for the next financial year for the prior approval of the Secretary for Education and Manpower.

The Administration has accepted a number of suggestions made by the members of the Bills Committee, and will move other amendments. The Bills Committee supports the resumption of the Second Reading debate of the Bill today and the amendments to be moved by the Secretary for Education and Manpower.

I would like to take this opportunity to thank all members for supporting the work of the Bills Committee and the Secretariat for the services provided.

After reporting on the deliberation of the Bills Committee, I, on behalf of the DAB and the FTU, will now express our views on the Bill in respect of policy development.

Under the influence of the globalization of world economy, developing human resources and upgrading the quality of the workforce have become a main policy direction adopted by various regions for staying competitive. In view of the problem of structural unemployment, the provision of continual training to upgrade the quality of human resources has been regarded as and widely employed by places around the world, including Hong Kong, as a solution to the problem. As such, the concept of lifelong learning has been strongly promoted

for the past decade. To materialize the concept of lifelong learning, qualifications frameworks and tests suitable for the local social situation have been set up in succession by other regions, which has won recognition of the quality of their workforce.

As such, the certification of qualifications is becoming more important. At a meeting of the International Labour Organization in 2000, a declaration was made to propose that one of the major exercises for the future development of human resources was the establishment of a state or regional best practice database on QFs and the conduct of intra-framework studies. Hong Kong, as a member of the world economy, should establish its own vocational qualifications accreditation system and upgrade the quality of its workforce as soon as possible, for this important task should not be overlooked in assuring the sustained development of Hong Kong economy. However, while different kinds of education and training courses are available in the market of Hong Kong currently, offering qualifications under titles of all descriptions, a standard for assessing the quality of these qualifications is lacking. The public and the industries concerned can hardly verify the effectiveness of these courses, neither do they know whether or not such courses can help trainees grasp the skills required by the industries. Therefore, Hong Kong needs to develop an academic and vocational qualifications accreditation mechanism to ensure the quality of these qualifications, so that qualifications awarded by different types of education and training providers carry credibility.

On this occasion, the Bill seeks to provide a policy framework for the implementation of the QF. Under this policy framework, the newly established QF will include a seven-level hierarchy that is applicable to all trades. Each level is characterized by the standard of the corresponding level, so as to facilitate workers in understanding clearly the skill requirement of each level and to continuously enhance themselves according to their own needs. Under the new mechanism, accreditation is conducted by the CAVA, recognized qualifications levels will be set and a list setting out courses with quality assurance will be publicized, providing clear guidelines to employees and learners.

Under the newly established QF, the mechanism for recognition of prior learning will have the greatest impact on employees. In future, the Government will appoint assessment agencies to assess the skills, knowledge or experience acquired by individuals, so as to enable serving workers to acquire certain

qualifications basing on their existing experience relevant to the skill. Skills and knowledge accumulated at work and the relevant working experience, and even knowledge of "veteran masters", as long as they meet the standard of skill levels set for the trade, will be recognized.

Theoretically, the gradual implementation of the QF will enable Hong Kong to break away from the previous limitation of focusing mainly on academic qualifications in qualification recognition. With a set of vocational qualification standards accepted by different trades and industries, employees can map out their own advancement pathways. Challenged by the wave of globalization of world economy, upgrading the quality of workforce through human resources development has become a dominant trend. For this reason, the DAB and the FTU have conducted in-depth studies on the experience of Britain, New Zealand, Australia, the Mainland and Singapore.

The FTU has paid a succession of study visits to Britain, Australia, the Mainland and Singapore, and so on. We decided to support the establishment of the QF on the premise that the employment of the 1 million or so non-skilled or semi-skilled workers with an education level below Secondary Three will not be affected. Hence, during the entire course of scrutiny of the Bill, we persistently urged the Government to give concrete undertakings on seven aspects. I will now talk about these seven aspects.

First, the Government should set a comprehensive exemption mechanism for serving workers. According to the 2001 Population Census, 37% of the workforce in Hong Kong was at junior secondary education level or below. Once the QF is implemented, it will deal a blow to serving workers with a low education level, particularly those with long service or high pay, and they will worry about losing their jobs or pay cuts. Therefore, when the mechanism for recognition of prior learning is implemented, for qualifications at Levels 1 to 3, the Government should, during the transitional period, allow serving employees to acquire recognition of qualifications basing directly on their years of service without requiring them to undertake any assessments or examinations. The Government should also respect the vocational qualifications of serving employees instead of imposing mandatory academic requirements. Moreover, upon the full implementation of the QF in future, the Government should allow employees to have choices. For instance, employees may choose to acquire the

qualifications by taking assessments direct, and they should not be mandated to acquire recognition of qualifications by taking training course. In practical implementation, the Government should first simplify the complicated procedures, avoiding any undue lowering of qualification levels of employees. Take the catering industry as an example. Recently, at a meeting of the advisory committee of the trade, details of implementation during the transitional period were discussed. Some were of the views that if the job duties for posts previously held by the applicants must correlate with the cluster of units of competency for which recognition was sought, it would be tantamount to requiring employees seeking recognition of qualifications to possess years of service and relevant experience of the same job category instead of just service within the trade. This is unrealistic. Therefore, various trade unions have already demanded the abolition of the requirement on years of service on job categories. Apart from the consideration of years of service within the trade, for applications for recognition of the cluster of units of competency on posts, flexibility should be applied in handling the relevant experience required.

Second, on the charging of fees, the Government should offer employees substantial fees concession for first-time application for recognition of prior learning, and a fee subsidy for taking assessment on other qualification levels in future. The Government should also monitor the fees charged by various organizations for the provision of qualifications recognition programmes and assessments, ensuring that fees are maintained at a reasonable level affordable to employees. Moreover, in respect of programmes, the Government should lower the fees charged by the CAVA for programme accreditation. As for training programmes subsidized by the Government, the accreditation fees should be paid by the Government in a uniform manner, preventing the transfer of these fees onto employees intent on taking those programmes.

Third, in respect of the appeal mechanism, the Government should set up an Appeal Board instead of appointing the CAVA to handle this as proposed in the Bill at the outset. In that case, any person aggrieved by the qualifications level awarded or any programme providers aggrieved by the result of programme assessment will have an opportunity for independent appeal. The composition of the Appeal Board should include not only professionals and academics, but also veteran employees of the trade and representatives of trade unions.

Fourth, the Government must give a full commitment to the recognition of the status of the industry advisory committee. The QF should not be implemented in any trade without prior consent of the relevant industry advisory committee. The Government should expeditiously define clearly the relationship and division of labour between the industry advisory committee and the CAVA upon the implementation of the QF with a view to safeguarding the autonomy of industries.

Fifth, the Government should first introduced a pilot scheme in several selected industries with suitable conditions, and then conduct comprehensive reviews and implement the QF gradually. When the construction workers registration system was first implemented in 2006, because specific measures and registration procedures concerned had not been given full attention, construction workers were affected, arousing discontent among trade unions and workers in the course. The Government should learn from this experience, refrain from implementing the vocational QF in a hasty manner. It should select a number of industries with suitable conditions for the introduction of a pilot scheme. Attention should be paid particularly to the formulation of specific standards for skill assessment, procedures for recognition of prior learning of employees, and so on. For this will enable the public to understand the operation and the pros and cons of the entire mechanism, ensuring that the new mechanism will place emphasis on skills of employees instead of tightening academic requirement. More so, it should prevent causing any adverse impact on serving employees.

Sixth, to encourage employers to support the QF, the Government should consider formulating other support measures. In respect of subsidy for taking courses, the Government should allocate additional financial resources, drawing reference from the operation of the Continuing Education Fund, to provide subsidy to learners taking relevant training programmes. On the other hand, we also notice that though the Government has injected considerable resources into skills upgrading programmes, many workers do not have the opportunity to take part owing to various constraints, for example, many employers do not give time to their employees for such studies. In this connection, the Government should make use of tax concession, promotion and education to encourage employers to grant study leave to their employees, and it should urge employers to support their employees in learning, thus enhancing the skill of their employees.

Financially, the Government should double its effort in subsidizing skills training work with the foreign domestic helper levy.

Seventh, the Government should give full attention to the employment difficulties faced by ethnic minorities and people with disabilities, and provide more assistance to them, so that they can have sufficient avenues to upgrade their working skills. The number of ethnic minorities residing in Hong Kong is now increasing, and there is thus a pressing need to help these grass-roots workers to find employment. In addition to education on culture, sufficient training places in vocational training should be provided to them, otherwise, they will be excluded from the QF. For persons with disabilities, the relevant skills training programmes should also be improved with a view to enhancing their self-help ability.

When I reported to this Council in my capacity as the Chairman of the Bills Committee earlier, I already pointed out that the Government had responded to the various concerns raised by the DAB and the FTU and made some undertakings. We will thus support the passage of the Bill. But, again, I urge the Government to exercise great caution in implementing the QF. It should avoid any hasty acts, conduct constant reviews and make revisions. When we look at qualifications frameworks implemented overseas, from the framework to the concept itself, the formulation, consultations, discussions on application of framework in individual industries and designs, and so on, all are under the qualifications framework of individual industries. The course of consultation and adjustment often takes five to 10 years, and to cater for the ever-changing needs of society, regular reviews have to be conducted.

Last week, I received a letter from Prof KAN Wing-Kay, President of the Hong Kong Information Technology Professionals Association, which was addressed to this Council. The letter raised a number of questions, including the unitary pathway for learning, the convergence of the competency standard with international standard, the demerits of self-assessment by tertiary institutions, and so on. This exactly illustrates that in the implementation of the QF, many details are felt to be handled cautiously.

Though the Bill today only provides a framework and does not address the problems direct, the Government should attach due importance to this. Also, upon the enactment of the Bill, the Government should continue to engage

extensively in negotiation with representatives from different sectors and trade unions with a view to finding a consensus and perfecting the relevant proposal.

I so submit. Thank you, Deputy President.

MR ANDREW LEUNG (in Cantonese): Deputy President, I have been involved in vocational training for a long period of time and currently, I am also the Chairman of the Vocational Training Council. I welcome the conclusion of the scrutiny of the Bill by the Bills Committee after holding 21 meetings and the tabling of the Bill to the Legislative Council for Second and Third Readings today. The Bill encourages lifelong learning and continued education with a view to raising the quality of our human resources, so it is indeed worthy of support.

The Bill consists of eight major parts, including the establishment of a QF comprising a hierarchy of qualifications, the establishment of a QR, the establishment of the Accreditation Authority responsible for developing and implementing the standards and mechanism for academic or vocational qualifications accreditation, the establishment of review committees, and so on. It is proposed that the QF be first implemented in 12 industries which have already set industry-recognized competency standards. In our discussion, it was agreed that the participation of various industries in the QF should be entirely voluntary, therefore, we believe the situation of the QF-recognized qualifications becoming the minimum entry requirement for employees and "work licences", thus affecting the employment of low-education and low-skilled employees, will not occur.

As the QF is new to the local labour market, its development will take time, and its success will depend on the recognition and support of society, various industries, employees and training providers. I hope that the Government, while doing its best to promote and implement this policy, should also listen to the views of various sectors and make appropriate adjustments, so that the QF can operate even more smoothly. I anticipate that the implementation of this measure will offer young people more opportunities to set lifelong learning as their goal and gradually move up the ladders in their industries under a more systematic industry framework governed by objective standards.

The Hong Kong Council for Accreditation of Academic and Vocational Qualifications, which is responsible for quality assurance under the Bill, is not the only organization playing a part in quality assurance as the affiliated Community Colleges and schools of continuing education of the universities also have separate mechanisms for this purpose. The standards and stringency of these two quality assurance mechanisms should be consistent.

For in-service and experienced workers, the Bill has provided for a "recognition of prior learning" (RPL) mechanism to recognize the skills, knowledge and experience they have accumulated to facilitate their continued learning and skills upgrading, so that they need not start from the basics when attending training and repeated training on similar subjects or skills can be minimized.

As an employer, I also believe that this framework can provide another systematic and clear reference to employers in recruitment. By means of this framework, companies can also identify the skills that their employees lack and encourage them to receive continued education to increase their productivity and enhance the efficiency of their companies and the overall competitiveness of Hong Kong.

Finally, I hope the authorities can consider providing financial support to the Hong Kong Council for Accreditation of Academic and Vocational Qualifications, so that unwarranted concerns in the work of accreditation can be reduced and the process can be more independent, thus alleviating the burden of educational and training organizations and individuals in seeking recognition of their qualifications.

With these remarks, Deputy President, I support the Bill.

MS LI FUNG-YING (in Cantonese): Deputy President, it was the International Labour Day on 1 May yesterday. The origin of the International Labour Day on 1 May was the campaign waged by workers in places such as the United States and Australia for eight hours of work and their success turned 1 May into a day of commemoration for workers throughout the world. This highlighted the importance of the labour movement, reasonable working hours and reasonable rest time for workers. Today, after celebrating the Labour Day yesterday and at a time when employees in Hong Kong still lack any protection

in wages and working hours, the Legislative Council has to examine and pass the Accreditation of Academic and Vocational Qualifications Bill (the Bill). This is a coincidence full of historical irony. To me, someone who has taken part in the labour movement for a long time, this has evoked very mixed feelings in me.

After the passage of the Bill, the employment conditions in the labour market in Hong Kong will be changed and the more than 3.5 million people in the labour force and even people who join the labour force thereafter will be affected, so the Bill has far-reaching implications. I do not mean that after the passage of the Bill, employees will have to obtain recognized qualifications immediately in order to find employment or else they will be sacked by their bosses, but that after some time, recognized qualifications will become the criteria adopted by employers in hiring employees and employees must obtain certain recognized qualifications, otherwise, it will be difficult for them to find work. If we say that the Labour Day is a day of commemoration for workers throughout the world, today is a day even more worthy of commemoration for workers in Hong Kong. The reason is not that this Bill will provide a ladder of advancement for workers, as some senior officials claimed, and that it will nurture experts in every industry, but that this Bill will change the employment requirements in society, thus highlighting the urgency to legislate on standard working hours and minimum wages.

In the last term of the Legislative Council, I moved a motion in June 2004 to urge the Government, prior to establishing a Qualifications Framework (QF), to comprehensively examine its profound impact on the employment of employees to ensure that the QF does not create immense pressure on employees. The debate on that day failed to induce a discussion on the far-reaching implications of the QF in society and I found this somewhat regrettable. Eventually, this Bill was tabled to the Legislative Council in 2005 and, despite more than two years of scrutiny, I cannot see how the Government has responded to the requests in my original motion.

During the scrutiny of the Bill, government officials all along stressed the voluntary nature of the QF and pointed out that the entry requirements of an industry should be decided by the industry according to the changing needs of the industry and society. What the government officials did not say was that the passage of this Bill is in itself a significant social change. Although whether or not employees take any training programmes under the QF is voluntary, the changes in social environment will make recognized qualifications an entry

requirement, therefore, stressing the so-called voluntary participation by employees is meaningless. Moreover, stressing the voluntary nature of the QF is only an excuse for the Government to shirk its responsibility.

The QF also reminds me of the Continuing Education Fund (CEF). When the CEF was established in 2001, one requirement was that the applicant did not hold any university degree. The aim was to enable members of the public with lower academic qualifications to have more channels of learning and continuing education. This is similar to the QF now under discussion. Subsequently, as the response to the CEF was not as anticipated, this requirement was relaxed to allow members of the public holding university degrees to apply. In view of the lukewarm response of members of the public with low academic qualifications to the CEF, why is the Government confident that the QF, which the Government says is also voluntary in nature, will induce the active participation of grass-roots workers? I believe the cunning lies in the fact that the QF will systematically bring all employees in Hong Kong into its fold and with changing social circumstances, its voluntary nature will change and become compulsory. Back in those years, I had reservations about the changes made by the Government to the nature of the CEF and questioned whether or not the Government had explored the more profound reasons for the poor response to the CEF. So far, my view has not changed. In both the CEF and the QF to be established after the passage of this Bill, the Government has deliberately evaded the general phenomenon of long working hours in the labour market in Hong Kong, particularly the cruel situation of long working hours and low wages faced by grass-roots members of the public. Therefore, to relax the application requirements of the CEF due to poor response and to stress that the QF is voluntary in nature is in fact to delude oneself and others.

Deputy President, no one will oppose upgrading workers to cope with the challenges posed by globalization. However, as I said in moving the motion that day, although we want to foster an environment conducive to raising the quality of workers, it is very difficult for us to ask a worker who works six days a week and 10-odd hours a day to use his leisure to learn and pursue further studies. If no complementary measures in respect of working hours and wages are introduced in the system, it will be very difficult for the more than 1 million grass-roots workers to benefit from this learning ladder. The Government hopes that the QF will be a success, that a trend can be set in various industries and the labour force can pursue continuing education and studies under this

hierarchy of qualifications, thus raising the quality of the labour force. However, it does not want to face up to the common phenomenon of long working hours, particularly the grass-roots employees' predicament of long working hours and low wages. This contradiction between ideal and reality is precisely a prime example of trying to eat one's cake and have it.

At present, the Government has made an undertaking to the Bills Committee to brief the Panel on Manpower of the Legislative Council on the progress of implementing the QF in individual industries every half year and it has reiterated that unless a consensus has been reached in an industry, the QF would not be introduced into the industry concerned. These follow-up measures amount only to tinkering in the Bill at the operational level instead of fostering social conditions favourable to raising the quality of the labour force at a macro level. What I want to point out is not just the protracted delay in introducing a minimum wage and standard working hours, which the labour sector has all along been demanding, but that in response to the demand made to the Government by the Federation of Hong Kong & Kowloon Labour Unions, to which I belong, more than two decades ago to implement the Paid Educational Leave Convention (No. 140) of the International Labour Convention, that is, paid education leave, as soon as possible, the Government has all along remained impassive. It is such improvements to the macro environment that hold the key to the success of the QF.

On the direct effects of the Bill on serving workers, there are two very important points. The first is the issue of the recognition of prior learning. One fundamental principle that I insist on is that the qualifications of in-service employees must be respected and recognized and their jobs should not be affected. The second has to do with the generic (foundation) competencies. These competencies will include subjects such as Chinese and English languages, numeracy and information technology. To some grass-roots workers, it will be rather difficult to have a good command of them. Government officials stressed in the meetings of the Bills Committee that generic (foundation) competencies focused on the general skills necessary for performing various duties and there was no concrete plan for the implementation of the specification. The Government undertook to proceed cautiously when introducing these competencies and to listen to the views of the labour sector. I hope this undertaking will be honoured.

Deputy President, the conventional wisdom that acquiring a skill is enough for making a living for a lifetime no longer holds true in the modern world. In a knowledge-based economy, one skill is not enough for making a living. What is more important is that employees can keep themselves updated of ever-changing information and tap the potentials of technology. Whether we like it or not, such is the trend in the development of the global economy, a reality that we must face and also the reason that in the end, I have to support the passage of this Bill despite inadequate complementary measures in society at present. However, the passage of this Bill can at its best only herald the beginning of a rise in the quality of the labour force in Hong Kong. It is only when statutory protection on such matters as standard working hours, minimum wages and paid education leave is in place that employees in Hong Kong can truly cross the threshold and enter a knowledge-based economy. All members of the labour sector wish to see the early arrival of such a day, and it is only in such circumstances that our workers can truly celebrate the International Labour Day on 1 May.

Thank you, Deputy President.

MR LEE CHEUK-YAN (in Cantonese): Deputy President, although it is the Accreditation of Academic and Vocational Qualifications Bill (the Bill) which is tabled for our endorsement today, we are actually here to endorse not only a Bill, but also a new QF which will significantly affect the 3 million employees in Hong Kong.

I very much hope that friends in the media will give particular stress to this historic moment today in their reports. The Bill, if endorsed, will bring about dynastic changes to employees in Hong Kong in the future. As to whether such changes are good or bad, I hope that Members can discuss it at greater length. However, during the scrutiny of the Bill, what I considered most regrettable was that many people in the community did not know what was going on, and as the community had yet felt any urgency, the media did not expect much controversy to arise. But even if the Bill, if enacted, may not bring about any immediate effects, I believe it will have far-reaching implications in the future. As to whether these far-reaching implications are good or bad, honestly speaking, if they are adverse, I will certainly oppose the Bill but we have raised no objection to it. Why? All I can say is that it is with much apprehension that I support this Bill today.

Why do I have much apprehension? The reason is that while the Bill is not entirely undesirable — if it is entirely undesirable, no consideration would be necessary — it is a "double-bladed sword". What is a "double bladed sword"? Deputy President, when this "double-bladed sword" is pulled out to strike, will anyone be hurt? This will depend on how it will be implemented in the next decade or two. Nobody might get hurt if it is implemented satisfactorily, but if it is implemented badly, many people would get hurt. We hope that the Confederation of Trade Unions and our labour unions or friends from other trade unions can take up this important role of being the "gatekeeper", in order to ensure that nobody would be hurt by this policy.

Deputy President, why is it a "double-bladed sword"? Under this Qualifications Framework (QF), the qualifications of "wage earners" in Hong Kong will be divided into seven levels. The highest level is a doctorate degree; Levels 1 to 3 are the more junior levels, while Level 4 is professional diploma holders and Level 5 is degree holders. The Education and Manpower Bureau may argue later that the classification is not as mechanical as such. But while the classification may not be related purely to academic qualifications, qualifications will still be roughly classified according to these criteria. What is the greatest concern to workers? Why do I say that it is a "double-bladed sword"? Why do I say that people may get hurt from it? I am most worried about whether, when the seven-level framework is implemented, a scenario will arise where employers would subject their employees to a so-called "licensing for employment" system. The Education and Manpower Bureau explained during the scrutiny of the Bill that it is not their original intention to impose the "licensing for employment" system on employees and that the whole idea is to provide a qualifications ladder, so that employees know which level they have reached on this ladder and they can then take the initiative to pursue training and further studies, with a view to continuously moving up the ladder.

This is putting things in a neutral way, so that everyone will see that the ladder is a good thing, especially to young people who wish to pave a road for their own future in the industry, and they will see that there is a ladder for them to pursue continued studies, which is a good thing. Having said that, however, it still has a negative effect. The Secretary has all along stressed that it is not intended to be a system of "licensing for employment", but his explanation is hardly convincing. What is it that we are most afraid of seeing? We are most afraid of seeing this ladder, though provided by the Government for employees to progress through continued studies, would at the same time start a process of

continued elimination. How will it be done? After employers have become accustomed to this practice — Applying for a job now is simple because an applicant will be offered the job as long as he has the relevant work experience in the trade. But will this QF result in the replacement of the applicant's experience by the level of his qualifications to the neglect of whether or not the applicant is experienced? If such being the case, will it create a scenario where an employee with remarkable performance in an industry is still eliminated only because he failed to meet the standards in an examination and hence has his "rice bowl" smashed? This is the employees' greatest worry.

Some employers have reacted very swiftly. Yesterday, a cleansing working already told me that his employer had told him that they would have to obtain a licence in the future. I thought it was still too early to talk about this, as our discussion has yet come to the cleansing industry. Secretary, although the cleansing industry is not among the industries in which the pilot scheme will be implemented, the employers are already telling their employees that they would have to obtain a licence. So, this employee, who was very worried, asked me whether he would really be required to obtain a licence. He had no idea how he could obtain a licence, and he had no idea about what to do in an examination. In fact, there is a big misunderstanding, and people mistakenly think that they would have to sit in a licensing examination. We must ensure that this would not happen because our objective is training, not licensing. We must ensure that this is only a training framework in the future, not a sword for eliminating "wage earners".

We very much hope that elimination would never take place in the course of implementation. On this premise, we have done something to provide safeguards to workers during the scrutiny of the Bill and that is, the "recognition of prior learning" (RPL) mechanism. An employee can be placed on the corresponding level as long as he can produce proof of relevant past experience, and this is how the RPL mechanism works. Deputy President, honestly speaking, had there not been this RPL mechanism, it is almost certain that we would oppose the Bill because we do not wish to see that the expertise of "veteran workers" and experienced in-service employees is not respected. It was finally agreed that past experience should be clearly recognized, and recognition will be classified into Levels 1, 2, 3, and so on. In some industries there are contentions about whether a worker's qualifications can be qualified for recognition at Level 4 without having to sit in an examination or undergo an

assessment on the spot. This will also be extensively discussed in various industries in the future.

I hope that the Secretary for Education and Manpower will give us a response later. I hope they will undertake that both employers' and employees' representatives will be involved in the Industry Training Advisory Committees (ITACs) and that this mechanism of qualifications recognition will not be implemented before a consensus is reached. In that case, the role of the "gatekeeper" will not be taken up by the Legislative Council, but by labour unions. In the event of disputes over the RPL mechanism, the implementation of the mechanism would have to be put off. We believe that after discussion and on the principle of mutual understanding and accommodation, there will finally be room to reach a consensus. I hope that the ITACs will take up the gatekeeping role for the employees in the future to ensure that no employee will be affected as a result of the introduction of the QF.

From a positive point of view, we certainly hope that employees can receive training through the ladder and hence gradually upgrade their competitiveness. However, there is still a question here. Does an enhancement of competitiveness mean a salary rise? Most regrettably, this may not be the case. The Education and Manpower Bureau may tell us later that in view of the globalization of the world economy, everyone must upgrade his competitiveness. But the final outcome that I would wish to see is that, after the enhancement of competitiveness, employees' wages can be adjusted, so that they can share the fruits of prosperity after the overall competitiveness has been upgraded.

On the other hand, Deputy President, what I consider very regrettable is the problem of the room for training, another major problem which explains why we have all along been hesitant in throwing weight behind the QF. Deputy President, I think the Government has failed to map out comprehensive plans for the implementation of some policies, and some aspects are even left entirely blank. I have raised this issue with the Education and Manpower Bureau, but they said that this has nothing to do with them. Why? The Secretary should know that I am talking about the problems of training leave and the time for training. While this QF has provided a ladder for employees to pursue learning and training on their own initiative, how can they have the time to do so? What time is there for employees to take up training courses? The success of

on-the-job training actually hinges on two major factors: First, money; and second, time.

In respect of resources, the Secretary said that the Government would provide plenty of resources in the future. For instance, under the Continuing Education Fund there is a skill enhancement fund, and there would be a reserve of some \$2 billion upon the lifting of the freeze on the Employees Retraining Board in future and by then, the scope of work can be expanded to enhance training. The Government seemed to be saying that there should not be any problem insofar as resources are concerned and that they could support employees to continuously receive training and upgrade their skills. We think that this will be resolved in the future and employees will be able to obtain support in this regard.

But on the other hand, Deputy President, the support in terms of time is quite inadequate. Take a worker in the catering industry as an example. After 13 hours of work a day, plus two hours of travelling time, he has already spent 15 hours of the day. How could he find the time to receive training? Deputy President, I remember that on one occasion when the issue of skills upgrading was discussed, officials from the Education and Manpower Bureau told all Hong Kong people with pride that some workers had taken up training even at 12.00 midnight. It sounds so ironic and pitiable indeed. But the Bureau considered it a great honour that workers were willing to take up training so late at night. They thought that it was indicative of success in the promotion of employees training in Hong Kong. But this is indeed a tragedy. How could we make a chef receive training even after 12.00 midnight? But what happens now is that in respect of the time for training, there is actually no room at all, and there is no training leave either.

Such being the case, if, on the one hand, workers have to work very long hours and do not have the time to take up training but if the Government still does not provide any training leave, workers who work long hours may in fact be excluded from accessing this ladder and if that is the case, the ladder would be meaningless to them. If employees invariably have to take up training in their spare time or on rest days, that would be unfair to them. Since the Government has emphasized harmony in family and urged the people to strike a balance between family and work, how could a balance be struck under such circumstances? So, Deputy President, we hope that the Government and the Education and Manpower Bureau will provide assistance. Although this is not

within the remit of the Bureau, the Government should provide more room for workers and do more in respect of training leave and time for training.

On the other hand, Deputy President, we would also like to mention in particular the needs of people with disabilities. We are very much worried that the "double-bladed sword" which I mentioned earlier would injure some marginal workers most easily. We are particularly concerned about whether people with disabilities cannot even meet the minimum requirement, and if they are not qualified to reach even Level 1, they would not be able to land a job in the future. We hope that greater adjustments can be made in this regard to provide more flexibility in respect of the minimum requirement, so that people with disabilities can be given an opportunity to work under the QF and their "rice bowls" can hence be saved.

Deputy President, as I said earlier, the Bill and the QF will rely on the trade unions to play the gatekeeping role. We very much hope that the Education and Manpower Bureau's accreditation council will comprise representatives of trade unions, in order to ensure that the implementation of the framework will only have positive but not negative effects on the employees. Deputy President, we also see that the Government is prepared to inject resources for this cause, especially in respect of the assessment fee payable by employees. The Government has undertaken to provide a 50% subsidy in the future, and it has also undertaken to provide a subsidy to assessment agencies for assessments incurring a higher cost. I believe this can minimize problems in terms of the cost of implementation in future, and training institutes will not have to shift the accreditation fee onto their trainees. I hope that this can be implemented smoothly. Finally, Deputy President, I hope that Members must be careful about this "double-bladed sword" and we must not let it affect the employment opportunities of any worker.

Thank you, Deputy President.

DR FERNANDO CHEUNG (in Cantonese): Deputy President, if the Accreditation of Academic and Vocational Qualifications Bill (the Bill) under discussion today is passed (and I think it will be), it will have significant far-reaching implications on the labour market. It is because after the enactment of the Bill, apart from gauging "wage earners" with the general

academic qualifications, there will be another ruler for gauging the labour force and so, everyone will have to face an additional ruler and that is, the yardsticks of "academic and vocational qualifications". In fact, I have very mixed feelings today. On the one hand, we have already discussed the Bill for a long time, and the Bill itself has a narrow scope, involving only the expansion of the powers of the existing Hong Kong Council for Academic Accreditation and the establishment of a quality assurance mechanism. This is basically a very technical piece of legislation but, as Ms LI Fung-ying and Mr LEE Cheuk-yan said earlier, the underlying changes to be made by the Bill, or the introduction of this ruler to gauge the entire labour market can have very far-reaching implications. But in this respect, the Government has sought to handle this by administrative means. Therefore, insofar as the Bill is concerned, we have many misgivings and doubts about its overall implementation. If legislative amendments can be made or if there is room for us to make amendments, the administrative mechanism will be further improved, but the authorities have not done so. This is why I have mixed feelings. I do have many misgivings about its administration, but what I can do in respect of the legislation is very limited. If we look at the entire policy as a policy on the accreditation of academic qualifications, is the framework a bad thing at all? It may not necessarily be a bad thing, and when we come to this point in our consideration, we must be very careful. Insofar as the Bill is concerned, I do not see anything that definitely does not merit our support and yet I must take this opportunity to clearly express my concern.

Today, many "wage earners" do not have a proper or standardized academic channel for them to upgrade their qualifications. Nor is there a ladder for them to pursue continuous development and upward mobility in their career. Despite the provision of universal education or nine-year free education in Hong Kong for almost 30 years, almost half of our labour force nowadays is made up of people with an education level of Secondary Three or below. This framework can open up a channel for them to upgrade their qualifications through proper, standardized academic or vocational training and hence build up their career, which is a good thing. Moreover, to many trades or industries, it is also a good thing that the service quality of the whole industry can be enhanced through the standardization of the career ladder in the industry as well as the level of competence in different posts. So, generally speaking, from these two perspectives, it is necessary for Hong Kong, being an advanced city, to enhance our competitiveness and open up channels for "wage earners" in Hong Kong to

have the opportunity to move upward. Thus, this proposal is worthy of our support.

However, as Mr LEE Cheuk-yan has said, this framework may be a "double-bladed sword". If it is implemented badly, it may deal a blow to the working masses and give rise to the problem of "licensing for employment". Even if the problem of "licensing for employment" does not arise, it would be very difficult for some people to progress up the ladder or worse still, they might never be able to make any progress at all since there will be certain benchmarks, requirements and standards for them to meet. We very much do not wish to see this happen after this framework has been put in place because if that happened, more people, especially the disadvantaged groups, would be eliminated by the market.

In this regard, we have a number of considerations. First, after the implementation of the Qualifications Framework (QF), "wage earners" must continuously take up training and pursue further studies in order to earn recognition under the QF. It is certainly desirable if the Government can provide adequate subsidies, but even if the Government is willing to provide subsidies, the arrangement for providing subsidies has yet been rationalized. At present, the Continuing Education Fund only covers the four pillar industries, and it is necessary to further rationalize the relevant arrangements, so as to provide equal opportunities to all "wage earners". On the other hand, as a minimum wage system or standard working hours have not yet been implemented in our society, not to mention legislation against age discrimination, the very large group of marginal workers under the restructuring of the economy, especially workers with low education and skills who deserve to benefit from this QF most, nevertheless cannot benefit from it because these safeguards are lacking. After the establishment of this QF, these workers will be unable to upgrade their qualifications in the absence of the relevant safeguards, for they do not have any spare time at all.

In other countries where a QF is implemented, such as Britain, Australia or even South Africa, various forms of legislation have been enacted to impose limitations on the working hours, stipulate a minimum wage and also provide paid holidays for "wage earners" to pursue studies, but no such measure has been implemented in Hong Kong. So, this is a very big problem, and it is because of the absence of these matching measures that I am very much worried. Deputy

President, I am from the social welfare sector, and I serve many grass-roots and disadvantaged groups, and I am certainly most concerned about people with disabilities and special learning difficulties who face a big problem under this QF. At present, their unemployment rate is already several times higher than that of ordinary people and in fact, they can only earn a very meagre income from the work opportunities provided to them in the market. As I said previously, the QF must be exclusive in nature, for there must be people who cannot even meet the lowest standard for various reasons. As a result, while this QF can help people with the ability to upgrade their skills gradually, people without ability or whose ability is limited to certain areas only, such as people with disabilities or learning difficulties but whose intelligence is normal, may not be able to meet certain competency standards under the QF as their ability may compare less favourably with that of the other people in some areas. Although they have participated in training, their techniques or skills in certain areas may not pass the assessment and they will remain stuck there. This is a very, very big problem.

Europe and Britain have adopted a practice, Deputy President — our QF is divided into seven levels, and under the European Union system, the lowest level is the elementary or basic level and as specified in its definition, people who reach the basic standard or below belong to the basic level. Such being the case, no person will be excluded from it. In other words, any person interested in joining an industry will not be deterred for the reason that they cannot meet the Level 1 requirements under the QF. But this situation may arise now as we do not have a similar definition. Certainly, we have discussed this point many times, and the Education and Manpower Bureau has undertaken to apply as much flexibility as possible when handling this issue. However, this is a structural problem, unlike the mechanism of "recognition of prior learning" which certainly can be resolved through a flexible approach. In the absence of protection in law, it will, to a very large extent, depend on how the policy is enforced and how strictly it is enforced and it will even depend on how the front-line inspectors or instructors of training providers and institutes assessing the trainees will enforce the policy. In this connection, we hope that the Bureau will provide more safeguards in the structure.

This is not our sole consideration. Take the hairdressing industry as an example. The hairdressing industry has already compiled their specification of

competency standards. For example, a hairdresser who newly joins the industry must know different types of hair products; he must know how to use certain equipment, or he must be able to tell the basic terms in hairdressing. In order for this job to be suitable for people with disabilities, it is possible to make adjustments to the details in some areas. Take a hairdresser with visual impairment as an example. He certainly cannot tell the name of a shampoo simply by touching the bottle. So, adjustment has to be made for them, such as putting Braille on shampoo products during their training, so that they can tell different products apart. This is one way of making adjustment. We have absolutely called on the Education and Manpower Bureau to do this, and the Bureau said that they would take note of this point. But if a person with disabilities is basically incapable of telling different types and brands of shampoo products apart but is very skilful in shampooing as he has skilful, gentle hands, and even if the employer is willing to hire him, he still cannot join the industry for he cannot obtain the qualification because he cannot pass the assessment even at the most basic Level 1 under the proposed QF. But in the past when there was no such QF, the boss of a hair salon may think that this person with disabilities has potentials and although he may not be able to cope with all the work, the boss may still hire him to do shampooing for customers because he is very skilful in shampooing. So, this person with disabilities could at least land a job and be given an opportunity to work. However, under the arrangements of the QF, all employees have to be attached with a "label", and all hair salons will put up a notice saying that all their staff members meet the QF requirements and so, the boss, when conducting recruitment, must first consider whether an applicant can reach Level 1 and if the applicant cannot even meet the Level 1 requirement, how can he be offered the job? Under such circumstances, people with disabilities will lose even this opportunity.

Deputy President, I, therefore, do not wish that people who need and deserve to benefit from this QF most will turn out to be excluded and eliminated by it. We actually have some proposals to redefine the levels under the QF, such as giving consideration to the practice adopted by the European Union, or granting exemption to certain categories of people. But these are basically outside the scope of the Bill and so, I simply did not have a chance to bring them up. We can only wish that the Government appreciates our concern about people with disabilities and special learning difficulties. We also hope that the Government will understand that during the process of consultation, it is

necessary to consult the entire industry on the QF in which the industry will participate on a voluntary basis. But on the part of the Government, it is necessary to make arrangements concerning the structure, so that people with disabilities and special learning difficulties can access this QF in a systematic manner. Otherwise, we are concerned that while the Government has made an undertaking verbally or on paper today that it would pay attention to this, this may still be neglected in the course of actual implementation.

Furthermore, I wish to point out that the entire discussion on the QF has drawn little attention from the public and many disadvantaged groups and worse still, they even do not understand what it is all about. Certainly, we understand that the Government has launched many publicity campaigns and it has conducted consultation for almost four years, but this QF is actually very difficult to understand. When we explained it to organizations or disadvantaged groups, we had to try very hard before they could gain a preliminary understanding of it. Then they seemed to be just awakened from a dream and noticed that the original proposal would have problems and that it would affect them greatly. So, I wish to call on the Government not to think that this is already a fact cast in iron, one that cannot be revised. A practical review of the initial implementation of this scheme in the several industries is certainly warranted, and the scope of review should focus not only on people who are incorporated into this QF, but also the reason why people who are not incorporated into the QF, are excluded from it, and the implementation of the scheme should subsequently be adjusted according to the results of the review.

Deputy President, I have written an article pointing out that the QF may be as meritorious as building a "seven-storey pagoda", but if it is implemented badly, it may turn into a "seven-storey hell". I do not wish to see that this QF turn out to be a hell for "wage earners". Thank you, Deputy President.

MR WONG KWOK-HING (in Cantonese): Deputy President, the Bill relating to accreditation by the QF, if passed, will be fully implemented in three industries. Furthermore, 12 other trades and industries will conduct relevant discussions and may follow suit.

On behalf of the Hong Kong Federations of Trade Unions (FTU), Mr TAM Yiu-chung raised seven suggestions earlier, which are greatly supported by

me. I very much hope that the Government can give the FTU a clear reply in response to its seven suggestions.

I would like to state my views in relation to a few points. The first point is about the exemption mechanism. I hope the Government can lower the threshold under the exemption mechanism to help the employment of workers, rather than raising the threshold to too high a level, thus causing existing workers or new entrants to encounter employment difficulty and obstacles because of the exceedingly high threshold or absence of choices. Therefore, it is very much hoped that the Secretary can, in replying later, give us a positive and clear response in relation to the exemption mechanism. In particular, workers with qualifications at Levels 1 to 3 should be given the right to choose according to their years of service, experiences, and so on, without necessarily taking examinations. This is the first point I wish to make.

Second, I wish to point out that it is a matter of great concern to workers of various trades and industries that the accreditation of qualifications should emphasize skills and experience instead of putting academic qualifications in the number one position. Otherwise, the seven-level hierarchy might create a lot of unfairness and workers might feel that their years of service and experience are not respected.

Here I would like to cite an example by telling the Secretary my personal experience in helping to solve a problem recently encountered by the elevator industry. Technicians in the industry are regarded as "veteran masters" in the installation and maintenance of elevators. Their students are quite numerous too. However, the registration of elevator technicians is linked with their companies. One type of elevator companies in Hong Kong is specifically responsible for the installation of elevators during the construction of buildings. The masters serving in these companies possess master licences. However, if a master resigns from his old company, his master licence will cease to be valid. If he serves another company but that company is not responsible for installing elevators in buildings, he can only call himself as a worker instead of a technician on registration documents when he is required to perform such tasks as maintenance or installation on a construction site because his former licence has ceased to be valid. This is really ridiculous. These technicians will be treated only as senior workers on construction sites. As installations of new elevators are required at these construction sites, and it is required by law that the installation must be performed by a technician, some of their students who

have been registered in other companies will then be hired as technicians on the construction sites. On the contrary, a genuine technician will be treated only as an ordinary worker on the sites. Because of such circumstances, we propose that skills must be emphasized and all details must be carefully considered. Otherwise, the experience and qualifications of some technicians and masters will not be accepted once the proposal is fully implemented. When we joined the relevant trade unions to negotiate with the Government, they also spotted this problem and came up with a compromise solution. They proposed that short-term training courses be organized for these technicians at a certain fee. On completion of the relevant courses, the technicians may be registered again as technicians after passing examinations. However, is such a training course really necessary? Is such a serious loophole in the registration of technicians of the elevator industry caused by incomprehensive consideration on the part of the Government? A large number of buildings are now under construction in Hong Kong. Should the problem remain unresolved, many construction sites will face the problem of having no registered technicians to lead elevator workers to carry out installation and future maintenance. This example is very clear and realistic.

Let me tell the Secretary another case in which I am personally involved. Numerous types of vehicles with a diversity of functions I cannot possibly name can now be found on construction sites. Deputy President, I have been shown some pictures of different types of vehicles by some workers. They were originally required by the relevant government departments to obtain a licence for each type of vehicles. In other words, they will have to obtain 15 licences in order to operate 15 types of vehicles. Failing to obtain a specific licence means that they cannot operate a specific type of vehicles and work even if they are admitted to a construction site. Now, some senior and experienced masters on construction sites are greatly disturbed because passing an examination to obtain a licence is not only costly, they would have to spend time on attending courses too. Even the persons in charge of construction sites are equally disturbed for the registration system is not devised according to actual circumstances. After lengthy negotiations, the relevant departments have agreed to improve the system by grouping as far as possible the 10-odd types of vehicles into fewer categories, shortening the examination period, and allowing the workers to attend courses on Saturdays, Sundays, or even in the evenings. At the same time, fees will be reduced as far as possible and workers having difficulty may even apply for financial assistance, waiver, and so on. I am citing this example to illustrate that both skills and experience should be taken seriously. This is vitally

important. As the saying goes, "The devil is in the details". Before the passage of the Bill, the relevant issues must be examined clearly. The matter is not that simple. If the passage of the Bill is dealt with carelessly, endless troubles will be brought in the future. This is the second point I wish to make.

Third, expenses and time. While workers have to pay for the programmes, time is actually the most important consideration. As pointed out by a Member earlier, under the existing system, there is no law stipulating a minimum wage and standard working hours. Neither is there regulation requiring employers to give employees time to pursue paid study. However, employees are required to upgrade their skills. In other words, employers "want the horse to be good but not expect it to feed". There is no such thing as good in this world. Therefore, should the Government not jointly consider ways to make employers to give employees time to pursue paid study? Otherwise, there is no way for employees to study if they have to work for more than 10 hours a day. According to the Government's statistics, 540 000 people throughout the territory work more than 60 hours a week. Actually, the working hours of many people are far above this level. Under such circumstances, how can employees have time and the drive to study in their spare time? The Government should therefore give holistic consideration to the matter.

The fourth point I have to raise is that, in following up the Bill, the Government should allow trade unions to participate and play a monitoring role. It is important that an industry committee should comprise representatives of the unions of the trade. Otherwise, the relevant government departments or Policy Bureaux might get out of touch with the actual circumstances when devising details in the future. As pointed out by me earlier, the registration of vehicle operators on construction sites and elevator technicians ran into the same problems too. If representatives of the relevant labour unions are allowed to participate and share practical experience right at source, or at the very beginning, twice as much can be achieved by the Government with half the effort without the need to make remedy afterwards.

The last point I would like to raise concerns the problem of ethnic minorities. This is truly a problem. Secretary, this point was raised by Mr TAM earlier in the seven proposals put forward by him on behalf of the FTU. We in remote new towns are keenly aware of this because many residents of ethnic minorities live there. Although they can speak a little Cantonese and

English, they have difficulty in reading. The Government can hardly communicate with them without using their ethnic languages. Employees who are ethnic minorities might also experience difficulty in seeking employment. Has the Government considered ways to help them when the seven-level hierarchy is imposed in the future? Do they have opportunities to upgrade themselves, study and make progress and are a relevant framework and resources made available to them? If not, this means that no consideration has been given to the subsequent problems at all. Insofar as people of ethnic minorities are concerned, they will find it difficult to enter a trade or industry and upgrade themselves. Should this be the case, they will find it even harder to make a living, and the burden of supporting their living will fall on society as a whole. This is why I think that the Government must not overlook the essential and employment needs of residents who are ethnic minorities when implementing the QF.

I therefore very much hope that the Government can consider in detail how to help them. Actually, they cannot even attain the elementary level when seeking employment or attending interviews, not to mention being qualified for inclusion in the seven-level hierarchy.

Lastly, I earnestly hope that the Government can heed our views and give us a positive response later. A seven-level hierarchy will be introduced after the passage of the Bill. I really do not want to see this hierarchy become a tool to discriminate against workers while failing to help them to upgrade their skills and competency for upward progress. Thank you, Deputy President.

MS MARGARET NG (in Cantonese): Deputy President, today I have heard a number of colleagues concerned about labour rights expressing their views. Their conflicting feelings about the Bill are also reflected in each and every speech delivered by them. On the one hand, they find the long-term implications of the Bill on workers hardly predictable and, on the other, they cannot repudiate the new framework because it might help workers boost their abilities. I greatly appreciate their feelings and position.

The Bill itself is very simple for it merely seeks to provide for an additional function for the Hong Kong Council for Academic Accreditation (HKCAA) to simply enable it to accredit other skills in addition to academic accreditation. Furthermore, the Bill also empowers the Secretary for Education

and Manpower to establish so-called QFs by keeping a register, and so on. While the provision of such powers for the purpose of establishing a framework, and so on, seems to be just a simple matter, why did it take the Bills Committee so long to discuss it? Because every Member taking part in the deliberation of the Bill knows that the underlying purpose of the Bill is to introduce a highly complex qualifications accreditation and recognition system which might have far-reaching implications.

Deputy President, some officials have been seen saying that there is no cause for anxiety because the Bill is not about these matters. It merely seeks to establish a Qualifications Framework (QF), not to rank the qualifications of workers against a seven-level hierarchy. Under the QF, training programmes are ranked according to the hierarchy. In other words, only the ranking of the programmes is recognized. However, what is the point of ranking the recognized programmes? Workers will be ranked according to the seven-level hierarchy after obtaining the required qualifications through those programmes. Therefore, it can be said that the hierarchy will indirectly, and yet patently, indicate the ultimate goal.

It is therefore felt that this approach will lead to a dilemma in many cases. On the surface, a great number of programmes, such as beautification, cookery programmes, and so on, are now available on the market. What qualifications will these programmes lead to? Are they useful? Do such programmes as beauty care programmes worth the money after the trainees have spent so much money on them? Will the money spent be wasted? Even if we look at the matter purely from the angle of consumers' rights, does it mean that the QF established by the Government to make consumers realize the degree of recognition of the programmes will do good to workers?

(THE PRESIDENT resumed the Chair)

On the surface of it, this is really the case. What bad consequences will it bring? The programmes, once set up, will definitely have consequences. Will a voluntary system of "licensing for employment" be created, as pointed out by a number of Members earlier? Though it is said to be voluntary, a person without a certain qualification will not be offered a certain job. It is as simple as that. Therefore, a voluntary set-up will turn into an involuntary one. The establishment of a QF should have given no cause for much criticism for it merely seeks to position programmes of different scales and price ranges

available on the market. However, such a sincere act is hidden with a lot of contrivances.

Madam President, why would I take such a keen interest in the Bill? It is mainly because it were a spontaneous act of the industries to purely upgrade the industries, then it would be excellent. However, the QF is not established by the industries spontaneously. Although the set-up is described as voluntary, it is not the same as spontaneous. By spontaneous, I mean a particular trade may have proposed it and sought assistance from the Government. That would be spontaneous. However, what "voluntary" means here is the Government has proposed a framework under which one's acceptance or adoption is voluntary. That is "voluntary", but it is different from "spontaneous". Therefore, we can see that, though the set-up is said to be voluntary, the QF is actually a framework recognized by the Government and will give rise to a host of problems. Frankly speaking, I dare not to be optimistic about the QF.

A number of Members mentioned the "double-bladed sword" earlier. What will happen in the future? It might work out to be good or bad for workers. Yet I feel that we might not necessarily go that far. The bird might simply stick to the ground because it cannot fly. Why did I say that? Because if you look at the QF.....I would like to solemnly recommend this Bills Committee report. Members who have not joined the Bills Committee should not only read it, but also do so carefully again and again, take notes, and go through it again after taking notes before they will find out what this QF to be established is all about and what consequences it will bring. What is it basically? Where does the Government exercise its control? Madam President, please allow me to side-track a little. Our Chief Executive is fond of saying "big market, small government". Just take a look at this QF and you will find out whether our Government is really small or not. Supply in the labour market should originally be led by the market. Now, with the introduction of a QF by the Government, there is no need for people who cannot fit in the QF to seek employment. This is an act of government intervention into the market. This is absolutely not a small government. On the contrary, this is a gigantic footprint of the Government.

Let us first examine what will happen subsequent to the establishment of the QF. What is the foundation of the QF? The answer is a set of competency standards. To start with, competency standards have to be set before various levels of the QF can be determined in accordance with competency standards. But who will be responsible for setting the specifications of competency

standards? While consultation will be conducted by the Education and Manpower Bureau, the primary organ for setting the standards will be the Vocational Training Council (VTC). What is the situation in each trade and industry? In future, all trades and industries will have to come up with their own competency standards, and respective Industry Training Advisory Committees (ITACs) will be responsible for setting the standards. The ITACs, comprising practitioners of the industries, employers, labour representatives and other users, are evenly represented. Madam President, this is really extremely fair. But the question is: Who will appoint these people? They would all be appointed by the Secretary for Education and Manpower. Therefore, if we look at so many things as a whole, we will find that the people responsible for decision-making and policy-making at every step along the way are all appointed by the Government. Fine. With the introduction of such a QF, there is a general grave concern about the transitional arrangement. We have been told by the Government that everything will be fine for there will be a transitional arrangement called "recognition of prior learning" (RPL). People who are working are therefore told not to worry for their prior learning will be recognized, particularly so for those in the first three levels. However, what is the basis for RPL? It will be based on competency standards. In other words, competency standards have to be set before determining whether prior learning can be recognized. Therefore, the transitional arrangement will have to rely on these standards. This is particularly so for the transitional period during which a seven-level hierarchy will be established. It is reported that qualifications at the lowest three levels under the transitional arrangement will be recognized by virtue of years of working experience and relevant work experience.

Upon the expiry of the transitional period, all levels of qualifications must be attained through assessment. The form of assessment will be commensurate with the skills and knowledge required of individual levels. This means that assessment will be required in future. What about RPL? Actually, RPL, mainly recognition of years of working experience, is also responsible by ITACs. However, how can years of working experience and work experience be determined? Except for some generic or specific competency standards, Madam President, repeated efforts have been made in relation to evidence. Besides qualifications or years of experience, what else can be produced as evidence? The standards will also be set by this same group of appointed people in the future. Mr LEUNG Yiu-chung recalled that we had seen this sort of recognition when the Chinese medicine practitioners issue was addressed. Many things are actually held in the hands of the people appointed by the Government.

We can thus see that the first step to be taken within such a huge QF is to set the specifications of competency standards. The specification of competency standards must be very objective. Besides generic competencies, what percentages are represented by Chinese, English and numeracy — excuse me, I should not mention Chinese, English and numeracy. Well, I was actually right — should Chinese, English and numeracy be considered academic knowledge or should the standards be based on skills? Are these standards very objective? If they are not objective, unfairness will result, thereby leading to a lot of grievances. This explains why such specification of competency standards must be very objective and detailed. However, will workers be able to read and understand it? Should they fail to do so, can they tell whether they meet the standards? How detailed can the standards be?

Madam President, we in the Bills Committee called these standards telephone directories because if the specification of competency standards was to be applied to every trade and industry, a lot of things would have to be included during the compilation of the standards. We can thus imagine that, during the initial period, the VTC would have to spend a lot of time compiling the specification. Madam President, we can see that the entire framework is really huge, many bureaucratic departments are involved and many steps have to be taken for the purpose of appointing so many people. I have not finished yet. How should the Hong Kong Council for Academic and Vocational Accreditation (HKCAVA) operate in future? Even if such a QF is already in place, what can be done if some organizations wish to devise a new programme? What can be done when an organization wishes to operate a training programme? Accreditation by the HKCAVA will definitely be required. By then, it will set up a number of independent groups, which will in turn apply the specification of competency standards formulated by the ITACs. It can thus be imagined that the entire process will repeat itself in this manner. This set of standards.....of course, before the marching of the three armed services, food and provision should move first. Abundant funds must be made available. Though we still have no idea as to the size of the funding, we have nevertheless allocated a lot of money and appointed many people. People wishing to take part in this process have to be prepared to be appointed. Given that the policy of "affinity differentiation" is practised in this world, who will be appointed? I have no idea.

Madam President, I have no intention to suspect the incumbent Secretary for Education and Manpower in any way because it will take years before the Bill,

after passage, can be implemented. What senior post will be held by the incumbent Secretary for Education and Manpower by then is still unpredictable, right? That gesture might probably be correct. I do not know, am I right? If he takes one step backward, everything might probably open up before him. Therefore, I have purely examined the legislation itself. Is such a huge organ subject to any checks and balance as the fate of 3 million workers will be affected? We can see no checks and balance at all in the Bill.

Madam President, we initially considered whether or not an amendment should be introduced to impose checks and balance in it. For instance, the Secretary is required to go through a consultation process before he can act in that manner. However, we later found that it was not practicable for we could not possibly impede every step he made by virtue of a certain provision. This is because the key component of the entire framework is administrative, whereas whether or not the power of the administrative organ can be checked depends very much on the power of this Council. The power of this Council in checking the Government is indeed evident to all, therefore, I am not optimistic about the conditions after the passage of the Bill.

Having said that, Madam President, why will I support the Bill today? Because I have talked with a lot of Members and I was told that it was the earnest wish of workers in some industries, such as the printing and timepiece industries, that such a framework be set up expeditiously. This is why I cannot bear to stand in their way. I only wish to put this on record and hope that Members will act with caution. Thank you, Madam President.

MR VINCENT FANG (in Cantonese): Madam President, in order to enable Hong Kong to achieve the goal of turning into a knowledge-based economy, it is vital and obligatory upon the Government, which is responsible for promoting social development, to equip people seeking to enter the labour market with better employment skills and encourage people at work to pursue learning. As the primary objective of the Accreditation of Academic and Vocational Qualifications Bill (the Bill), to be read the Third time today, is to exercise regulation over the quality and quantity of a variety of training programmes, the industry and I, including employers and non-governmental training organizations responsible for providing training to trades and industries, will not oppose the Bill.

The beauty industry, a primary provider of training programmes, also supports the spirit of the Bill since the regulation of medical devices has already been debated in this Council. It has also expressed the hope that medical and beauty devices be separated and regulated by two different sets of standards. Regardless of how regulation will be imposed, it is hoped that, as the technology of beauty devices becomes more and more advanced, there is a general tendency for training to be provided to users and training organizations be required to provide quality assurance.

However, the industry has also expressed specific concern about several areas and the hope that the Bureau can dispel their misgivings when implementing the relevant framework. Their first concern is that, if the Bill requires academic institutions and the academic accreditation mechanism to regulate training bodies providing practical vocational training and learning, the content of the training provided might become too academic and out of touch with the market.

During the deliberations of the Bills Committee, I expressed the hope that members of the expert advisory committees to be set up for different trades and industries should not be confined to academic experts, and representatives of the trades and industries be included as well. As for accreditation standards of the programmes, the practical views of the relevant industries must be sought. It is hoped that the Bureau can accede to these two points.

I have been told by the beauty industry that the VTC invited it to act as a consultant to give advice when programmes were devised in the past. However, after the introduction of the programmes, a phenomenon in which the Government's training organizations compete with non-governmental training bodies for students has emerged. How can the industry achieve a balance between serving the community and keeping its "rice bowl"?

In its reply to an enquiry raised by the beauty industry, the Bureau stated that all organizations, whether they are non-profit-making or non-governmental, may apply to become training operators and then apply for operating training programmes. However, the threshold for the eligibility of non-governmental training bodies is quite high. Applicants must meet certain requirements in relation to their basis of resources and support facilities, that is, the hardware of training organizations, including school premises, equipment, the financial position of operators, and so on.

Unlike the self-accrediting operators (government-recognized universities, charitable and welfare agencies or labour unions) set out in Schedule 2, non-governmental training organizations can survive merely through the provision of skills training tailored to closely meet market demands to enable trainees to obtain certificates within the shortest period of time so that they can enter the employment market to make a living. Although these training organizations absolutely can catch up with the market in terms of equipment, they have found it relatively difficult to meet the Government's requirements on school premises, given the high property prices in Hong Kong and limited capital.

The industry therefore hopes that the past training performance of applicants, including the number of years of operation, teachers' qualifications and experience, the number of trainees, the employment of graduates, and so on, can be included as an assessment criterion in the item stating the eligibility of operators. Otherwise, the existing non-governmental training organizations will be rejected because of the excessively high threshold and probably become out-sourced training agencies for operators within the framework.

Another matter of concern to the industry is the accreditation levels of the QF. Vocational skills are very different from academic research. Many advanced skills are built on some basic skills in keeping with international developments. Let me cite the hairdressing industry as an example. A lot of new skills are actually linked to the new products launched by manufacturers of hair products. Therefore, the Bureau's requirement that 70% of the content of the programmes provided must meet the requirements of individual levels before they can register as the training providers of a specific level is indeed quite high. The industry has expressed the hope that the requirement be lowered to 50% or so.

Lastly, charges for accreditation of programmes. Although the Bureau has indicated that the Accreditation Authority, that is, the Hong Kong Council for Academic and Vocational Accreditation, will levy charges on a cost-recovery basis, the relevant charges will indeed impose a heavy burden on trades and industries if programmes at every level have to be accredited. It is therefore hoped that the Bureau can consider offering subsidy or streamlining charges for the accreditation of qualifications of training organizations, including non-governmental training organizations.

It has been proved that the apprentice system and on-the-job training, which have existed for a long time, are effective means to boost employment and help people at work to add value to themselves. Given the absence of a comprehensive mechanism for accreditation of qualifications of training programmes offered in the market in the past, varied standards have unavoidably been resulted. It is indeed good for a mechanism to be put in place to regulate training in terms of both quality and quantity. However, it is still hoped that the Government can examine in parallel how to help bring non-governmental training organizations, which have all along been making contribution to the territory, under the mechanism, instead of excluding them. Only in doing so can the Government and people work in collaboration to create a prosperous and stable society.

Madam President, I have delivered this speech today in the hope that the Secretary can undertake to, after the passage of the Bill and in formulating details for implementation, continue to discuss with non-profit-making and non-governmental training organizations and take the views of the industry into consideration. I so submit. Thank you, Madam President.

MR ANDREW CHENG (in Cantonese): Madam President, the establishment of a Qualifications Framework (QF) to affirm the skill standards of employees can enable employees to ascertain their own level of competency, thereby encouraging employees to pursue self-enhancement and move towards the goal of lifelong learning. Many overseas places, such as Britain and Australia, have adopted a similar system. We should proceed in this direction too. This Bill, which seeks to allow trades and industries to set up a QF in accordance with their own unique vocational characteristics through the establishment of a seven-level hierarchy, merits our support.

Nevertheless, Madam President, we are also concerned about what impact will be produced on employees after the passage of the Bill. Just as pointed out by a number of colleagues earlier, we are particularly concerned about whether or not the employment of low-education and low-skilled employees will be impeded by the QF. Although the Government thinks that the QF will not become a prerequisite for recruitment of employees, we are worried that, after the establishment of the QF is endorsed, employers will give priority consideration to job-seekers who have gained QF-qualifications when recruiting

employees. As a result, other workers not recognized by the QF will be put in a disadvantageous position, thus experiencing difficulty in seeking employment.

Furthermore, Madam President, the Government should adhere to the overriding principle of facilitating employees and not imposing a heavier financial burden on employees in determining charges for accreditation of training organizations, recognizing employees' prior learning and exempting employees from reassessment. Let me cite the determination of accreditation charges for training organizations as an example. As the relevant training organizations are mostly operated on a non-profit-making basis, the Government should strive to reduce unnecessary administrative expenses and prevent the training organizations from passing the relevant costs onto employees.

We hold that the Government should introduce more comprehensive support measures in implementing the QF by, for instance, prohibiting age discrimination and limiting the number of working hours, and encouraging employees to pursue learning to upgrade their skills, thereby achieving the goal of maintaining the competitive edge of the manpower resources of the territory as a whole. Unfortunately, it seems that all the relevant arrangements are not found in the Bill. Furthermore, the Government's position seems to even run in contrary to that of the Bill, which seeks to promote self-upgrading among employees through the QF. Given that competition is keen in the labour market at present, many employees would like to upgrade their skills and enhance their own competitive edge through learning. The problem is that employees are frequently confronted with three major obstacles in pursuing studies: time, age and money. After working for long hours, employees can hardly find time to pursue learning. The worries of senior employees are even greater. They worry that the higher-level qualifications obtained upon completion of training will not be useful as they might not be employed because of their age. Furthermore, a number of programmes, costing tens of thousands of dollars, also impose a considerable burden on them. Their desire to study will be affected by all these factors, and the effectiveness of the QF will thus be greatly undermined.

Unfortunately, during the deliberation of the Bill, the Government refused to undertake to launch more measures considered by us capable of being implemented proactively. Instead, it chose to adopt such old practices as advice, publicity, and so on, to achieve its objective of prohibiting age discrimination and limiting the number of working hours. However, such advice and publicity

is simply not the right remedy. The Democratic Party is greatly disappointed about this.

Furthermore, Madam President, we think that more comprehensive financing schemes should be provided to promote training and the culture of learning and, among other things, opening up the purpose of the Continuing Education Fund (CEF). At present, the CEF seeks merely to subsidize members of the public to enrol in programmes relating to languages and such popular industries as logistics, finance, tourism and creative industries. The target is apparently very narrow. Many grass-roots employees are unable to receive any subsidy under the existing scheme. The Democratic Party thus proposes that the scope of the CEF be extended to cover various types of vocational training, thereby benefiting more grass-roots workers. Besides, the Government should encourage enterprises to adopt flexible working hours and even provide paid training with a view to promoting learning.

Madam President, while the Democratic Party approves of the establishment of the QF, it hopes that the Secretary and government officials can, in formulating policies, seriously consider and put the views expressed throughout the deliberation process of the Bill into implementation.

Madam President, I so submit.

MISS CHAN YUEN-HAN (in Cantonese): Madam President, we are now deliberating on the Accreditation of Academic and Vocational Qualifications Bill. Before this, we have been holding meetings and discussions with the Government on this policy, and we have also talked with the Government in our capacity as unionists. We met some very great difficulties in the process. We see on the one hand that now in this society, there is a need to upgrade our human resources, but on the other, we can also see that a large number of workers in Hong Kong only have educational attainment at junior secondary level or below. This group of workers numbers close to 1 million. What can they do in the face of this kind of change?

Moreover, I wish to stress that the problem is not only limited to this group of people now, for there will also be people in future who cannot cope with the basic education we offer now and they will just fail to catch up when

they have studied up to a certain level. We can see that the Yi Jin programme and the Youth Pre-employment Programme serve precisely to illustrate the point that everyone is born with talents which can be put into use. That people cannot finish their studies by following a formal academic curriculum does not mean they are ignorant and that they do not have any abilities. But if they are to be assessed with an academic ruler, I think this is not those of us from the labour sector would want to see. We would even reject the idea. Actually, ever since we talked with officials before the deliberations on this Bill, that is, the former officials, up to this group of officials with whom we hold our discussions now, there has actually been a very lengthy process and we have always been stuck in this problem without arriving at anything conclusive.

Talking about the FTU, we are the earliest, or rather, we can be regarded as the earliest organization which promotes this sort of things. In the 1970s and 1980s, when the Hong Kong economy made a turn to the service industries, we offered classes in Japanese and vocational training. Even now, we have many spare time study centres in many places throughout Hong Kong, and that is how many people have come to know us. We see that when the mode of economic development in society changes, we must study hard to meet the challenges as our trades develop. Having said that, these courses are offered by us in the private sector and the courses are not meant for academic accreditation by the Government. We do not mind that at all. We would encourage people to enrol in our courses if they feel like it. And even if they do not like it initially, they can also come and try. If they cannot further their studies in this way, they can continue with their existing jobs and look for better jobs with their skills. This means, as we face the economic restructuring of Hong Kong, we have done our part in spurring development in this regard. However, when the Government stated the intent to carry out such work, we were very worried. Many Honourable colleagues have talked about our feelings earlier. With respect to this matter, certainly there is an up side to it, but in terms of handling, there could be a serious shortcoming if we are not careful enough. Since the Secretary is sitting here today, I may as well talk in greater detail.

Madam President, before our deliberations on this Bill, we proposed a "grandfather system" to the Government. The official in charge at that time, not Mr CHENG, thought that there was no such system in existence. It turned out that the Government was prepared to undertake an accreditation exercise for the retail trade. There are many sectors in the retail trade, such as those on

watches and clocks, jewellery, clothing, shoes, and so on. So how did the Government go about doing this? What would the seven levels on the horizontal scale be like? And what would the seven levels on the vertical scale be like? At that time, we raised many questions but the Government could not give us any answer. Then we became very worried when the Government asked us to look at a so-called framework.

All the officials who used to be in charge of this part have been transferred. The Permanent Secretary always said to me, "Miss CHAN, what are you so worried about?" Then I talked about what I was worried about and that is what I said just now at the beginning of this speech. On the one hand, I support the idea that as society develops, we need to upgrade our human resources. However, on the other hand, I am worried that many people may not be able to adapt to the change.

Madam President, now I would like to cite a few examples. When I first joined the former Legislative Council, the Government was working on a law on real estate agents and people who wanted to work as estate agents must have secondary school qualifications. Even now, I still handle cases related to this. People who are estate agents may be very eloquent in speech, but if they are required to have five passes and if that is made a requirement, it would be like something close to being impossible for them. Recently, I came across a case like this, which is about someone who, for some unknown reasons, had passed the trade test but it was found out later that he is not even a secondary school graduate. So he is disqualified and his test results are nullified. But that person is capable and his boss is willing to hire him. So objectively, this system may lead to problems like those mentioned by me just now. This means, someone may be very good at the skills needed for his job or he may even be a very good salesman in the eyes of the boss.

Another example is about car sales under the insurance law. A number of the large car dealers once called on me and that was many years ago. They told me that their salesmen were all very qualified in selling their cars, but there was a requirement in the insurance policy that they must be secondary school graduates. The dealers told me that it was impossible. That means the salesmen are all very capable persons. They are very interested in the trade and they know a lot about it. It would be difficult for them to sell life insurance policies or other kinds of insurance policies, but if they work in the car business,

normally the trade will only require people who know how to be good salesmen. What is needed are people who can arouse the interest of the clients such that they will buy the car. Then they can sell the clients an insurance policy on the car. But the Government had not taken this into consideration at all. It had never taken this into consideration. This made the employers of a large number of people, that is, some very big car companies came and sought help from us. Unfortunately, in the end we could not offer them any assistance.

Madam President, what I am trying to say is that even before we started to deliberate on this law, we had argued with the officials for a long time. Our argument was related to what the Chief Executive said on Labour Day recently. The gist of the remarks is that the Government used to formulate policies for the people, now the people are asked to join in the formulation of policies. What is involved here are two totally different things. If policies are formulated with a mentality like selecting the elite officials, the people who are to be assessed will be asked questions like why they do not even know the alphabets, why they cannot answer questions in an interview and why they are so scared as they are shaking all over. Those who can meet the requirements may already be very professional people and they are certainly candidates who hold university degrees. But the people sitting in front of you may really not know what you ask them and they really are.

The trade union for construction workers also dislike the idea of accreditation very much. Workers in the trade really do not know how to attend an interview. They have no such culture about coming to an interview, taking an examination or attending a selection board and such things. They find all this very difficult. And often times I would think that when our officials formulate these policies, they have this sort of elitist mentality, and this will lead to problems. So when the officials have a tug-of-war with us, this is precisely the reason why the government departments do not see why people like us will not give up certain views.

When we are to deliberate on the Bill and decide whether or not we should give it our support, if the foundations are not well-laid, worries and anxieties will arise. It was first said that no "work licences" were needed for employment, but when the Government launches a policy, it will certainly become "licensing for employment". It follows that the exemption system must be done well. Otherwise, and to be frank about it, we do not have any confidence in it. The

Government is now saying that the transitional period is five years. I have reservations about that. But if the Government says that it will come to the Manpower Panel of this Council for an appraisal every six months, then I would think that it is acceptable. I do not wish to obstruct developments in this respect because of some issues.

Madam President, the reason for repeated reference to this problem is my genuine hope that Secretary Prof Arthur LI would understand the situation here in Hong Kong. This is not just we people making empty talks, but some of the wage earners in Hong Kong are beginning to get worried. Even in the three industries which we agreed with the Government that a trial scheme be launched, that is, the printing and publishing, hairdressing and watch and clock industries (I am most familiar with the watch and clock industry), do we think that they have any worries? Questionnaires collected by our respective trade unions show that they indeed have worries. Members may think that there is a ladder for upward movement and the trades also hope that there can be such a ladder so that it can be made a goal to strive for, but the exemption mechanism in the process is very stringent and it is not lenient at all. This makes us feel very worried.

Secretary, now I would like to talk about another part. This part has caused a very unpleasant experience for Members serving both in the former Legislative Council and the present Legislative Council. It is about our deliberations on the law on Chinese medicine practitioners. When deliberations were made on the law in the former Council, those Members who took part included some who are sitting here today, namely LI Fung-ying, LEUNG Yiu-chung and I. And there were also Cyd HO who is a former Member, and Selina as well. I can see that many Honourable Members are raising their hands. All of us feel the pain even to this day. Right, there is also Margaret.

Secretary, we say we feel the pain. Why? Apparently, Chinese medicine is a traditional trade and even some great masters in Chinese medicine have learnt the ropes from their fathers. But now it is said that they have not played any part in the registration of the Chinese medicine stores concerned. The registration matters may really be none of their business and this may be due to the fact that registration was made by people in their families. But these persons have been Chinese medicine practitioners there for maybe more than 20 years and they have long been regarded as masters in the trade. Now they are

turned into listed Chinese medicine practitioners for they do not hold any proof of their qualifications.

Another classic example is found in our constituency in Wong Tai Sin. There is a member of the District Council by the surname CHOI. I first knew him in 1991 when I took part in the direct elections. He is a Chinese medicine practitioner all along and he is also a member of the District Council there. But the authorities said that it was impossible because he is not the person holding the registration of the Chinese medicine store. Even if many people can prove that he is a Chinese medicine practitioner, the Government does not believe in that. This is how the case has come about. The reason for this is that the Chinese Medicine Council is very mean. "Mean" is the word I would use to describe the Chinese Medicine Council. We are still following up this case.

With respect to registration and qualifications, the Government has added many requirements in a rather arbitrary manner. I am very concerned about something called "specification of competency standards" which will be listed. The Government may even add something more to them. Now the accreditation for Levels 1 and 2 in the abovementioned three industries has already been agreed upon and workers who have working experience of one to two years would satisfy the exemption requirement. The Government wants to impose a requirement for interview, but we object to this idea. We are afraid that the Government will add to the number of levels. This is the case with the Chinese Medicine Council. Levels are added. At that time when we deliberated on the relevant law, and we had been deliberating on it under the leadership of the Chairman of the relevant Bills Committee for a number of years, we heard views on each fine detail as presented by the labour groups. After everything was agreed, we were still afraid that the Government would throw the whole thing to an expert panel called academic and vocational qualifications accreditation committee. People in that panel would in many cases lay down some formalities and impose many requirements. Margaret was right when she said that after we had examined the law on Chinese medicine, the group of people is now suffering from the pain of it. We have said during the deliberations that Chinese medicine is a traditional trade and so the Government must not impose any arbitrary conditions.

Secretary, what is the pain I feel like? When the complaints reached us in the early stage, we located those officials in charge of the deliberations at that time and they were in the Department of Health under the Health, Welfare and

Food Bureau. But they said that the matter concerned had already been severed from their brief and it was then none of their business and they could do nothing about it. This made us most furious. And what the Government did was to sow the seeds of trouble in the Bill today, as the Government found out later that the law on Chinese medicine has not addressed many problems. This explains why so many requests are made in respect of this Bill on this occasion. Mr CHENG thinks that the reason why we suggest so many harsh conditions is because we have had a painful experience and we do not want to see the same situation of our deliberations on the law for Chinese medicine appear again.

So I hope the Secretary can appreciate our situation. In fact, we support you, Secretary. Members must know that there are some people who do not do so well in their studies. They do not like studying. But that does not mean that they have no ability. We must somehow give them a chance for advancement. I therefore hope that the Government can face the problem squarely and refrain from putting any devil in the details regarding the exemption mechanism.

Now I would like to talk about the issue of working hours again. We have had many arguments about not endorsing this framework. The officials say that it does not matter as the issue of long working hours is not their responsibility and that belongs to another bureau. But, Madam President, if working hours are long, the workers will have a hard time if they want to study. An old friend of mine has completed a degree programme part-time. He has a heavy workload in his job too and, eventually, he has developed some health problems. It is his health that has suffered very much. Is this because he has pursued his studies? We are not sure. While many people who work long hours may want to study, we would advise them to be careful about their health too.

There are matching measures in this aspect in other countries that practise minimum wage and standard working hours. When there are restrictions on working hours, people can afford to use their spare time for studies. An example is a person may be very dumb before he is 18. He may not even know the alphabets. But his mind suddenly opens up when he is 18. He wants to study after work. If the working hours are too long, then what can he do? I am a member of the skills upgrading working group and I am the convenor for the catering industry. Earlier on, Mr LEE Cheuk-yan said that some organizations had said, "Miss CHAN, just look at them, they come out to study

even when it is in the middle of the night." Those people who study are chefs working in the hotels. They enrol in a course to learn how to make Chinese dim sum because it is the "in" food. After looking at this example, on the one hand I admire them very much for they still go to classes at 12 midnight or 1 am after work, and the time is very late into the night. On the other hand, I think they are having a hard time because they will need to go to work the next day. When these people can have so much stamina, will and physical strength, and as we understand very well the problems they face, what do you think I should do?

I hope very much the Government will see the point that there are many people in this world who are not born very smart and they may not even be able to complete basic education. However, they should be given a chance no matter what. So the exemption mechanism must be made a sound one. As the Chief Executive has said of late, the people must be called in to formulate various policies. Those elites at the top will not just idle the time away with those on the expert panel. Once some members from the expert panel came to our catering working group for inspection and we all had a big laugh. We asked them if they were really in the food and catering industry. Madam President, I am the convenor for the skills upgrading working group on catering. As the Government wanted to know if the courses were articulated to the course contents specified by the working group, it sent an expert from the Hong Kong Council for Academic Accreditation to meet us. At that time all of us, including the bosses, the trade union people and I, suspected that he was not from the catering industry because the questions he asked did not seem to be in touch with reality at all.

So all of you should remember that those people who do the accreditation work should not be as what Margaret NG has said, only those whom the Government likes. They must be people from the trade. Now we have got a mechanism and if that mechanism goes wrong, the problem should then be solved right there and it must not be said that once a policy is formulated, it cannot be changed. If that is the case, then no matter how hard Prof LI may work to promote that, it can never be successful.

The last point which I would like to say is that, in the qualifications accreditation framework introduced in Australia, it is not just a matter of taking things in, that is, like what our Government is doing when it launches a lot of things in haste and all at one time. This is not what the other people are doing.

They would spend a lot of time on observations and then come up with conclusions. Therefore, when a trial scheme is launched in these three industries, I hope very much that the Government will not just try to achieve its objectives. We must show great love before anything can be done. I would advise the Government to be prudent and never be too ambitious. It must not think that another industry can be added to the scheme and so that industry is added to it. In the catering industry which was mentioned at the very beginning, I think the trial scheme in the catering industry as practised now is crazy. It is required in the scheme that a so-called ladder should be set up for those people who have worked for one to three years in the industry. Then it is said that work types of every sort have to be checked. Those who are outstanding chefs are masters of the trade. They can handle everything from braising, stewing to boiling and what not. The catering industry is the first industry approached by the Government and it is regarded as the industry which is most suitable for inclusion in the trial scheme. But to date, the trial scheme is not yet put into force. So it can be seen that how complicated the matter is.

In any case, Madam President, I am convinced that those officials who have discussed with us over these past few years have all listened to our views with a very pragmatic attitude. However, we would still want to put on record that we will follow this matter up, and it does not matter if we are still in the Council. This we will follow up definitely.

I so submit. Thank you, Madam President.

MR LEUNG YIU-CHUNG (in Cantonese): President, first of all, before I give my views on the Accreditation of Academic and Vocational Qualifications Bill (the Bill), I wish to say a few words to the Secretary. I rarely say anything like this, but I really wish to say a few words to the Secretary.

I seldom heap praises on the Government. But this time around, I must express to the Secretary my commendation of his staff, because the attitude demonstrated by them during the scrutiny of the Bill was simply excellent. They were both open and positive in their discussions with us, showing an attitude of mutual understanding and accommodation in the seeking of solutions to problems. I very much hope that the scrutiny of this Bill is not the only example of its kind, and our government colleagues can continue to uphold such

a spirit when discussing other Bills. It will be most wonderful if we can build up a relationship between the executive and the legislature which is as cordial as the scrutiny process this time around.

Anyway, whether or not the Bill will be passed cannot change the fact that progress has been made in the process. I am also a member of other Bills Committees. But at the meetings of these other Bills Committees, government officials will invariably say "no" and rule out any room for negotiation even before I finish speaking. However, during the scrutiny of the Bill this time around, the Secretary's staff behaved very differently. They spent lots of time in private on discussing with us how the problems could be solved. I think this is commendable. I hope that the staff of other departments can also hold discussions with the same spirit.

President, let me now turn back to the Bill. Just now, many Members already put forward many opinions about it. Some remarked that they were wary of supporting the Bill today, that their feelings were mixed, or that they did not know what to do. In brief, they thought that they were circumscribed by the situation and had no alternative but to support the Bill. Such is the attitude of everybody, including me. Although I am going to support the Bill, I am still filled with all these feelings. President, do you know why?

First, I wish to remind the Secretary that although the Bill has been discussed for two years, there has been practically no discussion with workers. Throughout the scrutiny process, there were no face-to-face discussions with grass-roots workers on any related topics. There were at most some discussions with trade unions or union representatives. But as Members know, discussions with trade unions or union representatives are not quite the same as discussions with the whole industry or the many individual workers. Therefore, as some Members remarked just now, many people still do not know what the whole thing is all about. This is indeed true. Members are extremely worried, wondering whether the Bill can command widespread support among workers. This is the first point.

Second, as mentioned by Members just now, we simply do not know how the mechanism will operate after its establishment. We will have to grope our way forward, not knowing whether the outcome will be good or bad. For these two reasons, Members have many question marks in respect of the Bill.

However, there is another point. As I pointed out when describing the feelings of Members, this is actually the overall situation, an inevitable trend, something that cannot be avoided. President, this is indeed true. Why? The Employees Retraining Board (ERB) runs many retraining courses. There are examinations in all cases, and certificates will be issued afterwards. This is in fact similar to the Qualifications Framework (QF) under discussion, which is also marked by examinations and the issuing of certificates. The only difference is that the QF is divided into various levels while this is not the case with the ERB. Therefore, with such a trend, there will be no convergence if we do not do so because certificates are already issued to security guards and domestic helpers. But if further actions are taken, there can be convergence.

But what is the greatest problem? The Government keeps emphasizing that it is voluntary, meaning that participation is optional. However, the ERB has given me some examples which show that the problem is not so much about whether participation is optional. Rather, the problem is that once it has been launched, one simply cannot choose not to participate. Why? Nowadays, what is the first question asked by employers when interviewing the trainees referred by the ERB? They will ask the trainee whether or not he has obtained a certificate. If he has not, he will not be considered and there will be no need to ask the next question. The future situation will be the same. Once this framework is implemented and as long as even one single worker has obtained an accreditation certificate, employers will ask job applicants whether they have obtained a certificate or not. Having no certificate does not necessarily mean that the applicant will not be taken on. However, rejection is not such a big problem anyway. What is the worst scenario? The worst scenario is that the applicant is taken on, but his wages are suppressed. Since the applicant does not have the required qualification, his wages will still be depressed despite the fact that he has attained the required level of competence. What worries me most is such a scenario. The problem of "licensing for employment" will surely emerge and cannot be denied. However, what should we do in the face of all these problems?

I think the Government should really give more thoughts to several problems, those problems related to the transitional period as mentioned by Members just now. Workers lower down the QF, for example, must obtain recognition of QF qualifications at Levels 1 to 3. What I mean is that during the transitional period, their past working experience can help them do so. But as Members all know, the framework will not disappear five years later.

Unless there are any drastic changes, the QF will be here to stay. This means that after the five-year transitional period, the workers concerned will not be able to automatically obtain recognition of QF qualifications at Levels 1 to 3 on the basis of their past working experience. This will no longer be possible and assessment will be required.

However, the experience of employee retraining tells us that workers are most fearful of assessment. Though they may have the required competence, they will likely fail any reassessments because they have left school for a very long time. A point especially worth noting is that under the existing retraining programme, workers frequently lose heart as they are often required to repeat. The problem is not so serious under the existing retraining system because workers are not yet under any employment and can continue to receive government subsidy in the meantime. But the situation in the future will be different. Workers will lose their jobs because the qualifications concerned are required by employers. Or, their wages may be suppressed for as long as they are unable to obtain the required qualifications. The reason is that others may succeed in obtaining the required qualifications and once there is comparison, those who fail to do so will be given less favourable consideration. This is indeed our greatest worry.

Owing to the Government's emphasis that participation is voluntary, another problem will emerge. As pointed out by many colleagues just now, since some may choose to participate voluntarily, the Government will not consider the factor of training time. As a matter of fact, the ERB has been doing a very good job in this respect, in the sense that an allowance is provided to workers. This means that unemployed persons are provided with a retraining allowance and they have plenty of time for receiving retraining. But the situation will be different in the future. Employees must still go to work, so how can they have any time for attending courses? Should they stop working in the meantime? But since no allowance will be available, how can they have any money to support their living after ceasing to work?

What is more, course enrolment will require money. Admittedly, the Government will provide varying levels of subsidy based on course fees, but this does not mean that enrolment is entirely free. Therefore, as pointed out by many colleagues just now, the greatest problems faced by employees are time and money. To workers lower down the QF, these are the two greatest

problems. I must therefore advise the Government to give more thoughts to the possibility of providing more subsidy at Levels 1 to 3 of the QF and assisting employees in taking study leave from their employers, so that they do not have to resign for enrolment in courses.

Miss CHAN Yuen-han said that she very much appreciated those employees in the catering industry who still attended training courses after work, from midnight to one o'clock in the morning. President, this is actually very harsh to such workers. What we are talking about is in fact the pressure of earning a living. Members should ask themselves, "They must still study for two or three hours after working for 12 or 13 hours, so how can they have any more time for rest?" This is not to speak of the fact they must still go to work the following day. She appreciates their perseverance and enterprise, but has she ever put herself in their situation and sought to understand their plight?

Recently, we have learnt of the sudden death of several workers due to long working hours. Should we pay attention to these cases, President? If the situation continues, all these problems will only deteriorate. The Secretary knows only too well that coronary heart disease patients are getting younger all the time. What actually is going on? If workers continue to be fatigued in this way, the incidence of coronary heart disease will only increase. Should we turn a blind eye and deaf ear to all this?

To sum up, owing to the "voluntary" nature of the QF, the Government will refrain from taking any positive actions in many cases. For example, it will not provide any training leave, nor will it increase the subsidy because participation is "voluntary". The word "voluntary" is the cause of all problems. What am I driving at? The objective reality is that the QF is *de facto* "licensing for employment". This is already the objective reality. Therefore, the word "voluntary" must not be mentioned anymore. Since this is already the objective reality and the word "voluntary" is largely meaningless, it is hoped that the Government can formulate a mechanism of some kind. Failure to do so will only exclude some people from the QF, thus adding to their burden of living.

Another thing is that I very much agree with Ms Margaret NG that authority is the most important of all issues. The establishment of advisory committees in the future for the assessment of vocational competence will pose a

very great problem. As pointed out by many colleagues just now, when the Chinese Medicine Council of Hong Kong (CMCHK) is vested with authority, it will be "in charge" in the future, and when it is "in charge", the Government will be unable to give any advice or change its decision. The CMCHK will be able to do whatever it likes in many cases. The CMCHK is an organization like this.

I think Members have also learnt that a couple of weeks ago, some listed Chinese medicine practitioners who had completed the required courses of training could not even satisfy the entrance requirements of the qualifying examination. How pitiable they are! They could already satisfy all the requirements on the number of course hours, but they were still barred from attending the qualifying examination. They were not even qualified to sit for the examination, not to mention obtaining the qualification of Registered Chinese Medicine Practitioner in Hong Kong. What is the Government's response? It has simply stood aside with folded arms, saying that it is just the secretary of the CMCHK and has no authority to do anything because all the power is vested with the CMCHK. Therefore, I do not think that it is at all healthy to give them all the powers of checks and supervision. And, the QF will not only affect the existing 3.5 million of workers but will also be handed down from generation to generation. The effects will thus be far-reaching. I therefore maintain that there must be a mechanism for supervision and checks.

As pointed out by Ms Margaret NG just now, like those of the CMCHK, all members of the advisory committees will be appointed by the Government. I once advised Secretary Dr York CHOW that the CMCHK should follow the example of medical practitioners and establish a democratic electoral system, whereby the profession itself could return members to the CMCHK. But he did not listen to me and nothing happened in the end. Actually, I think that it is necessary to consider all these problems connected with a certain profession. The allocation of powers will necessarily involve various sides with vested interests. We simply cannot deny the existence of those with vested interests. How are we going to prevent those with vested interests from operating in the power core? The answer is that there must be an open, fair and highly transparent system capable of monitoring and exercising checks and balances. But the Bill does not touch upon all these issues. This is precisely the problem that makes us so hesitant and fills us with so many mixed feelings. I very much hope that after the passage of the Bill today, the authorities will take further actions to deal with these issues, instead of putting them all aside.

Honestly, though, it is still very good to pass the Bill. For example, I have recently received a complaint from a girl who is both deaf and dumb. She claimed that she was enrolled on an advanced and internationally recognized cosmetology course run by a certain beauty school, and the course cost her \$20,000 to \$30,000. But she said that she still failed to secure any employment after completing the course. Why? It was because the course was not recognized. Employers were not sure whether it was up to international standards, so she could not get any job even after completing it. If the Bill is passed, there will be an accreditation mechanism and similar incidents can be reduced. It is certainly good to those workers who want to obtain qualifications, upgrade their vocational skills and seek career advancement. They can thus enrol on recognized courses without wasting their money and time.

However, the problem is that while there are such advantages, how can we make sure that the system can really operate soundly? The worker mentioned above was able to enrol on a course of training because she did not have a job. But how can those workers who are under employment take any such courses? They will be unable to do so. Therefore, if there are no support measures — many colleagues talked about support measures just now — the QF will certainly fail to yield satisfactory results.

President, as Members representing the labour sector, our only alternative is to support the early passage of the Bill. But what should be done after its passage? It is hoped that the Government can conduct continuous reviews to rectify the problems mentioned above. Since the effects will be far-reaching, the system should be reviewed and improved more frequently.

President, I so submit.

DR KWOK KA-KI (in Cantonese): Madam President, it has been two years since the Accreditation of Academic and Vocational Qualifications Bill (the Bill) was first tabled in 2005.

I note that many Honourable colleagues representing the labour sector have risen to speak in support of the Bill. Actually, it is basically very good for the Government to enact a Bill on establishing an accreditation mechanism for the various trades and industries. But I must first ask a fundamental question. Is Hong Kong fully ready for the implementation of such a mechanism?

I once carried out a survey in the streets, during which I asked different workers whether they were aware that there would be an accreditation mechanism. They all replied in the negative. I also talked to some construction workers, that is, those I was able to approach. I asked them whether or not they were aware that an accreditation mechanism had been proposed, and whether they knew how the mechanism would affect them or not. Again, the answers were negative.

Legislative Council Members, or many trade unions for that matter, may know the Bill very, very well. And, they have indeed spent huge amounts of time on fine-tuning the Bill to its present form. However, the several million employees in Hong Kong may not know the Bill quite so well. The reality is that the Bill will most likely be passed by the Legislative Council today. However, by supporting the Government and the passage of this Bill, will we in fact do a disservice to workers? I really do not know.

We know that there will be a grace period of five years immediately after the commencement of the Bill. But five years later, the accreditation of academic and vocational qualifications under the ordinance will gradually become more stringent. This will lead to a very great problem, one which the Government must handle. I hope that in his reply later on at this meeting, the Secretary can respond to the several points I am going to raise.

First, how many workers are really well-versed in the provisions of the Bill and their effects on them in the future? From the discussions on the Bill during the past two years, I fail to notice any huge efforts on the part of the Government or any attempts to gauge the views of employees in different trades and industries. Of course, the Government must have consulted the employers and trade unions of different trades and industries. But have all these trade unions and employers duly informed the employees concerned of the spirit of the Bill and its limitations? I for one am very doubtful. Recently, I have also noticed an API of the Government which shows how a car mechanic repairs his customer's vehicle. This is fine enough, but is such a simplistic narration enough to workers who are directly affected?

Second, the Government has made many pledges and undertakings, including financial commitments. But can all these financial commitments last? How long can they last anyway? During the discussions on the Bill, the Government once undertook that it was prepared to bear more than half or even

70% of the costs of qualifications training. However, this undertaking is not reflected in any document or the ordinance. It is thus at best a good intention on the part of the Government.

I am worried about one thing. As time passes, after the ordinance has come into effect for a considerable period of time, if an employee seeking employment does not possess the qualifications required by the Bill, can he refuse to take such courses in an environment dictated by the survival of the fittest? Suppose the Government changes its policy and says that it does not intend to continue with the policy of heavy course subsidy, what can employees do? Second, it is claimed that the accreditation of qualifications will not affect workers' employment, but is there any safeguard in the law? Can the Government provide employees with any legal protection against employers' positive attempts to impose discriminatory employment terms or even unreasonable dismissal in cases where an employee does not possess the qualifications stipulated in the Bill? If not, can it be said that the Bill actually aims to create such a situation, with the result that a basically good measure is turned into a bad one? Will the otherwise desirable qualifications accreditation mechanism be thus turned into a weapon with which employers can either dismiss their employees or change the relevant terms of employment?

I certainly do not wish to see anything like this. But during the scrutiny of the Bill, I failed to see that there would be any other legislation that could provide employees with employment protection in the future. In particular, in the case of an employee who has worked for quite some time in an industry, who is unable to obtain the required accreditation of his qualifications for one reason or another, and who is thus treated unfairly, will there be any legal protection for him? Has the Government done anything in this respect?

Third, I want to say a few words on the Government's outsourcing contracts. The Education and Manpower Bureau is responsible for the Bill. But in reality, one cannot deny the presence of the Government's "visible hand". As Members know, the Government awards many outsourcing contracts every year. Tenders are invited from different people through many government departments. There are contracts relating to infrastructure projects, the provision of various services, and so on, all awarded by government departments such as the Food and Environmental Hygiene Department, the Agriculture, Fisheries and Conservation Department and others. In case any government outsourcing contracts in the future provide that contractors and bidders shall

require their employees to hold certain qualifications, I suppose we should really criticize the Government for not being true to his words. The authorities claim that qualifications accreditation is voluntary and they do not intend to affect workers' employment, but by awarding government contracts, they can actually introduce fundamental changes to employees' participation in contract works and the terms of employment set by employers. This will directly affect employees' livelihood in the future. Is the Government prepared to undertake that government contracts in the future will not contain any provisions which may affect workers' employment? Will it make such an undertaking?

What is more, does the Government have any specific measures to assist workers? Apart from trade boards and courses, are there any other measures that can more actively assist employees in understanding the effects of accreditation, such as making outreach visits to workers in different industries? As Members know, the places best known to fitting-out workers are their gathering venues, such as some Chinese restaurants in Mong Kok and the locations where they look for jobs.

At one time in the past, I was involved in some voluntary work connected with health protection for workers. If we had any news to tell workers or wanted to offer them any help, we would visit the cafeterias and bistro cafes where they usually gathered and give them the information direct, instead of waiting passively like the Education and Manpower Bureau, the Education Department and Labour Department now. Has the Bureau made any similar efforts? Do the authorities intend to conduct any outreach work, with a view to helping those workers who may not necessarily have access to information like us or others? It is especially worth noting that workers who are not members of any trade unions will have any direct access to any such information. How does the Government plan to explain to these workers in their language all those complex provisions on the timeframe of implementation, their rights and various effects on them? I hope that the Government can tell us clearly.

Another point I wish to raise is that while employees' obligations are set out in the ordinance, nothing is said on the Government's obligations. Despite the many undertakings made by the Secretary during the scrutiny of the Bill, I still wish to ask one question. What obligations has this ordinance vested in or imposed on employers? Just now, many colleagues mentioned a very practical problem. We are talking about salaried employees who must very often work long hours. If the ordinance only requires employees to complete the relevant

courses and obtain recognized qualifications, if employers are not at the same time required to make corresponding arrangements and give reasonable time to employees, if employers do not grant paid study leave to employees, or if employers do not intend to do so, then is it fair to employees?

Having worked long hours, an employee may still have to take courses during unsuitable hours, that is, 11 pm or midnight as mentioned just now, or even during holidays, just to make sure that he can keep his job. In view of this, should we not also require employers to bear some responsibility or request the Government to make some efforts? Should we not also require employers to make reasonable and appropriate arrangements in the ordinance or during discussions with employer representatives, so that reasonable arrangements can be made to enable affected employees to take such courses without affecting their employment?

All this can actually show that even after the passage of the Bill, the Government must still tackle many outstanding issues. Second, the Bill mainly concerns both present and prospective employees. In this connection, I note that the Government plans to introduce some institutional changes in our secondary schools as part of the education reform in the future. Since secondary school students are to be encouraged to acquire a vocational skill, I really want to know whether it is possible to integrate vocational subjects of the secondary school curriculum into the mechanism for the accreditation of academic qualifications, so that some students can be equipped with a vocational skill and awarded a qualification that suits their inclinations by the end of their secondary education. (Some students may of course plan to further their studies, but regarding those who may not plan to do so, can the Education and Manpower Bureau design any pre-arranged courses to equip them with a vocational skill by the end of their secondary education?) In this connection, I think the Bureau should make more efforts.

I think that as pointed out by many, this ordinance is actually an experiment. But it is also an experiment with very profound implications, one which involves both the several million employees and the Government. It will definitely be fine if all goes well with the experiment, for the skills levels of different trades and industries in Hong Kong as well as the employability of Hong Kong workers will all be upgraded. That way, Hong Kong workers will be able to venture out of the local job market and go north to the Mainland or

even other places in the world for employment. That is why this experiment may well become a very effective tool. However, if anything goes wrong with the experiment, if it fails, we cannot possibly start all over again — it is totally unlike an experiment in a school laboratory, in which we can always empty two test tubes of solutions and start all over again whenever we make any mistake. The reason is that if this experiment fails, the livelihood of numerous workers may be adversely affected. To affected workers, the QF is no simple experiment, for they must feed their families.

I maintain that the passage of the Bill should be matched by greater devotion and commitment on the part of the Government. As I have pointed out, the matter involves not only the Education and Manpower Bureau but also many other Policy Bureaux and departments such as the Labour Department. When formulating outsourcing contracts, the Government must also pay special attention to the possible effects of the ordinance on employees. The Government is obligated to do so, as also pointed out by the Chief Executive during his election campaign (Such was a major undertaking he made at that time). He expressed the hope that the local employment market can enjoy bright prospects and pay special attention to those with low education and low qualifications.

I hope that when the Bill comes into effect, the Government can really make some practical arrangements (which, I must say, cannot be written into the Bill), so as to look after the low-qualification and low-skilled workers in the Hong Kong labour market. Reasonable and humane approaches should be adopted to channel them into the labour market. Proactive, I repeat, proactive, actions must be taken to assist them in obtaining appropriate qualifications. More importantly, if they fail to obtain the required qualifications in good time for whatever reasons, the Government should always set a good example by allowing them more time and identifying other means. Proactive attempts must be made to assist them in obtaining the required qualifications in the very short run.

I so submit. Thank you, Madam President.

MR LEUNG KWOK-HUNG (in Cantonese): "Draconian rule is fiercer than a tiger", as the colloquialism goes. It goes without saying that if a policy is erroneous, or if an otherwise well-intentioned policy is nonetheless executed in

total disregard for those to be affected, it will definitely achieve the opposite result. One example in the more distant past was the attempt to enact legislation to implement Article 23 of the Basic Law. At that time, many people who advised us to support the enactment of a national security law all claimed that they were well-intentioned, asking us to have faith in them. A more recent example was the march in Macao yesterday. The police and government officials there all explained that their actions were meant for the well-being of Macao. They said that marching through the thoroughfares would affect the prosperity and image of Macao, and they even tried to stop the march. This led to trouble in the end, right? What was most outrageous was the claim that the police opened fire just because they wanted to stop people from trampling on one another. Anyone who has seen a film will know that gun shots will only make the situation worse, leading immediately to stampeding.

Therefore, we are in fact talking about relativity of things in many cases. When it comes to the skills required for one to succeed in a certain trade, it is actually very difficult to set any hard and fast standards. We may look at this Chamber of ours, where government officials often talk tongue in cheek before us. For instance, during discussions on constitutional reform, arguments were often twisted, but they still get promotion and pay rises all the same. They are now even talking about a 10% pay rise for Bureau Directors. Yesterday, some journalists asked me if I supported the idea. I answered, "Why don't they just increase the pay rise for ordinary civil servants to compensate for the 6% deduction in the past? Why don't they increase the CSSA rates to compensate for the two reductions in the past, which totalled 11%?"

All is just about relativity, so what we can actually do today is just to talk about things from this very perspective. What skills are demanded of Bureau Directors? Should we set down any requirements? The requirements should change with the times. For instance, when the Secretary who is sitting here and who is going to reply to us answered my question on one occasion, he remarked that it was not quite so good for Mr LEUNG Kwok-hung to criticize others for playing electronic games, because while he was playing an electronic game, he was able to split his attention. He is really something. When listening to him, I told myself that other Bureau Directors should start to worry. When looking for Bureau Directors in the future, should we require applicants to be able to split their attention, to answer questions while playing an electronic game? Therefore, all is just about the relativity.

The qualifications demanded of Bureau Directors are determined by the Chief Executive. It is therefore political. But what we are talking about today is that once the legislation is enacted, it will become something like sunlight that shines on all. What I mean is that it does not matter which places we are talking about, as long as they are places under the sun, all the people there, whites and blacks alike, will be affected (Blacks will of course get darker, while whites may turn more tanned because the pigments of the two are different). Who will be affected? We can observe the Government's hypocrisy. I have just been to the City University of Hong Kong (CityU). The qualifications possessed by the professors, senior lecturers and associate professors of the CityU are all accredited. Presumably, there should be no problem with their substantive appointment. To our surprise, the Secretary of the Education and Manpower Bureau, who also played a part in the whole thing, still dares to tell the CityU what should be done and even requires the university to implement the draconian policy of offering associate degree programmes. We would come back to this associate degree issue later. Not only this, they also ask these teachers to switch to another organization, that is, to pretend that they are being taken on by a new employer. But there will be no more substantive appointment, no more employment protection. All the trouble has actually been created by the Government. These teachers all have accredited qualifications, and they are responsible for teaching, having many students. Substantive appointment is meant for protecting academic freedom, for ensuring that no one in a university will suffer from poverty. After the abolition of the substantive appointment system, however, the President of the university will be able to have all the say. In other words, he can tell his staff that if they do not listen to him, he will trample on them.

Why do I have to pinpoint such hypocrisy? By pinpointing such hypocrisy, I mean to show that in the name of market demand, or in the name of the market resources or labour issues under its control, the Government has incessantly allowed the market to shatter the professional qualifications in our society. It does not need to abolish people's professional qualifications. Simply by making up various excuses, it can already fix them. Nowadays, the rich in our society are really gaining too much profit. But they still want to target on all the "warrior workers". The middle classes from the upper strata and also the proletariat from the lower strata are all "warriors". But since the rich think that labour costs are too high, they have started to take actions, saying that they must check whether all these people really have the ability to get the job done.

"I'll get the job done!" But they have also done our job. Let us check how our Government tries to strike a balance. All is just like Dongshi knitting her brows in imitation of Xishi¹. Why do I draw this analogy? We all know that there was this ugly woman who thought that she could be as beautiful as Xishi. Our Government is exactly like Dongshi, because in most countries or places with such a QF, the two United Nations covenants on human rights, that is, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, are already in force. Basically, we are supposed to strike a balance on the basis of the covenants and then launch the whole process. But, to begin with, our society has not adopted the system of "Three 8's". It is a shame that we do not adopt this system. The International Labour Day, 1 May, is just past. I must say a few words on it, President, because the International Labour Day owes its origin to workers' fight for eight hours of work, eight hours of rest and eight hours of leisure. The purpose of the eight hours of leisure is to give us some private time during which we can do anything we like — reading, having fun and playing musical instruments. Our Government has even failed to protect our workers' right of having eight hours of leisure. How can it still ask them to take any training courses?

What I want to say next is that the fight for the system of "Three 8's" can be dated back to 150 years ago (or more). It was a fight first put up by Australian workers. This system should be the cornerstone of all civilized societies. We do not have such a system, so we want to learn from others Some say, "Oh, you have so much idle time. You only work 30 hours or 35 hours. Why don't you just learn something?" We do not have a minimum wage. For this reason, employers can indefinitely lengthen workers' working hours. It is because when workers cannot make ends meet and support their families, they will surely look for every possible opportunity of work, say, two hours extra, so as to earn more. Mr TUNG Chee-hwa promised the labour sector that a maximum number of working hours would be set down in government outsourcing contracts for guarding and cleansing services, but after this, workers' wages were reduced (because of the reduction of working hours). This explains why workers must now work two hours more, or even four hours more, to make up for the deducted wages.

¹ Xishi was a legendary beauty in ancient China. Dongshi was an ugly woman who wanted to imitate Xishi, only to make herself even uglier.

What kind of government is this one? Our Government has been behaving like this, but it still has the face to say to those who are already oppressed to the point of desperation, "You must shape up. Why don't you spend four more hours on further studies after working for just 12 hours? You earn \$6,000 a month. Why can't you put aside just \$600 for enrolment on courses?" What is our Government talking about anyway? If we have already signed the two covenants, we should have employment protection, appropriate rest time, appropriate income protection and appropriate welfare protection. The safety net in Hong Kong now can only make sure that people will not "fall into hell". But others are already providing a platform that enables people to live with dignity. There is such a big difference between our net and others' platform. How can we behave like Dongshi, saying that we must follow the examples of other countries?

Let me just quote a very simple example here. I have a friend in Germany who made a wrong career choice. He was frequently attacked by back pains and must see a doctor very often. So, it occurred to him that he might change his occupation and become a chiropractor. In the end, he really made it. The reason is that with the labour insurance taken out by the government for him, he could get two thirds of his wages while trying to qualify as a chiropractor. I believe he should be a chiropractor by now and can treat patients already. Do we have such a system? Our entire education system is based on spoon-feeding and aims to eliminate students. It is a system that continuously stifles students' potentials. All our students are treated like sausages. They are stuffed by fillings endlessly, and every time they burst, they are invariably thrown into hell before they are allowed to recover slowly. But our society is one which ranks top among countries all over the world in terms of *per capita* income, bank deposits and reserves. Why does our Government want to enact a law like this? What I mean is that what the Government wants to do will affect all workers, especially those earning low wages. As a result of this so-called voluntary accreditation mechanism introduced by the Government, these workers will be dismissed, or their wages may be reduced. In the end, they will be forced to follow this mechanism, even if they must sacrifice their health and the time they can otherwise spend with their children. We certainly will not oppose the provision of a ladder of upward mobility for everyone. But who should provide such a ladder? If a person is already too weak, can he still climb up the ladder even if we kick his bottom? This is where the problem lies.

This is precisely the problem with Hong Kong. This explains precisely why we always say that a government must never be elected by just 800 people, or there will be problems. This is precisely one of the problems. If our Government was elected by 800 000 people, things would not be quite the same already. If our Government was elected by 6.9 million people, the situation would be even more different. The reason is that all those Bureau Directors will not be allowed to stay on, will not have any opportunity to make any harsh remarks, and they cannot be so arrogant even after creating a social disaster.

What am I driving at? What the Government has been doing in the Legislative Council is something like the sale of uncompleted flats. It will just give us a rough idea. But then, it will tell the media and all people that it has an excellent idea about privatization, or whatever it may be. Following this, it will try to coerce Legislative Council Members, saying, "We have advanced such an excellent idea. Why don't you support it? If you don't, you will do a disservice to the public." But the Government has only given us a proposal on the sale of uncompleted flats, and even the piling works are not yet completed. When we ask for details, it will say, "Let's discuss it some time later. Please pass the Bill first." This type of political strategy marked by the tactic of selling uncompleted flats is downright deception. Why is it that a policy which seeks to look after the lower strata of society was not preceded by thorough consideration? This is just like the pamphlet of uncompleted flats. You have only yourself to blame if you do not read it clearly, Buddy.

Honourable Members, a small sign can show many things. This was exactly what Antony LEUNG meant when he said, "Give one a fish, and one will not be hungry for the rest of the day. But teach one how to fish, and one will not be hungry for the rest of one's life." We of course know this very well. However, I think that the Government should introduce reforms and set aside the required resources before implementation. It will be most dangerous to implement something without appropriate reforms beforehand. The Legislative Council should prevent it from doing so. The Legislative Council must not yield to such "uncompleted flat" political tactic anymore. The idea he has raised will not work; his idea will do harm to people. He is in fact asking us to act like a rubber-stamp, so that he can proceed. Why is our Government so weak in prestige? Because whenever it says that something is good, the result will always be unsatisfactory. Whenever it says that something is not desirable, the result may be very good.

Honourable Members, my speech is no propaganda. Every time when a Bill is to be passed, when the executive eggs the Legislative Council on, when Legislative Council Members are coerced and when we are bullied by all the "loyalty votes", I will remind all Hong Kong people. If one is a worker, one may suffer. If one is an individual property owner, one may also suffer. If one is a small shop operator, one may suffer all the same. Isn't The Link REIT a fine example?

Honourable Members, a trivial incident can show many things. A trivial incident can let us know and induce us to explore what are on the minds of all those "well-wishers" of the Government. I call upon Honourable colleagues to vote down this motion. I think we Legislative Council Members must exercise our power and make the Government withdraw the Bill for further amendments. We must not allow it to say, "Just have faith in me, have faith in me." I hope colleagues can throw away their straitjackets because they are no lunatics. Rather, it is all because society and the political system have confounded right and wrong. Because the wealth gap is just too wide. We must tear off our straitjackets and act like legislators with dignity. Thank you, President.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): If not, I now call upon the Secretary for Education and Manpower to reply.

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, I move the resumption of the Second Reading debate of the Accreditation of Academic and Vocational Qualifications Bill (the Bill).

First of all, I wish to express my gratitude to the Chairman of the Bills Committee, Mr TAM Yiu-chung, and other members of the Bills Committee. The Bills Committee has held a total of 21 meetings since its formation in July 2005. Members have not only scrutinized in detail the clauses of the Bill, but

also conducted in-depth discussions on the underlying policy intent of the Qualifications Framework (QF) as well as the details of implementation, while putting forward a lot of valuable opinions.

The Executive Council endorsed in February 2004 the establishment of a cross-sectoral QF and the relevant quality assurance mechanism. The QF is a hierarchy under which qualifications in the academic, vocational and continuing education sectors are divided into seven levels based on objective criteria, with a view to providing an articulation ladder with multiple progression pathways and hence encouraging lifelong learning.

Quality assurance is the cornerstone of the QF. To ensure the credibility of qualifications awarded by different education and training providers under the QF, we need to develop an effective mechanism of academic and vocational accreditation for the purpose of quality assurance. To this end, we tabled the Bill to the Legislative Council in July 2005.

Under the Bill, the Hong Kong Council for Academic Accreditation (HKCAA) is specified as the Accreditation Authority, responsible for the quality assurance role under the QF. The HKCAA, which is at present responsible only for academic accreditation, will have its duties and functions extended to cover accreditation of vocational qualifications after the passage of the Bill. Moreover, the HKCAA will also be specified as the Qualifications Register Authority, responsible for managing the Qualifications Register (QR). The QR is a web-based source of information on recognized qualifications under the QF which will be made available to the general public free of charge. The enactment of the Bill will confer a statutory status on the QR.

The Bill also empowers the Secretary for Education and Manpower to appoint assessment agencies responsible for assessing and giving recognition to the qualifications of workers in the relevant trade, which is the "recognition of prior learning" (RPL) mechanism. The objective of this mechanism is to provide a channel for recognizing the knowledge, skills and experience of in-service workers and confer appropriate qualifications on them, so that they need not start from the basics when attending continued training or receive repeated training. Under the Bill, an assessment agency must be accredited by the Accreditation Authority before appointment, in order to prove the agency's

competence for the purpose of RPL in the industry. The Secretary for Education and Manpower will make reference to the characteristics of the trade and the views of trade associations in the appointment of assessment agencies.

Besides, an independent appeal mechanism is also established under the Bill. Any education and training provider or assessment agency may lodge an appeal to the Appeal Board if they are not satisfied with a determination or decision made by the Accreditation Authority or the Qualifications Register Authority on their assessment or on entry of a qualification into the QR.

As the HKCAA is specified as the Accreditation Authority and the Qualifications Register Authority, it is necessary to make consequential and relevant amendments to the Hong Kong Council of Academic Accreditation Ordinance (Cap. 1150).

After the enactment of the Bill, the HKCAA will be renamed as the Hong Kong Council for Accreditation of Academic and Vocational Qualifications to reflect its extended scope of functions under the QF. The Bill will also remove the restriction on the number of appointed members who are academics, in order to include more members from other relevant sectors.

In the course of discussions on the Bills Committee, members were very concerned about the implementation of the QF by the Government in various trades and industries. I wish to point out that the QF is not mandatory, and we have all along sought to implement the QF on the industry-led principle. We will not implement the QF in an industry unilaterally unless a consensus has been reached by the relevant organizations in the industry, including employers' and employees' organizations, labour unions and relevant professional bodies. So far, 12 industry-led Industry Training Advisory Committees (ITACs) have been set up to promote and implement the QF in their respective industries by, among other things, drafting the "Specification of Competency Standards" (SCS) and conducting consultation in the industry, and good progress has been made. We will be glad to report to the relevant panel of the Legislative Council on the implementation of the QF on a regular basis.

We appreciate Members' great concern about the design of the RPL mechanism and details of its implementation and in particular, how those

employees with low educational attainment but rich work experience could acquire qualifications through the RPL mechanism. The Bills Committee has conducted detailed and in-depth discussions in this respect.

Over the past year, the Education and Manpower Bureau has had many detailed discussions with various ITACs and labour unions, and it was finally agreed that a transitional period be provided under the RPL mechanism, so as to take care of the needs of in-service employees. The transitional period of an industry refers to the first five years after the RPL mechanism is formally implemented in the industry. During the transitional period, workers may apply for recognition of their qualifications at Levels 1 to 3 based on their years of working experience and relevant experience, without taking any assessment. But after the end of the transitional period, all levels of qualifications must be attained through assessments. A simpler form of assessment would be adopted for QF Level 1, and the methods of assessment would be designed in the light of the actual situation in the industry. We consider that the arrangement of a transitional period can on the one hand take care of the needs of in-service workers and on the other, encourage the younger generation to pursue continued education and obtain recognized qualifications.

Subject to the enactment of the Bill, we will introduce a two-year RPL pilot scheme in the first three industries that have already finalized their SCS, namely, the Printing and Publishing, Watch and Clock, and Hairdressing industries. A review of the pilot scheme will be conducted one year after its implementation, and we will maintain close liaison with the industries and labour unions in the entire process. Subject to the results of the review, we will consider how the mechanism can be extended to other industries that have already formulated the SCS for their industry and we will report to the relevant panel of the Legislative Council the results of the review.

Some members are concerned about whether the QF may create employment barriers for people with disabilities and special learning difficulties. I must point out that the purpose of setting up the QF is to promote continued learning and skills upgrading, rather than setting new entry requirements for individual industries. Units of competency at junior levels are mainly subject to practical assessment, and we believe that those people who are relatively single-skilled will not be adversely affected.

In fact, we are of the view that the most positive and effective way to help people with disabilities and special learning difficulties is to help them upgrade their skills, so that they can obtain recognized qualifications under the QF. In this connection, the Vocational Training Council (VTC) and Employees Retraining Board (ERB) can play an important role. At present, both the VTC and ERB have provided training programmes specifically for people with disabilities. We will actively study with the VTC and the ERB the provision of more diversified training programmes for these people under the QF. Adjustments will be made to these programmes in their design, mode of instruction, duration, method of assessment and facilities in accordance with the needs of people with disabilities and special learning difficulties.

The QF, which remains a novelty to Hong Kong, will operate on a voluntary basis. After the passage of the Bill, we will propose to the Finance Committee of the Legislative Council a series of funding schemes to encourage participation from employers, employees, training institutes and relevant organizations in the QF. To encourage workers to take up programmes recognized by the QF, we will propose to extend the coverage of the Continuing Education Fund by incorporating all the programmes designed on the basis of SCS under the QF into the scope of the Fund, whereby each participant can be reimbursed 80% of the course fee up to a ceiling of \$10,000.

The HKCAA has been actively carrying out the preparation work for the quality assurance mechanism under the QF. As a first step, the HKCAA will adopt a new Four-stage Quality Assurance Process using "fitness for purpose" as a guiding principle, which means that suitable assessment benchmarks will be adopted according to the standards of the programmes and the scale of education and training providers.

The HKCAA is also drawing up a new schedule of fees for the said Four-stage Quality Assurance Process. Under the new quality assurance process, the procedures of accreditation will be streamlined and the cost reduced. The cost thus saved will be reflected in the new schedule of fees. On the other hand, the Education and Manpower Bureau will shoulder the cost incurred by the HKCAA in developing the quality assurance mechanism under the QF, so that the HKCAA does not have to recover the expenditure and cost for the preparation work by increasing its accreditation fees. We will submit a one-off funding application to the Finance Committee in due course.

On the recruitment of Subject Specialists as members of accreditation panels, the HKCAA has recruited over 550 Subject Specialists from 36 job fields. The recruitment exercise will continue.

Madam President, I believe the successful implementation of the QF can further promote lifelong learning and self-upgrading among the public. In the long term, this will help upgrade the quality and competitiveness of the labour force in Hong Kong, while the quality assurance mechanism under the QF will ensure the quality of recognized qualifications, which is a very important part of the entire QF.

Finally, I wish to thank members of the Bills Committee again for the valuable opinions that they have given us during the scrutiny of the Bill, which enable us to perfect the Bill. I will propose a series of amendments later, and they have all been discussed in detail and supported by the Bills Committee. I sincerely hope that Members will support and endorse the Bill.

Thank you, Madam President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the Accreditation of Academic and Vocational Qualifications Bill be read the Second time. 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)

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

CLERK (in Cantonese): Accreditation of Academic and Vocational Qualifications Bill.

Council went into Committee.

Committee Stage

CHAIRMAN (in Cantonese): Committee stage. Council is now in Committee.

ACCREDITATION OF ACADEMIC AND VOCATIONAL QUALIFICATIONS BILL

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Accreditation of Academic and Vocational Qualifications Bill.

CLERK (in Cantonese): Clauses 1, 6, 15, 16, 17, 24, 27 to 33, 36, 37, 40 to 43 and 46.

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

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): I now put the question to you and that is: That the clauses stand part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Clauses 2 to 5, 7 and 8, Part 3, clauses 13, 14, 18 to 23, 25, 26, 34, 35, 38, 39, 44, 45, 47 and 48.

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese):
Madam Chairman, I move the amendments to the clauses read out just now.

We propose to delete the definition of "business" under "Interpretation" in clause 2 of the Bill. The reason is that the ordinary meaning of the term covers any business, whether with or without a view to making profit. For the same reason, we also propose to delete a similar definition added to section 2(1) of the Hong Kong Council for Academic Accreditation Ordinance by clause 21(6).

Besides, as Part 3 of the Bill will be amended to replace the original review mechanism by an appeal mechanism, we propose to delete the definition of "review committees" in clause 2 of the Bill.

On the other hand, clause 3 provides for the establishment of the Qualifications Framework (QF). The Bills Committee is of the view that the Administration should strive to make information on the QF available to the public through various means rather than confining such to the Internet. In response to this view of members, we propose to add subclause (1A) to provide that the QF shall be made available to the public for inspection free of charge at such place and in such form and at such reasonable times as the Secretary for Education and Manpower may specify.

To ensure consistency, we propose to amend clause 8 by adding subclause (3A), so that the list of the names of the appointed assessment agencies shall be made available to the public for inspection free of charge at such place and in such form and at such reasonable times as the Secretary for Education and Manpower may specify.

In view of members' concern about the accreditation fees charged by the Accreditation Authority, we propose to amend clause 4(4)(a) to provide that the fees determined by the Accreditation Authority to be charged for the conduct of accreditation tests should be subject to the prior approval of the Secretary for Education and Manpower.

In addition, we propose that in the Chinese text of clause 5(3), "估評機構" should be amended to read as "評估機構". The same amendment should be made to new section 5A(3) of Cap. 1150 added by clause 26 where the same typo appears.

Clause 5(4) of the Bill provides that if the Accreditation Authority decides to vary or withdraw an accreditation report, it shall give notice in writing of the decision to the relevant operator, assessment agency or granting body. We propose to introduce an amendment to stipulate that the Accreditation Authority shall also state in the notice the reason for varying or withdrawing the report. For the same reason, we propose to make similar amendments to clause 7(6) of the Bill and to new section 5A(4) of Cap. 1150 added by clause 26.

With regard to the operation of the Qualifications Register (QR), we propose to introduce a new clause 7(3A) to empower the Qualifications Register Authority to correct or update, in addition to remove, the particulars of a qualification which has been mistakenly entered into the QR.

Moreover, the Office of the Privacy Commissioner for Personal Data considered that the QR may include personal data and suggested that the purposes of the QR should be stated as specifically as practicable in the Bill to provide against unrelated use of the QR. We, therefore, propose to add clause 7(4A) stipulating that the purpose of making the QR available to the public is to enable any member of the public to ascertain what qualifications are recognized under the QF and to ascertain the particulars of such qualifications.

Clause 7(5) of the Bill stipulates that the Qualifications Register Authority shall not be liable to refund any fee for removal of any qualification from the QR if such qualification has been entered into the QR by mistake or in reliance on any misleading or false information. The Bills Committee considered that a refund should be made by the Qualifications Register Authority in the case of removing a qualification previously entered by a mistake made by the Qualifications Register Authority itself. We, therefore, propose to amend clause 7(5), so that the clause will not cover this situation.

On the regulation of advertisements relating to the QF and QR, clause 13(1) provides for the information required in such advertisements. Given that a contravention of clause 13(1) would constitute an offence with serious consequences, the Bills Committee suggested the Administration to consider reducing the information items required in an advertisement. After detailed consideration, we propose to amend clause 13(1) to the effect that only the QF level of the relevant qualification, the registration number of the relevant qualification, and the validity period of the relevant qualification will be required. In response to the views of the Bills Committee, we will also propose

an amendment to the drafting of the Chinese text of clause 13(1) to enhance clarity.

In addition, clause 13(4)(a) provides a defence for those engaged in the publishing or advertising business. The Bills Committee suggested the Administration to amend clause 13(4)(a)(iii) by making reference to the defence provision under section 43 of the Sex Discrimination Ordinance (Cap. 480). We agree to take on board members' suggestion by stipulating that it shall be a defence for the relevant person charged with an offence under clause 13(3) if he proves that he published the advertisement in reliance on a statement made to him by the person who caused it to be published to the effect that the publication would not constitute an offence under clause 13(3) and it was reasonable for him to rely on the statement.

Clause 14 provides that any person who furnishes misleading or false information to the Accreditation Authority, the Qualifications Register Authority or a review committee commits an offence. In response to the enquiry of an Assistant Legal Adviser of the Legislative Council, we propose to amend clause 14 to ensure that misleading or false information provided to the following parties will also be covered by the clause:

- (a) a person or an organization with whom the Accreditation Authority or the Qualifications Register Authority jointly performs a function; and
- (b) a person or group of persons to whom the performance of a function is delegated by the Accreditation Authority.

Besides, as the "review committee" in Part 3 of the Bill will be replaced by "Appeal Board", we propose that references to "review committee" be amended to "Appeal Board".

We also propose to introduce similar amendments to new section 23A of Cap. 1150 added by clause 39 of the Bill to ensure that misleading or false information provided to those organizations or persons is also covered by the clause.

On the other hand, we propose to amend the provisions relating to the review mechanism in Part 3.

Under Part 3 of the Bill, an operator, assessment agency or granting body aggrieved by a determination or decision made by the Accreditation Authority or the Qualifications Register Authority may apply for a review. Since members of the review committee will be appointed by the Accreditation Authority or the Qualifications Register Authority, and the final decision on reviews will be made by the same body, the Bills Committee is of the view that the review mechanism may lack independence and credibility.

After detailed discussions with the Bills Committee, we propose to replace the review committee in Part 3 by an independent Appeal Board to consider appeals against QF-related determinations or decisions. The Chairman, Deputy Chairmen and panel members of the Appeal Board will be appointed by the Secretary for Education and Manpower. This amendment can enhance the independence, credibility and public recognition of the mechanism. To establish the proposed appeal mechanism, we will need to propose a number of amendments to Part 3 of the Bill.

We propose to provide for the definitions required for the interpretation of Part 3 in clause 9.

We propose to provide for the appointment of the Chairman, Deputy Chairmen and panel members of the Appeal Board in clause 10. Appointed members must be persons with expertise or experience in quality assurance or accreditation matters, or with good standing in the field of education or training or in any industry, and they are not members of the Accreditation Authority or the Qualifications Register Authority.

We propose to specify the scope of appeal of the Appeal Board in clause 11 to include the accreditation determination or decision of the Accreditation Authority as well as the decision of the Qualifications Register Authority on the entry of a qualification in the QR.

Besides, we propose to provide in clause 12 that the Appeal Board set up in respect of each appeal case shall consist of the Chairman or a Deputy Chairman as determined by the Chairman who shall be the presiding officer, and also two to six panel members selected by the presiding officer.

We propose to provide for the procedure of appeal and functions of the Appeal Board in clauses 12A and 12B. As different parties to the appeal in the

hearings of the Appeal Board will mostly present justifications in respect of the standards of the relevant courses, training providers or assessment agencies, rather than arguing over legal viewpoints, we propose to provide in the Bill that a counsel or solicitor is not entitled to be heard before the Appeal Board.

After considering an appeal, the Appeal Board may confirm, vary or reverse the determination or decision under appeal, or substitute any other determination/decision for the determination/decision under appeal. The Appeal Board may direct the Accreditation Authority or the Qualifications Register Authority to review the determination or decision under appeal within a period specified by the Appeal Board. We also propose to stipulate in clause 12C that the Accreditation Authority or the Qualifications Register Authority shall, within such period as the Appeal Board may specify, review the determination or decision under appeal, and notify the Appeal Board and the appellant in writing of its decision and the reasons for the decision. Clause 11(1)(f) provides that the appellant may further lodge an appeal to the Appeal Board against this decision.

Clause 12D provides that the Chairman, a Deputy Chairman or a panel member of the Appeal Board, acting in good faith, shall not be personally liable for any act done in the exercise of his powers or in the performance of his functions or duties. As the "review committee" to be established under Part 3 of the Bill will be replaced by an "Appeal Board", we propose to amend the provision relating to protection in clause 18 by deleting references to "review committee".

Moreover, in response to the views of the Bills committee, we propose to add clause 12E to the Bill, in order to establish a rules committee consisting of the Chairman, all Deputy Chairmen, and six to eight members selected by the Secretary for Education and Manpower, responsible for making the appeal rules. The rules, which are subsidiary legislation, are subject to scrutiny by the Legislative Council through the negative vetting procedure.

The new Part IVA of Cap. 1150 added by clause 35 provides for the establishment of a review mechanism to review non-QF-related accreditation decisions made by the Hong Kong Council for Accreditation of Academic and Vocational Qualifications.

The new section 17B(3)(b) of Cap. 1150 added by clause 35 specifies that members of a review committee shall be persons with expertise or experience in quality assurance or the conduct of accreditation tests, or good standing in the field of commerce, finance, education or training or in any industry. The Bills Committee proposed to delete the reference to "commerce" and "finance" in the provision as the expression "or in any industry" would have covered these two and other industries. However, members agreed to retain the reference to "education" and "training", for they are directly related to the issues considered by the review committee. In response to members' views, we propose to delete the reference to "commerce" and "finance" in new section 17B(3)(b) of Cap. 1150 added by clause 35 of the Bill.

Moreover, we propose to amend new section 17C(1)(a) of Cap. 1150 added by clause 35 of the Bill to make it clear that a review committee may determine any matter of practice or procedure where no provision governing such matter is made in Cap. 1150.

We also propose to amend "and" to "or" at the end of new section 17C(1)(c)(i) of Cap. 1150 added by clause 35 of the Bill. This is to reflect that the review committee may request any person to produce to it any document or article that is relevant to the review and is in his custody or under his control, or to appear before it and to give evidence relevant to the review.

On the other hand, we propose to include in new section 17C of Cap. 1150 added by clause 35 a similar arrangement in the hearings of the Appeal Board, stipulating that a counsel or solicitor is not entitled to be heard before a review committee.

We also propose to make amendments to provisions relating to the Accreditation Authority.

Under the Bill, the name of the Hong Kong Council for Academic Accreditation is proposed to be changed to Hong Kong Council for Academic and Vocational Accreditation (香港學術及職能評審局) to reflect its expanded responsibilities under the QF. In response to members' view that the Chinese term "職能評審" might not be able to fully reflect the intended meaning of "Vocational Accreditation", we propose to change the name of the Council to Hong Kong Council for Accreditation of Academic and Vocational Qualifications (香港學術及職業資歷評審局). Consequential amendments will

also be made to clauses 19, 20, 21, 22, 23, 38, 44, 45, 47 and 48 where the new name of the Council appears.

Furthermore, the new section 3(2A)(b) of Cap. 1150 added by clause 23(4) provides that members of the Council shall be persons with expertise or experience in quality assurance or the conduct of accreditation tests; or good standing in the field of commerce, finance, education or training or in any industry. At the suggestion of the Bills Committee and for reasons which I have explained earlier, we agree to delete the reference to "business" and "finance" in the provision.

We have earlier proposed to amend clause 4(4)(a) of the Bill, so that the determination of accreditation fees charged by the Accreditation Authority will be subject to the Secretary for Education and Manpower's prior approval. For the purpose of consistency, we propose to make similar amendments also to new section 5(2)(e) of Cap. 1150 added by clause 25(8) of the Bill. As a result, the accreditation fees charged by the Council for non-QF-related work will also be subject to the Secretary for Education and Manpower's prior approval, and clauses 25(14), 34 and 48 of the Bill will hence be amended consequentially.

These amendments have been discussed in detail by the Bills Committee which supports them too. I hope that Members will support and endorse these amendments.

Thank you, Madam Chairman.

Proposed amendments

Clause 2 (see Annex I)

Clause 3 (see Annex I)

Clause 4 (see Annex I)

Clause 5 (see Annex I)

Clause 7 (see Annex I)

Clause 8 (see Annex I)

Part 3 (see Annex I)

Clause 13 (see Annex I)

Clause 14 (see Annex I)

Clause 18 (see Annex I)

Clause 19 (see Annex I)

Clause 20 (see Annex I)

Clause 21 (see Annex I)

Clause 22 (see Annex I)

Clause 23 (see Annex I)

Clause 25 (see Annex I)

Clause 26 (see Annex I)

Clause 34 (see Annex I)

Clause 35 (see Annex I)

Clause 38 (see Annex I)

Clause 39 (see Annex I)

Clause 44 (see Annex I)

Clause 45 (see Annex I)

Clause 47 (see Annex I)

Clause 48 (see Annex I)

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

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): I now put the question to you and that is: That the amendments moved by the Secretary for Education and Manpower be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Clauses 2 to 5, 7 and 8, Part 3, clauses 13, 14, 18 to 23, 25, 26, 34, 35, 38, 39, 44, 45, 47 and 48 as amended.

CHAIRMAN (in Cantonese): I now put the question to you and that is: That the clauses as amended stand part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Schedule 2.

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

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): I now put the question to you and that is: That Schedule 2 stand part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Schedules 1 and 3.

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam Chairman, I move the amendments to Schedules 1 and 3.

As we already proposed that the "Hong Kong Council for Academic Accreditation" be renamed as "Hong Kong Council for Academic and Vocational Accreditation", a consequential amendment will be made to Schedule 1 where the new name of the Council appears.

Moreover, we also propose to amend the drafting of paragraphs 3(b) and 4 of Schedule 3 to enhance clarity of the provisions.

These amendments have been discussed in detail by the Bills Committee which supports them too. I hope that Members will support and endorse these amendments. Thank you, Madam Chairman.

*Proposed amendments***Schedule 1 (see Annex I)****Schedule 3 (see Annex I)**

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

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): I now put the question to you and that is: That the amendments moved by the Secretary for Education and Manpower be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Schedules 1 and 3 as amended.

CHAIRMAN (in Cantonese): I now put the question to you and that is: That Schedules 1 and 3 as amended stand part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Enacting formula.

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam Chairman, I move an amendment to the enacting formula of the Bill.

We propose to amend the Chinese wording of the enacting formula in order to align with the wording used under Rule 50 of the Rules of Procedure of the Legislative Council.

This amendment has been discussed in detail by the Bills Committee which supports them too. I hope that Members will support and endorse this amendment. Thank you, Madam Chairman.

Proposed amendment

Enacting Formula (see Annex I)

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the amendment to the enacting formula moved by the Secretary for Education and Manpower be passed.

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

CHAIRMAN (in Cantonese): Council now resumes.

Council then resumed.

Third Reading of Bills

PRESIDENT (in Cantonese): Bill: Third Reading.

ACCREDITATION OF ACADEMIC AND VOCATIONAL QUALIFICATIONS BILL

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese):
Madam President, the

Accreditation of Academic and Vocational Qualifications Bill

has passed through Committee with amendments. I move that this Bill be read the Third time and do pass.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Accreditation of Academic and Vocational Qualifications Bill be read the Third time and do pass.

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Accreditation of Academic and Vocational Qualifications Bill.

Resumption of Second Reading Debate on Bills

PRESIDENT (in Cantonese): We now resume the Second Reading debate on the Employment (Amendment) Bill 2006.

EMPLOYMENT (AMENDMENT) BILL 2006

Resumption of debate on Second Reading which was moved on 20 December 2006

PRESIDENT (in Cantonese): Mr KWONG Chi-kin, Chairman of the Bills Committee on the above Bill, will now address the Council on the Committee's Report.

MR KWONG CHI-KIN (in Cantonese): Madam President, in my capacity as Chairman of the Bills Committee on Employment (Amendment) Bill 2006 (the Bills Committee), I now report on the work of the Bills Committee.

In the case concerning Lisbeth Enterprises Limited on 28 February 2006, the Court of Final Appeal (CFA) allowed an employer's appeal and held that commission accrued and calculated on a monthly basis was not to be reckoned in the calculation of holiday pay and annual leave pay because the interpretation of the existing provisions of the Employment Ordinance (EO) did not provide a clear mode of calculation for such purpose. The Government held that this

judgement did not reflect the legislative intent of the EO and thus would propose amendments to the EO.

The objective of this Bill is to reflect the policy intent behind the calculation of employees' statutory entitlements under the EO, that such statutory entitlements should be inclusive of commission of a contractual nature. This is to ensure that when enjoying the statutory entitlements such as statutory holidays and annual leave, the employees' actual income will not be affected. To attain this objective, the Bill proposes that the basis for calculations should make reference to the average wages earned by an employee during the preceding 12-month period.

In the course of scrutinizing the Bill, organizations on the employer side held that to calculate certain statutory entitlements under the EO by making reference to the average wages earned by an employee during the past 12 months would unnecessarily complicate the calculation of statutory entitlements for those employees who are remunerated on fixed wages. Besides, such mode of calculation would result in reduced payments of statutory entitlements for those employees who received pay rises during the past 12 months as lower salaries would be factored into the calculation. Some members requested the Administration to consider using the last month's wages instead of a 12-month average for employees with fixed wages, or the employee should be given an option to use either his last month's wages or the average wages in the last 12 months for the calculation of statutory entitlements.

The Administration explained that the relative merits of using an employee's last month's wages or a 12-month average were thoroughly deliberated by the Labour Advisory Board (LAB). The LAB's consensus is that the adoption of the latter mode of calculation, irrespective of whether the employee is remunerated on a daily, monthly or piece-rate basis, would provide a more stable, predictable and equitable basis for the calculation of statutory entitlements. Moreover, giving a choice to the employee to have his entitlement calculated either on the basis of the average wages earned over a 12-month period or on the basis of the last month's wages would be outside the scope of the Bill.

Although organizations on the employer side support the adoption of a 12-month average for calculating statutory entitlements, they have expressed concern about the resultant increase in business operating costs, particularly on

the small and medium enterprises and those firms whose remuneration for employees is largely based on commission. They suggest that a wage ceiling on commission for calculating statutory entitlements should be introduced, lest many employers would be forced to turn their employees to become self-employed or close down their businesses. Some members suggested that, while the Bills Committee was in progress, the Administration should, in parallel, refer the relevant proposal to the LAB for consideration.

The Administration has advised that since the proposal of introducing a wage ceiling for calculating statutory entitlements involves highly complex and controversial issues, the proposal would need to be thoroughly examined and deliberated outside the context of the current amendment exercise. The Administration has undertaken to consult the LAB on the proposal at an appropriate time. Moreover, imposing a ceiling on the amount of commission earned by an employee for the purpose of calculating his statutory entitlements would be contrary to the objective and outside the scope of the Bill.

The "disregarding" provisions in the Bill is to disregard any period in the period of 12 months or shorter period for which the employee is not paid his wages or full wages by reason of any leave taken by him. The underlying principle is to ensure that the amount of statutory entitlements would not be unduly reduced by factoring into the calculation lower wages the employee receives during his leave period.

To address members' concern about the meaning of "leave" referred to in the "disregarding" provisions, the Administration has agreed to move amendments to expressly spell out that its intention is to refer to any period of day-off taken as permitted by the EO (that is, statutory leave including maternity leave, sick leave, statutory holiday, annual leave and rest day) or the Employees' Compensation Ordinance (Cap. 282) (ECO) (that is, the so-called work injury sick leave) or as agreed with the employer (that is, contractual leave such as topped-up annual leave, no pay leave, study leave, extended maternity leave, and so on).

Since the calculation of an employee's statutory entitlements under the "disregarding" provisions would generate additional administrative work to the employer, the Administration has agreed to move amendments to simplify the calculation of the average wages in that where an employee is paid wages in respect of one of the periods below:

- (a) any maternity leave, rest day, sick leave, holiday or annual leave taken by the employee under the EO;
- (b) any leave taken by the employee with the agreement of his employer;
- (c) any normal working day on which the employee is not provided by the employer with work; or
- (d) any period of absence from work of the employee due to temporary incapacity for which compensation is payable under section 10 of the ECO.

the wages and the period are to be disregarded if the amount of the wages is less than the amount earned by that employee on a normal working day.

The Bill also provides that where the using of the 12-month average for calculating statutory entitlements is impractical, reference can be made to the wages earned by a person who is employed in the same trade or occupation and at the same work in the same district during the period of 12 months immediately before the relevant dates stipulated in the Bill. In order to safeguard the interests of employees, the Government agreed to move amendments to require the employers that reference should be first made to the wages earned by another person employed by the same employer and at the same work during the past 12 months for the calculation of the daily average or monthly average of wages.

The Administration has taken on board members' proposal of introducing an amendment to section 49A of the EO under the Bill to extend the record-keeping period from six months to 12 months in order to tie in with the proposal of calculating statutory entitlements on the basis of a 12-month average set out in the Bill. The Administration has also agreed to step up actions to promote the new requirement among employers as well as to educate employees (particularly those remunerated on a daily or piece-rate basis) on the importance of keeping their own wage and employment records properly.

The Bills Committee supports the resumption of the Second Reading debate on the Bill today, and urges the Administration to confirm the effective date of the Amendment Ordinance as soon as possible.

Thank you, Madam President.

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

MR JAMES TIEN (in Cantonese): Madam President, in regard to the stipulations on commission under the Bill, the Liberal Party would like to air some views. It is the view of a lot of people in the trade that in the concepts about wages and commission defined when this Ordinance was formulated in the past, our accepted way was that wages accounted for a large portion of income, while commissions were calculated on the quantity of merchandise sold and only accounted for a small portion. For instance, if the wages were \$6,000 to \$7,000, while the commissions were \$3,000 to \$4,000, we definitely felt that under the circumstances, according to the legislative intent of the past, commissions should be calculated as part of the wages. Therefore, maternity leave or other pay leave should also be taken into account.

However, during the course of deliberation on this Bill recently, we found that in a lot of trades — some very special trades — the amount of commissions is higher than the wages, or the wages are basically very low. In the case of property transactions, the basic salary of some agents in a lot of property agencies like Centaline Property Agency Limited or Midland Realty could only be a few thousand dollars. However, in the event that a property transaction is concluded, nearly 30% of the commission will go to the employee, while 70% of the commission will go to the agency. In other words, if a flat worth \$10 million is successfully sold, the commission, which accounts for 1% of the sale price, is \$100,000. In this \$100,000, the agency will get \$70,000 while the employee will get \$30,000. Under this situation, the amount of commission is higher than the wages.

Another example is sales agents of luxury cars. Their situation is also the same, and we see that the amount of their commissions is a few times more than their wages. We think that since employers do not expect to have such expenses, and if they suddenly have to calculate such leave pay, a large amount of expenses has to be set aside for such purpose in the company's account. We think that problems do arise in actual operation. Therefore, in the course of legislation, we suggested to set a ceiling. However, the Government said that to set a ceiling would be contrary to the objective and outside the scope of the Bill. Thus, even though the Liberal Party wanted to move an amendment, it was rejected anyway.

We consider that we have reasonable grounds in moving the amendment. For instance, I know that the existing method of calculating long service payment is two thirds of \$22,500, which is about \$15,000. Therefore, since the ceiling of \$15,000 or two thirds of \$22,500 is recognized by society to be the reasonable and acceptable ceiling, employers can then be prepared. They can calculate in advance the monthly average of the commissions, and after deducting the wages, the commissions could still be taken into account. The setting of a ceiling will render the mode of calculation more reasonable. Nevertheless, the Government is unwilling to do so, and we thus are unable to move an amendment. Simply because we are unable to move an amendment, we could not analyse this issue together with our colleagues and put it to the vote. Because of this reason, the Liberal Party has reservations about this Bill. However, we will not vote against it, but will abstain from voting during the division. Thank you, Madam President.

MR WONG KWOK-HING (in Cantonese): Madam President, the Bill today is the result of efforts by the Bills Committee, and I am also a member of the Bills Committee. In fact, views from various parties have been fully voiced during the deliberations of the Bills Committee, in echo to the detailed discussions between the employer side and the employee side in the Labour Advisory Board, and a consensus was reached eventually. Under the circumstances, I very much hope that the Bill today can obtain full support from Members, so that those workers whose remuneration is largely commission-based can see the Bill passed early and their rights and interests be reasonably safeguarded.

In fact, this Bill itself does not fight for additional interests for employees. The spirit of this Bill is only to reinstate the original intent of the legislation, namely, commission should be part of the wages. An employee, whether he is taking annual leave or a long vacation, should receive wages. Since commission is part of the wages in certain trades, it should be factored into the calculation. If one says that the commission level of certain trades is higher, we should also realize that commissions come with the sales made, and both are interrelated. Therefore, under the circumstances, those workers whose income is largely commission-based will not enjoy additional benefits with the passage of this Bill today. It is because in the trades concerned, the practice is already established. Hence, I very much hope that the Bill today can gain the support of Honourable colleagues. Thank you, Madam President.

MR LEE CHEUK-YAN (in Cantonese): President, on behalf of the Hong Kong Confederation of Trade Unions, I support the amendment proposed today. A loophole has been made due to a precedent of the Court of Final Appeal (CFA). As a result, those employees whose income is largely commission-based are greatly affected. This amendment can clarify the ambiguities in the law so that they can correctly recalculate their holiday pay and all the other entitlements.

President, in the judgement of the CFA on the case relating to Lisbeth Enterprises Limited, since some wordings in the law were not very clear, all employees' commissions calculated on a monthly basis was not to be reckoned in the calculation of holiday pay in future. In fact, we have been waiting for the amendment today for almost one year, as the judgement of the CFA on that case was concluded almost a year ago. What is the impact? After the judgement was made by the CFA, tens of thousands of employees whose income is largely commission-based cannot have their commissions calculated in their holiday pay.

As Mr James TIEN said earlier on, the new employer-employee relations for many people at present was that the basic salary of the employee was very low, and he had to depend on the commission of each sale made by him for income. It is very often that they only have a few thousand dollars as the basic salary, or the basic salary can even be zero. However, their commissions can be a few thousand or a few ten-thousand dollars. Therefore, to these employees, they really have to depend on their commissions for living. We can imagine that when they take leave, they will have no wages at all, and their families will have difficulties in making ends meet. To this group of employees, if the Bill is passed today, this loophole will then be plugged.

Nevertheless, President, I also have to emphasize that this does not represent some additional or new entitlements. During the deliberations of the Bills Committee, many employers stated that new amendments could not be added without grounds, as this would increase their operating costs. Back then in the Bills Committee, I also felt a little puzzled, as this was basically not anything new. Besides, this has long been approved, as section 2 of the Employment Ordinance clearly says the definition of wages includes commission. If the definition of wages includes commission, employers should have been paying holiday pay to their employees in the past.

Those employers, however, asked why there would be such new amendments. I pointed out that this was not a new regulation, only that they had not been paying wages according to the legislation in the past. I did ask a lot of employees and found out that they did not receive wages when they took leave. This, in fact, is a very serious problem. The problem is that employees in Hong Kong are not well-versed in labour laws, while employers — neither do I know whether they have looked at the laws, nor do I know whether they just pretend or really do not know the laws. Therefore, we found that for a very long time in the past, many employees could originally have their commissions calculated in the holiday pay (they could receive such pay before the legal precedent concerned), but they did not receive such pay. Thus, for a long period of time indeed, the legal statutory entitlements of some employees might have been exploited. Hence, I have to stress that the amendment today is not anything new. It means only to reinstate the right that they original have. Employers should not take it as an additional burden. They should not find themselves off the balance financially, as they should have taken into account such expenses originally.

Mr James TIEN just now stated his wish of imposing a ceiling. This may have to take a long time for discussion. However, I opine that in principle, we should not set a wage ceiling for those employees who mainly depend on commissions for living. Since we do not set a ceiling on monthly salary — to an employee earning a monthly salary, whether his salary is \$50,000 or \$60,000, his holiday pay is also calculated accordingly — we should also not set a ceiling for employees earning commissions. They work hard to look for business for the employers, and the employers can only gain so much profit because of the sales that the employees made. The employers are also benefited. Why should we set a ceiling on this? Why are they not allowed to enjoy more reasonable entitlements in respect of leave?

What was most unpleasant to our ears was that some representatives of employers suggested turning all employees into self-employed persons. I think that this is more of a disaster to the employees, as even their other welfare will be gone. We hope that employment relations will not be treated that way. If there will be such expenses, they should be prepared. They should maintain good employment relations, and need not often mention turning them into self-employed persons.

President, I also have to emphasize one point. Originally, what would be affected by this Bill was the method of calculating the commissions. However, 3 million employees in the entire territory are affected at the end. This is because through amending the Ordinance, the original method of calculating holiday pay for employees is changed. The average wages of the past 12 months are now used in the calculation. To the employees, this mode of calculation has pros and cons.

President, look at some employees who calculate such pay on the basis of their monthly wages. For example, the wages of an employee is \$20,000 this month, while over the past 12 months, his monthly wages were only \$18,000 as the pay rise was not in effect yet. If we use the average wages of the past 12 months in the calculation, we will be unable to calculate with the monthly wages of \$20,000, but may have to calculate with the average monthly wages of \$19,000. In fact, the figure will be less. Originally, the employees' wages are increased after the pay rise. However, due to this amendment, with the calculation based on a 12-month average, the leave pay or other entitlements are reduced.

Nonetheless, to some employees, they may have another kind of benefit because the amendment has clearly excluded calculating those days without normal wages. For instance, it will not calculate the four-fifths wages received by the employee during maternity leave, the four-fifths wages received during sick leave due to occupational injury, as well as the zero wages on rest days. After clarification, some employees' leave pay or entitlements may be increased. Therefore, we can say that this calculation method has pros and cons.

Lastly, since the overall impact on 3 million employees is not so great, that is, there may be some losses but also some gains, we find that generally speaking, the employees' entitlements will also be protected. Hence, we support the Bill. However, we find it most unfortunate that the effective date is not soon enough, as we still have to wait until mid-July when all the procedures are cleared. In fact, I hope that this Amendment Ordinance can come into effect as soon as possible, as only this can give the employees protection. Nevertheless, I believe that the nearest date will be mid-July, which is unfortunate. However, President, we still support this Bill and hope that employees can be given protection as soon as possible.

Thank you, President.

MS AUDREY EU (in Cantonese): President, on behalf of the Civic Party, I welcome the amendment to the Employment Ordinance (EO) (Cap. 57). Mr LEE Cheuk-yan mentioned earlier that the case concerned was a year ago. In fact, the actual date was 28 February 2006, and the case was thus more than one year from now. The title of the case was *Lisbeth Enterprises Limited vs Mandy LUK*. Back then, the case involved a beauty and physical fitness company and its ex-employee. To that employee who sold cosmetics, the way of calculating commission was based on the quantity of cosmetics sold, and the rate of commission would vary. Therefore, it would be difficult to calculate on a daily basis and the calculation had to be on a monthly basis.

After referring to sections 41(2) and 41C(2) of the EO, the Court of Final Appeal (CFA) said that the EO had stated clearly that contract commission was only applicable to the situation when it was calculated on a daily basis, therefore, it was not applicable to this case. Thus paid leave and paid annual leave were detached from the calculation of commission for cosmetics sold. At that time, the case gave rise to serious repercussions, especially in the labour sector. Of course, as Mr LEE Cheuk-yan just said, in the legislation concerned, commission is always included in the definition of "wages". But why is it not counted in this situation? Other employers also find it a great problem, as very often, not only will they pay basic salary, but also commission which is variable, especially for employees in the financial, real estate and sales sector. The instability and fluctuation of their commissions can sometimes cause very great differences, therefore, they worry that if all commissions are calculated, during the period of time when there are especially more commissions, the commissions paid under these special circumstances would have to be taken into account when the employment contract is terminated or when calculating pay leave or pay annual leave. Thus, they are also worried and suggest setting a ceiling. However, I heard that this kind of voices had reduced subsequently. I do not know whether they have thought of another way, that is, not taking commission as general wages, but treating it as a very special, exceptional or extraordinary situation, and thus commission could be excluded from calculating the wages. Such voices may hence subside. Another possibility is that they have accepted the proposal of the Government that this issue would be reconsidered when this Ordinance is studied on the next occasion.

I speak this time mainly because: firstly, I want to welcome the consensus finally reached over the amendment between the employers and employees on

this issue. Besides, the Amendment Ordinance carries a clearer interpretation of the definition of "wages", particularly holiday pay, annual leave pay, maternity leave pay, sickness allowance, wages in lieu of notice for termination and end of year payment. Besides, the Bill has also laid down the criteria for calculating fixed wages and variable wages of employees. The new set of criteria is based on the consensus reached by the Labour Advisory Board (LAB), and a 12-month moving average is used as the basis of calculating statutory entitlements. This method is clearer. In this connection, I would also like to mention the roles of the Courts and the legislature. The judgement delivered by the Court has aroused some repercussions. Some people queried the Court or the Judges of being oblivious to the sufferings of the public and thus unable to understand the original legislative intent. I would like to quote the judgement made by Mr Justice BOKHARY, Permanent Judge of the CFA. President, since the original text is in English, I would quote it in English: "That decision is to be found by interpreting legislation purposively, in context and as a whole. That is how the intention to be attributed to the legislature is ascertained. And of course, subject to any issue as to constitutionality, the Judiciary's role in areas covered by legislation is to decide cases on the current state of such legislation. Whether, and if so how, the legislation is to be amended in future is a matter for the legislature."

The judicial system in Hong Kong is in fact the common law system. Under this system, the Court should make interpretations according to the concrete case that it is dealing, the evidence concerned and the provisions in law. It should not make certain alternations or deletions out of political consideration or other needs in order to satisfy individual or political demands. We cannot distort the interpretation of laws which is based on certain objective legal principles in order to meet some expedient needs.

In regard to how to keep the legislation abreast of the times so as to meet various needs and balance various interests, so that there will be social justice under reasonable legislation, we very often still have to pass the work to the Department of Justice and the legislature. In other words, in the course of amending the Ordinance, the legislature, many organizations concerned and the LAB have to hold a lot of meetings to discuss, or to conduct some open deliberation work. From all this, it is evident that we can make the legislation better through a fair and transparent procedure.

An independent Court will interpret impartially in accordance with statutory provisions, while the legislature will make judgement according to the actual situation and amend the Ordinance in a fair and open manner. This is the important foundation for establishing the rule of law. I hope that through amending the EO (it may be a little late, but still we can finally make it), we can again express how a community that upholds the rule of law can achieve justice in various aspects through civilized procedures. I hope that this fine tradition can continue and will not suffer from another blow.

With these remarks, President, I support the Amendment Bill and its resumption of Second Reading.

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

MR LEUNG YIU-CHUNG (in Cantonese): President, as a lot of Honourable colleagues have pointed out, this Bill is one year later than scheduled, as during this period of time, a lot of work has remained pending. We have been waiting to provide more protection to employees once this Bill is passed.

Why would I say that? President, it is because since the Court has delivered the judgement, our organization — the Neighbourhood and Workers Service Centre — has received more than 100 telephone calls within a short period of time. What were these calls? Some of them were complaints and some were enquiries. In fact, they all pointed in the same direction. Then what did they tell us? They told us that the employers had wanted to enter into new contracts with the employees. What was the content of the new contract? It stated that the basic salary would be zero. It was because according to the judgement of the Court, if the basic salary was zero, the employee would receive zero wages when he takes leave. They felt deeply aggrieved by that, as they deserved to have wages, but now they were forced to face that plight consequent upon the decision of the Court. Therefore, we feel that the delay of this Bill for one year has left many workers in a state of anxiety. Some of them might have already been intimidated into amending their employment contracts. Hence, if we do not finish the amendment exercise as soon as possible, the level of protection to the workers will be lowered and their situation will be aggravated.

However, on the other hand, the complaints or grievances that I said earlier also bring out another very important issue that we have to pay attention, and that is the question mentioned by Mr LEE Cheuk-yan just now. I am worried that employers — the situation stated earlier has exactly reflected that some employers are very clever — will make changes once they detect any problems. On the other hand, if the Bill is passed today, employers will also make changes immediately. What will be the changes? As Mr LEE Cheuk-yan just said, they will turn employees into self-employed persons. In regard to this, we have accumulated a lot of experience. Every time when such problems arise, such as when introducing the Mandatory Provident Fund, employers will immediately turn them into self-employed persons in order to shirk their responsibility. The existing situation is that employers may also be thinking about how to make use of the gap or space, and how to evade their responsibilities. Therefore, President, I want to take this opportunity to tell the Government that the original intent of formulating so many labour laws is to protect the workers. Nevertheless, the result is, which may not be pleasing to the ear, that the workers are being victimized. Because some situations may create loopholes. Thus, I hope the Government can examine the situation comprehensively in the course of legislation. It must not examine only one aspect, for if it does, it will very often end up making piecemeal efforts and loopholes will arise. I hope it can conduct a comprehensive review of the entire legislation, with a view to providing desirable protection that can take care of various aspects. Otherwise, the result will not be what we expect.

On the other hand, in the course of deliberating on the Bill, I asked the Government — the Government has already accepted it and I hope it will really keep its word — to carry out enough propaganda to educate the workers after the Bill is passed. Otherwise, if many workers are still unclear about the legislation, they will still be victimized. I hope that the Administration can honour its promise and step up propaganda to educate the workers. It is my hope that the Government can get it done.

Finally, I would like to point out that we have to ascertain the validity of the original concept of this Ordinance. And the original concept is that the definition of wages is inclusive, only that certain areas remain unclear. This Bill is to make the stipulations clearer, and truly that is a good deed. I hope that if possible, the Government will also review the other legislation with problems

in labour entitlements. I think that a lot of ordinances have to be reviewed. I will not list them out one by one now, but hope that the Government will review various labour laws. Thank you, President.

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

MR ANDREW LEUNG (in Cantonese): President, the Employment (Amendment) Bill 2006 (the Bill) actually seeks to render the calculation of wages, especially holiday pay of employees clearer. From the angle of employers, we support a clearer Ordinance, and also support those conscientious employers who abide by the employment contracts. Indeed, the Amendment Bill is attributed to an employer whose appeal was allowed by the Court of Final Appeal (CFA). However, the amendment work is done rather hastily. Of course, some Members said that the employer side and the labour sector had already come to a consensus. Nevertheless, the consensus concerned is actually rather weak, and even non-existent. Although 50-odd organizations on the employer side have raised opposition, the long title of the Bill has restricted us from making any amendment. The Liberal Party holds that setting a ceiling can safeguard the needs of the labour as well as balance the responsibilities of employers. However, unfortunately, the provision concerned cannot be incorporated into the Bill this time.

Mr James TIEN also said that "work more, gain more" has been the practice of many trades and in which, the commission level is rather high. Some particular examples, as he quoted, are property or car agents. Within a short period of time, they can always conclude some deals and gain a lot of commissions. However, if the commissions are being averaged on a monthly basis, meaning that the employee can also have commission while he is not at work, this will pose a heavy pressure on the employers. In the Bills Committee, we have aired our views, and pointed out the problems of many trades with high commission income. However, they are not dealt with. Of course, the Secretary said that the ceiling was open to discussion, and we hope that the discussion can commence very soon. Nevertheless, due to the method proposed in the Bill, we will only support the Bill with reservations. I so submit.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): If no other Member wishes to speak, I now call upon the Secretary for Economic Development and Labour to reply.

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): Madam President, the main objective of the Employment (Amendment) Bill 2006 (the Bill) is to amend the Employment Ordinance (EO), so as to provide for a "workable mode of calculation" to ensure that in calculating the statutory entitlements of employees, the components of wages should include the commission of a contractual nature.

First of all, I would like to thank members of the Bills Committee responsible for scrutinizing the Bill, in particular, the Chairman, Mr KWONG Chi-kin. They have held six meetings in the short span of two months, examined the Bill in great details and provided valuable opinions, thereby enabling us to resume the Second Reading debate on the Bill today.

Earlier on, some Members said that our work in introducing the amendment had been too slow, but some also said that we had been in too much of a hurry in amending the Ordinance. I hope Members can be a bit fairer. In fact, we have completed the amendment process within one year. Please do not forget: We must first study the judgement, and then we had to consult the Labour Advisory Board (LAB), and next we had to draft the Amendment Bill, and we also had to consult the Panel on Manpower, and finally we had to table the Bill to the Bills Committee for scrutiny. I hope Members can be a bit fairer. Actually the work of introducing the amendment has been done quite fast. So, once again, I would like to thank Members for providing us with so many invaluable opinions.

Earlier on, several Members mentioned that the Bill had come as a result of a ruling handed down by the Court of Final Appeal (CFA) on 28 February last year on a labour case. The ruling said that since the relevant provisions in the EO did not provide for a "workable mode of calculation" on the commission accrued and calculated on a monthly basis, so the commission in the case should

not be included in the calculation of holiday pay and annual leave pay. In order to protect the rights and interests of employees, we found it necessary to amend the EO, so as to fully reflect the policy of the Government, which aims at ensuring that all the components of wages, inclusive of the commission of a contractual nature, however designated or calculated, should be included in the calculation of statutory entitlements. Since the EO provisions for maternity leave pay, sickness allowance, wages in lieu of notice and end of year payment have a construction similar to that of holiday pay and annual leave pay, so the ruling may also apply to such statutory entitlements. As such, the Bill also proposes to make the same amendments to these provisions.

Besides, the Bill also proposes to amend the existing mode of calculation to use the average wage of an employee during the past 12 months or that earned by an employee during a shorter period under the relevant employer as the basis for calculation. The adoption of a longer reference period can avoid an over-reliance on recent achievements at the expense of performance over time. In most cases, the period of 12 months would be sufficient to encompass a full business cycle comprising both the peak and slack seasons, and extreme values of commission can be evened out.

The Bill further provides that, in calculating the average wage of an employee in the period of 12 months or a shorter period, any period for which the employee is not paid his wages or full wages by reason of any leave taken by him in accordance with EO or Employees' Compensation Ordinance (ECO) or with the agreement of his employer, or by reason of his not being provided by his employer with work are to be disregarded. This ensures that the statutory entitlements of the employees will not be affected.

In the course of deliberations, certain members and organizations had doubts about the meaning of "leave". In this connection, the Government will propose amendments to the Bill to make the provisions clearer and more readily understandable.

Certain members of the Bills Committee requested the Government to amend section 49A of the EO to extend the period for which employers are required to keep proper wage and employment records from six months to 12 months, so as to tie in with the Bill's proposal of calculating the statutory entitlements on the basis of a 12-month moving average. The Government has taken on board the suggestion and will make an amendment to the Bill.

When the Bills Committee was scrutinizing the Bill, certain members considered that the use of a 12-month moving average would unnecessarily complicate the calculation of statutory entitlements for those employees who are remunerated on fixed wages. They suggested that the Government should consider using the last month's wages of employees, instead of a 12-month moving average, for the calculation of their statutory entitlements.

I would like to point out that the proposal of the Bill to use a longer reference period for calculation of statutory entitlements was put forward in response to the concern of both employers and employees. In fact, the LAB had thoroughly discussed the relative merits of using an employee's last month's wages or a 12-month moving average. The LAB's consensus is that the adoption of the latter mode of calculation, irrespective of whether the employee is remunerated on a daily, monthly or piece-rate basis, would provide a more stable, predictable and equitable basis for the calculation of statutory entitlements of employees.

According to the advice of the Department of Justice, it would be very difficult to define the term "fixed wages" when wages consist of different items under the EO and, depending on one's terms of employment, may be variable and hence not fixed. Apart from legal considerations, the provision of different modes of calculation for employees with fixed wages and those with variable wages would not be desirable from the labour relations perspective as it may create unnecessary disputes between employers and employees as to whether the latter's wages are fixed or variable. Given the evolving and increasingly complex nature of the remuneration systems in Hong Kong, and in the light of the CFA ruling, the Government considers it imperative that the law should provide for a workable, predictable and consistent mode of calculation for statutory entitlements.

I would also like to point out that, if an employer can keep proper wage and leave records, which is a good human resources management practice, the adoption of a moving 12-month average should not create too much additional administrative work.

The Government also appreciates the concerns of some members and organizations about the administrative work generated in calculating statutory entitlements under the mode of a 12-month moving average. After listening to the views of the Bills Committee and the relevant organizations, I shall move an

amendment later on at the Committee stage to simplify the calculation of the average wages.

I would like to stress that the objective of the Bill is to ensure that there is a workable mode of calculation of employees' statutory entitlements. It is imperative for us to amend the EO expeditiously so as to plug the loophole in law as exposed by the CFA ruling. The Government hopes that, once the Bill is passed in the Legislative Council, it will become effective after going through all the necessary procedures. If the Bill is passed today, the Government will publish the Amendment Ordinance in the Gazette within the shortest possible time. If all the relevant procedures go smoothly, we anticipate that, with the exception of the clause amending section 49A of the EO, the Amendment Ordinance will become effective in July this year.

With regard to the amendment to section 49A of the EO, it is stipulated in that existing section that an employer is required to keep the wage and employment records of his employees during the preceding six months, and that an employer failing to comply with this will be subject to prosecution. After the Ordinance is amended, an employer will have to keep the wage and employment records of his employees for the preceding 12 months. As the provision involves criminal liability, so we must allow employers adequate time to keep the wage and employment records of his employees for an additional six months. For this reason, the Government proposes that this amendment provision shall come into operation six months after the above effective date.

Earlier on, both Mr James TIEN and Mr Andrew LEUNG asked whether a ceiling can be imposed on the commission. Mr TIEN was right in saying that this suggestion was outside the scope of today's Amendment Bill, therefore, we shall not be able to discuss this today. However, regarding this aspect, the three parties, that is, the employees, the employers and the Government, can in fact engage in further discussions.

Besides, with regard to Mr LEUNG Yiu-chung's speech, I think he can rest assured. The Government will do its best to launch promotional and educational work. This is very important.

In the course of deliberations on the Bills Committee, members put forward a lot of valuable opinions. I shall move relevant amendments and new

provisions at the Committee stage. A great many of such were drafted after the Government had taken on board the suggestions of the Bills Committee, whereas the remaining amendments seek to improve the provisions of the Bill.

Madam President, the Bill has already taken care of the interests of both the employers and employees. In order to protect the statutory entitlements of employees, it is imperative to enact this Amendment Bill without delay. I implore Members to pass this Bill.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the Employment (Amendment) Bill 2006 be read the Second time. 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 James TIEN rose to claim a division.

PRESIDENT (in Cantonese): Mr James TIEN has claimed a division. The division bell will ring for three minutes, after which the division will begin.

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

(Mr SIN Chung-kai indicated that there was a problem with the buttons)

PRESIDENT (in Cantonese): Are they all right now? Any more problems?

(Mr SIN Chung-kai indicated that there was no problem with the buttons)

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

Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Dr LUI Ming-wah, Mrs Selina CHOW, Mr CHEUNG Man-kwong, Miss CHAN Yuen-han, Mr Bernard CHAN, Mr CHAN Kam-lam, Mr LEUNG Yiu-chung, Mr SIN Chung-kai, Mr WONG Yung-kan, Mr Jasper TSANG, Dr YEUNG Sum, Mr LAU Chin-shek, Mr LAU Kong-wah, Ms Emily LAU, Mr TAM Yiu-chung, Ms LI Fung-ying, Mr Albert CHAN, Mr Frederick FUNG, Ms Audrey EU, Mr WONG Kwok-hing, Mr LI Kwok-ying, Dr Joseph LEE, Mr Alan LEONG, Mr LEUNG Kwok-hung, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Mr CHEUNG Hok-ming, Mr WONG Ting-kwong, Mr Ronny TONG, Prof Patrick LAU, Mr Albert CHENG and Mr KWONG Chi-kin voted for the motion.

Mr Vincent FANG voted against the motion.

Mr James TIEN, Ms Miriam LAU, Mr Abraham SHEK, Mr Jeffrey LAM and Mr Andrew LEUNG abstained.

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

THE PRESIDENT announced that there were 43 Members present, 36 were in favour of the motion, one against it and five abstained. Since the question was agreed by a majority of the Members present, she therefore declared that the motion was carried.

CLERK (in Cantonese): Employment (Amendment) Bill 2006.

Council went into Committee.

Committee Stage

CHAIRMAN (in Cantonese): Committee stage. Council is now in Committee.

EMPLOYMENT (AMENDMENT) BILL 2006

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Employment (Amendment) Bill 2006.

CLERK (in Cantonese): Clauses 1, 2, 4, 11, 13 and 15.

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

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): I now put the question to you and that is: That the clauses stand part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Clauses 3, 5 to 10, 12, 14 and 16.

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): Madam Chairman, I move the amendments to clauses 3, 5 to 10, 12,

14 and 16 of the Employment (Amendment) Bill 2006 (the Bill), as set out in the paper circularized to Members.

Clauses 3, 5 to 7, 9 to 10, 12 and 14 of the Bill seek to amend the mode of calculation of a number of statutory entitlements under the Employment Ordinance (EO), namely, wages in lieu of notice, end of year payment, maternity leave pay, damages for wrongful termination of an employee's contract during her pregnancy, sickness allowance, damages for wrongful termination of an employee's contract on a sickness day taken by him/her, holiday pay and annual leave pay. According to the proposals in the Bill, the daily average or monthly average of wages earned by an employee during the past 12 months or a shorter period of employment is used as the basis for the calculation of payments. In response to the views expressed by the Bills Committee and some organizations, we will propose standardized amendments to these eight clauses to simplify the calculation of average wage. I will now give the salient points of the amendments.

During the resumption of the Second Reading debate, I mentioned that "disregarding" provisions were included in the Bill to ensure that the amount of statutory entitlements of employees would not be reduced. That is to say, in calculating the average wages earned by an employee during the past 12 months, any period therein for which the employee was not paid his wages or full wages due to his taking statutory leave in accordance with the EO, the Employees' Compensation Ordinance (ECO) or with the agreement of his employer, or not being provided with work by the employer and any amount paid to him for that period, are to be disregarded. The objective of the provision is to ensure that the average wage used for the calculation of statutory entitlements will not be lowered.

To reduce the number of disregarded items and therefore address the concerns raised by some Members and organizations about the increased administrative work, we will propose an amendment to the effect that the aforesaid statutory entitlements are calculated on the basis of a 12-month moving average, and any sum paid by an employer in respect of any specified leave and normal working day on which the employee is not provided with work by his employer is deemed to be wages though such payments are not included in the definition of wages under section 2(1) of the EO. By so doing, the wages earned by an employee in the past 12 months or such shorter period shall include wages

for services rendered as defined under section 2(1) as well as payments for various statutory or contractual entitlements. It is from this extended wages that the disregarding sums are to be deducted in calculating the daily or monthly average of wages.

Some Members and organizations have expressed doubts about the definition of "leave" referred to in "disregarding" provisions. As such, amendments are proposed to stipulate clearly in the eight clauses concerned that "leave" is specified to cover any rest day, holiday, annual leave, maternity leave or sickness day taken by an employee under the EO; any work injury sick leave taken under the ECO, and any leave taken with the agreement of the employer.

Moreover, for the avoidance of doubt, the amendment will add a provision to stipulate clearly that if the amount of wages paid to an employee in respect of a specified period of leave or non-provision of work is only a fraction of the amount earned by an employee on a normal working day, the period and the wages paid are to be disregarded. This aims to prevent any argument that maternity leave pay or sickness allowance paid according to the EO, periodical payments (that is, work injury sick leave payment) paid according to the ECO, or other contractual payments paid at a fraction of the amount of wages earned on a normal working day (such as sickness allowance paid at the rate of four fifths of the wages, half pay for any study leave taken) constitutes full wages for the particular day of leave.

According to this amendment, an employer only needs to identify the exceptional circumstances of not paying the employee wages or full wages in respect of any period of say no-pay leave, maternity leave, sick leave, and so on. In other words, periods of leave with full pay, such as statutory holidays and annual leave, together with the amount paid need not be excluded. This arrangement will reduce the administrative work otherwise required for disregarding all periods of leave or non-provision of work and payments for such periods.

It is also stipulated in clauses 3, 5 to 7, 9 to 10, 12 and 14 that where the using of the 12-month moving average to calculate the daily average or monthly average of wages earned by an employee is impractical, reference can be made to the wages earned by a comparable person who is employed in the same trade or occupation in the same district for the calculation of that amount.

We have adopted the proposals of the Bills Committee and amendments will be proposed to the aforesaid clauses. The amendments will specify that reference can be made to the wages earned by a person who is employed at the same work by the same employer, and if there is no such person, by a person who is employed in the same trade or occupation and at the same work in the same district. Moreover, in response to Members' suggestion, the reference to a female comparable person in clauses 6 and 14 will be deleted.

It is stipulated in clauses 6, 10, 12 and 14 of the Bill that where an employee is paid by the employer a sum of money in respect of a period of maternity leave, a sickness day, a holiday or a day of annual leave, the related maternity leave pay, sickness allowance, holiday pay or annual leave pay payable is to be reduced by that sum. The proposed amendment is technical, which aims to state clearly the specified amount refers to the amount paid by the employer.

Clauses 6 and 10 of the Bill relate to the new mode of calculation of payment for maternity leave and sickness allowance. According to section 14(3) of the existing EO, it is stipulated that for any day which an employee does not need to work even if the employee is not on maternity leave, no maternity leave pay will be payable for that day. The same principle is normally applicable to the calculation of sickness allowance. To express more explicitly the intention of entitling an employee to maternity leave pay or sickness allowance only in respect of a day for which wages would normally be payable, we propose to amend these two clauses to the effect that that no maternity leave pay or sickness allowance is payable in respect of a day on which the employee would not have worked had the employee not been on maternity leave or not been sick and for which no wages would normally be payable by the employer.

Clause 8 of the Bill seeks to amend section 15AA(8) of the EO, which is about the calculation of damages for wrongful termination of an employee's contract during her pregnancy under section 15(2) of the EO. I move an amendment to clause 8 to add "or monthly average (as appropriate)" after "daily average" with a view to bringing it in line with the calculation of payment in lieu of notice and the extra one month's wages under section 15(2) as amended.

Clause 16 of the Bill is a transitional provision. I move a technical amendment to renumber a provision under clause 16 as section 76, and provide

for the transitional arrangement regarding the sickness allowance payable under section 33(4C) of the EO where an employer terminates a contract of employment of an employee on any sickness day taken by the employee, and the holiday pay under section 40A(2) where a contract of employment of an employee is terminated.

The above amendments are supported by the Bills Committee, and I hope the Committee will support and pass them. Thank you, Madam Chairman.

Proposed amendments

Clause 3 (see Annex II)

Clause 5 (see Annex II)

Clause 6 (see Annex II)

Clause 7 (see Annex II)

Clause 8 (see Annex II)

Clause 9 (see Annex II)

Clause 10 (see Annex II)

Clause 12 (see Annex II)

Clause 14 (see Annex II)

Clause 16 (see Annex II)

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

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): I now put the question to you and that is: That the amendments moved by the Secretary for Economic Development and Labour be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Clauses 3, 5 to 10, 12, 14 and 16 as amended.

CHAIRMAN (in Cantonese): I now put the question to you and that is: That the clauses as amended stand part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): New clause 15A Requirement to keep wage and employment records.

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): Madam Chairman, I move that new clause 15A, as set out in the paper circularized to Members, be read the Second time.

New clause 15A seeks to amend section 49A of the EO. As I have mentioned in the resumption of the Second Reading debate of the Bill, under section 49A of the existing EO, every employer shall at all times keep and maintain a record in which is set out the wage and employment history of employee covering the period of his employment during the preceding six months.

During discussions with the Bills Committee, some members requested the Government to consider amending section 49A of the EO to extend the wage and employment record-keeping period from six months to 12 months.

To address the concerns of members, we now propose the addition of clause 15A to the Bill to extend the wage and employment record-keeping period from six months to 12 months in order to tie in with the proposal of calculating statutory entitlements on the basis of a 12-month moving average set out in the Bill.

This new provision has been agreed by the Bills Committee. I hope the Committee will support and pass it.

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That new clause 15A be read the Second time.

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): New clause 15A.

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): Madam Chairman, I move that new clause 15A be added to the Bill.

Proposed addition

New clause 15A (see Annex II)

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That new clause 15A be added to the Bill.

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

(Members raised their hands)

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

(No hands raised)

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

CHAIRMAN (in Cantonese): Council now resumes.

Council then resumed.

Third Reading of Bills

PRESIDENT (in Cantonese): Bill: Third Reading.

EMPLOYMENT (AMENDMENT) BILL 2006

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

Employment (Amendment) Bill 2006

has passed through Committee with amendments. I move that this Bill be read the Third time and do pass.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Employment (Amendment) Bill 2006 be read the Third time and do pass.

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

(Members raised their hands)

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

(No hands raised)

Mr Andrew LEUNG rose to claim a division.

PRESIDENT (in Cantonese): Mr Andrew LEUNG has claimed a division. The division bell will ring for three minutes, after which the division will begin.

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.

Mr Albert HO, Dr Raymond HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Dr LUI Ming-wah, Mrs Selina CHOW, Mr CHEUNG Man-kwong, Miss CHAN Yuen-han, Mr Bernard CHAN, Mr CHAN Kam-lam, Mr LEUNG Yiu-chung, Mr SIN Chung-kai, Dr Philip WONG, Mr WONG Yung-kan, Mr Jasper TSANG, Dr YEUNG Sum, Mr LAU Chin-shek, Mr LAU Kong-wah, Ms Emily LAU, Mr TAM Yiu-chung, Ms LI Fung-ying, Mr Albert CHAN, Mr Frederick FUNG, Ms Audrey EU, Mr WONG Kwok-hing, Mr LI Kwok-ying, Dr Joseph LEE, Mr Alan LEONG, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Mr CHEUNG Hok-ming, Mr WONG Ting-kwong, Prof Patrick LAU and Mr KWONG Chi-kin voted for the motion.

Mr James TIEN, Ms Miriam LAU, Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Jeffrey LAM and Mr Andrew LEUNG abstained.

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

THE PRESIDENT announced that there were 42 Members present, 35 were in favour of the motion and six abstained. Since the question was agreed by a majority of the Members present, she therefore declared that the motion was carried.

CLERK (in Cantonese): Employment (Amendment) Ordinance 2006.

MOTIONS

PRESIDENT (in Cantonese): Motion. Proposed resolution under the Legal Aid Ordinance.

I now call upon the Chief Secretary for Administration to speak and move his motion.

PROPOSED RESOLUTION UNDER THE LEGAL AID ORDINANCE

CHIEF SECRETARY FOR ADMINISTRATION: Madam President, I move the resolution standing in my name on the Agenda.

At present, a person whose disposable financial resources do not exceed \$158,300 is financially eligible for legal aid under the Ordinary Legal Aid Scheme (Ordinary Scheme). The corresponding limit for the Supplementary Legal Aid Scheme (Supplementary Scheme) is \$439,800. The limits are set out in sections 5 and 5A of the Legal Aid Ordinance. The limit for the Ordinary Scheme also applies to criminal legal aid. Our policy is to review these limits annually to take into account movements in consumer prices, so as to maintain the real value of the limits.

We last increased the limits by 1.6% in June last year to reflect the cumulative change in Consumer Price Index (C) recorded during the reference periods of the 2004 and 2005 annual reviews.

We have completed the 2006 review. The increase in the consumer price index (CPI) between July 2005 and July 2006 is 2.5%. Having consulted the Panel on Administration of Justice and Legal Services, we now propose the resolution to adjust upward the limit for the Ordinary Scheme from \$158,300 to \$162,300, which will also apply to criminal legal aid, and that for the Supplementary Scheme from \$439,800 to \$450,800, in accordance with the 2.5% increase in CPI.

I invite Members to support the resolution.

The Chief Secretary for Administration moved the following motion:

"RESOLVED –

- (a) that the Legal Aid Ordinance (Cap. 91) be amended –
 - (i) in section 5(1), by repealing "\$158,300" and substituting "\$162,300";
 - (ii) in section 5A(b) –
 - (A) by repealing "\$158,300" and substituting "\$162,300";
 - (B) by repealing "\$439,800" and substituting "\$450,800"; and
- (b) that this Resolution shall come into operation on a day to be appointed by the Director of Administration by notice published in the Gazette."

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

MS MIRIAM LAU (in Cantonese): Madam President, basically, the Liberal Party supports the Government's motion to amend the Legal Aid Ordinance, so as to increase the financial eligibility limits of legal aid applicants. However, it does not mean that the Liberal Party is satisfied with the current Legal Aid Scheme. It is because the Government has only proposed a slight increase of 2.5% in the upper limits to offset inflation, without addressing the difficulties encountered by the middle class in the event of litigation. In fact, this has been a distressing problem to the middle class over the years.

As we all know, the litigation costs in Hong Kong are exorbitant. The lawyer fees in an ordinary lawsuit, especially when counsel's fees are included, can cost hundreds of thousand dollars or even more than a million dollars. Not only is this beyond the affordability of the impoverished lower class, even the

middle-class people who earn \$40,000 to \$50,000 monthly will not engage a lawsuit rashly, although there may be hundreds of thousand dollars in their savings.

The Legal Aid Department (LAD) has always emphasized that the purpose of the Supplementary Legal Aid Scheme (Supplementary Scheme) is to provide legal aid for the sandwich class, and this is stated clearly in the website of the LAD. However, the current financial eligibility limit of the Supplementary Scheme is basically too low, and even if we take into account the proposed amendment, the limit will only be slightly increased from \$439,800 to \$450,800, which means that a majority of the middle class will still be excluded from the Scheme. Therefore, while the Supplementary Scheme nominally serves to assist the sandwich class, a vast majority of the middle class actually cannot benefit from it.

The middle class is the backbone of our society, as well as the group of people paying the most tax and yet, their interest has always been neglected. Legal aid is a typical example. The Liberal Party has always received complaints from the middle-class people about the exorbitant litigation costs. They said that even though they had good reasons to win, they still did not dare to file a case in Court. They are, of course, ineligible for legal aid under the Ordinary Legal Aid Scheme, but they are not even eligible to apply for legal aid under the Supplementary Scheme because the prescribed financial eligibility limits are too low indeed. Some middle-class people can only give up the opportunity to claim compensation through the Court, while some may choose to initiate proceedings without legal representation. Due to a lack of legal knowledge and unfamiliarity with legal and court proceedings, they are often at a disadvantage, and this may lower their chance of winning.

Over the years, both The Law Society of Hong Kong and the Hong Kong Bar Association have consistently requested the Government to increase the financial eligibility limit for the Supplementary Scheme and expand the scope of the Scheme. At present, the Supplementary Scheme is applicable only to cases involving compensation claims for personal injury and death, professional negligence, and also claims for damages under the Employees' Compensation Ordinance. The coverage is very narrow indeed, and cases of civil claims for damages or contractual disputes in which many middle-class people may be involved are not included.

The Liberal Party hopes that the Government can conduct a comprehensive review of the financial eligibility limits and the scope of the Supplementary Scheme as soon as possible, so that the Scheme can truly meet the needs of the middle class in legal proceedings.

Thank you, Madam President.

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

MR LEUNG YIU-CHUNG (in Cantonese): President, I support and accept to a great extent the remarks made by Ms Miriam LAU just now. However, I only wish to add one point. In addition to the middle class who felt frustrated for not being given legal aid assistance as she mentioned just now, even the poor are not eligible to such assistance. According to the adjustment made to the upper limit of income, those who are earning more than \$13,525 monthly will no longer be eligible for the assistance.

As Ms Miriam LAU said, the limit is indeed very low. Let us not talk about legal proceedings, in cases of wages in arrears, for instance, if workers want to make claims to the Protection of Wages Insolvency Fund, a liquidation process has to be carried out. However, they must apply for legal aid to initiate the proceedings. Otherwise, they have to employ lawyers at their own expense. How can these workers find the money to engage lawyers? The reason why they are making wages claims is the wage default, if the requirement of \$13,525 is to be implemented — this is the revised amount after adjustment, they will not be eligible to make an application. While workers cannot even recover their wages, other court cases would be simply out of the question.

For this reason, I think it is not adequate to adjust the limit in accordance with the inflation rate. Let me quote the example of a construction worker. As he had an income slightly over the limit and was not covered under the Protection of Wages Insolvency Fund, he was left in a miserable plight. Another case involved a police officer. He died suddenly while being on duty. While the Police Force argued that it was not the case, it gave rise to a dispute. The dispute had to be resolved in Court. Unfortunately, as the wages and asset of the police officer in question were just above the limit set down for the legal

aid, though the amount was insignificant, his family was still denied the eligibility. As a result, the family lost their bread winner on the one hand and failed to secure legal aid on the other. The family was in a miserable situation, not knowing what they could do. The surviving mother of the family was left with two children who were still at school. How were they going to solve this problem? There was no way out. At the end, the deceased's spouse had no choice but to give up the proceedings. As a result, the Government would not have to pay any additional compensation to the family, leaving them in financial straits. There are plenty of cases like this one.

However, while the Administration insists on adhering to the principle of making adjustment in accordance with the inflation rate, it fails to take care of the interests of not only the middle class, as Ms Miriam LAU mentioned, but also the grassroots. I do not mean that the middle class should not be taken care of. I agree that they should also be given support. However, the worst situation is that even the grassroots are not given assistance. I think it shows exactly how low the threshold is, making it inadequate to render us any protection.

While we are talking about helping the grassroots by assuring them of a fair and equitable living, how can this be done? How they can be given help? If people are eligible for assistance only when they are really penniless, then the assistance is not genuine. For this reason, I hope the Government can reconsider the issue and determine anew the limit, so that more people can be benefited and that their interests can be protected.

President, I so submit.

MR WONG KWOK-HING (in Cantonese): As Ms LAU just pointed out, the slight adjustment currently made in accordance with the inflation rate fails to help the middle class.

As a matter of fact, I agree very much with Mr LEUNG Yiu-chung, that the grassroots are not given help all the same, in particular the wage earners. The adjustment makes the general wage earners feel how correct an old Chinese saying is: the court opens for the rich, people who have reason but not the money are not welcome. This is the fact. The current situation where the wages of

many workers are outstanding is a result of the present legal system and legal aid system. Despite the fact that workers' wages are in arrears, as they cannot afford the lawyers' fees to initiate the long legal proceedings, they are forced to give up recovering the wages from unscrupulous employers. For this reason, I very much hope that the Government will conduct an overall review to ascertain if the present legal aid system can really help the poor. Can it genuinely help those who do not have the means? This is one point.

Apart from that, I also hope that the Government can review the present situation where, after winning the lawsuit at the Labour Tribunal or the Court, the employees are still unable to get paid, ending up with absolutely nothing. This situation does not emerge only this year, for it has existed for a few decades. It was 1 May yesterday. The labour sector took to the streets in petition. One of their aspirations was urging the Government to review the present procedure adopted by the Labour Tribunal and the relevant Courts. According to the present procedure, even if the judgement is in the favour of employees, the Court will not order the employers to pay the outstanding wages. To obtain the payment, the employees will have to go through a separate procedure. Therefore, I hope the Government can look at this issue seriously.

Thank you, President.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): If no other Member wishes to speak, I now call upon the Chief Secretary for Administration to reply.

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): I think Members also understand that every year we will review the financial limits for eligibility for legal aid and calculate the change in Consumer Price Index (C), in a bid to maintain the real value of the limits. Moreover, we will also review the limits once every two years and calculate the change in the costs of proceedings. With respect to the criteria for assessing the financial eligibility of legal aid

applicants, we will review them once every five years. Through various reviews, we hope that the means test can keep up with the economic conditions in society.

President, I wish to emphasize that the financial resources limits we have mentioned here are not the limits on the income or total capital of the applicant, but the limits on his disposable income or disposable capital. In calculating the disposable income and capital of an applicant, the Legal Aid Department (LAD) will exclude a series of statutory deductions. These deductions have a wide coverage including the general household expenditure, rent, rates, salaries tax, contributions to retirement schemes, living expenses of dependents, alimony, mortgage loans and the value of the principal property. As we can see, these expenses are exempted and excluded from the limits on the disposable income and capital.

The legal aid system of Hong Kong is, by no means, inferior to that of other jurisdictions. Our Ordinary Scheme and Supplementary Scheme cover 70% of the households, which is, in our view, sufficient.

With respect to wages in arrears, in insolvency proceedings where an employer has wages or other payment in arrears, the employees generally can elect, under the assistance of the LAD, an employee who can pass the means test as their representative to apply for legal aid, with a view to instituting liquidation or insolvency proceedings against the employer. Any other employee of the same case, irrespective of whether he or she is granted legal aid, can apply for *ex gratia* payment from the Protection of Wages on Insolvency Fund.

With respect to the Supplementary Scheme, we further lowered in 2006 the contribution rates of the legally aided persons under the Supplementary Scheme. Just as we have stated to Members in the panel meeting in March, although the issue is not directly related to the assessment of financial eligibility, we will continue to examine, through the review conducted once every five years and on the premise of not undermining or impairing the financial viability of the Supplementary Scheme, the feasibility of bringing more people under the legal aid umbrella. We will continue to examine this issue.

Thank you, President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by the Chief Secretary for Administration be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

MEMBERS' MOTIONS

PRESIDENT (in Cantonese): Members' motions. Two motions with no legislative effect.

First motion: Increasing the number of local university places. I now call upon Mr CHEUNG Man-kwong to speak and move his motion.

INCREASING THE NUMBER OF LOCAL UNIVERSITY PLACES

MR CHEUNG MAN-KWONG (in Cantonese): President, the SAR Government's policy on post-secondary education has been changing in an unpredictable manner. It is possible that the number of sub-degree places can experience a substantial increase in a span of five years. And it is also possible that the annual quota of subsidized first-degree places can be left to stand at only 14 500 for 18 years.

The University Grants Committee (UGC) pointed out in its reports of 1991 to 1995 that the Government had announced in October 1989 the decision to considerably expand tertiary education, including the implementation of the undertaking in the policy address to increase the number of first-year first-degree places in the 1994-1995 academic year to no less than 18% of the total student

population of the relevant age cohort (that is, aged 17 to 20). After the adjustment, it meant 14 500 first-degree places would be provided each year.

President, the enrolment ratio of 14 500 places was set 18 years ago. In the past, the Government has even failed to meet the university enrolment target of 18%. The 2006-2007 Budget indicated that in the years 2005-2006 and 2006-2007, the ratio of the number of first-year first-degree places to the student population of the relevant age cohort had dropped two years in a row to 17%. Despite the effort of the Education and Manpower Bureau (the Bureau) to drag in together the number of newly-created senior year articulation places for associate degree students and associate degree places for students over 20, the enrolment ratio of the coming year has remained at only 18.4%.

The rationale behind the university enrolment target rigidly upheld by the Bureau for 18 years is unable to withstand a single blow. I raised a question at the Legislative Council meeting on 14 March this year to ask the Government whether or not the quota of 14 500 would be adjusted. The reply given by the Government was specious and nonsensical, as proved by The Hong Kong Institute of Education. For instance, apart from taking into account various educational, social and economic considerations, the Government had to consider other factors including the projected student population of the relevant age cohort, the quality of student intakes, the development of the publicly-funded and self-financing post-secondary sectors, the Government's fiscal position, as well as the manpower requirements and economic development trends of Hong Kong.

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

Has the university enrolment target the Bureau has rigidly adhered to for 18 years taken into account the earnest demand for talents of the Hong Kong economy? Has it taken into account Hong Kong students' need to pursue further studies? Without asking a fung-shui master or looking into a crystal ball, one may point out the fact that the ratio of local young people of the relevant age cohort attending local universities has been relatively low, and the proportion of our population with university degrees has lagged far behind other major economies. Is it necessary for Hong Kong to wait for budgets to keep "flooded with abundant funds" or our economic status overtaken by other Asian

cities to make resources available for the adjustment of university places, and come to realize the urgent need to catch up?

Time flies, so do the social and economic development, let alone the fact that the population of Hong Kong with university degrees has already lagged behind. In the past 18 years, the local population has increased from over 5.6 million to 6.8 million, and the number of secondary students has increased from 436 000 to 480 000 in 2007. In our universities, the ratio of non-local students — actually mainly students from the Mainland — has also increased from 2% in 1993 to 10%. The National 11th Five-Year Plan (FYP) has even proposed an increase to 20%. On the contrary, the number of subsidized places of local universities has been kept static and the university first-year enrolment ratio has remained stagnant. This is really ridiculous. And it has left the community and students at a loss.

While the number of university places has remained stagnant for 18 years, the number of associate degree places has seen a dynastic change. The overall number of associate degree places has increased from less than 10 000 in the 2000-2001 academic year to 32 570 in the 2005-2006 academic year. The Report on Manpower Projection released in 2003 projected that by 2007, there would be a shortage of manpower supply of only 6 100 for those with associate degree qualifications. But how about the shortage of manpower supply at the degree level? The answer is 82 600. These figures have clearly indicated an over-supply of associate degree holders and a serious shortfall of degree holders. However, at the strong push of the Government, the number of associate degree places increased again last year to over 30 000. And the supply of manpower at degree level and the need of students to pursue further studies have lagged further and further behind due to this "dead quota" of 14 500 places.

The Government's policy on university places has made no attempts to make progress, and it is outdated and inconsistent. In promoting the policy of 60% participation rate in post-secondary education in 2001, the Government claimed that a certain ratio of associate degree graduates could attend local universities. The representative of the Government at the time, that is, former Secretary for Education and Manpower Fanny LAW said the annual quota of 14 500 university places would be broken. Mr Enoch YOUNG of the Federation for Continuing Education in Tertiary Institutions even pointed out

that 40% of the sub-degree graduates from community colleges in the United States could attend universities. He thought Hong Kong could follow the example of the United States in devising the articulation ratio of the sub-degree sector to university education.

Deputy President, although self-financing associate degree students have to endure discrimination in the provision of subsidies and the pursuit of further studies, they chose to set foot on this blind education pathway not because they were "also stupid", but because they did have a beautiful longing for the alternative progressive pathway depicted by the Government at the time. They earnestly hoped that they could step across the threshold of universities through the articulation opportunity provided by the associate degree and their own determined efforts. However, as the years pass, students have graduated year after year. Even associate degree graduates with good results have got no opportunities for articulation, let alone the fulfillment of the promise of having 40% of graduates going on to universities.

Even though the number of articulation places was raised last year to 967 a year, the articulation rate has surprisingly been less than 4% when compared to the over 30 000 associate degree places each year, and the thousands of young people getting good results through the second chance provided by the associate degree. It is apparent that demand is much greater than supply, and the narrowest bottleneck for university education is produced. Not only is the Government's policy contradictory in itself, conflicts among students are also created. At present, a large number of matriculated students still fail to enrol in universities each year because of inadequate places despite they are qualified to do so. Take last year as an example. A total of 15 500 advanced-level day-school students were eligible for university enrolment. That means at least 1 000 qualified students failed to get enrolled in universities. This shows that the existing university places cannot even meet the need of the matriculated students. However, under the pressure of the absence of any pathways for further studies in the associate degree sector, the Government has only agreed to swap some first-year first-degree places for senior year articulation places for associate degree students. In a nutshell, the policy of the Government has failed to keep abreast of the times. The "deadline" of 14 500 places has shut the door on students in pursuing further studies, and the future pathway of associate degree students has been pushed down a dead alley.

A paper titled "To Make a Difference, To Move with the Times" was published by the UGC in 2004, in which the concept of developing Hong Kong into the education hub of the region was introduced. Former Chief Executive TUNG Chee-hwa waved the banner of the education hub of the region in the 2005 policy address. And incumbent Chief Executive Donald TSANG continued to use the education hub of the region as his slogan both in the Action Agenda on 11th FYP and his election platform. A more specific plan is an increase in the ratio of non-local students in post-secondary institutions from the present 10% to 20%, of which 4% can enjoy government subsidies. Over the past few years, the number of students from the Mainland has rapidly increased. But the growth of local students has remained stagnant. This is incommensurate growth and balance, which is absolutely unfair to local young people.

Deputy President, the internationalization and diversification of university education is the objective of the promotion of collaboration among institutions and exchanges among students, to which I give my support. However, in order to gain a firm foothold of being the education hub of the region, and to play the role of the education hub to the full, the Government must first lay a solid foundation for local education, including the strengthening of the education infrastructure and the enhancement of the quality of curriculum, before talents will be attracted and pooled. In chanting the slogan of the education hub of the region, has the Government conducted an in-depth examination of itself?

Know yourself and know your opponents. Take our competitor, Singapore, as an example. Our ratio of the number of local subsidized university places to the number of secondary students has stood at only 12%, which is lower than the 21% of Singapore. How can members of the public not lament with a sigh? How can our Government not feel ashamed? How can the steering group led by Chief Secretary for Administration Rafael HUI not come round quickly so that the Vice-Chancellors and Presidents of the eight major institutions can be spared "looking at each other blankly" when asked about the progress of the education hub? No matter whether it is the Asia's world city or the education hub of the region; the policy address of the Chief Executive or the National 11th FYP, a wealth of talents is needed to cater for the needs of social, economic and education development. Therefore, the "deadline" of university places maintained for 18 years must be broken completely. Otherwise, the supply of local university graduates will be frozen at the level of 14 500 each year. Thousands of advanced-level candidates will remain sighing at the doorstep of the university. And tens of thousands of associate degree

graduates will face an uncertain future due to a lack of opportunity for further studies.

Deputy President, whenever the non-government sector criticizes the relative low admission rate of local universities, the Government always defends itself by saying "the participation rate in post-secondary education in Hong Kong still stands at 60%"; and glosses over its shortcoming by saying "further education is not the only progression pathway and it is not the target pursued by 100% of the associate degree graduates". Although the difference between post-secondary students and university students is in one word only, the treatment and recognition they receive are poles apart. To these associate degree students, has the Government suffered a qualm of conscience or held no regrets about adhering to its policy? Has the Government kept indulging itself in the education myth of achieving 60% participation rate in post-secondary education? However, education is not a myth, but down-to-earth hard work. When will the Government stop bragging and boasting? When will it come to an awakening? When will the cap of 14 500 places on university enrolment be removed?

With these remarks, Deputy President, I beg to move.

Mr CHEUNG Man-kwong moved the following motion: (Translation)

"That this Council urges the Government to increase the annual quota of 14 500 publicly-funded university places so as to provide more opportunities for local young people in the appropriate age group to attend universities, and to open up more channels for outstanding graduates of sub-degree courses to pursue further studies, in order to cater for the needs of the local community and education development."

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

DEPUTY PRESIDENT (in Cantonese): Mr Andrew LEUNG will move an amendment to this motion. The motion and the amendment will now be debated together in a joint debate.

I now call upon Mr Andrew LEUNG to speak and move his amendment.

MR ANDREW LEUNG (in Cantonese): Deputy President, before I speak, I wish to first declare that I am the Chairman of the Vocational Training Council (VTC).

I recall we had discussions held here in May last year on strengthening the development of post-secondary education to explore more progression pathways for sub-degree graduates. Discussions on the same issue are again held here in less than a year because there has been growing public concern for post-secondary education. And I am proposing an amendment today on behalf of the Liberal Party in the hope that Hong Kong will adopt a macroscopic approach in the development of post-secondary education, in order to tie in with the latest development of our country. Our focus should not only be on the provision of additional channels and opportunities of further education for our young people of the relevant age cohort and outstanding sub-degree graduates, but also on the attraction of more overseas students to study here through an increase in the number of publicly-funded and self-financing university places to facilitate the development of Hong Kong into the education hub of the region, thus fully preparing ourselves for upgrading our competitive edge as well as the long-term development.

At present, there are around 80 000 Secondary Five students and 35 000 Secondary Seven students each year. But only 14 500 subsidized university places are provided. The remaining students may opt for enrolment on vocational higher diploma courses or associate degree programmes. This shows that the university admission rate has indeed been on the low side. At present, only 66% of the young people of the relevant age cohort in Hong Kong can access post-secondary education, which is a most disappointing figure when compared to the 96% in Sweden, Japan and South Korea. As the saying goes, "A handy tool makes a handy man.". In today's knowledge-based economic model and along with this development trend, it is necessary for us to foster talents with high skills and high qualifications needed by society by means of post-secondary education.

In recent years, public views have been diverse in the substantial increase in the number of associate degree places. In promoting sub-degree programmes, many of the institutions have advertised the possible articulation for graduates to the second year or third year of the university programme, in order to offer a pathway for further studies to the large number of students who fail to enrol in universities on strength of their matriculation results. However,

we can see that the number of sub-degree programmes and the relevant student intake have been on the increase year by year, totalling over 30 000 in 2005-2006. But only 840 subsidized second-year and third-year undergraduate places are offered for the articulation of the graduates. That means less than three in 100 graduates have been offered an articulation place. This ratio is probably higher than that of winning Mark Six. But it falls far short of satisfying the needs of these students for further education. As a result, associate degree students studying hard for two years in difficult conditions have to "fight tooth and nail" or even get bruised and battered before they can realize their dream of having an articulation opportunity to the second year or third year of the university programme. Thus, the general public has got the impression that sub-degree students, particularly associate degree students, are inferior to others.

I think this pathway of further education must be put on the right track. The authorities and the institutions should provide competent and promising sub-degree graduates with more opportunities of further education, in order to make their dream come true, that is, to step across the university threshold to get a first-degree place. Take the Institute of Vocational Education (IVE) of the VTC as an example. Over 6 500 students will graduate from higher diploma courses each year, of which around 30% will opt for furthering their studies in either local or overseas first-degree courses. The results of these students have been remarkable. One of the examples is among last year's civil engineering graduates of the Swansea University in Britain, 30 of them were the higher diploma graduates of the IVE. They went to Britain to take articulation courses after graduated from the IVE. Not only did they graduate without a hitch, 10 of them even graduated with a First Class Honours degree. This proves that as long as they are given opportunities, sub-degree students can equally have a bright progression pathway.

Under the education system of Hong Kong, to be a university student, the "thoroughfare" or the broadest road is through the studies of the matriculation course. Apart from this, others are all "small lanes". To some of the present sub-degree students, taking sub-degree programmes is like entering a maze. Not only is this "small lane" full of twists and turns, it may at any time turn into a "dead end" where no further progress is possible. Or students only find out after finishing the two-year associate degree programme that they happened to have boarded a maxicab on a circular route in the beginning. When they finish a trip, they return to the starting point where first-degree places are still a long

distance away. It is the responsibility of the authorities to place more navigation beacons for the young people or even widen the "small lanes" to enable competent young people to have access to first-degree courses.

Deputy President, we can see from the education reform in the past few years that a number of changes have been introduced to the senior secondary curriculum to enhance students' standard, in order to equip them in an all-round way for their progress to post-secondary education. I hope extra efforts will be made by increasing the number of publicly-funded university places so that competent sub-degree graduates will have more opportunities to pursue further studies.

Moreover, the Liberal Party is of the view that in addition to increasing the number of subsidized articulation places, the number of self-financing university places should also be increased to allow associate degree graduates failing to get a subsidized articulation place a better chance to enrol on self-financing first-degree courses. At present, there are three self-financing institutions that may award degrees in Hong Kong, including The Open University of Hong Kong, the Hong Kong Shue Yan University and the Chu Hai College, offering a total of over 2 300 first-degree places in the 2006-2007 academic year. In the past, the degrees awarded by these privately-run universities were not given due recognition by the public. However, in February this year, the title of Shue Yan College which has been privately-run by Dr Henry HU and his wife, Dr Chi-yung CHUNG, for over 30 years, has been officially changed to Shue Yan University. And the Chief Executive was invited to officiate at the change-of-title ceremony. Both events witnessed the growing public acknowledgement and recognition for privately-run universities and self-financing degrees.

Besides, I propose that tertiary institutions should increase as far as possible the number of places at different levels for mid-course students to offer more opportunities to those intent on returning to the campus. Not only will it cope with the development of a knowledge-based economy, it will also fulfil the objective of lifelong learning promoted by the Government.

Deputy President, the VTC is currently the largest sub-degree programme provider in Hong Kong. As the Chairman of the VTC, I know that there are a large number of higher diploma graduates, no matter whether they have entered the job market, who wish to pursue university education and obtain a degree. At present, we can see that graduates of both full-time and part-time articulation

degree courses have every confidence in following the path of lifelong learning. I hope that the authorities will respond to their aspiration in a more proactive manner.

Deputy President, I have added in the amendment the element of the provision of opportunities to more non-local students to attend universities in Hong Kong, so as to facilitate Hong Kong's development into the education hub of the region. In recent years, I have also been aware of the intense preparations of a number of quality and renowned overseas universities in the opening of branch campuses outside their own countries, particularly in the Asian Region. I suggest that the Government should seize this opportunity to encourage quality privately-run universities to come to Hong Kong. I believe this proposal will not only enable the increasing internationalization of the local education system, through the intake of students of different nationalities and cultural backgrounds, the exchanges between local university students and young people from the global village will also be promoted. Their outlook will then be broadened and their ability to master foreign languages will be enhanced. I believe exchanges of this nature will promote positive competition and raise the overall standard of universities. Many big cities in the world are the hubs of talents, such as Tokyo, Paris, New York and London. They can come out on top of numerous cities in the world to be major financial centres, metropolis and leaders in the design industry because they have been very active in absorbing talents from overseas. They have also devised policies to attract the elites from all over the world to settle and even take root there.

The education of Hong Kong in the past has all along placed stronger emphasis on the fostering of local students, with the absence of a detailed strategy to attract top students outside Hong Kong to study here. I hope careful consideration will be given to this in the future. Apart from the increase in the number of subsidized and privately-run university places, relevant policies should be co-ordinated expeditiously to put additional efforts in both the hardware and software support such as land, campus facilities, student hostels, teaching staff, curriculum development, all-round development of students, and so on.

The road ahead of Hong Kong is one that has a closer link with the development of the Mainland. If we wish to assume a place in the future development of China, long-term planning of how to develop into a unique metropolis has to be drawn up. The way forward of Hong Kong, that is, the

development in finance, logistics, tourism and information, has already been mapped out in the National 11th FYP released in March last year. It is necessary for the Government to adopt relevant measures to tie in with it, so as to seize this rare opportunity.

With these remarks, Deputy President, I propose the amendment.

Mr Andrew LEUNG moved the following amendment: (Translation)

"To delete "the annual quota of 14 500 publicly-funded" after "urges the Government to increase"; to add "across the board, including those of publicly-funded and private universities," after "university places"; to delete "to open" after "attend universities, and" and substitute with "in addition to opening"; and to delete "in order to cater for the needs of the local community and education development" after "further studies," and substitute with "provide opportunities to more non-local students to attend universities in Hong Kong, so as to facilitate Hong Kong's development into an education hub of the region and cater for the social, education and economic development needs of Hong Kong, and to enable Hong Kong's human resources development to better tie in with the National 11th Five-Year Plan and subsequent plans in the Mainland, thereby training more talents in various sectors such as finance, trade, logistics, tourism and culture for Hong Kong". "

DEPUTY PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr Andrew LEUNG to Mr CHEUNG Man-kwong's motion, be passed.

DR JOSEPH LEE (in Cantonese): Deputy President, today's motion is "Increasing the number of local university places". I wish to first declare my interest as I am the Programme Leader of the Nursing Team of The Open University of Hong Kong. As education workers, we have the responsibility to fight for more opportunities for local young people of the relevant age cohort who satisfy the university entry requirements to attend universities. On the other hand, it is also necessary for us to urge the Government to increase the number of different places to cater for the needs of the present social development of Hong Kong.

The Government stressed in its education policy in 2000 the gradual increase in the age participation rate of post-secondary education in the hope of achieving 60% in 2010. Of course, the Government has now announced that the target has almost been reached in only five years. However, just as Mr CHEUNG Man-kwong said, the Government has only substantially increased the number of associate degree places. With a history of just several years, the qualifications of associate degree graduates have not received much genuine public acknowledgement and recognition. As a result, they have encountered great difficulties in both pursuing further studies and securing employment. Along with social restructuring, we are now evolving into a knowledge-based economy. At present, employers hold greater expectation of employees' qualifications. Associate degree qualifications can no longer meet the expectation of today's society or employers. Employers in many trades and industries of Hong Kong expect their employees to hold a first degree instead of vocational qualifications. We can see that the Government's insistence on capping the first-year places at 14 500 is an entirely outdated practice.

Mr CHEUNG Man-kwong has earlier quoted the remarks of the Secretary for Education and Manpower, saying that in devising the subsidized enrolment target for university education, a number of factors have to be considered, including the projected student population of the relevant age cohort, the quality of student intake, the development of the publicly-funded and self-financing post-secondary sectors, the Government's fiscal position, as well as the manpower requirements and economic development trends of Hong Kong. It is obvious that except for the varied needs of the student population of different age cohorts, the economic development trend of Hong Kong has been very favourable, and the fiscal position of the Government has indeed been very strong, with a surplus of over \$50 billion. Under these circumstances, the Government can absolutely afford additional funding for university education.

In the past, it has been the practice of the Government not to allocate additional funding for first-year university places. Instead, universities have been required to distribute the 14 500 places at their own discretion. In fact, this practice has been far from meeting the objective because in many cases, it is impossible for different universities or different teaching departments to use their discretion to give up three places to the philosophy department or five places to the music department, resulting in a reduced number of places in the nursing department. This practice has definitely created unhealthy competition within

the universities, giving rise to various clashes and conflicts. And this practice of the Government is actually tantamount to inaction. It has only rigidly adhered to the deadline, refusing to provide any additional places other than the 14 500 places. This practice is really undesirable.

Moreover, given such a robust development of Hong Kong, huge investment in manpower resources is essential. Why has the Government not directly increased the number of first-year first-degree places or even second-year articulation places for associate degree students to effect a more stable long-term investment in local talents, opting instead for the import of foreign labour or professionals? This practice is most unwise.

Moreover, as just mentioned by Mr Andrew LEUNG, apart from increasing the number of its own university places, the Government should consider increasing the number of privately-funded or self-financing university places, which is a more effective and long-term means to foster the manpower resources of Hong Kong. Of course, this will also introduce competition among universities, thus enhancing the student quality and the teaching model and quality.

In fact, Hong Kong itself has performed very well in such areas as finance, trade, logistics, tourism and other professions and the cultural sector. Various talents and professionals are needed to work in these areas. This is precisely why long-term training programmes have to be conducted for different kinds of manpower resources. And the increase in the number of university places will achieve these purposes correspondingly.

For instance, take my old profession nursing as an example. After closing its own nursing school in 2000, the Government did not immediately increase the number of nurse training places in the post-secondary sector. As a result, there is currently a serious shortage of nurses against the ageing population. To put it simply, apart from the places offered by the nursing school and various post-secondary institutions, there were 1 200 nursing graduates in Hong Kong in 2000. However, the closure of the nursing school, coupled with the failure of an immediate increase in the number of first-year places, have caused the number of nursing graduates to drop to less than 600 a year in 2003 and 2004. Under these circumstances, with an obvious mismatch in planning, how can there be sufficient nurses to cope with the increasing ageing population of Hong Kong? This is only one of the examples to show that the deadline of 14 500 places must be broken and changed. It should not remain

unchanged because in many cases, the needs of our community are always changing.

At present, 18% of the young people of the relevant age cohort in Hong Kong have attended universities. This ratio has been far lower than those of countries in Europe and America, and also lower than those of our neighbouring countries in Southeast Asia such as South Korea, the Philippines, and so on. This shows that there is still a lot of room for Hong Kong to increase the number of university places.

To conclude, in order to maintain and improve the competitive edge of Hong Kong, an increase in the number of subsidized and self-financing or privately-funded university places is essential. The Administration should keep a close watch on the development of the post-secondary sector to ensure the provision of sufficient places to satisfy students' needs for further studies, as well as to bring in vitality for the long-term need of manpower resources of Hong Kong.

Thank you, Deputy President.

MR WONG KWOK-HING (in Cantonese): Deputy President, associate degree students have been demonstrating outside today with a drawing of a traffic sign to illustrate the rough and uneven nature of their pathway in pursuing further studies. It is hoped that after seeing the sign, the Secretary will help change it to pave a smooth way for their further studies.

Deputy President, education is not only a means to train talents, but also a major driving force for the continuous development of a society. Therefore, both the former Chief Executive and the incumbent Chief Executive, Mr TSANG, have successively stated the Government's commitment to education on various occasions. In fact, at present, the Government has indeed spent a lot of resources on secondary and primary education. However, along with globalization and the evolution into a knowledge-based economy, our resources invested in education have appeared to be abundant, but have they been adequate in reality? At least, resources for post-secondary education have been absolutely inadequate. The government budget for 2007-2008 has revealed that the recurrent subventions for the eight major institutions funded by the University Grants Committee (UGC) have only been \$11 billion. It appears

\$11 billion is a huge investment. However, compared with the information from the UGC, the approved grants allocated to the universities by the UGC amounted to \$14.8 billion in 2000, and the amount has been gradually cut over the past few years.

The 14 500 publicly-funded university places mentioned in today's original motion are actually an old product, which practically falls far short of the needs of the development of society nowadays. The so-called 14 500 publicly-funded university places actually mean the subsidized first-year places offered by the present eight UGC-funded universities. I have gone through the relevant information. As early as in 1989, the then Governor Sir David WILSON announced in this Chamber the decision to considerably increase the number of tertiary places, as well as to gradually upgrade several post-secondary institutions, in order to allow 18% of the population of the relevant age cohort access to government-subsidized first-year first-degree courses. The number of 14 500 emerged then. Honourable Members, this number has so far been with us for 18 years.

Over the past 18 years, the community of Hong Kong has experienced great changes. Various industries such as the manufacturing industry played an important role in the economy of Hong Kong 18 years ago. A great number of "working men and women" could opt for working in garment or metal factories. Even if they had no opportunities to receive university education, they could rely on their own hands to make a living and feed their families. However, in the present-day Hong Kong, the leading role of the manufacturing industry in our economy has gradually diminished. It has been replaced by such trades as financial services, financial investment, banking services, and so on, requiring not just skills of the hands. A casual glance at the job advertisement tells us that the academic requirement of these trades is usually pitched at post-secondary qualifications or above. Post-secondary education is a must for young people to join the workforce. In recent years, self-financing programmes of higher diploma and associate degree have cropped up. The number of enrolled students in self-financing sub-degree programmes amounted to 32 570 in the 2005-2006 academic year. It is the hope of numerous students to pursue degree courses after completing the sub-degree programmes, which has further increased the demand for degree courses. With the growth of the population of the relevant age cohort, the existing 14 500 subsidized first-degree places have long fallen short of the need of the community. The Government should not

remain inflexible and adhere still to the standard left by the previous administration.

Moreover, education is also an important tool of upward movement among social strata. Today's Hong Kong has faced an increasingly wide gap between the rich and the poor, which is precisely the result of the lack of sufficient opportunities for people to upgrade their social status by means of education. The Commission on Strategic Development has also pointed out in one of its papers that education can increase the wage-earning ability of an individual, as well as the productivity of society as a whole, so as to promote mobility among social strata. As education enables those at the lower strata or their next generation to break away from poverty, the Government should make greater commitment and investment in this area.

Deputy President, when compared with our neighbouring regions such as Singapore and Taiwan, the population having access to university education in Hong Kong has been relatively small. Long-term speaking, this will impact on our competitiveness. Therefore, it is necessary for the SAR Government to develop new thinking and devise policies with foresight, in order to make preparation without delay.

It is reported that a consultation document on a review of the post-secondary education sector will be released at a later date by the Education and Manpower Bureau. I urge the Government to keep abreast of the times to conduct an overall review of the current demand for university education. And in the consultation document about to be released, the Government should reveal whether there will be an increase in the number of subsidized university places to cater for the need of knowledge-based economy, so as to maintain the competitiveness of Hong Kong.

In addition to the release of the consultation document to collect public views, I hope the Government will make extra efforts in the meantime to cope with the strong need of the large number of associate degree students in pursuing university education. Therefore, I very much hope that the Secretary will take a look at the traffic sign drawn by the associate degree students demonstrating today to illustrate the rough and uneven nature of their pathway in pursuing further studies. Is it possible for the Secretary — I know you like to "doodle"

too — to draw a traffic sign showing a smooth pathway in response to their request?

Thank you, Deputy President.

PROF PATRICK LAU (in Cantonese): Deputy President, to assess whether a country or city will have success in its long-term development, the best reference index is the level of attention and commitment of the local government to the education system. Historical factors have made Hong Kong into a unique Chinese city with a blend of Chinese and Western cultures. We have actually great potentials to be the finest metropolis in Asia. Therefore, I think it is the responsibility of the Hong Kong Government to increase the number of local university places to provide local students with more opportunities of university education and to pool non-local talents, in order to become the education hub of the region, as well as to foster sufficient manpower resources to meet the challenges set by the targets of the National 11th Five-Year Plan and subsequent plans.

In my view, apart from increasing the number of publicly-funded university places, the Government should encourage the drawing up of proposals on the development of privately-run universities. A diversified society should have an equally diversified university system. While the curriculum design of publicly-funded universities, to a great extent, aims to satisfy the practical needs of the local social, education and economic development, privately-run universities can give students more space in the choice of non-mainstream courses. As long as different universities focus their investment on developing their own unique and outstanding programmes, an environment accommodating numerous schools of thought can be created in the community of Hong Kong. Young people with different learning and working interests can then give full play to their strengths and make contribution to the various sectors of the community. I think this is one of the most effective ways to foster our next generation with creative thinking.

Deputy President, I wish to stress that the progression pathway for associate degree graduates to pursue further studies must not be neglected — a number of Members have just mentioned this point. Members may recall the

fact that although the age participation rate in tertiary education of Hong Kong has been raised by the constant increase in the number of associate degree places, only 1 000-odd first-degree places were provided in the last academic year for articulation of over 30 000 associate degree students. There must be something going wrong here. Therefore, when the Government increases the number of university places, it must also suitably increase the number of subsidized articulation places for associate degree students.

If a diversified university system is based on the intake of students from diversified backgrounds, a complementary effect will be achieved. Universities of Hong Kong have all along admitted a certain number of non-local students coming from different cultural backgrounds. An increase in the number of university places will allow our universities to enrol more non-local students. This will bring in more revenue for the universities; help develop Hong Kong into the education hub of the region, as well as promote the understanding and exchange between local students and those from different cultures. Moreover, as universities have to provide non-local students with hostel facilities, either new university hostels will be built or the abandoned campuses of those primary and secondary schools that have been "culled" can be converted into student hostels.

Deputy President, at present, the quality of students in different grades in Hong Kong, in my view, is generally very high. And the current liberal studies curriculum has begun to produce the desired result. Recently, students from different secondary and primary schools have successively invited me to have interviews to gauge my views on such local issues as heritage conservation and conversion of community facilities, in order to complete the special reports and projects of the liberal studies course in their schools. Although these enthusiastic young people are only in primary or junior secondary schools, their questions are well-conceived and their thirst for knowledge is very strong. In witnessing such outstanding performance of our students, I am all the more convinced that the number of local university places must be increased to give them more opportunities to pursue further studies in Hong Kong in the future. And they will contribute to the future of Hong Kong upon completion of studies.

Thank you, Deputy President.

MR LEE CHEUK-YAN (in Cantonese): Deputy President, I speak on behalf of the Confederation of Trade Unions (CTU) in support of the motion moved by Mr CHEUNG Man-kwong today on increasing the number of university places.

In fact, I sometimes think it is very sad that Mr CHEUNG Man-kwong has to bring up this issue so frequently. Secretary, there has actually been a strong consensus on this issue in community. On every occasion when issues concerning the economy and competitiveness of Hong Kong are brought up, no matter whether it is government officials, members of the business sector or the public, all of them will agree that talents are of the utmost importance to Hong Kong, as well as the foundation for the competitiveness of Hong Kong in the future. Moreover, countries around the world are now fighting for talents, as well as fostering talents. And it is the wish of countries around the world to enhance their own competitiveness through the fostering of talents and development into a knowledge-based economy. Everybody, including high-ranking officials, holds the same opinion. I believe the Secretary will not deny this fact. Every time when issues concerning the economy of Hong Kong are raised, the yearning for more talents is repeated.

However, Secretary, there is one point I find it difficult to understand, that is, when every one of us, including government officials, has agreed that Hong Kong is in great need of talents and a larger number of pillars for our future economy have to be erected, why has the Government not acted towards this end by increasing the number of university places? I find this most incomprehensible.

Well, has the Government and even every one of us suffered schizophrenia? Mr Donald TSANG has made a strong impact on me recently by saying Hong Kong could no longer stand second-class talents. I am actually not too happy with his comment. In my view, it is very disgusting and offensive, implying that people like us now are rubbish. However, in my view, if the HKSAR Government has this opinion, it implies that it is a second-class government that allocates second-class funding and offers second-class subsidized university places. But it demands first-class talents and cannot stand second-class ones. The Government itself is second-class. Then it opines that the talents of Hong Kong are second-class. I think this is really offensive and illogical.

Should the SAR Government consider the fostering of talents in Hong Kong is essential, it should stop the allocation of second-class funding and the

provision of second-class university places. Members must not forget that the target of 18% of students having university places was set 18 years ago. The target was not achieved until 1994 or 1995, which means no progress whatsoever has been made over the past 10 years or so. I really cannot understand: How can this do justice to the reunification? The Government is now organizing the reunification ceremony to celebrate the reunification, saying concerted efforts will go into making Hong Kong a success. However, regarding this very basic issue, why has no progress whatsoever been made so far? I find it really difficult to understand. And I think the Government is utterly irresponsible.

Deputy President, another big problem is that the Government has often cited finance as the reason of finance. Will the Secretary later tell us that the provision of a larger number of post-secondary places is impossible because of financial reasons? If this is the case, again I find it difficult to understand. The budget has just allocated \$20 billion for various tax cuts and rates concession. Such a short-sighted allocation of \$20 billion is spent in order to give the public the impression that more money will go into their pockets this year. However, I think the people of Hong Kong are not so short-sighted. If they are told the money is used as investment in university education, I believe they will not say, "Are you crazy? We want those moneys immediately. We want them immediately into our pockets. We do not want to invest in the future." I am very confident of this. In fact, the greatest concern of all the parents in Hong Kong is their children's education. Nobody will disagree to spending more money on their children's education. However, for some unknown reason, this Government has so far been unwilling to increase the number of university places.

Of course, the Government has not increased the number of university places. But the Secretary will explain later that although the number of university places has remained unchanged, the target of 60% of students having access to post-secondary education has been achieved. Right, 60% of students have actually had access to post-secondary education. But the Government has pulled the wool over our eyes because the majority of them have only enrolled on associate degree programmes. The number of associate degree places has amounted to 30 000-plus while the number of university places has remained at only 14 000. However, does the associate degree have its worth? I dare not say that the associate degree does not have its worth. But the trouble is the associate degree has not been widely recognized by employers. Its qualification is "caught between the two ends". When someone asks: Do you have a degree?

If you say no, employers requiring their employees to have a degree will not offer you the job. To employers not requiring candidates to have a degree but satisfied with a Secondary Six or Secondary Seven graduate, the qualification of associate degree is meaningless to them. Associate degree graduates will question: If Secondary Six or Secondary Seven graduates are eligible for the job, but they themselves have actually acquired associate degree qualifications, then what is the point for them to enrol on these programmes?

What exactly is the dearest wish of those students who have enrolled on the associate degree programmes? We have to understand that it is not their dearest wish to find a job immediately after graduation, but to pursue further studies through the pathway offered by the associate degree. I have learnt from some associate degree students that during the promotion of some associate degree programmes, they were told 70% of the associate degree graduates would attend universities. I told myself that the person saying that was really irresponsible. How did they come up with the figure of 70%? It turned out that those going overseas have also been counted. When more well-off students who can afford overseas studies are counted, the figure has added up to 70%. However, the number of students who can really attend local universities has been shamefully small. Among the 30 000-plus students, only 800-odd would get such places, which means only 3% of the students can attend universities. In fact, the figure itself has given the public an impression that the Government itself has had little regard for associate degree students, offering them no opportunities to pursue university education. Today, they are holding a demonstration outside with lots of placards. There is one with the word "rough" on it. But "rough" is actually not too bad because there is at least a chance to attend universities. Another placard is more direct with the words "Stop! Further education is out of bounds!" that mean they can actually go no further. They only wish the door will be open to them. In fact, given the Government's present robust financial position, this is the golden opportunity for an increase in the number of university places to allow more associate degree students to pursue further studies. I believe only in this way can the education needs of Hong Kong people be satisfied.

Thank you, Deputy President.

MR JASPER TSANG (in Cantonese): Deputy President, from the speeches several colleagues have just delivered, we can see that it is actually very easy to

give reasons to support an increase in the number of university places in Hong Kong. The placards mentioned earlier are actually brought along by students with an urgent need for an increase in the number of university places. They are students enrolled on the associate degree programmes.

As pointed out by several colleagues earlier, in addition to the associate degree students, our senior secondary graduates, that is, the large number of students completing the secondary curriculum every year, equally have this need. In fact, their examination results have attained the level that qualifies them to enrol on degree courses. But they have been denied the opportunity. Along with the imminent reform of the academic structure, that is, the implementation of the "3-3-4" academic structure, such a need will only become greater because all primary students will then go straight through to Secondary Six after entering secondary schools. With the absence of the selection at Secondary Five, the scenario of only a small number of students having access to matriculation and university courses will cease to exist. Therefore, the need will only grow in the future.

Apart from the need of the students and the wish of the young people to pursue further studies, when we look at this issue from another perspective, the Manpower Projection conducted by the Government has also found that in our manpower market, workers with high academic qualifications have actually been very small in number, inadequate and in serious shortage. However, workers with high academic qualifications such as degree or above will only be increasingly short in supply while the demand will be on the increase.

The Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) strongly supports the development of Hong Kong into the education hub of the region that will attract talents outside Hong Kong to pursue tertiary education here. But the premise is, of course, not to deprive local students of tertiary places. Right? Therefore, the number of places must be increased. To say that we have to raise the ratio of non-local students in local universities, it should not be achieved through a reduction of the number of places for local students. Instead, the overall number of places must be increased to meet both the domestic and external needs.

For this reason, no matter which perspective we take, whether it is from the need of our young people to pursue further studies, the need of the associate degree students, the shortage of talents with tertiary education qualifications or

the development into the education hub of the region, it boils down to the fact that the existing number of university places in Hong Kong — let me say it more clearly, that is, the places for courses above the degree level — is been inadequate. I think there is no question about this. The number of places is definitely inadequate. I think it is very difficult for the Secretary to stand up and say, "This is not the case. The existing number of university places in Hong Kong is adequate." I think it is very difficult for him to do so. The problem is: If we agree that the number of university places is inadequate, how can we offer adequate places? What exactly does adequate mean? How many places are considered adequate? How can these places be provided?

Several colleagues have just pointed out that the existing number of 14 500 places was set in 1989, which means it has remained unchanged for 18 years and the growth rate in the past 18 years has been zero. However, if two more years are counted, that is, when compared to the situation in 1987, the average growth rate in the past 20 years has amounted to 20%. Why? Because the rate sharply rose from 4%, 5%, that is, below 5% in 1989 to 18%. After the sudden sharp rise at the time, it has come to a halt. Therefore, if we say that there have been no changes in 18 years, we are looking at the issue from only one perspective. However, if we look at it more clearly, the problem lies in the halt after the sudden great leap forward 18 years ago.

In my view, no attempts have been made in the past to assess Hong Kong's investment in tertiary education exactly from a long-term perspective; a manpower and planning perspective.

In the '70s, the expansion of our basic education was caused by political reasons. On the one hand, the social unrest and riots at the end of the '60s forced the British Hong Kong Government at the time to decide on the investment of more resources in teaching students, in order to reduce social conflicts. Subsequently, the accusations of the European countries against us of allowing children to work in factories again forced the Government to round up all students and prohibit them from work until reaching the age of 15. For this reason, the Government at the time suddenly abandoned the policy of the non-provision of inexpensive education and instead introduced the nine-year free education plan overnight.

At the end of the '80s, what actually caused the sudden great leap mentioned earlier? The answer is again political reasons. The drain of talents

from Hong Kong, that is, the departure of all those with university qualifications, after the reunification and the subsequent 4 June incident forced the authorities at the time to expand university education all at once. However, it was entirely not based on an assessment of our manpower needs in a long-term and scientific approach. It was not the case then.

I think this is the time to look back. At present, the number of university places of Hong Kong is inadequate. However, in the expansion of the number of university places, how can private resources be involved? The DAB supports the original motion moved by Mr CHEUNG Man-kwong, as well as the amendment moved by Mr Andrew LEUNG that suggests the involvement of private resources. Apart from privately-run universities, how can subsidized universities involve more private resources? It is necessary to look into this point. Then exactly how many places are needed in a year? How many places should be provided for local students? How many places are expected in the development of the education hub of the region? We think overall planning is called for. Therefore, in view of this, we give our support to Mr Andrew LEUNG's amendment. Thank you, Deputy President.

DR FERNANDO CHEUNG (in Cantonese): Deputy President, I speak in support of Mr CHEUNG Man-kwong's original motion.

Of course, I also have to declare my interest as one of the teaching staff of The Hong Kong Polytechnic University (PolyU). Therefore, under the existing policy on tertiary education, I am both a beneficiary and a victim. I am a beneficiary because students of Hong Kong at least have access to university education. There are eight major tertiary institutions in Hong Kong and I have had the opportunity to be one of the teaching staff. I am a victim because the Government has constantly cut resources for tertiary education over the years, and the resources have been cut to such a great extent that it is something out of the ordinary.

In the face of the tightening of resources, we have tried our best to maintain the quality of education. At the same time, in the face of a great number of students failing to gain access to education, we have witnessed today's tertiary education taking a commercial turn. Many of the managerial and even front-line staff in the education sector have changed their way of thinking. Instead of looking into how to be a better teacher; how to enhance by all means

the quality of teaching every day; how to improve knowledge through spending more time on research, they are now considering how to get resources to develop the market; how to keep their own jobs; how to further expand the departments; how to enable universities to gain a strong foothold in different domains, so as to avoid the threat to our overall existence due to the constant resource cuts.

This motion of Mr CHEUNG Man-kwong is actually very clear and simple. A number of colleagues have already mentioned that the number of 14 500 first-year first-degree places have remained unchanged for a period of as long as 18 years. Today, when we venture into the 21st century, is it adequate to have 18% of young people of the relevant age cohort having access to subsidized university education? Perhaps, speaking more broadly, other than this level, what is the overall direction of our existing tertiary education?

Over the past few years, the SAR Government has actually played a trick by substantially raising the age participation rate of tertiary education and cutting resources at the same time. Our Government has currently over achieved the target which was first scheduled to be achieved within 10 years. It was TUNG Chee-hwa's words then that the target would be achieved within 10 years. It seems that the Government has over achieved the target ahead the schedule by more than half by the constant resource cuts mentioned earlier. The resources were cut 10% at first and continued to be cut subsequently. Given different forms of resource cuts, different institutions have faced different cut levels. Take the Baptist University as an example. When facing some labour disputes years ago, President NG categorically told the Legislative Council that they were facing a cut in resources at around 20%. As the resources for higher diploma and diploma courses of the City University and PolyU have substantially been cut, these two institutions have faced a cut of over 20%. Regarding The Hong Kong Institute of Education, the rate of cut has even been a lot higher. Therefore, it is a very high rate of cut in resources we are now talking about.

In the meantime, our Government has been developing a new market. Then it said although various major institutions had to face a cut in resources, it did not matter because they could launch new self-financing associate degree programmes which would greatly increase the student intake as well as the tuition fees charged. Deputy President, for this reason, the department in which I am now working has allocated considerable resources to the design of

these new programmes in order to launch self-financing associate degree programmes. Even the existing teaching and general staff have been deployed in these services.

Doubtless the increase in the number of associate degree places in the past was indeed like a great leap forward as mentioned by Mr Jasper TSANG. If he regards the few years after 1989 as a great leap forward in our tertiary education, these past few years were also a great leap forward in our tertiary education. However, this latter great leap forward has been made despite the cut in public resources by increasing the number of associate degree places from thousands to tens of thousands in a span of three short years. Members may give this a thought: How can the quality of services be maintained for a development of such a scale? In fact, frankly speaking, Deputy President, the momentum behind the development of these new programmes has actually come from the fight for survival of universities. Issues such as the quality of programmes, the actual pathway for students and the social recognition after graduation have all been secondary rather than prime considerations. Therefore, the interests of the students have definitely not been taken into account in the overall concept under the existing financial arrangements.

A number of colleagues have spoken on this motion. Today, we have actually reached a stage that warrants an overall review of our tertiary education. We should no longer be restricted by the past budgetary practice of the issue of an envelope. Instead, the actual social needs should be taken into account. Students should not be regarded as the so-called clients, for they are not manpower resources but our future.

DEPUTY PRESIDENT (in Cantonese): Your speaking time is up.

DR YEUNG SUM (in Cantonese): Deputy President, since the Government's announcement in 2000 of the target to raise the age participation rate of local tertiary education to 60% within 10 years, the said rate has experienced a rapid expansion in five short years, rising twofold from 33% in 2000 to the present 64%. However, while the Government has put forward such an ambitious target, it has refused to make any additional commitment to universal tertiary education — what I mean is additional financial commitment. The rigid

adherence to the placing of a cap of 14 500 on the number of first-year degree students enrolled each year — it is common knowledge that this figure was primarily proposed by David WILSON in the '90s — has made the number of students having access to local subsidized degree courses stand at the level of the '90s, which only represents around 18% of the population of the relevant age cohort. As a result, these additional post-secondary students can only enrol on the self-financing sub-degree programmes offered by various institutions. In fact, since the target of raising the age participation rate of tertiary education to 60% was announced, a number of post-secondary institutions have engaged themselves in the keen competition of this huge market, resulting in the mushrooming of the relevant programmes.

Deputy President, however, this self-financing-led model has produced a lot of problems, namely, the burden on students has become heavier due to the expensive tuition fees, the employment of teachers has been forced to "make a compromise" due to a lack of government subsidies — resulting in different degrees of criticisms of the quality of and recognition for the programmes. This has adversely impacted on teachers teaching these programmes, students enrolled on these programmes and even the community. Moreover, this has also run counter to the original target of enhancing the manpower standard and maintaining the competitive edge of Hong Kong through universal tertiary education.

A more serious problem is the situation of "either unfit for a higher position or unwilling to take a lower one" faced by associate degree graduates. As the history of the programmes are much shorter than that of the higher diploma programmes in the past, the qualifications conferred have not been widely recognized by employers. Moreover, as the associate degree programmes have not reached the degree level, students have encountered a lot of difficulties and setbacks during job search. When Liberal Party Chairman James TIEN recently talked about the issue of associate degree, he pointed out that as the students were not university graduates, employers did not know what terms of employment should be offered to them.

On pursuing further studies, they have similarly encountered hurdles. As the annual intake of first-year degree students has been fixed, the number of university places offered to associate degree graduates has been very limited. Even though an additional 1 680 publicly-funded places have gradually been created for associate degree graduates since the 2005-2006 academic year — I

think the Secretary himself will mention these figures later — these places have been no more than a drop in the ocean, which are practically impossible to meet the huge demand of over 20 000 — I must stress that it is over 20 000 — associate degree graduates each year in pursuing university education. Even though an additional 2 000 places will be provided between the 2006-2007 and 2010-2011 academic years according to the proposal put forward by the Government in 2006 to the Panel on Education, the serious shortage of university places will not be alleviated.

The ratio of university students to the youth population of Hong Kong has been relatively low, standing at only 18%, when compared to the 30% to 40% of other advanced countries such as Japan and the United States. This has shown that there is indeed room for increase in the number of local university places, particularly when Hong Kong is evolving into a knowledge-based economy, a trend that has gained the strong support of different parties and groups. We actually need a lot more professional talents in society.

The Legislative Council passed in May last year the motion of "Strengthening the development of post-secondary education and upgrading the quality of sub-degree courses" moved by Mr CHEUNG Man-kwong. One of the proposals in the motion urged the Government to create additional articulation places to allow outstanding sub-degree graduates to pursue subsidized degree courses to eliminate the bottleneck in pursuing further studies. It is evident that Members have long reached a consensus on an increase in the number of local university places, therefore, I also support the amendment moved by Mr Andrew LEUNG.

Given the imminent implementation of the "3-3-4" academic structure, it is necessary for the universities to expand their own facilities to accommodate a larger number of university students. They may not be able to cope with both the needs of the sub-degree graduates and the additional degree students at the same time after the reform of the academic structure. Therefore, the following three points are proposed for the consideration of the Secretary:

First, it is definitely an increase in the number of local university places to allow outstanding sub-degree graduates to attend local universities. The existing 800-plus places have been far from adequate; second, it is the provision of non-publicly-funded programmes for these students, including degree courses offered by local privately-run universities, those jointly run by local institutions and overseas universities, as well as those offered by universities in other

countries that have to be pursued overseas; and third, it is the further discussion between the Secretary and the Financial Secretary about whether sub-degree students can be offered the terms of assistance in the Local Student Finance Scheme which caters for publicly-funded courses to allow students passing both the means and asset tests to receive grants to pay for the enrolment on non-publicly-funded programmes, as well as tuition fees and other learning expenses. Moreover, students can also take out a low-interest loan with a fixed interest rate per annum to pay for their living expenses, so as to reduce the burden of sub-degree graduates in pursuing further studies.

Deputy President, to put it simply, the Government has over achieved the target of raising the age participation rate of post-secondary education within five years. However, these students have to face the situation of "either unfit for a higher position or unwilling to take a lower one". I hope the Secretary will eliminate for them the bottleneck to university education as soon as possible. And as proposed by Mr CHEUNG Man-kwong, these students should be offered the same financial assistance as are the general local university students. Although the Financial Secretary did not include the proposals of the Democratic Party in the Budget just passed, we hope the Secretary will further discuss this issue with the Financial Secretary to facilitate the expeditious implementation of the proposals in the next financial year. With these remarks, I support Mr CHEUNG Man-kwong's original motion and Mr Andrew LEUNG's amendment. Thank you, Deputy President.

MS AUDREY EU (in Cantonese): I very much agree with what Mr LEE Cheuk-yan has just said in his speech, that it is a bit sad for Mr CHEUNG Man-kwong to move this motion today because it is really unnecessary for him to do so. Why did I make such a comment? Because the Legislative Council has already reached a consensus on this. From the speeches of Members, we are aware that a broad consensus has practically been reached and the issue has been under discussion for years.

It is unreasonable not to raise the number of 14 500 over the past 10-odd years. However, Deputy President, I recall when I put this question to the then Permanent Secretary Fanny LAW in this Chamber several years ago, her response gave me quite a shock. She pointed out the reason why the number of 14 500 places should not be increased. It was because "any further selection was impossible". She said the quality of the students was simply not up to par for university education. I have no idea whether this response reflected her

similar view of teachers, regarding all of them as "stupid". Therefore, sometimes when I come across this issue, I have no idea whether it is a matter of resource or aptitude from the Government's view.

Deputy President, in fact, the Government has all along been aware of the shortfall in the university admission rate of Hong Kong. The Report on Manpower Projection released in 2003 projected that by 2007, there would be a shortage of 36 500 graduates with a first-degree or above in our manpower market. Moreover, the latest paper of the Commission on Strategic Development has indicated that only 12.3% of our local labour force aged 25 or above has acquired degree qualifications. Although we have prided ourselves on the status of an international financial centre, when compared with the 23% and 30% of London and New York respectively, there is definitely an obvious need for us to increase the number of university places.

Of course, I also very much agree with Mr Andrew LEUNG's amendment. In fact, in addition to the education sector, other sectors such as the business sector have also been talking about the development of Hong Kong into the education hub of the region, in order to promote the internationalization of post-secondary institutions; to broaden the outlook of local students; to attract overseas talents to study and work here, as well as to help Hong Kong develop into an international city. However, every success lies in an increase in the number of university places, and a simultaneous increase in the number of university hostel places is definitely essential.

It is common knowledge that we have a serious shortage of university hostel places. At present, there are 21 400 publicly-funded student hostel places. However, by the 2007-2008 academic year, a shortfall of 6 300 publicly-funded hostel places in various post-secondary institutions has to be met to reach the required standard of the UGC. Along with the implementation of the "3-3-4" academic structure reform, it is necessary for post-secondary institutions to have an additional 2 200 subsidized student hostel places available in the 2012-2013 academic year.

Although the Government has successively allocated land in recent years to assist institutions in building student hostels, the shortage of 3 900 hostel places has to be solved before the need arising from the "3-3-4" academic structure reform can be met. However, the relevant authorities have so far

failed to undertake to make up for the shortfall before introducing the new academic structure.

Moreover, a number of Members have spoken on issues relating to associate degree. Mr Jasper TSANG has forcefully pointed out in his speech earlier that the great leap forward in education has mostly stemmed from political reasons. This reminds me not long ago when President Edward CHEN of the Lingnan University compared the growth of the associate degree to "the great movement of producing steel; the great leap forward", the Secretary reacted strongly then and criticized President CHEN for talking nonsense probably due to his liaison with the Civic Party. Therefore, when I heard Mr Jasper TSANG also compare it to "the great leap forward", I immediately related his view or speech to that of President Edward CHEN.

When we were on the way into the Legislative Council Building today, we saw a large number of associate degree students hold numerous placards up outside, such as "No way to further education" — Mr WONG Kwok-hing also held up earlier the placard he received — which has precisely reflected the general aspiration of many associate degree students. At present, we have over 30 000 associate degree graduates each year. But the number of second-year articulation degree places stands at only 947. Even if the number of third-year degree places is also counted, the articulation rate with local subsidized degree courses of associate degree students is only 3.8%.

The low recognition for their qualifications and the slim chance in pursuing further studies have always troubled the associate degree students. Of the 1 348 associate degree students surveyed by the Alliance for the Concern of Sub-degree Education at the end of last year, 70% of them commented on the small number of articulation places; 56% on the low recognition for their qualifications and 46% on the poor quality of the programmes.

Moreover, it is necessary for institutions launching self-financing sub-degree programmes to take out a government loan ranging from \$1.2 billion to \$4.2 billion for the construction of campuses and the start-up of programmes. In order to repay the loan, institutions have drawn around 30% of the tuition fees of every associate degree student for this purpose. In a twisted sense, the students have shouldered the "mortgage repayment" of the universities, and this has, in turn, made a direct or indirect impact on the quality of the programmes.

Although the Joint Quality Review Committee responsible for the review of the quality of self-financing associate degree programmes began last year the process of examining the quality assurance mechanisms in place in the eight major institutions in respect of the associate degree, long-term speaking, consideration should be given to the establishment of an independent mechanism to handle complaints concerning violation of the quality assurance mechanisms of the institutions.

To conclude, given the surplus of the SAR Government — not only the present surplus, but also the estimated surplus in the next four years — we have adequate reserve funds for the provision of quality university education. In this regard, the community plus the Legislative Council have reached a very strong consensus. Therefore, I very much hope that the Secretary will bring us good news later in his response. It is hoped that both the associate degree students and the local talents will see an upgrading. Thank you, Deputy President.

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

MR LEUNG KWOK-HUNG (in Cantonese): Ms Audrey EU said there would probably be good news — no news is good news — I think the Secretary fully understands its meaning.

In fact, I think the Secretary is quite innocent in attending this meeting because he is just a successor, right? This policy on university education is not necessarily formulated by him. But he has enforced it in a vigorous manner. Perhaps he has to enforce the policy even if he does not agree with it. I hope he will explain himself later. He might as well speak up if there are policies he neither wishes to enforce nor approves. This forum of the Legislative Council is free of charge with a high rate of live broadcast. If he makes no responses, I cannot help but assume that is his view unless he submits his resignation. I have no choice but to speak plainly.

I have listened to Secretary Jasper TSANG's views — no, it should be Mr Jasper TSANG. I have addressed him like he is going to be a Secretary in future. However, he has really got an air of a government official in presenting every practical issue in a vague manner. Mate, it is very obvious that the

education system under the British Hong Kong colonial rule was for the elites. This is because colonialism attached great importance to the training of elites to keep the colonial system running, no matter whether they are civil officials, civil servants or members of the business sector. This group of people enjoyed every privilege when they were studying or once completed their secondary schooling.

This system was definitely unsatisfactory. But the introduction of reform to this unsatisfactory system does not mean the credit should go to the British Hong Kong colonial system: Reform was inevitable as our economy had gone through restructuring. What we are now talking about is the education reform in 1989 (I believe Secretary TSANG — Mr TSANG — has forgotten the 4 June incident. He has only had the education reform imprinted on his mind now), the introduction of this education reform was inevitable. It was necessary for this education reform to take a great leap forward because similar to the rose garden plan, there were admittedly objective needs to tie in with the economic development, as well as political concerns to maintain the stability of Hong Kong and provide it with reassurance in the fostering of more talents to embrace future changes. And all these were subject to political restraints. However, when the improvement in social welfare was being drawn up at that time, the Chinese side cried a halt and even made the comment of "causing the car crashed and the passengers killed".

We are now reunited with our Motherland. After the reunification, has the policy on education been discussed? Secretary TSANG — no, Mr TSANG — has told us that a long-term planning for manpower resources is necessary. I think he is really like a businessman. I have never heard of any education policies of any countries that are simply manpower-resource-oriented. In fact, not to use means to use; it is the base of different uses. University education is just a basic step in fostering the knowledge and character of an individual. His view can only apply to the studies of an increasingly advanced and sophisticated nature, as well as technology-related knowledge.

In other countries, university education has naturally been regarded as a welfare benefit. No matter whether students gain access to university education through the school, the associate degree or other channels, it has actually been a welfare benefit for them. Our Government should give this a thought. What I mean is: Hong Kong is an affluent city. But is it possible for all those who wish to pursue university education to have a chance to do so? If this is impossible,

how can they receive education that is on a par with university standard? This is an issue. When we talk about manpower resources, mate, who will predict the turn of events in the global economy? Who will know the turn taken by the Internet 10 years later, mate? No one can tell, right?

Therefore, in my view, as a late-developing and less-advanced region, it is of the utmost importance to have a one-off lift of the qualifications of our young people, as well as to provide support both to the academically-gifted and underprivileged students. If senior secondary education is regarded as the base and degree courses as the transit, and the subsequent development spirals upwards to the so-called first-rate qualifications, the overall direction of our education policy must undergo a change. And we should not act like now — or as Mr Stanley HO said, he had given his support against his conscience for eight years, referring to the issue of "85 000". Have we Members not given our support against our conscience to TUNG Chee-hwa for eight years? Whenever he attended the Questions and Answers Session here, he kept mumbling "yes, yes", which made the Secretaries impossible to speak up as their boss replied only in this manner. When Ah TUNG, that is, TUNG Chee-hwa said, "As it turns out that our education is in such a terrible mess, we will try the associate degree and bring ourselves on a par with Singapore." Who cared to advise him against it? Who cared to vent regrets? Who cared to question the source of funding? Please do not mistake me as someone against this policy. However, if we really wished to put it into practice at the time, sufficient funding had to be made available, mate. We are now even planning to have our education system internationalized. But the resources for the overseas student intake will come from the existing rather than any additional funding. In this way, associate degree students will become victims in the story of "let them eat cake".

Should the running of associate degree programmes be continued, I think additional resources must be provided and long-term planning drawn up. As university education must be expanded, I support Mr CHEUNG Man-kwong's original motion. I wish to tell the students once again — they have asked me to show this object. Well, I can do nothing but to have it shown. I am now showing it — If a democratic system is not in place, it will go on like this forever. The Secretary is now in attendance (*the buzzer sounded*)I can speak no more.

DEPUTY PRESIDENT (in Cantonese): Your speaking time is up. Does any other Member wish to speak?

MR LEUNG YIU-CHUNG (in Cantonese): Deputy President, I recall when I was a third-year student at a British university, many of my fellow students kept looking for jobs and sending out application letters to prepare for the future. I recall an economics student cast his net very wide in his job search, even sending an application letter to the Royal Air Force. He just gave it a try and did not expect any response. Surprisingly, he was eventually invited to an interview. He wondered why an economics student was invited to an interview by the British military force which generally recruited engineers only. Therefore, he went for the interview with an unusual feeling.

During the interview, he was unable to contain himself and asked the interviewer why he was given an interview despite his economics discipline. Was it not their aim to recruit engineers? The interviewer replied: Did you think a student would be very knowledgeable after three years in the university? Did you think he could be an engineer after completing the three-year engineering degree course? The interviewer told him that newly-recruited staff had to undergo training all over again. However, they could see how much a student had acquired in respect of their way of thinking after three years in the university, that is, how a student expressed their way of thinking. The interviewer also added that in his view, the three-year degree course only helped students learn how to think. And staff recruitment should focus on the candidate's ability to think rather than his skill in using screwdrivers.

In fact, during the years at the university, the acquisition of knowledge about the course itself is not the only crucial matter. More importantly, it is the training in thinking. A pool of talents is essential to today's economic or social development — in fact, not just for economic development — of Hong Kong. However, what is the principal requirement of the talents? It is their way of thinking, which should be of prime importance.

However, it is a great pity that the overall direction of education today has often been economics-led. What are the popular courses with the students? A large number of them have opted for courses such as accounting, commerce, personnel management or business administration. Of course, the knowledge in these disciplines is essential. However, as mentioned earlier, another more important training is in the ability to think. This is what degree courses are for. But the number of university places now is scarce, resulting in the relatively small opportunity for students to receive such training. Yet this is not the

concern of many of the students. Once opportunities arise, they will try their best to grasp them. Therefore, in the past 10 years, knowing their results were unsatisfactory — no matter whether the results were satisfactory or not, as long as they failed to attend universities — some of the students were keen to enrol on associate degree programmes.

It is common knowledge that the associate degree programmes only provide a springboard for further studies such as the articulation with undergraduate courses. However, it is a great pity that our number of university places is inadequate. Then what has happened to these students? They have either found a job or given up halfway, that is, further studies have been impossible despite their acquired knowledge in the discipline. This is really a great pity. As mentioned earlier, university education is not just the acquisition of knowledge in the course. More importantly, it is the training in the way of thinking. In fact, today's society needs such talents. A larger number of people who have individual thinking and the ability to think are needed. However, should we fail to provide such opportunities, our next generation will only do as others say without their own independent thinking. This is really a great pity.

We are talking about the development of Hong Kong. However, if we lack such thinking, how can development be possible? Therefore, I think talents with an ability to think are indeed essential to the present-day Hong Kong. However, it is a great pity that we have been facing a lot of restrictions. Although we are aware that the number of university places will have a chance to see an increase in future, it falls far short of the number of matriculated students each year, resulting in their failure to have an opportunity. What is the point of wasting their time in secondary schools for several years when they have no chance of further studies?

Therefore, I hope consideration will be given to the future development of society as a whole. Not only is the training of professionals necessary, the strengthening of an individual's ability to think is also essential. Then why do we not give more students an opportunity to further their studies in universities? Why do we not provide more university places to allow them to be trained? I hope they will receive such training because it contributes a lot to the development process of an individual. However, it is the belief of the Government that students with unsatisfactory results should enrol on associate degree programmes. At present, there is actually no lack of associate degree

programmes in the market. However, it is common knowledge that different problems were found in these programmes in the past, such as their quality was varied, and students enrolled on these programmes were found lacking in various aspects.

In fact, university education does not mean the acquisition of knowledge in the course alone. In addition to training in the way of thinking as mentioned earlier, the experience of university life is very important. In fact, the experience of university life is often regarded as more important. However, at present, students taking associate degree programmes have not had much chance of experiencing a university life. Many of them have to share with other people their libraries. Some even have not their own libraries or sports centres. How can they experience a university life? A university life is important not only in training their way of thinking, but also in offering a social life to allow them to participate in various activities, so as to further their development in this aspect. However, as our young people are not given adequate opportunities, will the future development of our younger generation not be seriously hampered?

What am I trying to say today. As we are currently not lacking in financial capacity, why do we not offer students more places and opportunities in this time of affluence? This will give them more opportunities to participate in university life and gain more experiences in this aspect. And they will, in turn, contribute to the community after graduation. Long-term speaking, this is a gain rather than a loss to the community.

Deputy President, I so submit.

MRS SELINA CHOW (in Cantonese): Deputy President, we have debated in this Chamber issues relating to associate degree. Perhaps we have divergent views on issues such as the financing arrangements and the level of financial commitment, resulting in a lack of consensus in these areas. However, I believe there was a strong consensus among us about the demand for quality.

The quality of associate degree programmes are often varied. It has remained an issue to date. I think it is absolutely necessary for the Bureau to solve this problem immediately. In fact, we should bear in mind that a large number of associate degree students have to finance their own studies, and many

of them have even taken out loans for enrolment on these programmes. In case they fail to pass the means test, they have to repay a considerable amount all through the programme and even after graduation. To these associate degree students, I think the Government should at least deliver one outcome, and that is, to ensure the programmes they enrol on have reached our required standard. However, it seems that this has yet to be achieved. But this is indeed a very urgent matter.

Of course, there is another issue, that is, their further studies, and today's motion has also mentioned this. Regarding the pursuit of further studies, I think consideration should be given to the performance of the students, that is, additional public funding can absolutely be allocated to give an incentive to the outstanding and hardworking associate students to pursue further studies. I believe the nurture of talents will eventually be beneficial to our community.

In today's motion debate, Members have also mentioned that it is always the Government's intention to develop Hong Kong into an education hub. If the number of our university places is not adequate, how can this target be achieved? Under the present circumstances, we are very pleased to see that the University of Hong Kong has recently gained due recognition in the world, and it has generally been acknowledged as a university of excellence. However, apart from the University of Hong Kong, I believe other universities in Hong Kong and their graduates have also made considerable contribution to society.

(THE PRESIDENT resumed the Chair)

However, if we are intent on establishing for the tertiary education of Hong Kong a strong foothold region-wide and worldwide, further improvement has to be made in both quality of degree courses and quantity of university places. As these will affect the level of our education, it is necessary for Hong Kong, an international cosmopolis, to strive for improvement in these areas. Let us take a look at all the successful cosmopolitan cities. Their university and post-secondary education are of excellent quality, which have attracted many people to study there. After attending the local universities, they will most probably stay there to work. Even if they return to their home countries, they will maintain a very close link with these places. And what is the situation in

Hong Kong? We can see that the international outlook of many university graduates coming back from Britain, the United States and Australia has been broadened. Admittedly, it is also useful to Hong Kong. As a cosmopolis, I believe Hong Kong also aims to play this role in the international community.

President, I particularly wish to mention that education is actually not a separate sector. Instead, it is practically closely related to the development of society as a whole. In the amendment, we have illustrated this point, that is, how education is closely related to the overall development of Hong Kong, particularly to the social and economic development.

I wish to talk about talents in two particular areas, which I think more efforts do need to be made. Of course, colleagues have mentioned other areas. But I have a particularly profound feeling about this. Although the tourism industry is one of the four pillars of our economy, and there is actually a great demand in this field in our universities (we all know that as the prospects of the tourism industry are generally regarded as favourable, many students wish to take this course in the university), the demand has exceeded the supply so far, and the talents trained locally have yet to take on a significant role in the industry.

However, let us take a look at the situation in the Mainland. If we travel to the Mainland and have contact with the local tour guides, we will find the majority of them are university graduates. As they have acquired university qualifications, they have a wealth of knowledge. For instance, when performing touring duties, the information they give is never shallow or superficial. And they even have made great accomplishments in many areas such as history and literature. I think they can give tourists an impression of being educated and learned. Such an air can even change the opinions of the tourists of the other nationals of the country. I hope a greater number of tour guides with such quality will also be fostered in our universities.

Another area is in the cultural management. Our report on the West Kowloon development project has also mentioned that should West Kowloon be developed into a world-renowned cultural, performing arts and tourist attraction, twice as much emphasis must be put on the managerial talents, particularly those in cultural and art management, before their role will be maximized.

Thank you, President.

DR KWOK KA-KI (in Cantonese): Madam President, first of all, I would like to thank Mr CHEUNG Man-kwong for proposing this motion.

I started my university education in 1980. At that time, that is, when we were students, a drama was very popular — I do not know whether Members have heard of it or not — which was called "One Sixth". It was produced by the drama society of the Professional Teachers' Union. To many young people of that time, going to university was as difficult as climbing to heaven as the number of university places was scarce. The so-called "One Sixth" means one sixth of the students were able to attend the matriculation course, and among these matriculated students, only one sixth of them could have access to university education. Six times six means the chance was only one in 36. This was the social situation then. Of course, many years have passed now. The Secretary was once a Vice-Chancellor. He should know the significance of university education.

The second story is about my assistant. He is a young man coming from a poor family. And he has paid for his studies. He graduated with an associate degree two years ago. Then he waited and waited, hoping to be selected for a subsidized university place, which is like winning the Mark Six as mentioned by some colleagues. However, he has waited for two years. Every year when the results were about to be released, he used to say to me, "Mr KWOK, I will resign soon." I asked him the reason. And he said he would probably go to university. I then told him, "Well, of course you will resign if you go to university. But if you cannot do so, you may come back!" I really do not want to see him back. But he has come back every year to work as my assistant.

What we see now is, in fact, one of the examples of social division. Frankly speaking, many of my friends, or even I myself, are quite possibly capable of sending our children to universities. The academic results of our children may not be outstanding enough for them to get a subsidized university place in Hong Kong. But I believe many of us can always send them overseas for further education.

At present, there are around 25 000 associate degree places in Hong Kong. Many of these young students are actually unable to afford studying overseas. Frankly speaking, if they could do so, why did they opt for associate degree programmes in the first place? Madam President, as the Chinese saying goes,

"If the head were full of hair, no one would want to have favus of the scalp on it." This has exactly described the situation of these students. The financial situation of their families cannot afford the expenses of hundreds of thousands of dollars each year for them to study overseas. And their examination results cannot win them scholarships to support them through several years' studies. However, many of them have set their mind on university education. If they do not want to study, they might as well keep playing games in games centres or doing some other things more to their liking.

To these students, the tuition fees of associate degree programmes are very expensive. Many of them have to borrow money from their families, and their families even have to borrow money from their relatives. Also with a part-time job, they have to work their way through the two-year associate degree programme. However, after they have graduated with an associate degree, like a thunderbolt from a clear sky, they have to see if they have any means to afford further studies. They have heard that there will be good news this year from the Secretary. What exactly is the good news? At present, there are 20 000 to almost 25 000 associate degree places. The Government has confirmed an increase from 860 to 1 680 university places for the articulation of associate degree students in the coming academic year. Wow! This is an almost twofold increase. However, anyone who knows his arithmetic will reckon 1 680 to 25 000 is actually a very low percentage.

The second problem is that Hong Kong has been facing a lot of challenges in recent years, including an issue in two words called "economic restructuring". People working in every trade and industry have found the demand for competitiveness growing, making the gaining of a foothold in this competitive society much more difficult. No matter whether it is in the domestic market of Hong Kong; the link with the Mainland, or the breakthrough to the world, education is the only — the only — means to provide them with additional ammunition. However, to these people, if we refuse to give them any assistance, and instead just advise them to rely on themselves or "wait for luck", or to tighten their belt to get a subsidized place, it is virtually advising them to dream. To advise them to study overseas? This is impossible. Then what can they do? Should the Government be held responsible?

Some colleagues have pointed out earlier: Why did the Government not say in explicit terms how the aspirations of these young people for university

education would be met when the associate degree was first introduced? In fact, every associate degree student heard of the Government's undertaking to seek articulation pathways for them when the associate degree was first introduced. However, they have found out this is not the case only on completion of the programme. It turned out that it was just a false promise. I think this is very disappointing. Their present situation is actually worse than that before their enrolment on the associate degree programme because they are now up to their neck in debt after completing the programme. They are now hanging in mid-air, either unfit for a higher position or unwilling to take a lower one. If the authorities pointed out the futility at the very beginning, it was likely that they would have other plans. Perhaps they would fight for other studying opportunities, or even enrol on mentorship programmes.

However, this is not the case at present. A pretty picture has been painted for them. They have been told that they are going to have bright prospects with a post-secondary place — if not a university place — and a very good chance of attending degree courses. I think the young people have been cheated. The discussion on the faulty piling works was the hot topic several years ago. I have an increasingly strong feeling that the associate degree programme is like the faulty piling works of the education sector, which is similarly without any sources and records.

I very much hope that the Government can devise a concept with foresight that will actually help students from less well-off families and those with academic results failing to attain the university entry-level in the first-round selection. It is the responsibility of the Government to look after their needs and seek for them appropriate places. Of course, I do not object to some colleagues' proposal on providing them with some practical degree courses such as studies in tourism and culture-related industries, so as to prepare them for the job market. Should the Government keep acting willfully, paying them not much attention and leaving them to their own defence like what it is doing now, I think it is totally unjustified. Particularly when the financial situation of Hong Kong is relatively strong now, making the rendering of assistance to them possible, there is even more reason for the Government not to adhere to its current practice. In fact, the provision of subsidies such as loans alone cannot really help them. What they need is university places because it is their dearest wish to lead a proper university life.

I hope that after this motion debate, the Government will really do something in response to help as many as 25 000 young people in urgent need. Thank you, Madam President.

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

MS EMILY LAU (in Cantonese): President, I speak in support of Mr CHEUNG Man-kwong's motion.

In fact, there is no more to add, President. I believe the subject under discussion is perfectly clear. Everyone has quoted the relevant figures. So there is no need for me to repeat. Today's debate has lacked sparks mainly because, as I believe, different parties and groupings have very much agreed to the fact that the Hong Kong SAR has seriously let our young people down in this area, and the Government should allocate additional resources to render them assistance. However, when the Secretary replies later, I believe he will not give any answers to the collective and unanimous request of the Members. Therefore, this has posed a real problem. This Council represents the voices of a large number of people. Why have the authorities kept turning a deaf ear to our views?

We may refer to the answer given by the Secretary to an oral question on 14 March — We mentioned the experiences of other countries at the time, just like some Members did so earlier. But the Secretary rattled on heaps of figures as if enumerating his family valuables — he said, "You had better take a look. Among the advanced countries in Europe and America, only 13.2% of the young people aged 17 have access to university education in Denmark; 16.8% in Germany and 17% in Iceland." He told us that many countries lagged behind us. I have read the report on post-secondary education for students of the relevant age cohort in countries around the world in *The Economist* in 2006. President, in fact, it is widely believed that figures lie. The Secretary may tell us later exactly which figures are correct.

Some of the figures have just been quoted by a number of Members: It is 85% in South Korea; 83% in the United States; 77% in New Zealand; 73% in Australia; 64% in Britain; 51% in Japan; 58% in Canada and 31% in Hong Kong.

Secretary, would you please tell us what exactly the figures of 10% or so quoted by you are?

However, I believe in the view of many Honourable colleagues who have spoken earlier, we can neither catch up with the advanced countries nor the many countries who are our trading partners. Therefore, it is hoped that additional resources will be allocated to render assistance to our young people. Should the quality of the secondary students be considered unsatisfactory, more efforts have to be made, even as early as in the kindergarten. I strongly support the provision of full subsidies to kindergarten education, as well as making more efforts to improve the quality of our primary and secondary education. President, I think it is even better if the children of our government officials or high-ranking officials will have their primary, secondary and university education in Hong Kong — but the passing of laws is not required. Their decision means a vote by foot, which will indicate their degree of confidence in this system. Of course, (to me), the reality does not accord with hopes. Therefore, no matter how hoarse we shout and how strong our consensus is, what we finally get is just the total indifference of the authorities.

Two of my assistants are also associate degree students. They have felt really tired because absolutely no support has come from the authorities. One of the students even told me that the Government had actually drawn from their tuition fees the fund for campus construction. He thought their tuition fees should be used for maintaining the quality of education. Why should they help build something new? I will write to the Secretary on their behalf.

Members have also mentioned today the demonstration staged by the students outside. The students have raised one point concerning the advanced level examination in 2005. There were over 30 000 candidates sitting for the examination that year, in which 1 630-odd of them were qualified. But inadequate places were provided, making them really unhappy. They have also mentioned that there are currently over 30 000 associate degree students. But the number of the so-called articulation places is very small, merely like a drop in the ocean. President, what exactly is their wish? Of the 1 348 associate degree students from 10 post-secondary institutions interviewed in a survey conducted in November to December last year, 67.1% of them wished to pursue further studies in Hong Kong on completion of the associate degree programme. What chance will they have?

The authorities have always said that it is their policy to allow anyone who has the ability and the aspiration to study. However, as so many of them have to pay the expenses out of their own pocket, how can they pursue their studies? President, some of these students said they intended to apply for assistance but they were not qualified to do so because only full-time students of the UGC-funded universities were eligible. And they could only apply for low-interest loans at a rate of 2.5%. They were now actually repaying at a rate of over 7%, which is a very heavy burden on them. It is their hope to see an immediate freeze of the associate degree places and the end of the programmes. Instead, additional resources should be allocated to the existing university education system to offer opportunities to the capable and qualified students.

Today, the vast majority of Members spoken hope the authorities will act this way. Much to my regret, I am afraid the Secretary will not answer this aspiration.

I so submit.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): If no other Member wishes to speak, I will now call upon Mr CHEUNG Man-kwong to speak on Mr Andrew LEUNG's amendment. His speaking time is up to five minutes.

MR CHEUNG MAN-KWONG (in Cantonese): President, I support Mr Andrew LEUNG's amendment. Mr LEUNG has raised a very important point, that the eight publicly-funded universities do not have to be targeted for the purpose of increasing the number of university places, for private universities may be developed instead. Provided that there is a clear and permanent quality assurance mechanism, private universities can similarly produce talents for Hong Kong.

Mr Jasper TSANG was right in pointing out earlier that a target of 14 500 university admissions was set by the former colonial government in 1989 because

of a massive drain of talents from Hong Kong following the 4 June incident. In order to enable Hong Kong to pursue manpower development, the target was proposed. However, the target set at that time was 15 000 instead of 14 500. It was later adjusted to 14 500 for funding reasons. Yet, no one would expect that the figure could remain unchanged for 18 years and finally get out of touch with the actual circumstances of Hong Kong society.

Today, all political parties and groupings will surely agree that a breakthrough must be sought of the target of 14 500, but the problem hinges on how to achieve this. I think that we can address this problem in a number of directions. First, it is indeed necessary to increase the number of publicly-funded university places because not every Hong Kong student not admitted by local universities can afford to study abroad. Many students from grass-roots families can only rely on local universities, or even subsidized places to complete their studies. Therefore, unless the most vital channel of increasing the number of publicly-funded university places is developed, the needs of Hong Kong students and aspirations of parents will not be satisfied.

Second, the eight universities may operate self-financing degree programmes. However, these programmes should only charge a marginal fee or cost rather than a unit cost, as the marginal fee levied will at least be equivalent to the fees paid by mainland students studying in Hong Kong. Local student attending self-financing programmes offered by universities will still not be required to pay exorbitant tuition fees. Furthermore, the quality of universities is also guaranteed.

Third, private universities, a point raised by Mr Andrew LEUNG. While private universities certainly have to undergo academic accreditation, their students should be put on a par with local ones, at least being treated equally in terms of grants and loans. Even if students attending private universities have to pay their tuition fees, they should be treated fairly insofar as this point is concerned.

Fourth, if grants and loans can be provided and equal treatment given to our students, they can actually use the grants and loans to enrol at government-recognized universities to upgrade their qualifications. It is my belief that universities know no boundaries. Every talent from universities will contribute to society in the end. A person gaining good academic results in

Hong Kong can also do the same overseas. Dr SUN Yat-sen, ZHOU Enlai and DENG Xiaoping were all overseas students. However, they chose to return to Hong Kong or China to make their contribution and finally succeeded in their great careers.

For all of these reasons, I think that the paths for young people in the future are diversified. However, they must be given equal treatment and subsidy. Students labelled associate degree students should not be put in the lower level and suppressed indefinitely and be barred from rising to the top because they are discriminated against and hindered by the bottlenecks of universities. This is absolutely not the hope of Hong Kong education, parents and young people and the fortune of society.

Thank you, President.

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese):
Madam President, the SAR Government has all along endeavoured to provide diversified channels for further studies to the local young people in tandem with progress in our society and the manpower demands in Hong Kong.

In the past, the Government funded the institutions of higher learning in Hong Kong mainly through the University Grants Committee (UGC) with the provision of publicly-funded undergraduate programmes for matriculated students of the appropriate age cohort or whose academic results have met the requirements. However, with the gradual development of Hong Kong into a knowledge-based economy and as we face the challenges posed by globalization, we must have an even greater number of professionals to meet the demand of various sectors across society for quality human resources. After taking reference of the experience in other places, we understand that a dramatic expansion of post-secondary education cannot be made possible only by the input of government resources, but there must also be a pooling of the collective wisdom of various sectors across the community, together with their resources and hard work. Only by doing this can we make more students benefit. Later on, I would expound on how the Government works through the various policies and measures it has devised to increase the opportunities of local young people in pursuing further studies.

As early as in 1989, the Government noted that in order to tie in with Hong Kong's development into a knowledge-based economy, the quality and competitiveness of the local workforce must be enhanced. And one important policy is to increase the chances of local young people in receiving higher education. In view of this, we set down an objective of increasing publicly-funded first-year undergraduate places to 14 500 gradually. This will provide a chance of receiving higher education to about 18% of the students in the age group of 17 to 20 years. This target was met in the 1994-1995 academic year. At the same time, the number of UGC-funded institutions of higher learning increased from five in 1989 to eight at present.

With the rapid expansion in higher education during the 1990s, there was a consolidation period for the UGC-funded sector in the late 1990s to strengthen and fine-tune the development of the institutions in various aspects. Hence the Government decided to maintain the number of publicly-funded Year 1 undergraduate places at 14 500. Over the past decade, the number of publicly-funded Year 1 undergraduate places has been kept at a proportion of 16% to 18% of the students of the appropriate age cohort.

Some Members of the Legislative Council have expressed concern about the Government being unable to further increase the number of publicly-funded undergraduate places in recent years. In determining the approved student number targets in the UGC-funded sector, the Government will take into account various education and socio-economic factors, including the future number of students from the appropriate age cohort, the quality of student intake, developments in the higher education sector, the financial situation of the Government, Hong Kong's manpower needs and the trend in economic development, and so on. The Government will act on the UGC's advice and submit the recommendations made by UGC-funded institutions on approved student number targets to the Executive Council for consideration. The recurrent funding for the UGC-funded sector is also determined mainly by the approved student number targets.

I must stress that although the number of publicly-funded Year 1 undergraduate places has been kept unchanged during the past few years, in fact, the Government has worked through a number of channels to increase the opportunities for young people of the appropriate age cohort to receive higher education.

First of all, the Government has provided publicly-funded senior year undergraduate places in the UGC-funded institutions in order to increase the articulation opportunities for students with sub-degree or other relevant qualifications. In view of this, the Government has undertaken to provide a total of about 3 800 publicly-funded Year 2 and Year 3 undergraduate places in phases in the UGC-funded sector from the 2005-2006 to 2010-2011 academic years. If the publicly-funded Year 1 undergraduate places are added to the articulated undergraduate places, as of the 2006-2007 academic year, the age participation rate of youngsters receiving higher education would have already reached 18.8%. Besides, according to figures from the Census and Statistics Department, with the gradual decline of student population in the appropriate age cohort in the next few years, we estimate that by the 2011-2012 academic year, the age participation rate for students in the appropriate age cohort receiving higher education would further increase to 19.6%.

However, I would hope that Honourable Members would not just focus their attention on the age participation rate to the neglect of the quality of students attending universities. In fact, according to estimates worked out from the results of the Advanced Level Examinations held in recent years, only about 15 600 candidates each year met the basic entrance requirements for admission to UGC-funded institutions. Therefore, the present number of 14 500 Year 1 publicly-funded undergraduate places would have met the need of an overwhelming majority of students who meet the basic entrance requirements for enrolment on undergraduate programmes. I notice that some members of the public may hold different views and think that UGC-funded institutions are cradles which nurture elites in society and they are bases for academic research, so the standard of excellence in the institutions must be upheld. It follows that the quality of student intake is a most important link. They are thus worried that a further significant increase of places for publicly-funded undergraduate programmes would force the institutions to lower the standards required for admission. On the major premise of maintaining student quality, we cannot make the rash decision to increase by a significant rate the places of publicly-funded undergraduate programmes. This will prevent the quality of local institutions and their international reputation from being compromised.

Apart from the problem of maintaining student quality, an increase in publicly-funded undergraduate places would also involve a large amount of

public resources. At present, the SAR Government's expenditure on education has already taken up 23% of its recurrent expenditure and the annual expenditure on higher education amounts to more than \$10 billion. If we increase the undergraduate places by a significant rate under the present mode of funding, it will certainly exert a heavy burden on public finance. In addition, given the fact that public resources are limited, we cannot rely on publicly-funded places alone to meet the demands for post-secondary education in society.

Having said that, we understand that the young people have an ardent demand for undergraduate places and we agree that the Government must continue to work hard to increase their chances of receiving post-secondary education in order that Hong Kong can maintain and upgrade its competitiveness. As pointed out by Mr Andrew LEUNG in his amendment, the provision of university education should not be confined only to publicly-funded programmes, private universities and self-financing programmes should also play an important role. Hence, the Government in recent years has opened up channels in founding post-secondary institutions and encouraged post-secondary institutions, private organizations and other educational bodies to provide alternatives to publicly-funded higher education, in order that a flexible and diversified higher education system can be built in Hong Kong.

In 2000 the Government set the target of enabling in 10 years' time 60% of the students from the appropriate age cohort to receive post-secondary education. In the process of developing self-financing post-secondary education, the Government has not only been playing the role of an advocator, it has also put in a great amount of resources to support the development of the sector. Such measures include the setting up of a loan scheme valued at \$5 billion to assist the institutions in offering courses and also a land grant scheme which helps sponsoring bodies build campuses. Also, we have introduced an accreditation grant scheme to fund the accreditation expenses of the self-financing institutions. Also, the Government also provides student assistance to self-financing post-secondary students to help them pursue self-financing associate degree and degree programmes.

The development of self-financing post-secondary education has been rapid over the past few years, hence the age participation rate has been raised to more than 60%. This has enabled us to achieve the policy objective set down in 2000 five years ahead of schedule. We are now undertaking a second phase

review of the post-secondary sector with the aim of making specific recommendations on the long-term and healthy development of the self-financing post-secondary education sector. Apart from providing associate degree places, various post-secondary institutions provide a total of about 2 300 self-financing Year 1 undergraduate places and 1 500 articulation undergraduate places. Through the publicly-funded and self-financing degree and articulation programmes, presently our post-secondary education system has offered the opportunity of enrolling on undergraduate programmes to about 23% of students of the appropriate age cohort. These self-financing post-secondary programmes and publicly-funded degree programmes will serve to complement each other, thus inducing greater flexibility and diversity in our higher education. Also, aspiring students are offered various channels to further their studies, thereby enabling them to make a choice according to their interests, abilities and needs. I believe there is still great room for development in both the degree and articulation degree programmes in the self-financing sector.

Now there are two local universities that operate under a self-financing mode. They are The Open University of Hong Kong (OUHK) and the Hong Kong Shue Yan University which was granted university status last year. The two universities are committed to providing quality higher education to students. The Government is very supportive of the development of non-publicly-funded and private universities. We have all along been providing appropriate financial support to OUHK. About two weeks ago, we gained the approval of the Finance Committee of the Legislative Council for funding worth \$62.8 million to be made to OUHK to set up a Centre for Innovation. In January this year, we gained the approval of the Finance Committee for a funding of \$200 million to be made to the Hong Kong Shue Yan University to enable a development fund to be set up. The Government will continue to encourage the development of private and self-financing universities in Hong Kong so that there can be greater diversity in the local higher education system to benefit more students.

Apart from publicly-funded and self-financing degree programmes offered by local institutions of higher learning, there are also many non-local degree programmes offered by non-local institutions in Hong Kong. At present, more than 350 non-local degree programmes are offered in Hong Kong and these serve to provide a significant amount of opportunities of further education for secondary school leavers or graduates of associate degree programmes who want to pursue a degree.

To enable Hong Kong to stay competitive, apart from increasing the opportunities for local young people to further their studies, it is very important to attract outstanding talents to study in Hong Kong. The amendment moved by Mr Andrew LEUNG proposes that more opportunities should be given to non-local students to attend universities in Hong Kong so as to facilitate Hong Kong's development into an education hub of the region. In last June, a motion was passed in this Council to urge the Government to conduct a review of the existing policy and to devise relevant measures to attract non-local students to pursue studies in Hong Kong. In general, we are very supportive of the amendment moved by Mr LEUNG and we will promote this policy objective in a number of areas.

Actually, over the past few years and on the major premise that the opportunities to pursue further studies by local students will not be affected, we have gradually raised the percentage of non-local students in the post-secondary institutions. At present, there is no quota and immigration control with respect to graduate programmes and non-local students can come to Hong Kong freely to pursue a course of study. As for other publicly-funded programmes, the proportion of non-local students as a share of the total number of publicly-funded places has increased drastically from 2% in 1993 to 10% at present. Now there are students from the Mainland, Macao and Taiwan studying here in publicly-funded post-secondary programmes. And the arrangement for these students is similar to that for overseas students. These measures would help encourage the institutions to attract more outstanding non-local students to come here to study.

As for self-financing post-secondary programmes, there are no restrictions on the number of overseas students admitted. Starting from the 2005-2006 academic year, the self-financing institutions are allowed to admit students from the Mainland, Macao and Taiwan to enrol in associate degree programmes or those at a higher level. Initially, the institutions may admit non-local students up to 10% of the actual number of local students admitted in the same programmes during the previous academic year. Also, we have relaxed immigration control to enable non-local students to stay here for a longer period so that they can continue to pursue their studies in Hong Kong. After they have finished their full-time post-secondary programmes in Hong Kong, they would normally be granted approval to stay longer to enrol on another full-time programme at a higher level.

After relaxing the restrictions on the admission of overseas students, various institutions have been actively promoting their programmes both abroad and on the Mainland in a bid to attract non-local students. In the 2006-2007 academic year, a total of 6 200 non-local students are enrolled on various programmes at different levels in the eight UGC-funded institutions, taking up 9% of the total student population.

The SAR Government has set up a high-level steering committee to study the overall strategy and related measures. The topics to be looked into include immigration control policy, student hostel facilities, financial commitment, and so on. The steering committee when studying these topics will make an effort to balance the opportunities of local students in pursuing post-secondary programmes and it will consider carefully the impact of these recommendations on society as a whole.

The Government is determined to provide quality higher education for the young people of Hong Kong. To this end, we are working hand in hand with the education sector to make preparations for the new "3-3-4" academic structure to be implemented in 2009. In line with the four-year undergraduate curriculum to be implemented, the UGC-funded institutions will add one academic year to their undergraduate programmes starting from 2012. Precisely because of this, the institutions are busy planning to devise admission criteria and programme contents under the new academic structure, as well as planning the works projects for the additional teaching and hostel facilities to cope with the needs of the larger student intake. I think for the higher education sector, getting ready for the "3-3-4" academic structure is the most pressing task at hand and it should be given top priority.

The Government will continue to keep a close watch on the developments across the higher education sector to ensure that it will meet the learning needs of students as well as the manpower needs of Hong Kong. On the one hand, we will review the levels of approved student number targets when considering the funding recommendations submitted by UGC. On the other hand, we will keep a close watch on the developments in the local self-financing higher education sector and adopt suitable measures in order that more effective support can be given to the long-term and healthy development of self-financing higher education. At the same time, we are looking into the strategic matters related to the development of Hong Kong into a regional education hub and how policies and measures should be devised to this end.

We share the same goal with the public and, that is, to enable students to receive education of a higher standard and better quality. We will take into account the different needs and abilities of students and offer all-round and diversified channels of learning to those who aspire to pursuing further studies.

Thank you, Madam President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the amendment moved by Mr Andrew LEUNG to Mr CHEUNG Man-kwong's motion be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

PRESIDENT (in Cantonese): I think the question is agreed by a majority 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 amendment passed.

PRESIDENT (in Cantonese): Mr CHEUNG Man-kwong, you may now speak in reply. You have two minutes 32 seconds.

MR CHEUNG MAN-KWONG (in Cantonese): To begin with, President, I would like to respond to a remark made by Secretary Prof Arthur LI, that the paramount consideration is quality if a young person is to be selected for admission to universities. I fully agree with this point. However, the Secretary then went on to say that the number of young people who have passed the examination for university admission was 15 600, only 1 100 more than the admission target of 14 500. His remark simply implies that the number of university places provided is sufficient. Another viewpoint concerns a remark

made by Mrs Fanny LAW, as quoted by Ms Audrey EU, that no more students could be selected. Even if the Administration was compelled to conduct another round of selection, only 1 100 more students could be admitted at the most. However, would it be bad for 1 100 more students to be admitted? The Government can then break the figure of 14 500 by simply doing this.

Second, whenever we criticized the quality of associate degree students, the Government would invariably tell me that many associate degree students when offered a second chance were actually qualified for admission to universities, that they were excellent students and their credits were very high. If it is admitted that associate degree programmes are sought to offer young people a second chance and the quality of the young people is good, why can more of them, in addition to 14 500 other students, not be given a chance for admission to universities?

Purely on these two points, the number of university places should be increased. My motion today has made it clear that associate degree students attending universities must meet the requirement that they are of good quality. I am not saying that all the 30 000 associate degree students can be admitted to universities. However, the present situation is that both quality students and high-achievers are not offered a second chance to be offered a place in universities, or publicly-funded universities. Insofar as this point is concerned, I find the system extremely unfair to them, not to mention those who are qualified. Even the 1 100 students found to be qualified in the first round are not offered a chance to attend universities.

Furthermore, a key objective of the present education reform is to upgrade the quality of students to enable them to attend universities. Therefore, the Administration should not restrain our students and say that no more students can be selected. Instead, the Administration should ask itself whether it should continue with its efforts to teach them well.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Mr CHEUNG Man-kwong, as amended by Mr Andrew LEUNG, be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

PRESIDENT (in Cantonese): Second motion: Conserving the Queen's Pier.

Before I call upon Mr Alan LEONG to speak, I am confident that the meeting can finish before midnight today, therefore, we will continue with the meeting. I now call upon Mr Alan LEONG to speak and move his motion.

CONSERVING THE QUEEN'S PIER

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

In the evening of last Wednesday, the Queen's Pier formally ceased operation and was closed down shortly after. Soon enough, the Pier will be demolished, pretty much like what had happened to the clock tower of the Star Ferry Pier. The only difference is that the Government will identify a place to reconstruct the Queen's Pier. In other words, after four months of procrastination, the Government has insisted on executing the Queen's Pier and putting the carcass of the Pier on public demonstration. However, specific arrangements about the eternal burial place of the Pier have remained unconfirmed to date.

President, I was not exaggerating when I said the Queen's Pier is no more than a corpse to the Government under its existing arrangement. The vitality of a historical building is closely linked to its surrounding environment, as the historical and cultural significance of a historical building is manifested by its specific locality and surrounding environment. Veteran government officials

with decades of experience in the Administration may find this incomprehensible though.

In year 2000, the International Council on Monuments and Sites (ICOMOS) held an expert meeting in Chengde, China, during which the Chinese National Committee of ICOMOS formulated the Principles for the Conservation of Heritage Sites in China (the China Principles). The China Principles were widely recognized and given high regard by international experts attending the meeting, and they were recommended by the State Administration of Cultural Heritage as professional guidelines for the formulation of heritage conservation legislation and monument conservation policies. Article 18 of the Chinese Principles specifies that conversation must be undertaken *in situ*, and only in the face of uncontrollable natural threats or when a major development project of national importance is undertaken and relocation is the sole means of saving elements of a site may they be moved in their historic condition. Article 19 specifies that intervention should be minimal, and intervention should only be undertaken when absolutely necessary and then should be kept to a minimum. The main goals are to preserve the site's existing condition and to slow deterioration. Article 21 stresses that heritage must be "conserved in their historic condition without loss of evidence", whereas vestiges and traces of significant events and persons must be preserved. Article 24 points out that the setting of a heritage site must be conserved, whereas natural and cultural landscapes that form part of a site's setting contribute to its significance and should be integrated with its conservation.

President, given the absence of a comprehensive policy on the conservation of cultural heritage on the part of the SAR Government, I hope the Government will at least learn from this set of quality internationally recognized China Principles and how they are being implemented by the mainland authorities.

President, can you imagine that for the sake of making available valuable land for development, the Municipal Government of Beijing would relocate a number of individual, distinctive monuments such as the Temple of Heaven and the Forbidden City to a designated "monuments zone" for the purposes of conservation? According to the spirit of the China Principles, the specific locality of the Temple of Heaven, the Forbidden City and other structures of the Imperial Palace is the concrete manifestation of their individual historical significance, and casually relocating these cultural heritages will contribute to

nothing but destroy their historical significance to the detriment of the historical setting of the city of Beijing.

Likewise, we could come to understand the important significance of preserving the Queen's Pier *in situ* in the context of the general direction for cultural heritage as laid down in the China Principles. The Pier, together with the adjacent City Hall and the Edinburgh Place, combine to form an integral entity which is representative of the socio-historical setting of its time. For nearly half a century, they have constituted a valuable open public space. Starting from this space and travelling inward into the territory, it takes us pass the Legislative Council Building to get to Murray Building on the Government Hill. This is an important cultural-historical stretch of land bearing witness to the governance of Hong Kong. If our Government truly cherishes our local history and local culture, it will recognize the distinctive meaning of each of the buildings perched in this stretch and be mindful of their conservation, so as to ensure that the past of Hong Kong will continue to be evident in this stretch, as well as adding to the distinctive historical meaning unique to Hong Kong.

Unfortunately, the attitude of the Government is as disappointing as it is perplexing. Many people must have had the experience of hiring professionals to build a house or decorate their home. If, on second thoughts, we change our mind and wish to alter the master plan or the drainage setting, we may just ask the workers to amend the design plan. These are just things we normally do in our everyday life. The workers are of course obligated to listen to the views of the employer and to satisfy his demands by all means. Right now there is a public call for the preservation of the Queen's Pier, but the Government keeps clinging to the old design plan rigidly. What is more, the Government keeps circumventing by putting up loads of specious arguments in total disregard of the aspirations of the people of Hong Kong for the preservation of the Queen's Pier from the perspective of cultural and historical conservation. Why should the people of Hong Kong as owners of their place be confined to getting workers of this quality after all?

The Government keeps saying that statutory consultation has been completed and all procedures have been strictly adhered to, and therefore there is "no room for discussion". However, we must bear in mind that all these took place in 2002 or before, and right now the Government is completely disregarding the Court and the latest aspirations of the general public with

respect to the planning of Central's waterfront. This has made it all the more evident that the existing so-called statutory consultation procedure is no more than an outdated procedure completely disregarding public sentiments and being completely unaccommodating to ongoing social changes.

President, under this procedure, we have failed to preserve the precious clock tower of the Star Ferry Pier and all the collective memories associated to it; under this procedure, bulldozers were called in to wipe off the very special Wedding Card Street in Wai Chai District; under this procedure, the century-old Central Police Station and Victoria Prison have been amputated with just a handful of surviving building structures left standing forlornly, beleaguered by incongruous high-rise buildings. How many historical records shall we be burying by employing this procedure? Is a procedure this brutal and uncaring all we have in the name of "strong governance"?

President, not only is the Government being unreasonable, it is also trying to pull the wool over the eyes of Hong Kong people with a bunch of specious arguments. All in all, the Government's decision on pulling down the Queen's Pier is based on the argument that the Pier affects the alignment of three systems, namely the Airport Railway Extended Overrun Tunnel (AR EOT) and the North Hong Kong Island Line, the extension of an existing drainage box culvert at Man Yiu Street and Road P2.

However, in the meeting of the Panel on Planning, Lands and Works held on 23 April, the MTR Corporation Limited (MTRCL) representatives admitted that studies were still being undertaken for the AR EOT and the North Hong Kong Island Line projects and the projects were still pending. As a matter of fact, it is not at all too late to come up with a solution to the issue of the Queen's Pier at the time when these projects are actually carried out.

At the same meeting, even Secretary Michael SUEN admitted that the Government would not rule out the possibility of altering the alignment of Road P2 subsequent to the public consultation exercise. This is evident that the alignment is not rigid and unchangeable and it is only a matter of resolution. As a matter of fact, public support for *in situ* conservation of the Queen's Pier is loud and clear, and it is not difficult at all to move the alignment of Road P2 northward by 20 m. But then of course, it would be another matter if all the

Government does is to look for excuses in order not to have *in situ* conservation of the Queen's Pier.

As regards the Man Yiu Street drainage box culvert project, in an information paper submitted by the Government earlier on, an option B was mentioned, indicating that building the drainage box culvert while conserving the Queen's Pier *in situ* is technically feasible with an estimated expenditure of \$65 million. Given that the MRT system and Road P2 no longer constitute a ground for pulling down the Pier, there is no reason why the Government should reject ways of conserving the Queen's Pier similar to option B.

The Government is trying to rationalize the demolition of the Queen's Pier with loads of figures and technical considerations. However, judging from the reasons given by the Government, it is simply circumventing and trying to come up with excuses for its unwillingness to update its planning in response to changed social values. The civil society has no intention to be at odds with the Government, much less engaged in a game of juggling with figures. All we want is *in situ* preservation of the Queen's Pier. The last thing we want to see is the sequential obliteration of our cultural heritage amid short-sighted urban development.

President, in today's society where the emphasis is on sustainable development, the Government has to adopt some radical new thinking in land planning and cultural heritage conservation. It should work in partnership with different professional bodies of the civil society to jointly devise a solution that can effectively demonstrate the special characteristics of this city and create conditions for social harmony. The Government must not say that it has "overlooked the matter" or "was impressed" on the one hand, while trying to deceive the public by using administrative parlances to solicit endorsement of public opinion to support its refusal to adapt to new thinking.

President, I am certainly not so naive as to believe that there will be an immediate change of attitude on the part of the Government. However, this does not affect my heartfelt appreciations of the civil society that have actively made their voices heard in supporting monuments conservation. In fact, the concerns expressed by the civil society are seeing initial effects already. If the people of Hong Kong had not committed themselves to this cause and made their voices heard loud and clear, I wonder if the Government would have given

consideration to making a fake antiquity of the clock tower of the Star Ferry Pier and the Queen's Pier and placing them at Central's new waterfront. I guess the answer is negative.

The next few weeks will be a very critical stage to both the Queen's Pier and the prospect of Hong Kong's cultural heritage.

I hope the public will be discerning and not be tricked and clouded by the Government. Unless public engagement is enabled in drawing up the planning brief for the area from Central waterfront to the Government Hill, we must not allow the Government to take away Hong Kong's historical buildings one after another, to the effect that the cultural heritage of Hong Kong is reduced to heartless antiquities scattered around casually and that the people of Hong Kong are deprived of the opportunities to relate the remarkable story of Hong Kong to their posterity.

I very much hope that the Government will cherish the present opportunity and starting working again with sincerity on building up a partnership with the civil society and on examining options for the conservation of the Queen's Pier conducive to sustainable development. With such joint efforts, planning for the area along Central waterfront can be made in a more holistic manner, and the distinctive cultural-historical features of the Queen's Pier in conjunction with the surrounding buildings can be maintained. The general public will be given a public space of their own.

With these remarks, President, I beg to move.

Mr Alan LEONG moved the following motion: (Translation)

"That, given the grave concerns expressed by various sectors of the community about the preservation of the Queen's Pier in Central, and for the effective conservation of the Queen's Pier, this Council urges the Government to immediately adopt the Principles for the Conservation of Heritage Sites in China approved by the Central People's Government in 2000 and to undertake to adopt "conservation *in situ*, minimal interference, preservation of the original condition and protection of the heritage environment" as the principles for formulating and expeditiously implementing the most effective proposal for preserving the Queen's Pier

in situ, including proper adjustments to the current works projects and designs of future projects to avoid damaging the existing structure of the Queen's Pier, so as to minimize the impact of works projects on the present site of the Queen's Pier."

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

PRESIDENT (in Cantonese): Two Members will move amendments to this motion. The motion and the two amendments will now be debated together in a joint debate.

I now call upon Mrs Selina CHOW to speak first, to be followed by Mr CHEUNG Hok-ming, but no amendments are to be moved at this stage.

MRS SELINA CHOW (in Cantonese): President, the operation of the Queen's Pier was put to a stop on Thursday evening. According to the media, many citizens had gone to the Pier to take photographs as tokens of past memory. Even "Brother Fat" (CHOW Yun-fat), who rarely appeared on public occasions, made his appearance on the site to take a walk down memory lane. As a matter of fact, any person loves Hong Kong, including me, may have had this impulse. Fortunately, we can expect to see the Queen's Pier again in its original glory in the near future.

In all fairness, the Administration has learnt a lesson from the demolition of the Star Ferry Pier and submitted four proposals on the future of the Queen's Pier last month. The first two proposals provide for *in situ* preservation of the Pier requiring major alternations of the development planning; the third option provides for *in situ* reinstatement in the future by removing the Pier for the time being, with alternation of road alignments for such purposes. The fourth option provides for relocation of the Pier to a new location in its original condition by preserving its retainable parts.

The Government has held a number of meetings with professional bodies such as the Conservancy Association (CA), Hong Kong Institution of Engineers (HKIE), Association of Engineering Professionals in Society (AES) and Hong

Kong Institute of Architects (HKIA), and so on, to discuss these options. In the end, the four professional bodies unanimously agreed that *in situ* preservation of the Queen's Pier is impracticable both financially and technically apart from being time-consuming. This being the case, they are not opposed to the relocation proposal. These are all professional bodies representative of the sector to which they belong. In some ways, they are even more well-versed in the merits and demerits of each individual option than Members of this Council, and they are in no way less conscious in heritage conservation than we are. Therefore, their views should be adopted.

The Liberal Party also opines that the fourth option put forth by the Government, that is, the relocation option, is the most practical. Not only is this option the least expensive, more importantly, it will cause the least effect to the Central Reclamation Phase III (CRIII) project in its course of preserving the Queen's Pier.

Mr Alan LEONG urges that the Principles for the Conservation of Heritage Sites in China (the China Principles) endorsed by the Central People's Government in year 2000 should be adopted, but this is somehow contradictory to his consistent insistence on the principle of "one country, two systems". The Liberal Party is of the view that copying wholesale mainland principle to the SAR may not fully work. What is more, the citizens of Hong Kong may not feel at ease too. However, we might as well draw reference from some of the provisions and examine if some of them could be applied to Hong Kong. As Mr LEONG said just now, Article 18 in the first section of the China Principles provides that "conservation must be undertaken *in situ*" where practicable, but it does not mean that it must always be 100% *in situ* conservation. It is, after all, possible to employ the means of relocation of cultural heritage in the original condition for the purposes of major national construction projects. In other words, there is built-in flexibility in the China Principles and it is not true that each and every monument must be "conserved *in situ*" regardless of the cost.

As a matter of fact, there are actually precedents for "conservation by means of relocation" as provided in the China Principles. For example, as a result of the construction of the Three Gorges Dam, the Zhang Fei Temple located in Yun Yang Province in Chongqing, Sichuan will be submerged under the river. For conservation purposes, the Chinese authorities decided to relocate the temple for reassembly by dismantling the temple into different parts.

The project commenced in October 2002, involving the relocation of each and every brick and tile of the temple, together with more than 4 500 pieces of cultural relics, including even 126 ancient trees in the vicinity of the temple to a site 32 km away from where the temple originally stood, all in their original condition. A similar method of "relocation for reassembly in the original condition" has been used to preserve the ancient town of Dachang located in Wushan County, Chongqing, which first appeared in the third century AD.

The method of "relocation for reassembly" is not exclusive to China, nor was it invented by the Chinese. Instead, it is a common practice in the international community. For example, in 1959, when the Egyptian Government decided to build the Aswan Dam to combat the flooding problem caused by River Nile and to generate electricity to meet domestic need, the Abu Simbel temples with a history of 3 000 years built to the order of the greatest ancient Egyptian Pharaoh Ramesses II risked being submerged by the rising water. Subsequently, in 1962, with the assistance of the United Nations Educational, Scientific and Cultural Organization (UNESCO), the Egyptian Government adopted the proposal of Sweden experts and dismantled the entire temples into some 1 700 blocks for relocation and subsequently reassembled them on a ridge 65 m higher than the original site.

The said two examples indicate that for decades, "relocation and reassembly" has been recognized as a feasible and preferable means for conservation of historical buildings. Given the success in preserving great monuments with a history of thousands of years in perfect condition, why should this not be applied to the Queen's Pier, which has a history of just half a century?

President, the difficulties involved in *in situ* preservation of the Queen's Pier were explained in the paper submitted by the Government, and those are justifiable reasons. In addition, the plan was first proposed eight years ago, and during the planning stage, all statutory procedures were strictly followed. I have looked up the records, and I can confirm that the proposal was endorsed without voices of opposition, both within and outside this Council. Even the Society for Protection of the Harbour mentioned "a new location closer to the existing piers is provided for the Star Ferry while a new Queen's Pier is provided near the existing location" in a press release they released in November 2003, in which proposals were made with a view to reducing the scope of the Central Reclamation project, which indicates that no objection was raised by the Society

to the proposal on relocating the Pier. Weighing all the merits against the demerits, the Liberal Party holds that "relocation for reassembly" is the most preferable option.

However, we must point out that whether the Queen's Pier would be reassembled *in situ* or relocated for reassembly in a nearby place, by the time the reclamation project is completed, the Queen's Pier will be located at a distance from the waterfront any way, so should we rename it to "Queen's Pavilion" then? This being the case, the Liberal Party has got a proposal, and we suggest the dismantled parts of the Queen's Pier be reassembled in the new Central waterfront, so that it can continue to serve the people of Hong Kong.

The Liberal Party conducted an opinion survey late last month, which shows that among the 1 000 respondents, over 36% supported the idea of reassembling the Pier at the new Central waterfront. 32% of the respondents supported relocating the Pier to a place in close proximity to the City Hall, and approximately 30% of the respondents did not have any opinion.

The Liberal Party thinks that the best way of preserving the historical face of the Queen's Pier after all is to preserve its function as a pier. If the preserved Pier ceases to function as a pier, it would be unfortunate and devoid of its original favour. Having said that, the findings of the survey show that there are three major streams of opinion on this issue, indicating that a consensus has not been reached on where the Queen's Pier should be located. Yet, it at least has proved one point, that is, quite a large number of citizens identify with the view of the Liberal Party.

Since society has not reached a consensus yet, the impending consultation exercise to be launched by the Government will be very instrumental. In this regard, we wish the Government would remain open and candid and listen carefully to what the people have to say when consulting the public on siting and design for the relocation exercise. Meanwhile, the public should seize this opportunity to engage in rational discussion and make their voices heard. That said, we do not agree to the wordings of "conservation *in situ*" and "preservation" *in situ* as used in the original motion, our reasons being that they are neither practicable nor feasible, and that they would constitute major difficulties in terms of time, finance and technology to the detriment of the progress of the project.

As regards Mr CHEUNG Hok-ming's amendment, due to the inclusion of the wording "conservation *in situ*", we opine that this will be causing undue delay to the necessary works, and therefore we do not support his amendment.

Thank you, President.

MR CHEUNG HOK-MING (in Cantonese): Madam President, the incident of the Queen's Pier is probably best described as "composure versus passion". The Queen's Pier bears testimony to the past colonial history of Hong Kong. In the past, newly appointed Governors of Hong Kong would customarily disembark at the Pier. The colonial history is not a glorious past, but it does make Hong Kong a unique place. It is part and parcel of the history of Hong Kong. Having said that, traffic congestion in Central has reached a state that is totally unbearable. One morning on my way driving to this Council, the trip from the exit of the Western Harbour Crossing to the Legislative Council which normally takes just a couple of minutes had taken me more than 30 minutes, and still I was "stuck" in the car. If I could get off the car and just walk, I believe I could have arrived during the same period.

From this experience, we can see that how much valuable time and productivity the people of Hong Kong are losing as a result of the traffic problem in Central. Madam President, Central, Admiralty and Wan Chai make up the vital vein of Hong Kong as a financial centre, but if we suffer from "traffic constipation", which is not properly treated, I am afraid it will one day deteriorate into piles, or worse yet, a cancer. Not only will it subject the people of Hong Kong and investors to unnecessary disturbances, it will also seriously undermine the competitiveness of Hong Kong, so much so that our vision of becoming Asia's financial centre may fail to materialize.

Hence, the amendment I propose today aims at striking a proper balance between the conservation of valuable buildings and urban development so as to facilitate the community's sustainable and balanced development. I believe this is how a mature society should react.

The Central Reclamation Phase III (CRIII) project was tabled to this Council for debate in as early as 2002, but at that time society did not focus on how the project would affect the Star Ferry Pier and the Queen's Pier. However, public awareness of conservation in Hong Kong has experienced a

rapid upsurge over the past few years, culminating in the defence of the clock tower of the Star Ferry Pier by means of human shields in December last year. Today is not the time to hold anyone accountable for the incident, and I believe we should look ahead on how we should preserve the Queen's Pier and how we should formulate a comprehensive antiquities and monuments conservation policy, which is a positive way of address the issue.

In late December last year, Chief Executive Donald TSANG indicated in "Letter to Hong Kong" that the Government would work with experts on proposals for conserving the Queen's Pier, including the preservation of all the retainable parts of the Pier and the identification of a suitable place for reassembly. The Chief Executive undertook to take into full account public sentiments and public aspirations for collective memory. Over the past six months, experts have nearly reached a consensus on the hero which is the subject of the motion before us today — the Queen's Pier, as they agreed that the superstructures of the Pier should be dismantled for the time being and relocated to a suitable place to be agreed by everybody.

Madam President, just now I said a consensus was "nearly" reached, because there are still some people who insist on "not having demolition and not having relocation". These people demand that the Central bypass should make yet another bypass so as to bypass the Queen's Pier. Some people cited the experience of the Restoration Project of Embroidery Guild Hall, Guangzhou (a most important museum now for studying the origin and development of the textile industry in Guangzhou) six year ago, in which the building was moved sideways by 100 m, as an argument that from the engineering perspective, it is possible not to demolish the Queen's Pier, and that it is possible to shift the structure little by little to another location. I believe that from the engineering perspective, nothing is impossible, and it is just a matter of money and time. I am no civil engineer, so I cannot answer this question. But having listened to the explanations by the Government and the detailed arguments from experts and specialists, I tend to believe that these methods are unable to satisfy the principle of striking a balance between development and conservation. The government proposal of "dismantling and reassembly" appears to be reasonably practicable. I believe the Government will further explain this again in a while, so I would not dwell on this now. In my opinion, if we are to engage in any constructive discussion here, the focus of the discussion should be what the most suitable place is for reassembling the Queen's Pier.

The cluster of buildings made up by the Queen's Pier, the City Hall and the Edinburgh Place has undoubtedly taken on an important role in culture and recreation in the colonial era of Hong Kong, and it is imbued with symbolic political meaning as well. If the Queen's Pier was relocated to another place, it would compromise the uniqueness of this building, which I personally disagree. Therefore, the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) hopes that the Queen's Pier could be reassembled *in situ* in the future, and if that should prove not to be possible, at the very least the Pier should be reassembled in close proximity to its original site, so that these three distinctive buildings which make up the entire building cluster could be preserved. The Government once indicated that a consultation exercise would be launched on possible locations for the reassembly project, and I hope we could have sufficient discussion with the Government again on this issue in an effort to identify a most suitable place for reassembling the Queen's Pier.

What happened to the Star Ferry Pier in the past and the Queen's Pier today clearly shows that the existing legislation has failed to respond to public demands for conservation. Madam President, the Queen's Pier is just one of the many historical buildings in Hong Kong. In order to avoid further unnecessary disputes in the future, I urge the Government to formulate a comprehensive, long-term heritage conservation policy as soon as possible. According to the existing Antiquities and Monuments Ordinance, the Chief Executive could, with the advice of the Home Affairs Bureau and the Antiquities Advisory Board (AAB), declare individual built heritage as declared monument protected by law. However, there are just 80-odd declared monuments today. Although there is a division for grading historical buildings under the AAB, it focuses on the historical value, the characteristics of the building structures, the links between the buildings and major local events or major characters and the social values, whereas the idea of collective memory has never been taken into account. The Home Affairs Bureau declared on 1 August 2007 that the Government was planning to strengthen the consultation mechanism for heritage conservation and to review the operation of the AAB. I hope the Government does not aim to having some marathon consultations. Instead, I hope the Government can formulate a set of objective criteria expediently for people to define buildings with historical significance and identify buildings that are worthy of conservation with the use of social resources.

The DAB will vote against the original motion proposed by Mr Alan LEONG. We agree that the Principles for the Conservation of Heritage Sites in

China (the China Principles) offers valuable reference with respect to heritage conservation, from which reference should be drawn when a long-term policy on heritage conservation is formulated or when studies are conducted for the conservation of the Queen's Pier by the Government. However, to our understanding, some stringent requirements have to be met before a built heritage can be covered by the China Principles. Without prior, detailed discussion, I believe it is inappropriate to ask the Government to protect the Queen's Pier by applying the China Principles. Furthermore, the original motion emphasizes *in situ* conservation of the Queen's Pier. As I said just now, what is important is to preserve the characteristics of the existing building cluster. In case *in situ* conservation should prove to be impracticable, reassembling the Queen's Pier in a place near the original site should be one of the options.

The DAB supports the amendment proposed by Mrs Selina CHOW. Madam President, I so submit.

MR LEE WING-TAT (in Cantonese): President, subsequent to the demolition of the Star Ferry Pier last year, the public has been anxiously looking forward to the expeditious release of a new heritage conservation policy by the Government. They are also eager to know if the Government has learned any lesson from the incident of the Star Ferry Pier in dealing with the issue of the Queen's Pier. Early this year, the Home Affairs Bureau conducted a consultation on hundreds or maybe even more than 1 000 local heritage items that have the potential of becoming declared antiquities and declared monuments, and the matter was discussed in this Council as well. However, having taken part in the discussion, I found that many of the discussion contents were wide of the mark, which shows that to this stage, the Government has not yet made up its mind on the issue of conservation and economic development and whether or not the Government should commit itself monetarily or financially at times of intervention. Discussions on conservation under these circumstances are, in many cases, futile.

Here is an example. I read a newspaper story today that a couple of years ago, a LUI's family in Mong Kok surrendered the Lui Seng Chun tenement to the Government. The Government then spent several million dollars to paint the building white. But this year the Secretary said that repairs, maintenance and fire service installations would cost \$15 million per annum, and he said the Government had not anticipated this financial commitment. Secretary, this

sounds perplexing to me. The LUI's family was so generous to have surrendered the entire building to the Government, but the Government has not demolished or rebuilt it. Now it is saying it is not financially committed. This shows that in certain policy matters, the Government has not made up its mind yet.

Having said that, I have to express my fair share of appreciation to the Government for the consultation it conducted with respect to the Queen's Pier this time around. I remember on the last occasion when the Star Ferry Pier was about to be demolished, some Members and I met with Secretary Michael SUEN and asked if demolition could be avoided, and if further discussion could be held. I remember at that time Secretary Michael SUEN simply shook his head and kept saying "no way, no way, no way", and the demolition quickly went underway. This time around there has been ample time for consultation, and the Government has consulted several non-government bodies on certain technical issues as well. However, if we ask if what the Government has done is sufficient, I would say "no", not sufficient yet. As of today, I am still not convinced by the Secretary Michael SUEN as to why a funding request should be made to the Public Works Subcommittee in mid-May or late May. I agree that improvement has been made in the step taken by the Government, and that is, the Government has conducted a more extensive consultation this time and listened to more opinions. However, in the absence of any particular urgency, why should Members be asked to vote on the issue before society has reached a consensus? We are all aware that this is a process swift but cruel. It is swift because one will win as long as there are enough votes; it is cruel because non-government bodies and conservationists who cannot take part in the voting may feel that the Government is being hegemonic and their opinions are once again ignored.

I understand there are already people camping out at the Pier. Nobody wants to see the Pier becoming a place where conflicts erupt between the Government and the conservation bodies. I hope the Secretary will think this through and examine if it is necessary to let the issue deteriorate at such a rapid rate, as if something explosive is going to happen. What we see now is that while there is huge gap between the Government and us, let us say we have a gap of 109 000 km, this gap has actually narrowed down a bit. Maybe we are only able to narrow down the gap by a very small margin, say, by just a couple of kilometres, and hence the gap of 109 000 km is now reduced to something like

107 000 km. Even if this is the case, progress has been made by the Government. We have to appreciate that, at present, all parties, including the Hong Kong Institute of Architects (HKIA), Hong Kong Institution of Engineers (HKIE), Conservancy Association (CA), non-government bodies as well as political parties have taken a step forward from being rigid and uncompromising to being more open to more options. So the gap may have been narrowed down from 109 000 km to 100 000 km or just 7 000 km, and this is a progress indeed. However, there is no reason we should stop going any further and stop engaging in discussion by putting the matter straight to voting at the Public Works Subcommittee simply because tiny progress has been made, right? The pan-democratic camp has only got 25 votes, and so, beep, beep, beep, in just 30 seconds the request will be endorsed. I think that is very unwise of the Secretary. Whenever there are differences, if we could deal with them and try to narrow down the gap as much as possible, then every party involved in the discussion, including non-government bodies, political parties and individual members of society will agree that the Government has exerted its best. However, if you ask the Democratic Party, other non-government bodies or other parties of the pan-democratic camp now, they will hardly feel that the Government has exerted its best.

As far as this issue is concerned, we have, to a certain extent, accepted some of the opinions of the Government. We have not been totally convinced yet, but the point is, if further discussion should cease, it will be hard to have us convinced at all. First, the Secretary kept saying that realigning Road P2 was out of the question. That is not the case though. I have asked the architects and many members of the Town Planning Board, and Prof Patrick LAU is sitting right behind me now, and I know realignment is possible. The road needs not to be that wide, it could be scaled down a bit. The road alignment can be changed as well. Certainly, changing the road alignment requires more work to be done on the part of the Town Planning Board, but that is not a big issue: it is just a matter of time. Second, with regard to the alignment of the MTR line and the overrun, I have come to understand that the Government has no plan at all to carry out projects with respect to those MTR routes, whereas as far as the North Hong Kong Island Line is concerned, those are nothing but draft plans and they have been on the drawing board for decades already. And now the Government is taking those draft plans as the final blueprint. Now there is the overruns, but is it really necessary that it runs as long as 400 m? Is it possible to make it shorter? If we open discussions now, these are areas where our differences can be narrowed down.

I think the issues raised by the Government are not insurmountable. Moreover, the Government could choose to accept the views of the public, and that is feasible too. Therefore, I do not find the way the Secretary handles the matter desirable. Just now I sang a praise of the Secretary — that we have seen some improvement in the consultation exercise over the previous incident, and for all it is worth, this is all I have got to say. As far as our gap is concerned, the Secretary has made some efforts, and the gap has been narrowed down by a small margin, say from 109 000 km to 101 000 km. I attended each and every meeting convened by the Secretary, but to date, I have not been convinced yet. Why should the matter be put to the Public Works Subcommittee by the end of May? Why should the Secretary take out a bomb all of a sudden which was wrapped in a wet towel, onto which matches are thrown? This is not necessary. Why should that be done at all? I hope the Secretary will think it over. In fact, now is not the right time to make a decision like that. If he found it necessary to have more consultation, I encourage him to put the matter on hold temporarily to allow his Policy Bureau to narrow the differences with non-government bodies and Members of this Council from different political parties. Let us narrow down the gap from 109 000 km to 101 000 km, and it could be further be narrowed down to tens of thousands km, thousands km, or even smaller. If this could be done, I believe it will greatly benefit the formulation of a conservation policy with public engagement developed from the bottom up. Thank you, President.

DR KWOK KA-KI (in Cantonese): Madam President, we move forward by learning from past experience.

In December last year, the campaign against the demolition of Central's Star Ferry Pier had taken Hong Kong by surprise, and the story attracted international attention as well. Never before had the people of Hong Kong been so passionate in fighting for the preservation of a building structure which they believed to carry historical significance, imbued with collective memory, and therefore worthy of preservation. The Government has managed to destroy two things in one operation: first, the reclamation project has ruined the Victoria Harbour; and second, it has destroyed a number of heritage items with rich historical value in Hong Kong, including Central's Star Ferry Pier and the Queen's Pier currently under discussion.

Just now a number of colleagues said the matter is extremely urgent, so urgent that they have advanced different reasons why they cannot support the motion moved by Mr Alan LEONG. However, I have to ask, "What is the rush with the Government?" Madam President, while the AAB's meeting on 9 May will be discussing the grading to be given to the Queen's Pier as a monument, a funding request to the Public Works Subcommittee will be made the same day where the topic of discussion is the demolition of the Queen's Pier. In so doing, what standing, if any, has the Government given to the AAB and to the Legislative Council? What is the urgency of the matter which warrants the Finance Committee to be asked to endorse a funding application within May for a matter that will be discussed on 9 May?

Just now another Member said the Government appeared to have learned some lessons. Granted, it has learned some lessons in that it is a lot cleverer this time in sugar-coating a poison pill. However, whatever reasons cited by the Government, whatever arguments it uses, and whatever consultation it carries out, the final answer is the same, that the Queen's Pier will have to be pulled down. This is what counts.

There are clear provisions in the heritage conservation principles formulated by the Chinese National Committee of the International Council on Monuments and Sites (ICOMOS) in year 2000. Article 4 states: The values of the site should in no way be diminished by use for short-term gain. Article 5 states: Conservation needs to be carried out according to a sequential process. Article 18 states: Conservation must be undertaken *in situ*. Article 19 states: Intervention should be minimal. Article 21 states: Historic condition must be conserved without loss of evidence. Article 24 states: The setting of a heritage site must be conserved. Article 33 states: Reconstruction *in situ* must be undertaken without damages in the process. Reconstruction must be based on direct evidence. Conjectural reconstruction is not permitted.

However, when Members of this Council from different parties and groupings talked about these China Principles, they behaved rather strangely, as if there was no need to follow these principles. These are the principles applied by our country for heritage conservation, but while we keep saying that we should respect our country, when it comes to implementing heritage conservation initiatives, we could come up with all sorts of reasoning to support the argument that there is no need to adhere to these principles, because these principles are not even adopted by the SAR Government. So when something is not adopted

by the SAR Government it would not be considered at all. Now what kind of reasoning is that?

The Government keeps saying that it will respect the views of the public. From 2003, when the public was first engaged in the movement for protection of the harbour, till now, which is 2007, the Government has never conducted any extensive and in-depth public consultation. It keeps saying that the matter was brought before the Town Planning Board more than a decade ago, and that the road building project was proposed more than a decade ago, and therefore the Queen's Pier has to be pulled down now. Who on earth would handle their business this way? It calls for a people-based government to accomplish more than what has currently been done. How difficult would it be for the Government to consult the view of the public? How difficult would it be to ask the public's views on heritage conservation? Yet, the Government is simply unwilling to do so, and this we know very clearly.

Second, it is about technical issues. I do not know if Members are aware of this, but according to the original plan of the Government, Road P2 is 40 m, or 120 ft wide, and the reason why it is 120 ft wide is that it is a dual two-lane carriageway, meaning that there are four lanes in total, and a single lane takes up 30 ft. I really do not know how they came up with a figure like this. The entire Queen's Pier is just approximately 23 m in width, and the Government insists that not an inch could be changed — and I mean changing the width. I found that the Government has handled this matter in a more sophisticated manner, but still it has not responded to public aspirations for heritage conservation and the public's demand for the preservation of buildings with historical value and historical significance.

To me, there seems to be something ungracious about the way the Government handles the matter. About a fortnight ago, in a panel meeting on the fate of the Queen's Pier, the paper submitted by the Government indicated that the Hong Kong Institute of Architects (HKIA) had agreed to the demolition. We received clarification from the HKIA the same day though, saying that they had never agreed to the Government's "option D", meaning dismantling the whole thing for reassembly. The Government is being unscrupulous. Why has the matter come to this pass? This has blatantly exposed the real intention of the Government to the eyes of the public, has it not? I think this is not just destroying what the conservationists want, this is destroying what Hong Kong actually possesses.

While we keep saying that we will make Hong Kong Asia's World City and elevate our tourism industry to a level that it will become an important asset of ours, we should realize that these are the treasures we have here, and it is these inseparable parts of the history of Hong Kong that we will have to show to our visitors.

I quote once again from paragraph 5.3 of the Government's assessment report on Central Reclamation Phase III: the demolition of the Queen's Pier and the Edinburgh Place will completely wipe out its history together with its surrounding development. This is agreed even by the monument consultant commissioned by the Government. It is groundless and unreasonable that the Government should insist on pulling down the Pier, and it hurts Hong Kong too. I feel most sorry that some of the Members would agree with the Government in this matter.

I so submit. Thank you, Madam President.

MISS TAM HEUNG-MAN (in Cantonese): Madam President, the motion on "Conserving the Queen's Pier" proposed by the Civic Party today seeks to ask the Government to adopt the Principles for the Conservation of Heritage Sites in China (the China Principles) for *in situ* conservation of our cultural heritage. As a matter of fact, there is an even more important meaning behind this demand, which is to ask the Government to respect history and built heritage with historical value.

Neither the Civic Party nor friends who care about heritage conservation and who respect history would like to see the Pier becoming a pavilion, which is the effect of one of the options proposed by the Government.

The government proposal of relocating the Queen's Pier to the Edinburgh Place is like preserving the body of the Queen's Pier at the expense of killing its spirit. As we all know, the historical significance and value of the Queen's Pier lies in the fact that during the colonial period, five Hong Kong Governors had disembarked at the Pier, whereupon the official appointment ceremony was held. If the Pier was relocated to the Edinburgh Place, its significance in this respect would be completely lost.

The last thing we want to do is to have to explain to our next generations or foreign visitors that the Queen's Pier has become the Queen's Pavilion because the Pier, once perched at the waterfront of the Victoria Harbour, had to be relocated because of the Government's decision on carrying out reclamation and building Road P2 in the name of development. That would be very embarrassing, and we would be sneered at by countries and regions that respect heritage conservation. The consequence is grave. People will say: Being an international metropolis, how could Hong Kong have harboured such a degree of contempt and disrespect towards heritage conservation, heritage items and their historical significance? We propose the principle of *in situ* conservation today because we would like to see to it that history and heritage is respected and the image of Hong Kong protected. We do not want to see Hong Kong being ridiculed in the future.

This is because as far as conservation of historical buildings is concerned, an embarrassing incident had actually taken place in the past in the real life scenario, and that was the Murray House at Stanley. Many people may be under the impression that government protection of this building, which was once a barrack of the British Army, has been very successful, and that it is now an important milestone in heritage conservation, as each and every brick and tile had been meticulously recorded and the building was relocated from Central to Stanley for reassembly. However, has this technique of heritage conservation ever been applied in overseas countries or in our own country, China? Does this technique respect history and is it conducive to heritage conservation? And is it commendable? The answer is negative for sure.

The older generation of Hong Kong may remember that the British barrack was originally located in Central, in the place where the building of Bank of China is today. The Murray House began construction in 1844, and the project took two years to complete. Since Murray House was built in 1846, the building had borne witness to the development of Hong Kong for more than 10 decades. During the Japanese Occupation of Hong Kong, Murray House was used by the Japanese Army as a military office. After the end of the Japanese Occupation, Murray House was used as government offices to house a number of government departments. During 1975 to 1982, Murray House housed the head office of the Rating and Valuation Department. The construction of the Bank of China building in 1982 effected the relocation of Murray House to Stanley. The relocation project was completed in 1998.

Madam President, I cited the example of Murray House in the hope that the same mistake will not be made again in the case of the Queen's Pier to the embarrassment of Hong Kong, and to spare the people of Hong Kong the burden of having to explain to the next generations and friends with a mind for heritage conservation that our cultural heritage had been repeatedly demolished, relocated and reassembled for the sake of urban development. I fully appreciate the determination and the perseverance of the British Government for the protection of Murray House and the efforts it put into this endeavour. However, this relocation method must not be used again. This is not a conservation technique widely used by other countries, China inclusive.

In recent years, whenever the topic of heritage conservation is raised, people will mention another Special Administrative Region of China which is just an hour away from Hong Kong by ferry — Macao. I believe people who have visited Macao in recent years will be deeply attracted by this historic city. The efforts of the Macao Government in heritage conservation have enabled a long forgotten city to be rediscovered. The United Nations Educational, Scientific and Cultural Organization (UNESCO) listed the historic district of Macao as a World Heritage in 2005, making it the 32nd place in the territory of China where there are listed world heritage items. There is a Cultural Ministry under the Macao Government, whereas protection of cultural heritage is the special responsibility of a ministry-grade department. In Hong Kong, the task of protecting cultural heritage is entrusted to the Home Affairs Bureau. There are huge differences in terms of the degree of importance accorded to this task between these two cities.

Over the past few years, cultural tourism has become a prevalent activity all over the world. Aficionados of cultural heritage are visiting places specifically for the cultural heritage a place offers. The Macao Government successfully made good use of the trend and actively promoted the attractions of its world cultural heritage to overseas counties. Furthermore, governments around the world have placed more emphasis on revenue generation through cultural heritage and through attention to the cost-effectiveness of these activities. If the Government of Hong Kong should insist on pulling down this and pulling down that, it will fail to catch up with the global trend. A failure to strike a proper balance between urban development and cultural heritage will further undermine Hong Kong's competitiveness and attractiveness.

With these remarks, Madam President, I urge Members to support the original motion proposed by Mr Alan LEONG. Thank you, Madam President.

DR YEUNG SUM (in Cantonese): Madam President, I rise to speak in support of the motion proposed by Mr Alan LEONG. The Government will make a funding request to this Council within this month for an appropriation of \$50 million for the purposes of dismantling the superstructure of the Queen's Pier. Although there is no telling if the funding request will be endorsed, I am disappointed that the Government is not also making a funding request for relocating the Queen's Pier back to its original position. I would like to take this opportunity to reiterate the position of the Democratic Party. We hold that the Queen's Pier has to be conserved *in situ*, and it must not be relocated to another place. Therefore, the Democratic Party does not support the amendments proposed by the other two Members. We only support the motion proposed by Mr Alan LEONG.

In fact, since the Star Ferry Pier incident, there has been a strong call in the community for the preservation of the Queen's Pier. Over the past few months, a number of cultural workers, artists, professional bodies, experts in engineering and architecture, and so on, who are anxious to protect the Queen's Pier have been trying to discuss with the Government on a better option of preserving the Pier. Although the Government has demonstrated a certain degree of improvement in its attitude in handling the Queen's Pier compared to the case in the Star Ferry Pier incident, I have reasons to believe that the position of the Government is not that desired by these enthusiastic people and the general public.

Even more regrettably, after four months of consultation, the Government has maintained its conclusion of dismantling the Queen's Pier first and consulting the public again on the location for reassembling the Queen's Pier in the future. In other words, let the works get started now while the location of the reassembly site remains undecided. I have been told by certain attendants who attended the expert meeting held by the Government that the Government had appeared to have a foregone conclusion in mind and refused to accommodate any amendments to the Central Reclamation Phase III project. Options proposed by attending experts were all rejected on the grounds of "technical difficulties" or "causing delay to the project". However, expert advice has pointed out that realigning Road P2 will not in any way affect the progress of the reclamation

project. *In situ* preservation of the Queen's Pier will be possible if only the Government is willing to amend the alignment of Road P2 by notice in the Gazette.

Lately, the Government has quoted out of context in saying that bodies such as Hong Kong Institute of Architects (HKIA) and Conservancy Association (CA), and so on, did not object to the proposal made by the Government (namely dismantling for relocation and reassembly, but it may not be *in situ* reassembly). Later on, the HKIA released a statement, saying that the remark made by the Government with respect to the position of the HKIA represented only the unilateral interpretation on the part of the Government, and the Government had not consulted the HKIA nor provided any confirmed version of the minutes of the meetings prior to releasing the statement. This incident has led me to question the Government as to whether or not *in situ* conservation of the Queen's Pier is truly technically infeasible, or if it is not possible only for political reasons simply because the Government would like to make a case of "strong governance"?

Madam President, although the function of the Queen's Pier has been taken up by the newly built Central Pier 9, its historical significance, and I stress, historical significance, is irreplaceable. The importance of *in situ* conservation of the Queen's Pier is all about the integrity of the Pier together with its surrounding building structures. As a matter of fact, the City Hall, the Edinburgh Place, the Queen's Pier and the demolished Star Ferry Pier and its clock tower have all borne witness to an important period in the history of Hong Kong, which is the colonial era of Hong Kong. Now some people may argue that the colonial history of Hong Kong is not a glorious past, but still it makes up part of our history. Since former Governor, Sir Cecil CLEMENTI, took office in Hong Kong in 1925, all successive Governors of Hong Kong would disembark at the Queen's Pier from the gubernatorial yacht Lady Maurine and be sworn-in at the City Hall. In 1975, Queen Elizabeth II disembarked at this very Pier when she visited Hong Kong. Although *in situ* conservation will turn the Queen's Pier into a pavilion — this is how some Members described it — but from the perspective of heritage conservation, this is keeping its *status quo* without jeopardizing its harmony with the adjacent building structures or the continuity of history.

On the other hand, as a number of cultural practitioners have pointed out, the Queen's Pier, the City Hall and the Edinburgh Place together make available

a precious public space (including the Government Hill mentioned by Mr Alan LEONG just now) for the public to carry out different kinds of activities or leisurely activities, so that the public can enjoy using the Pier and enjoy the Victoria Harbour. Although the Queen's Pier in itself is not particularly distinctive in terms of architectural style, like the demolished Star Ferry Pier, it is part of the collective memory of the people of Hong Kong, and it is intimately linked to the culture and history of the people of Hong Kong. This is very important.

Madam President, I hope the Government will learn a lesson from the Star Ferry Pier incident and listen to the call of the public for *in situ* conservation of the Queen's Pier — and I stress *in situ* conservation of the Queen's Pier. As a matter of fact, the Government has to realize that there are raising public demands for heritage conservation, and if the Government should work against public aspirations, all it will do is to create a greater degree of distrust among the citizens and further jeopardize efforts in the protection and conservation of local heritage.

Today, I heard from news report that the Government might be setting up a new Development Bureau the major responsibility of which is, among other things, heritage conservation. I will see what the Chief Executive has to say on heritage conservation tomorrow.

Madam President, I am aware that as our debate continues here, a group of youngsters are still camping out at the Queen's Pier in a bid to protect it. I wish to take this opportunity to thank the cultural practitioners, the youngsters and the general public who have been enthusiastically involved in the preservation of the Queen's Pier. Their combined efforts have aroused public attention and made possible renewed discussion on whether or not our current heritage conservation efforts are moving in the correct direction.

I would also like to stress again that I hope the Secretary can review the long-term practice of giving overriding priority to development. I think we should respond and adjust to the ever changing circumstances, because development in itself does not necessarily have to be exclusive of heritage conservation. If we only focus on development and make development the only viable option, many of our historical heritage will disappear as we move along the course of development. That way, our future generations will not be able to learn about our own history in its entirety.

With these remarks, I support the original motion. Thank you, Madam President.

PROF PATRICK LAU (in Cantonese) President, I think the most important reason for calling for *in situ* preservation of the Queen's Pier is the preservation of its historical value and significance. Many people talk about "common, collective memory", but people from different generations each hold a different set of collective memory, and it is hard to make any judgement objectively as to which set of collective memory is more important: yours or theirs? Having said that, "historical value" is a different thing, for its importance could be proved by analysing certain facts.

This being the case, I very much support the statement released by the Hong Kong Institute of Architects (HKIA) earlier, in which it reiterated the fact that the Queen's Pier, the Edinburgh Place and the City Hall are linked on the same "axis", which is testimonial to the importance of this cluster of building structures in the history of Hong Kong. Therefore, the preservation or reassembly of the Queen's Pier should be based on the principle of *in situ* conservation.

President, let me explain why I believe this "three in one" building cluster should not be separated or casually relocated. First and foremost, it is about their historical value. To begin with, we have to understand that the disembarkation point of the Queen's Pier points directly to the entrance of the Lower Hall of the City Hall, forming a straight line between the two. A couple of days ago, I did a site check and confirmed this fact. Why should this "straight line" be so important then? In the past, whenever members of the British Royal Family or Governor of Hong Kong visited or arrived at Hong Kong, they would customarily disembark at the Queen's Pier. After that, they would inspect the guards of honour at the Edinburgh Place before reaching the front entrance of the City Hall to begin their other activities in Hong Kong. These were all done along a straight line. I believe this arrangement was a carefully conceived architectural design at the time of building these structures.

Therefore, the meaning behind this "axis" is more important than many concrete building structures. From a macroscopic point of view, if the Queen's

Pier represents the government and the City Hall represents the people, then this "axis" linking the two represents a linkage between the government and the people. From the historical point of view, it was the very first step British officials set foot onto the territory of Hong Kong. After the reunification, this was also the most important route for the people of Hong Kong to get detached from British colonial rule. In other words, it is an important historical constituent for the 1997 reunification. Missing this link, the historical information of Hong Kong before and after the reunification will become incomplete.

Given the important historical value and significance of the Queen's Pier to the development of Hong Kong for over half a century, I agree with the HKIA that the superstructure of the Pier be meticulously retained for *in situ* reassembly, and I stress *in situ* reassembly. President, I am aware that historical heritage items are not given much respect here in Hong Kong, and this is evident just by taking a look at the buildings around this Council — the Hong Kong Club, the Post Office, and so on, have all been torn down. I can cite a few more recent examples to illustrate this fact. There is a story in today's *South China Morning Post* which can serve as one of the examples. It is about the monuments of war-time soldiers. Those monuments are rich in historical value, but during renovation the English words inscribed on the monuments were spelt wrong, and not even the word China had gotten right. It is most regrettable that it has been made a complete mess. Another example is about the 200-odd pieces of Chinese style sculptures taken out of Haw Par Mansion, which have been left exposed to the elements on an uncovered lot for five years, and no plan has been devised for accommodating these sculptures. No conservation plan for the century-old Lee Tat Bridge is in place either. Proper arrangements for the 400-odd heritage buildings that have been given grading do not appear to be in place, and many of them have been subject to damages. Illegal building structure is a common and serious problem too. Yet, the Government has remained apathetic all along, short of any comprehensive management and conservation schemes. It is truly frustrating.

In fact, the Government could take this opportunity to showcase its "people-based policy" through preserving the Queen's Pier. It could show how government policy could help optimize urban space by striking a balance between urban development and respecting historical heritage. This could help build up public trust in the Government.

In my view, the Government should adjust its existing policy direction along two major themes. First, the Antiquities Advisory Board (AAB) should complete its study on the history of the Queen's Pier as soon as possible. President, the AAB meeting for grading the Pier will not be held until next week, and if the Pier is listed a Grade I building, how can we demolish the Pier then?

Second, the alignment of Road P2 should move northward and studies should be carried out on how this could be done in order to accommodate the principle of *in situ* preservation of the Queen's Pier. As regards the superstructure of the Pier, experts in heritage conservation should be promptly engaged to carry out professional technical analyses and feasibility studies on *in situ* reassembly or other viable options. Besides, suitable urban design has to be devised in response to new demands, with emphasis on the special historical reference of the area in providing a public space for the general public.

I believe if the Government wishes to minimize any delay caused to the project, it should work out the matter with sincerity and respect to the public and professional bodies. The Government should prove by taking concrete actions that it is responsive to public aspirations for heritage conservation and an optimized space for the purposes of materializing the administration goal of people-based government. This I believe is very important. I so submit. Thank you, President.

MR FREDERICK FUNG (in Cantonese): Madam President, the Queen's Pier has formally ceased operation since last Thursday, signifying our impersonal planning and development. After the demolition of the Star Ferry Pier, this is going to take away the collective memory of many citizens once again by wiping out another landmark bearing witness to the history of Hong Kong. By examining the poor track record of the Government in related matters, coupled with the attitude it has adopted for pressing ahead with the demolition, it is inevitable that a fiasco of giving "an overriding priority to development" will once again be staged. We cannot help but ask: When will the Government stop pulling down these historical buildings, given the fact that only a handful of buildings with cultural and historical value are left?

Madam President, completed in 1953, the Queen's Pier, right from how the Pier was named, down to everything that has happened at the Pier, has borne

testimony to the colonial history of Hong Kong. According to records, the Queen's Pier was the dedicated pier for government officials of Hong Kong and members of the British Royal Family. A number of successive newly appointed Governors of Hong Kong customarily disembarked at this pier. They would be taking the gubernatorial yacht, the Lady Maurine, to disembark at the Queen's Pier, after which they would inspect the guards of honour at the Edinburgh Place and be sworn-in, and so on. Furthermore, in 1975, when the British monarch Queen Elizabeth II first visited Hong Kong, she also sailed across the Victoria Harbour on a yacht and disembarked at the Queen's Pier.

In addition, there is another reason why the Queen's Pier has become a cultural heritage and a collective memory for the people of Hong Kong. Because the Pier has witnessed the shooting of many local movies and TV series. The Queen's Pier bears witnesses to many stories of love and sadness, the many quests and unwilling departures of the people of Hong Kong. At times, the heroes in the movies would be signing at the waterfront, looking afar into the distance of the harbour, or they may be indulging themselves in alcohol for comfort-seeking. These are classic memories associated with the Queen's Pier and they are imprinted deep into the heart of the people of Hong Kong. Therefore, it is evident that apart from bearing witnesses to the colonial history of Hong Kong, the Queen's Pier is also laden with the everyday stories of the people of Hong Kong.

Madam President, are these not sufficient reasons why we should cherish the Pier and conserve it *in situ*? I stress once again that there are just a handful of buildings with cultural and historical value worthy of preservation, and the Queen's Pier is one of them. In the past, we witnessed our historical buildings being taken down and falling into oblivion one after another, and maybe it is already too late to ask the Government to put a halt to this massacre. However, in order to be responsible to our posterity, we should do everything we could even if there is only the thinnest thread of hope for protecting the Pier.

Granted, compared to the ruthless manner adopted in the demolition of the Star Ferry Pier, the Government appears to have learned a lesson by taking the initiative to talk with non-government bodies and listen to their opinions. Unfortunately, the four proposals made by the Government indicate that the Administration has continued to base the nucleus of discussion on the premise of a pressing need for development. Stripped to the core, it simply means that

obstacles to the Central Reclamation project have to be removed, and therefore the central line of thinking is the consistent "overriding need for development", with complete disregard to the cardinal principles for dealing with buildings with conservation value, which are, as mentioned in the motion, "*in situ* conservation, minimal interference, preservation in the original condition and protection of the heritage environment".

I would like to draw Members' attention to the following description: the decision-making process of the Government will be switched from a "top-down" to a "bottom up" approach, meaning that during the course of policy formulation, we should listen to the views of the public and allow public engagement; and we have to build up a "partnership" with the 7 million citizens. After listening to these words, many people may think they are just some slogans, and that is what Members from the pan-democratic camp utter on a daily, monthly and yearly basis. However, Madam President, I can tell everybody that these are the policy direction our Chief Executive, Mr Donald TSANG, outlined in high profile when he ran for a second term of office.

Just as the undertakings of the Chief Executive are still lingering in the ears, a pathetic fate is befalling the Queen's Pier. Those who were described as "partners", be they the citizens or non-government bodies, are now making strong calls for preserving the Queen's Pier. However, the undertakings made by the Chief Executive when he ran for re-election have not been honoured insofar as formulation of government policy and planning are concerned. The so-called "bottom up" approach is no more than lip-service, which is not unlike slogan-chanting. Is it true that the Chief Executive is a member of the pan-democratic camp too? The Administration continues to adhere tightly to the "top-down" approach in administration dominated by a superior's mindset. The Queen's Pier incident today precisely demonstrates the huge gap between the public and the Government in their attitudes towards culture.

In the final analysis, the Government has nobody but itself to blame for causing the predicament today. Since the reunification, factors like the economic downturn and political repercussions have contributed to the expanding civil society. The people of Hong Kong now have a greater "sense of belonging" for Hong Kong. With a sense of treasuring history, there are gestating and rising aspirations for cultural conservation as well. Unfortunately, the Government has made no progress at all and fallen behind the

times. By insisting on "giving an overriding priority to economic development" in administration, the Government has accorded secondary importance to cultural conservation and placed it at a negligible position during the policy formulation process.

Madam President, reforms have to be to this bureaucratic line of thinking which belittles culture. Therefore, the Hong Kong Association for Democracy and People's Livelihood (ADPL) suggests the Government to elevate cultural matters to a policy formulation level and set up a Culture Bureau in the newly formed Government as Policy Bureaux are being reorganized. This will allow cultural matters to be accorded the same priority with other policy areas such as planning and the economy, and so on, thus taking up a greater role in the traditional economics-driven administration. This will also inject the idea of "cultural concern" into the thinking of policymakers.

I support the original motion. The remarks by Prof Patrick LAU took me by surprise, because I thought Prof LAU would always support the Government. But the remarks he made were very objective. Many of his views in support of the motion were novel and unheard of in this Council. The Secretary may not be listening to our views, but I hope he will listen to the views of Prof Patrick LAU. Likewise, if the Secretary will be listening to the views of Prof Patrick LAU, he should all the more listen to ours too.

Thank you, Madam President.

MISS CHOY SO-YUK (in Cantonese): President, normally I am not a big fan of TV drama series, but recently, as I was looking up relevant information in relation to the Queen's Pier incident, I came to notice that a number of popular TV drama series had taken shots at the Queen's Pier. Therefore, I believe even those people who do not go to the Queen's Pier very often will find it familiar because they can always see it on TV, as if the Pier has always been with them as they grow up.

Even if this may fall short of constituting a collective memory for the people of Hong Kong, successive Hong Kong Governors who came to Hong Kong to assume office onboard the gubernatorial yacht, the Lady Maurine, invariably set their first step on the territory off the Queen's Pier. In addition, before the reunification in 1997, the last Governor left Hong Kong from the Pier

as well. For this reason, the Queen's Pier is definitely an important landmark in the colonial history of Hong Kong, the *in situ* preservation of which should deserve our unconditional support. As such, I am disappointed and feel sorry at the decision of the Government, because I cannot stand to see that our historical buildings are being taken down and fall into oblivion one after another.

After the Star Ferry Pier was "buried" all too speedily, this Council has to discuss the fate of the Queen's Pier today. Repeated disputes over similar issues indicate that major inadequacies exist in our heritage conservation policy in general as well as the consultation process, so much so that whenever any development plan comes into conflict with built heritage, it will trigger off a jerky reaction in society and result in a series of struggles and confrontations which are detrimental to both the economy as a whole and the energy of society in general. In the end, there is no telling whether the built heritage can be conserved. More pathetically, those buildings would normally meet the fate of destruction.

President, in order to untie this knot for the purpose of properly conserving our historical heritage on the one hand and preventing internal social depletion to the detriment of social harmony on the other, the Government should look at the following issues squarely and tackle them properly.

As I pointed out in a motion debate held in the beginning of the year, the Antiquities Advisory Board (AAB) responsible for providing professional advice on matters relating to heritage and monument conservation, professional though it is, is merely a small advisory body whose advice does not carry much weight. Even if it does tender insightful advice, as long as such advice contravenes the wish of the Administration, it will not have much bearing on the final outcome. The Star Ferry Pier incident is the best example. Although members of the AAB were of the opinion that the clock tower should be preserved by and large, whereas the consultancy report has pointed out that the clock tower carries huge historic value, the Government could still, in the face of dissenting opinions, adopt a "to each their own" attitude and go ahead with demolishing the clock tower.

The unchecked expansion of the superior's mindset directly causes another problem, which is the failure of the advisory framework. For a long time, whenever public consultation on planning and development is undertaken, it all

comes with some distinctive characteristics, namely a foregone conclusion, evasiveness on important areas and purely embellishment purposes. Under this established model of consultation, it naturally fails to catch up with the time to accommodate the views of the public in a timely manner. Neither could it accommodate the strong public aspirations for heritage conservation, the conservation of built heritage in particular, so much so that voices of opposition keep boiling up and finally erupting into irreversible confrontations.

President, take the current incident of the Queen's Pier as an example, the Government has come up with four proposals, while three of them were proposed by various bodies, one of them was proposed by the Government itself. In my opinion, if the Government is consulting the public sincerely, it should not have made any proposal at all — all the proposals should come from society. In addition to those three proposals, there could be as many as six to seven sets of different opinions altogether. The Government should collect all these different views coming from the community and pass them to the AAB or an independent body for feasibility study one by one. Another committee should be made responsible for drawing up a consolidated proposal after summing up all the feasible aspects of all views and opinions. By doing so, the Government could minimize social disputes on the one hand, and people will not be given an impression that the Government is being hegemonic on the other. When the Government makes a proposal of its own, given that the Government is in possession of an unrivalled amount of resources, and it could keep the information to itself and refuse to provide them when they are requested by other parties, it will invariably give people an impression that the proposal of the Government is always the best. Although I found that something was wrong, when I requested the Government to provide relevant information so that I could illustrate to the Government what I had found to be wrong, the Government could remain unresponsive and refuse to provide the information. This is a very lousy way of handling the matter. Although a number of Members have praised the Government for having displayed a certain degree of sincerity over this incident as well as being able to listen to other people's view, the way I see it, it is nothing more than a show. Because the Government keeps selling its own proposal, and there is a conflict of interest here. For this reason, I do not think that the Government is sincerely consulting the public at all.

President, the Chief Executive said on a public occasion last Saturday that he would encourage government officials to transform themselves from

policymakers into interest co-ordinators whose role is to encourage the expression of public opinion, balance the interests of different parties, and facilitate the implementation of policy in a people-based manner.

We very much hope that this is some fundamental change in the Government's thinking. However, apart from listening to one's words, we have to observe his deeds. As a matter of fact, there were talks about enhancing heritage conservation in the 1999 policy address, and government officials have kept talking about cultural tourism plans. However, over all these years, how many Hong Kong visitors have come to Hong Kong specifically for seeing our heritage? Therefore, I hope the Government will display some sincerity and prove with its deeds that Hong Kong will not degenerate into a skin-deep city focusing only on development devoid of historical substance. President, I so submit.

MR LEUNG YIU-CHUNG (in Cantonese): President, the topic of discussion today is the Queen's Pier. This is because the demolition of the Star Ferry Pier has aroused public concern. However, the Government may have argued that the project of demolishing the Star Ferry Pier had long been confirmed, and no objection had ever been raised by the public. It was only when the demolition project was on the verge of being carried out that the public said no and demanded its preservation. The Government was acting as if it had suffered from wrongful accusations, on the grounds that the project was announced a long time ago, and therefore it was not the responsibility of the Government. The public had long been aware of the project, but they had not voiced opposition all along, and so they had left no leeway whatsoever to the Government. And now, this project is about to commence.

In fact, President, there are two issues here. First, it is true that the public voiced their objection to the demolition of the Star Ferry Pier only at a very late stage, and that is an indisputable fact. However, had the Government ever given any consideration to the Star Ferry Pier and the Queen's Pier the very first day the project was planned, with a view to deciding whether or not the project should be carried out at all? The Government should have considered this the very first day, and it should not have waited until the public had become aware of the problem. If the Government was conscious of the idea of heritage conservation, the project may not have been pressed ahead in the first place. Regrettably, the Government did not have this idea at all, and therefore, it did

not considerate that much. All that had come into its consideration were project-oriented, and the Government was resolute in carrying out the project. This is evident that a conceptual flaw has existed since the very beginning.

The second issue is that the Government has told everybody the project will be carried out, but nobody has ever said a word against it. If the Government was of the opinion that the project was necessary, so here was the problem: given the necessity of the project, compared against the need to take care of the heritage, what should be done? President, does it mean that the project should not be implemented then? That was the time when consultation should be carried out. The people should be asked if they prefer having heritage conservation or the project. That was the time when consultation should have been carried out. However, did the Government consult our views at that time? No, it did not.

The second problem is about if the Government has given weight to public opinion? The answer is no. Therefore, insofar as these two issues are concerned, the Government could as well stop thinking that it has been wrongly accused. There are two issues which the Government has not handled properly. First, the Government itself was not conscious of the idea of heritage and environmental conservation. Second, in the face of a dilemma, the Government failed to consult the public of their choice. The Government has failed in both of these aspects. I think the most serious problem is the mentality of our Government, and mentality is most important.

Just now, some colleagues suggested setting up a Culture Bureau. President, it is useless even to have these bodies set up. Why? If these bodies only come with the shell without the spirit, it is not going to do any good after all. It is similar to what a Member has said just now: Granted, Haw Par Mansion has been preserved, but what has happened to its cultural relics? What is the point of putting these relics aside, as if they were garbage? We should refuse to accept something that has a body but without a soul, why? Because that would just be an eyesore which makes people feel uneasy and uncomfortable.

Therefore, I think this is a very serious problem. We demand our Government to have a soul, but unfortunately, when I talk about having a soul, there comes another problem. What is this problem then? Can we say that the SAR Government is totally apathetic about heritage conservation? Of course we cannot. For example, a Dr Sun Yat-sen Museum has been built recently, so

it should show that the Government does care about these matters, right? Therefore, it is not true that the Government is totally devoid of this spirit only that it is pretty weak.

Apart from being weak in the spirit, there is a bigger problem, and that is the problem of mentality. I personally found that the SAR Government does not want to see the existence of anything associated with the colonial era (and very much so), and this is the most important point. The Government would like to wipe out this particular page of history and make it invisible, this is the most important point. Why would I say so?

President, if we take a look around us, we will find that there is not much left of the colonial period of our history. Take the Legislative Council as an example, the names of the Presidents of this Council from the colonial period are missing from the list of successive Presidents displayed outside the front door of the Council. Only the names of post-reunification Presidents are listed. And there are only a handful of photos. Things belonging to the former Legislative Council have gone missing, so have things associated with the colonial past. Why? Because of shame. Because that was a shameful piece of history, so those things should no longer exist. However, President, this is utterly wrong. Having a shameful pieces of history is nothing glorious for sure, but the point is, it does not cease to exist simply because we are trying to wipe it out. It is history that we are talking about, and how could we do it like an ostrich by simply sticking our head into the sand? How could we do that at all?

On the contrary, we should look history into the face. If that is an infamous page of history, let us tell our posterity that we have experienced an infamous page of history and let us prevent it from repeating. This is how we should go about it. Why should we panic? What is it to be afraid of? We should face the problem courageously and genuinely. We should tell the citizens as well as the next generations that we have experienced an infamous page of history, and that we were subject to colonial rule and humiliations. We should rediscover ourselves, and this is where the meaning is.

Unfortunately, this is not what our Government is doing. Instead, our Government is acting like an ostrich by just sticking its head into the sand. It avoids mentioning things of the past by all means. Historical facts about the Governors of Hong Kong are best left unknown, or best to have them wiped out

completely. Therefore, let the Queen's Pier be gone, it does not matter to the Government at all.

That is why I talked about the soul just now. Not only is the soul important, the mentality is even more important. If we do not have the right mentality, everything will be devoid of meaning — even things preserved in future will become completely useless. I have gathered this thinking from a macroscopic look at history. Therefore, I think this is a good opportunity today, that when the Government is talking about pulling down the Queen's Pier, we can have an opportunity to discuss this issue, and that we can ask the Government to look our history in the face, even if that is an infamous page of history. We must not allow the Government to wipe out the history, ignore it, or pretend as if it is not there. For this reason, I support the motion proposed by Mr Alan LEONG today.

President, I so submit.

DR FERNANDO CHEUNG (in Cantonese): President, I dare not say that I have thorough knowledge of the matter surrounding the disputes over the Queen's Pier. This is because I have all along been working in the social welfare sector, and the things we fight for or our needs are rather primary. We only talk about being able to keep warm and keeping people away from hunger. The many basic things we fight for include: whether or not there is enough food to keep people from hunger, whether there is accommodation, or "a roof above one's head", so to speak, or whether medical services are available when people fall sick. To date, a number of problems relating to basic livelihood and poverty, and so on, continue to exist, and these are issues that we have been working on all along.

When it comes to issues that are at a higher level, it would seem to bear little relevance to us. However, looking at the issue again, it is about general living that we are talking about today rather than purely a problem of survival. In fact, it is a life that we are after. An ideal quality of life does not stop at having enough food and clothes or avoiding premature death. I believe the people of Hong Kong today do not look at their demands for life from a low-level perspective either. This being the case, today's topic on the fate of the Queen's Pier is related to our lives with a most symbolic meaning. It is not unlike the

concerns we have been raising over issues relating to general living that we should accord meanings to our lives by having dignity, opportunities, hope and self-identity. If living is devoid of these meanings, or if these meanings are taken away from us, it will deal a heavy blow to many people.

Is the Queen's Pier worthy of preservation? To date, this is no longer a hugely controversial issue. Of course, if it is not preceded by the Star Ferry Pier incident, the Queen's Pier could have been pulled down long ago, and not even the plaque will be left. When the disputes were going on, the Government once said the plaque would be preserved. After the Star Ferry Pier incident, we have seen some awakening on the part of the Government, as the quality of public demand has taken it by surprise. Therefore, the Government and even Donald TSANG have to admit that the Government appears to have "overlooked" the matter. But then, what lessons has it learned? Basically, nothing has changed deep in the mind of the Government, but since the people are so enthusiastic about preserving the Queen's Pier, so let us preserve it as much as possible, including the superstructure.

Hence there is this "pavilion" version. During the election period, the Government made certain adjustments by saying that it was fine to come up with whatever proposals, because they would consult professional bodies and representatives from different sectors, and they would work it out further after the consultation. That was basically putting the issue on hold temporarily. Now, the election is over, and subsequent to the consultation, four options have stood out. Basically, the demolition has to be done first. As regards what will happen next, whether it would be reassembled *in situ* or reassembled at another location, there is no conclusion yet. It is pending further consideration.

We can see that it is a clever way to handle the matter. First, the Government has acknowledged that the Queen's Pier is worthy of preservation. It in fact carries historical value: the Queen of England once disembarked at the Pier, and successive Hong Kong Governors had arrived at and left Hong Kong from the Pier. Many members of the British Royal Family had used the Pier as well, such as Prince CHARLES, Princess DIANA, and so on. The Pier is a distinctive feature of Hong Kong indeed.

In fact, the Queen's Pier being a public pier has seen many people conduct their businesses there, and so it must carry some memories. Now since the Pier

is worthy of preservation, the question is: Should it be preserved *in situ*? Just now some Members said we should think about this question. Since there will be reclamation, why do we not relocate the original pier to the new waterfront? That is a pretty creative idea, and it did occur to me that since it is a pier after all, it should be located at the waterfront. But then on second thought, from the perspective of heritage conservation, heritage items like Tin Hau Temple are worthy of preservation too. Normally the shoreline will extend forward after reclamation, but then it had never occurred to us that we should pull down the Tin Hau Temple and relocate it at the waterfront. That is just unheard of. In fact, there are many city walls which once stood at the periphery of a city. Today, the city is still there, but the area of the city is much larger than before. Something has changed, but there is no reason that we should pull down the walls and relocate them to the new periphery of the city. This does not sound reasonable.

Likewise, I believe from the cultural and historical perspective, consideration has to be given to the overall environment. I think many experts have already pointed out that the Queen's Pier, the clock tower of the Star Ferry Pier, the Edinburgh Place and the City Hall combine to represent an inseparable entity. We should not break these structures down and judge them piece by piece with a view to relocating them in the future for the sake of development. Take Murray House as an example, it once stood at where the headquarters of the Bank of China is today, and it was a building with rich historical value. In the past, because that piece of land was put on auction, Murray House had to be pulled down. As a matter of fact, the building was classified as a Grade I building then. After the building was dismantled, it was stored up for almost 20 years before finally a place was identified for its reassembly. So it was finally relocated to Stanley, where it is housing a number of restaurants and providing venues for wedding photo shoot. But then has the building retained its historical value? Or is it, like many Members said just now, a fake antiquity and a piece of soulless so-called heritage? In fact, after the building was relocated to the new place, a definitive conclusion has not been drawn yet.

For the above reason, I am afraid that if we should continue to handle the issue of the Queen's Pier with this attitude, it might meet the same fate. Will the Government continue to make development the overriding principle, so much so that everything else will have to give way, to the effect that heritage conservation will have to be put on hold, just so to maintain what has been

described by Prof LUNG Ying-tai as the values of Central? I hope the Government will think it over again. President, I so submit.

DR RAYMOND HO (in Cantonese): Madam President, heritage conservation is a subject of rising public concern among the people of Hong Kong. Preservation of historical and cultural heritage is conducive to the development of self-identity, and it should be taken seriously. However, new development is inevitable in order to ensure the sustainable development of Hong Kong and improve the standard of living for the citizens. For the sake of the overall interest of Hong Kong, we must strike a balance between respecting history and urban development. In fact, evaluating the values of cultural, artistic and historical articles is a very subjective endeavour, so is how these articles are handled. In this regard, we must be respectful of each other.

I believe this line of thinking may as well be applied to the issue of the Queen's Pier. Let me begin with the historical value of the Queen's Pier. The Pier was first built in 1925, and it was relocated twice as the shoreline shifted northward as a result of reclamation on Hong Kong Island. The Queen's Pier we have today was built 50 years ago, and it had been used by five previous Hong Kong Governors when they first arrived at and last left Hong Kong. But basically it is a public pier. The Queen's Pier is a reinforced concrete structure. A thin, flat top is supported by 34 pillars without a beam, which is called a flatslab construction. Over the past 50 years, the structure has been eroded by sea water to the extent that the steel bars have been exposed to the air. A maintenance project was undertaken by the Government a few years ago to relay a waterproof layer at the top of the Pier. From an engineering perspective, the Queen's Pier is not a building with distinctive style. Compared to other piers with longer history, such as the Blake Pier constructed with distinctive steel frames, the structure of the Queen's Pier is of an inferior type from an engineering point of view, and therefore it is of lesser value than the relocated Blake Pier insofar as preservation is concerned. According to historical records, the father of Emperor Puyi Prince Chun as well as an English Prince who arrived at Hong Kong in 1925 had both used the Blake Pier, and therefore it has more historical value than the Queen's Pier.

Given the need for development, it is necessary to relocate the Queen's Pier in order to vacate the land it occupies for the construction of the Airport Railway Extended Overrun Tunnel and the drainage box culvert. In order to

cope with increasing passenger demands, the four overrun tunnels of the Airport Express Line and the Tung Chung Line have to move eastward in order to shorten the lead time for train overrun at both of the lines with a view to increasing train frequency. In addition, the extension tunnel at Tung Chung Line will connect with the proposed North Hong Kong Island Line. Given the limitation that both the Airport Express Line and Tung Chung Line have to pass through the existing Central Station, plus the need for meeting the minimum safety requirements applicable to railways, it is mandatory that the extension tunnel must pass through the underground area where the Queen's Pier is standing now.

Furthermore, in order to discharge the storm water from upper Pedder Street to the Victoria Harbour, the project involves the construction of a shallow and very slightly graded box culvert. Given the very limited underground space, the box culvert has to run to the east in parallel with the MTR tunnel through the underground space below where the Queen's Pier is in order to have sufficient space to cross the MTR tunnel to reach the Victoria Harbour. If the Queen's Pier is preserved *in situ*, it will seriously affect and hinder the progress of both projects at the expense of the badly needed improvement of MTR service and solving the flooding problem in Central.

As regards the suggestion of relocating the Pier in its original condition for *in situ* reassembly subsequent to the completion of the relevant projects, I personally have reservations about this option. The structure of the Queen's Pier is very fragile, with a flat slab supported by 34 pillars. Therefore, if the Pier was to be relocated in its original condition, the 34 supporting pillars would have to be placed onto a temporary supporting frame simultaneously, which is a very dangerous setup from the engineering perspective. This is a most risky engineering proposition not to be executed casually. During the dismantling process or while the roof of the Queen's Pier is being relocated, the slightest motion may cause the fragile structure to disintegrate and collapse, resulting in fatalities or serious injuries to workers working on the site. That would result in a tragedy.

Having considered the strong wish of some of the citizens for preserving the Queen's Pier, I hold that the proposal recently submitted by the Government is the most desirable, and I commend the Government for coming up with a feasible solution. Had the Government not come up with this proposal, we would criticize its ability then. According to the proposal, the top and pillars of

the Queen's Pier will be dismantled one by one for storage, and once a suitable place is identified, the Queen's Pier will be reassembled for resumption of its function as a pier, such as relocating it next to Pier 9 or to the newly formed shoreline. A monument can be erected for memorial purposes near the place where the Queen's Pier originally stood. Not only could this arrangement preserve the Queen's Pier, it could also allow the projects of public interests to keep going, so as to spare the public of having to shoulder the enormous expenditure resulting from project delays.

Madam President, this proposal is safer, more rational, and more cost-effective, and it is in the best interest of the people of Hong Kong. I so submit. Thank you Madam President.

MR RONNY TONG (in Cantonese): President, the Government has all along put the ideas of economic development and heritage conservation in antagonistic positions, and it even goes so far as to try to forcibly apply this idea to political parties with dissenting views. However, we can see a number of facts in Hong Kong, and they are:

- (1) Many buildings with historical value in Hong Kong are not properly preserved;
- (2) many distasteful new buildings are being erected in Hong Kong, many of which on sites where old buildings were demolished;
- (3) the so-called revitalization of heritage is simply one of the empty slogans from the Urban Renewal Authority. There are not many concrete examples of heritage revitalization; and
- (4) honestly speaking, there are not many remarkable heritage sites in Hong Kong.

Antiquities and heritage are the witnesses of our history and background. Are we really so money-hungry that we care only about making money with complete disregard to our history? Honestly speaking, I personally do not find the Queen's Pier all that attractive, nor do I find it a heritage item that deserves to be preserved most. However, very unfortunately, at this stage, there are not

many things left in Hong Kong that are worthy of preservation, apart from the Queen's Pier and this building of ours.

As many colleagues said just now, the importance of the Queen's Pier lies in the fact that it is a structure intimately associated with our colonial past. Many colleagues have also mentioned that the Queen's Pier was the place where members of the Royal Family and Governors of Hong Kong disembarked to get to Hong Kong. The Star Ferry Pier, now demolished, adjacent to the Queen's Pier was the place where Mr SO Sau-chung staged a hunger strike against a fare rise of five cents by the Star Ferry in 1967 (I believe many young people these days do not even know how a five cents coin looks like), which resulted in the riots in 1967. The riots could be described as a turning point in the history of Hong Kong. Now what has happened to the place and things related to the 1967 riots? The Star Ferry Pier has already been pulled down, and the industrial area of San Po Kong is on the verge of being demolished. The Queen's Pier will have to be pulled down. In the end, Hong Kong does not even have a complete memory of its own, does it?

Over all these years, we can see that many buildings with historical value are preserved with the efforts of the Government, and what is the result? Kom Tong Hall may not have made it if it was not with the help from a private fund. Although the Victoria Prison and the Central Police Station have been preserved, but as we can see, they will be developed into SOHO-styled cafes or even discos. Red House and Haw Par Mansion will soon fall into oblivion in the torrents of history. The more fortunate one among these buildings may have been the Lui Seng Chun tenement at Cheung Sha Wan, which has got a new life of its own.

Early this year, the Home Affairs Bureau released a list of buildings under conservation, whereas in fact it was no more than a categorization. The Government has no intention at all to give thoughts to how best these buildings can be preserved, nor is it committed financially. Right, the conservation of buildings (monuments in particular) involves money, and there are even people who question why the Government should be spending so much money on this instead of spending them elsewhere. Our answer is: cultural and heritage conservation is the responsibility of the Government.

Besides, heritage conservation and economic development are not actually mutually exclusive. In the case of Hong Kong, heritage conservation could develop into important assets for developing our tourist attractions. New tourist

attractions established since the reunification are highly commercial. Take Murray House in Stanley as an example. Although it has retained the look of the old building, inside the building it is no different from any other commercial shopping centres. Although the Disneyland has cost more than \$10 billion to build, it is actually no match to the Ocean Park, which has a much longer history.

For more than a decade since the reunification, Hong Kong appears to have focused on making as much money as possible, and it is actually being bailed out by the Individual Visit Scheme granted by the State. Over the past decade, Hong Kong tourism has not kept abreast of the latest international trend. At present, cultural tourism is the hype in overseas markets. Venice of Italy, Vienna of Austria, Paris of France and London of the United Kingdom, and so on, are good examples where cultural tourism is being promoted. It is true that we need to spend a lot of money on heritage conservation, but then the tourism industry will be able to generate an even greater amount of revenue on a more long-term basis. Of the many famous spots for cultural tourism in overseas countries, have we ever heard that the Arc de Triomphe had to be demolished in order to address the traffic problem? Have we ever heard of the need to relocate the Big Ben of London simply because the Parliament is running out of space? Have we ever heard of the need to convert St Mark's Square to a parking lot for the sake of developing road transport? These examples may be a little bit exaggerated, because the Queen's Pier cannot be compared with St Mark's Square. However, the same reasoning holds. There is only this much left here. Are we going to leave this tiny much unattended and pull it down, so that we will be left with no traces of our past at all?

President, history should not exist only in the museums. We should not demolish buildings with historical value hastily. The Queen's Pier is just a starting point. I hope Members will keep working together to preserve this only remaining monument that is worthy of conservation for the benefit of the history of Hong Kong, the local tourism industry, and our next generations. Thank you, President.

MR JEFFREY LAM (in Cantonese): Madam President, buildings with historical value in Hong Kong are certainly not restricted to the Queen's Pier and the Legislative Council Building, are they not? Actually, we also have St John's Cathedral as well as walled villages in the New Territories. People who

love Hong Kong and know Hong Kong well enough know that there are many such buildings, so how could it be claimed that just one or two of them are remaining? However, when it comes to the Queen's Pier, I know Members present today as well as the general public each has their respective memory of the Pier. Before the reunification, a number of Hong Kong Governors had disembarked and arrived at Hong Kong at the Queen's Pier to be sworn in to their office. In the '60s and the '70s, people who had missed the last ferry would rush to ride on the "walla-walla" (motorized sampan) to cross the harbour. The Pier was also filmed in many movies and TV drama series where love stories between the heroes and the heroines began or ended. In addition, the Queen's Pier has also borne witness to the development of our road traffic, as Connaught Place and Connaught Road Central opposite the Pier have become more and more congested. If road projects like Road P2 should be delayed time and again, the economic development of society will be directly affected, and I believe this will not be the sort of memory that the public would like to have.

Having heard the remarks made by a number of Members just now, I kept thinking and asking myself: Is *in situ* preservation of the Queen's Pier at all costs both in terms of money and time the best option for Hong Kong? Vacating the land where the Queen's Pier is now for building the Road P2 network and the Airport Railway Extended Overrun Tunnel are proposals reached and agreed as a result of a long period of discussion. If we have to start from scratch again for a new proposal, I am afraid the traffic congestion problem in Central will only be worsening by the day.

The traffic volume on Connaught Road Central and Harcourt Road has already exceeded the design capacity by a large margin. Congestion is almost like "seven-eleven", meaning that congestion begins at seven o'clock in the morning and last to almost eleven o'clock at night. The congestion duration is getting longer and longer, meaning that it begins earlier in the morning and extending later into the evening. According to government statistics, the section of Connaught Road Central from Rumsey Street to Pedder Street is only 0.7 km long, but it takes more than five minutes for a vehicle to get through it, meaning that vehicles are running at a speed of 7 kph. If the situation does not improve, I believe sooner or later people riding a bicycle may cover this distance faster than driving a car. As professional drivers who have to pass through that area on a regular basis say, if they happen to pass through the area without encountering traffic congestion, they would have to buy a Mark Six lottery ticket to try their luck.

Building Road P2 to link to Man Cheung Street with a view to alleviating the traffic congestion problem at the Central Reclamation Phase I area must be pressed ahead without further delay. International commercial and financial institutions that have moved to, or are about to move to Phases I and II of the International Finance Centre are very concerned about the traffic congestion problem in the area. The economic cost and social cost caused by traffic congestion are very extensive, with ramifications in many different areas, and I believe nobody would like to see that Central is labelled as a "capital of traffic jam". The economic lifeline of Hong Kong is located in a place where long stretches of vehicles are packed together in slow motion, and it is a place where investors may have to rely on their phones to give out instructions as they are stuck in the car for a prolonged period of time.

Madam President, land in Hong Kong is very precious, and we must properly utilize our public resources. It is not that the Government has overlooked the importance of history. In fact, the Government has been fairly responsive to public aspirations for collective memory, and advanced laser-scan technology has been used to capture three-dimensional images of the Queen's Pier as a comprehensive preparation for reassembling it in the future. When the Pier is dismantled, steel structures and non-structural parts will all be retained, such as moorings, steel rails, steel columns, handrails, the Chinese and English plaques, and stone benches, and so on. This is to ensure that the look of the Pier will not change much after reassembly.

I believe the Government should open discussions with public engagement promptly on identifying a suitable site and relevant design concepts for reassembling the Queen's Pier. By listening carefully and planning well, we could jointly arrive at the best proposal for bringing the Queen's Pier back to life.

Madam President, I so submit.

MS MARGARET NG (in Cantonese): President, since the *A45* newspaper was running out of money, our last issue was published on 1 February with a special feature on "HO Loy — Protector of the Queen's Pier". We may still remember this from our previous discussion on the issue with respect to the demolition of the Star Ferry Pier: HO Loy was the one who had climbed up the top of the pier and later arrested and charged by the police. She indicated in our interview that

she would continue to protect the Queen's Pier, irrespective of the fact that the Star Ferry Pier has already been demolished. "I would like to ask Mr SUEN to disclose the project contracts. If the Government argues that there are technical problems, there are engineers in society who can tell the Government what to do. If the Government argues that there are financial problems, we could initiate fund-raising activities in the community", said Ho Loy. These are words from a tenderly mother. I hope all of us can have courage like hers in protecting the Queen's Pier.

Why should we preserve the Queen's Pier? Mr Alan LEONG is asking for *in situ* conservation today. In fact, we seek to preserve the Queen's Pier precisely because we want to have it where it is. Sometimes we seek to preserve a building for the artistic value or the inherent value of the building itself. However, the Queen's Pier has more value than its pavilion outlook, for its value lies precisely in its locality.

President, I could not have said it better myself than Prof Patrick LAU did. Judging it from the planning perspective, he explained how and why the building structures were arranged and therefore why *in situ* preservation of the Queen's Pier is preferable. We are not saying that it is just a pavilion and it could be relocated to just anywhere because it no longer has any meaning now that it is no longer at the waterfront, or it is alright even to have it demolished, since it does not have any meaning anymore. Before he left this Chamber, Prof Patrick LAU said he had forgotten to make one point, and I am pleased to state it on his behalf. He said there is another example, which is about the many Tin Hau Temples in Hong Kong, which are built by the seaside

PRESIDENT (in Cantonese): Ms NG, I have to interrupt you. Is it your view that you are expressing?

MS MARGARET NG (in Cantonese): I agree very much with Prof Patrick LAU on what he said, and I am pleased to state it here. President, Tin Hau temples have left me with some deep impressions, particularly so because I studied in St Paul Secondary School when I was young.

Tin Hau temples are there to protect the fishermen, and so they are built by the seaside. However, dramatic changes have taken place, and reclamation

has been carried out in the area near Causeway Bay. However, nobody ever asked to have the Tin Hau Temple there to be relocated to the seaside, or any other place for that matter. The temple continues to stand at where it once was, without being blocked by anything else in front. Why is that? That is not about how it functions, that is because it eternally signifies we all know that the Tin Hau Temple is there to protect the fishermen, and it will always remind us that it once stood at the seaside. This understanding enriches our historical sense for this city. President, I am aware that people who are well-versed in history, architecture and town planning are more concerned about heritage conservation. However, if we only focus on the monetary value of the land, if all that is on our mind is that this piece of land is right in the middle of the city and therefore it has a high value and the traffic is congested, and so on, we would actually forget what can and what cannot be changed.

President, I am not saying that town planning and heritage conservation are mutually exclusive. However, there are good ways as well as bad ways in achieving development. The bad way of doing it is to demolish or relocate everything that hinders the process of money-making, and it is alright even if things become ugly after relocation. Contrarily, good planning and good architecture should always be preserved, so that whenever new elements are added such as when solutions are provided for addressing the traffic congestion problem of the city, or when commercial districts are being developed, some of our heritage can be preserved to ensure that as we move on with development, the city will keep enriching itself with special distinctiveness and characteristics, which would allow us to witness the continuation of our history and experience the changes that keep taking place.

We are not trying to stick with the inglorious history of the colonial era. Instead, we are trying to liberate ourselves from it, so that our next generations can see what happened in the past and compare that to what they have at present. Only by doing so can we enrich the city with no, that is not about the collective memory of ours, or indulgence, or stagnation; and it is not like "I remember what it was like by the seaside when I was small" no this is not what I mean. Instead, it is about the memory of a city. The memory of a city does not exist in documentations and photos only; they exist in the existing concrete things.

President, I feel that sometimes the Government is having this horrible sense for history. If only it had realized for example, the place where the Central Market is standing is actually a place of historical significance. It is also a landmark, because the Central Market has always been there, ever since the founding of the city of Hong Kong. Why? Because this market I remember I talked about this before the market is a landmark for Central linking "Lower Central", which is Wan Chai at one end and Sheung Wan (Upper Central) on the other. Therefore, landmarks like this have their own specific meaning indeed.

President, I do not feel that we are trying to preserve the Queen's Pier at all costs. There are many things that money cannot buy, and so it is worthwhile to spend a bit more money on them. Some people argue that given all the changes taking place in the city, and since reclamation is being undertaken nearly, why should *in situ* preservation be necessary? President, if the same logic is applied, it would be very easy to destroy the Legislative Council Building as well. All it takes is to put a lot of dirt around the Building and withhold funding for maintenance. Gradually, we will be saying that it is an ugly place we have here; it is so poorly maintained and it is so surrounded by dirt. So what is the point of having it here? Let us pull it down. If we should use the same logic, everything that is the dearest to Hong Kong can be pulled down. Therefore, President, we have to stand firm today.

Thank you, President.

MR LEUNG KWOK-HUNG (in Cantonese): President, in the last meeting, I said that if Secretary Michael SUEN insisted on doing things in his way, he would be held responsible for the massive arrests that might occur subsequently. I am not going to withdraw this remark.

If the Government continues to act against public opinions time and again, it is forcing the people to employ unusual measures to safeguard what they consider to be right. I would like to point out once again, if the Government goes on doing this, it really shall be held responsible for this. It seems that our Government wishes to indulge in high-stake gambling. Like many gamblers, it continues gambling because there is nothing much to lose as most of his money has already been lost. The Government told us since the Star Ferry has already gone, what significance is there in keeping the Queen's Pier? Furthermore, it

has already decided to do this, so no one can change it. The Government has never answered questions raised by others, that is, the Star Ferry incident happened just because the Government proceeded to do it by force, and it was a mistake. But now, the Government is using the last mistake to justify this next mistake. I have never heard of something like this in my life.

In dealing with such liars, I am reminded of some small children. They always act like that. When you tell a child not to return home too late, and do not tell lies, he would say nothing like that has ever happened. But if you tell him, should something like that happen again, you will not give him any pocket money, and you will not give him the money for snacks, he would immediately promise to comply with whatever you ask of him. My friend said his children frequently returned home very late in the evening, and they would not change their behaviour no matter how hard he had warned them. But once he mentioned he might deduct money from their original amounts of pocket money, they all became obedient and ready to comply with his wishes.

Today, if our Council can really reflect the fundamental public opinions and values of Hong Kong, we should not ask the Government to come here and give it the pocket money. Instead, it should be told to return to where it should go. Therefore, once again, I would like to advise all those who have criticized the Government: Do not give the Government pocket money soon after you have scolded it. If you do that, you are simply acting like the parents who pamper their children. They will be spoilt. A tender loving mother pampering her child will make him a failure. Of course, a tender loving father can do the same harm as well. However, I feel that we do not have any reason to do that.

In this Council, we have all joined together in criticizing the Government. But time and again, when it asks for the money to engage in high-stake gambling one more time, we would still give it the money. In doing so, how can we teach it to quit gambling? How can we teach it to become conscientious? This is exactly how the present Government has been acting today. What is the logic adopted by the Government? The Government is acting like a ruthless person who will kill the Buddha if the Buddha stands in his way, and he will kill his own father if his father stands in his way. Anyone challenging its authority, or anyone who stops it from making Hong Kong follow its direction on behalf of the consortia will be mercilessly killed. In the Council, it makes use of its voting machine to achieve the purposes, whereas outside the Council, it makes use of

the state machine to achieve the purposes; or actually the state machine is used in both cases. What has such a machine become? It has changed into something like Leviathan, a monster, which swallows this society that belongs to the people.

On the issue of reclamation, we all know that Hong Kong people have started to realize the significance of the sea. So we demand a ban on reclamation. But then the Government completed all the application procedures overnight, so that everything was signed and sealed — we do not know why someone was so well-informed. So today we end up in the present predicament because there are problems with the Government's advisory framework. I have said that many times before. They just appoint their cronies in an advisory framework and an appointment system which do not have any objective standards at all. It is like inbreeding. What will be the results of inbreeding? It will lead to the emergence of idiots or obese persons. People frequently say that one's body and brain should be linked together, but such persons would probably end up with their brains linking up with their bottoms.

I have listened to views expressed on this issue for a long time. I find that the Government simply cannot offer any justifiable ground to convince us why the Queen's Pier cannot be preserved *in situ*. It simply cannot tell us why this could not be done. All the Government has been saying is: It would entail very expensive costs if the original design is revised. I have this question for the Government. Since Mr TSANG always talks about his "always people first" policy, and says that we should strive for harmony, improvement to people's livelihood and the blue sky. He has already said everything, but when he is asked to do something, he said sorry, no way, it cannot be changed. Did he not frequently say that having aspirations means nothing, and that the aspirations would be useful and effective only if the proposer possesses the ability and capability of implementing them? Where is he now? Is he praying or doing something else? The present situation fully illustrates that he had cheated Hong Kong people when he was campaigning for a second term of office. At that time, according to public opinion polls, everyone thought that Donald TSANG was quite good. But now we found that we have been cheated. I do not know whether those people have woken up from their dream now. At that time, he said that he would change people's situation from "nothing" into "something", that is, people who have no money, no power, and no votes will be changed by him into people with money, power and votes. But now, all we are

asking of him is just to exercise a bit of his power, so as to spare the Pier the bulldozers. If it wishes to indulge in high-stake gambling, it is free to do so as long as it is its own money that is at stake. But he is not doing it this way.

For all these reasons, I have to reiterate one point. There are problems with the town planning of Hong Kong, there are problems with the consultation system in Hong Kong, and there are also problems with the politics in Hong Kong. What is the conclusion then? We end up in such a predicament because of the hypocrisy of our past colonial consultative system, together with the autocracy of our parental governance system and the extremely money-minded philistine culture.

I have to say this here: In order to overcome these three major evils, we should, with effect from today, stop giving money to the Government to enable it to engage in high-stake gambling, thus preventing it from cheating Hong Kong people. Do not provide the Government with any capital and treat it as a gambler, or a misbehaved child or a bad guy. Do not give it any money. In order to overcome the evils of that person, we must first cut his financial source. I hope all of you can do this, and do not just pay lip-service to this request.

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

MS AUDREY EU (in Cantonese): President, on 13 December last year, Dr Fernando CHEUNG moved a motion debate in this Council on "Demolition of the clock tower at the Star Ferry Pier". On that day, while we were holding discussion in this Chamber, the policemen were clearing the site of the Star Ferry Pier. Within one short night, the Government took the strong measures of dismantling the entire clock tower and had all of its remains destroyed completely, without leaving a single trace of its existence. Now five months later, Mr Alan LEONG of the Civic Party moved a motion today on "Conserving the Queen's Pier". After much hassle and hustle, life is like a merry-go-round and we are back to the same question. Is the Government willing to preserve historical monuments? And in addition, such preservation should not be in the form of a "point", nor is it preserved by relocation to a site nearby in the form of false antiques. Instead, the preservation should be in the form of a "line", or

like what Prof Patrick LAU has said, *in situ* preservation in the form of "three in one".

To cut a long story short, I have three questions which I hope Secretary Michael SUEN can answer one by one when he gives his reply later on. First question. I believe Secretary Michael SUEN can still recall that he made four undertakings in respect of the Queen's Pier in a meeting of the Panel on Planning, Lands and Works held on 23 January this year. The first, he undertook to establish a working committee comprising of experts from both the Government and non-government organizations. The second, government experts would provide information to non-government experts. The third, meetings would be convened with non-government experts to study the feasibility proposals for preserving the Queen's Pier *in situ*. The *in situ* preservation in fact includes dismantling it and reassembling it in its original location. The fourth, before a conclusion is reached, the Queen's Pier will not be demolished. Regarding all of these, Secretary Michael SUEN has really established a working group and he has met with the relevant non-government organizations or their experts. However, the Government has not provided data to the non-government experts regarding the *in situ* preservation of the Queen's Pier. According to a document released by the Government on 27 March, the proposal which the Government is now hard selling is just "dismantling, preserving the components of the Pier and reassembling it in future", though it does not rule out the possibility of reassembling it *in situ*. However, the reassembling of the Pier could take place in a site nearby or at some unspecified locations. So it cannot be confirmed that the reassembling would definitely take place *in situ*. Actually, had the subject of reassembling the Queen's Pier *in situ* been discussed in the meeting between the Government and the experts? Today, we read an article released by Dr HUNG Wing-tat of the Conservancy Association, and I quote, "We are dissatisfied with the Government in adopting a passive attitude. It has not proactively provided us with feasible proposals. The Government has just provided information to prove that the proposals made by the Hong Kong Institute of Architects (HKIA) and the Conservancy Association were not feasible." (End of quote) In her speech earlier, Mrs Selina CHOW said that the experts also agreed with the Government's viewpoint, that is, definitely Option D had to be adopted. But we can see clearly the stance adopted by Dr HUNG Wing-tat in his article published today. Regarding the HKIA, a press release has been posted on their website, saying that they are angry at being misquoted. They clarified that they had not accepted the Government's Option D because it was not the proposal for preserving the Queen's Pier *in situ*.

In her earlier speech, Miss CHOY So-yuk also explicitly said that the Government had been insincere in conducting the consultation. In fact, the first question I would like to ask the Government is: When the Government submits its funding application to the Public Works Subcommittee of the Finance Committee this month, will it be possible for it to have honour the four undertakings mentioned by him earlier on, or has he violated the undertaking that "the Queen's Pier will not be demolished before a conclusion is reached"?

The second question. According to information provided by Mr MA Lee-tak, Project Manager (Hong Kong Island & Islands) of the Civil Engineering and Development Department in an informal public hearing on the preservation of Queen's Pier conducted on 4 April 2007, regarding the infrastructure engineering contracts already signed, the Government's involvement in the Star Ferry Pier Project just covered the left side of the old Star Ferry Pier. However, when the Government cleared the Star Ferry Pier on 13 December, it told us that all the engineering contracts had been signed; that none of them could be altered; that it was already too late to do anything to avert the situation. So the plan could not be changed. I hope the Secretary can furnish us with a reply later on to clarify whether the information provided by the Project Manager, Mr MA, was correct. Why is the Secretary's version different from that of Mr MA? Has anyone withheld certain facts? This is the second question.

The third question. The existing Queen's Pier, commissioned in 1953, is the second generation of the original pier. It has a history of 50 years and was the venue for conducting the reviewing ceremonies and the landing point of many Governors as well as the Queen when the latter visited Hong Kong. It was also the starting point or the finishing point of cross-harbour swims. The Queen's Pier was also the shooting location of certain scenes in classic television drama series in the '90s such as the Great Era (大時代), I Have a Date with a Vampire (我和殭屍有個約會) and the recent series of the New Story of Ah Wong (亞旺新傳). It has been more than five months since the Star Ferry Pier was demolished by force on 16 December last year. During this interim, has the Antiquities Advisory Board held any discussion on the historical value of the Queen's Pier? Why so much time has been spent, yet still no conclusion is forthcoming? Will a conclusion be reached before the Government makes a funding application to the Public Works Subcommittee of the Finance Committee? If the Government keeps on delaying the time for resuming the

meeting, will it lead to a *fait accompli*, as in the case of the Star Ferry Pier incident? I hope the Secretary can give us a reply later on.

Thank you, President.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): If no Members wish to speak, I will now call upon Mr Alan LEONG to speak on the two amendments. The speaking time is five minutes.

(Mr Abraham SHEK raised his hand to indicate his wish to speak)

PRESIDENT (in Cantonese): Mr Abraham SHEK. Excuse me, Mr Alan LEONG.

MR ABRAHAM SHEK: Madam President, I have just finished writing my.....I have not finished writing my speech, but I will try to speak.

The motion as moved by Alan tonight is a subject which one would find it very hard to oppose. Do I want it to be demolished? The answer is "no". Do I like it to be moved? The answer is "no". Do I like it to be conserved? The answer is "yes". With so many "nos" to its destruction and "yes" to its conservation, I should be voting for Alan's motion. But Madam President, unfortunately, conflicting as I have always been, I would be voting otherwise as I have decided that one has to find a balance between advancement as well as development and conservation.

I concur with all the opinions expressed by many of my colleagues who speak for conservation, and I do not intend to speak ill of their learned comments, such as Queen's Pier which was rebuilt in 1957 is not worth conserving as it is not an architectural gem, and that its past value as a pier

hosting a number of colonial events is not worth preserving. All these are worth conservation, but the question is, the Government has put up a very strong argument in front of us: do we want development or do we want conservation? It is really a choice which is very difficult to make. Do we want the road to alleviate our traffic congestion? And do we want Hong Kong to expand, taking into consideration other cities in China are expanding?

It is really a sad decision which we have to make, but in life, we sometimes have to face important decisions, and this is one of the decisions which I feel is very important. We must find a balance, a balance between progress and history. But the history of collective memory does not need to be a physical structure because history can be written in books; history can also remain in photographs and a number of other things, such as movies or DVDs. But for progress, if we stop now, there will be no progress. I think the Government is also aware of its position to conserve and preserve as many of our buildings and structures as possible for our descendants, so that they know what Hong Kong has always been. And I trust the Government is trying very hard to work towards this objective. If not, why should it include conservation as one of the main areas for the future bureau for construction or development? I think we must give the Government a chance to really work hard to preserve our history and conserve whatever we can.

Money is not an issue here, but progress is an issue. And progress, in a society like ours, is always linked up with development. I find it very difficult to speak against conservation, but I have a duty, not just being a representative of the construction and real estate constituency. I favour development over conservation. I really have searched my heart this time: should we preserve Queen's Pier or should we accept the Government's proposal to preserve it and move it to another area? This is also a form of preservation. You ask me do I want preservation? I am one of the very early conservationists. I preserved the Western Market when the Government threatened to demolish it, and it now still stands in the western area. This is a respect for history, but Queen's Pier stands right in the midst of progress. And it is this.....you do not have to agree with me, but this is what I believe. The beauty of Hong Kong is we have to make choices, and this is the choice which I made: that I vote for advancement and development, over the very sound argument of preserving Queen's Pier. Thank you, Madam President.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): If there are really no Members wishing to speak, then I will now call upon Mr Alan LEONG to speak on the two amendments.

MR ALAN LEONG (in Cantonese): President, first of all, I am very grateful to Mrs Selina CHOW and Mr CHEUNG Hok-ming for proposing amendments to my motion.

However, regrettably, I can neither agree nor support these two amendments mainly because they do not have any commitment to the preservation of the Queen's Pier *in situ*, and Mr CHEUNG Hok-ming's amendment even proposes to delete the China Principles.

Now, I should respond to the speeches made by Mrs Selina CHOW and Mr CHEUNG Hok-ming.

First of all, Mrs Selina CHOW said that the Government had consulted some professional bodies. But, in fact, according to several Members who have spoken today, such bodies had complained about the Government's refusal to provide data to them. Secondly, the question posed by the Government is: The authorities will definitely build the North Hong Kong Island Line of the Mass Transit Railway, and a box culvert has to be built there too, and the Road P2 cannot be changed; under such circumstances, what can they do? At this juncture, these bodies said that if the Government was really determined to do it this way, they had to let it had its way. That was what had actually happened. In spite of all this, there are still 18 organizations supporting the preservation of the Queen's Pier *in situ*, but the Government chooses to conveniently omit this. So it has mainly mentioned the viewpoints put forward by the Hong Kong Institution of Engineers and the Association of Engineering Professionals in Society.

With regard to the issue of "one country, two systems" raised by Mrs Selina CHOW, she also said that she had all along adopted a different stance from that of mine. I do not understand the reasons for this. In fact, the two

systems can complement the strengths and weaknesses of each other. Furthermore, the so-called China Principles were not only applicable to our own country. It just so happened that this international organization ICOMOS had held its meeting in the city of Chengde in China. The situation is similar to those in which the Venice Charter and Burra Charter were drawn up, and that explained why it was named the China Principles. If the principles are good, we should definitely follow them. Just now Mrs Selina mentioned that there were flooding problems at the ZHANG Fei Temple and the River Nile of Egypt, so some buildings with great historical significance had to be dismantled and reassembled afterwards. However, what we are discussing is the construction of Road P2. It seems to me that she considered that the construction of Road P2 is comparable to the Three Gorges Projects and the relocation of the ZHANG Fei Temple. I really need to take some time before I can put an equal sign between these projects.

President, I just heard Mr CHEUNG Hok-ming say that the traffic congestion had become really intolerable. Other Members have also mentioned this viewpoint, which I had heard before as well. However, have we studied the issue in greater depth: That Road P2 and the Central-Wan Chai Bypass are two different issues? The construction of the Central-Wan Chai Bypass will proceed as scheduled. I think later on Secretary Michael SUEN will also agree that this has nothing to do with Road P2, that is, the present traffic congestion problem. For example, Mr CHEUNG Hok-ming pointed out that it took half an hour for him to travel from the Western Harbour Crossing to the Legislative Council. In fact, this problem will be resolved with the commissioning of the Central-Wan Chai Bypass in future. So, this has nothing to do with Road P2. Hence, this may serve to prove that the Government has only disclosed half of the truth. But it has effectively led Honourable Members to think that the traffic congestion problem and Road P2 are connected, so Road P2 cannot give way to the Queen's Pier. Instead, the Queen's Pier has to be demolished to make way for Road P2.

Finally, since I still have about one minute of speaking time, President, I must by all means make a clarification because I need to win the vote of Prof Patrick LAU. In fact, even if my motion is agreed by Members, it does not mean that the Queen's Pier cannot be demolished. But the focus is putting it where it used to be. I think this point is very important and must be explicitly explained to Prof LAU. And this focus, as Prof LAU has pointed out, should form a straight line. This point is very important.

Last but not least, I would like to mention a temple. If Members travel to the Swimming Pool Complex of the Beijing Olympic Village, they will find a temple next to it. This ancient temple is named the Temple of Niangniang, which was built in the Ming Dynasty. In the process of constructing the swimming pool complex, the authorities realized the existence of this temple. So they immediately proceeded to amend the plan and applied for additional funding to move the location of the swimming pool complex slightly. Why can Hong Kong not do the same?

Thank you, President.

PRESIDENT (in Cantonese): I now call upon the Secretary for Housing, Planning and Lands to speak.

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): President, there has been extensive and in-depth discussion in the Legislative Council and in the community on the preservation of the Queen's Pier (the Pier) in the past few months. I thank Mr Alan LEONG for moving this motion today and Mrs Selina CHOW and Mr CHEUNG Hok-ming for their amendments to the motion so as to provide us with an opportunity to update Members on the latest information and to make a conclusion on this issue.

A number of Members have spoken just now on this motion and the messages they conveyed are very clear: the Government should effectively and properly preserve the Pier. Let me reassure you that this is exactly what we are doing. In fact, we have submitted to the Public Works Subcommittee (PWSC) of the Finance Committee for discussion on 9 May 2007 a funding application to enable us to proceed with the preservation works of the Pier.

In his motion, Mr Alan LEONG urged the Government to implement the most effective proposal for the *in situ* preservation of the Pier. This is also what he has emphasized just now. First of all, let us deal with the question of whether the Pier can be preserved *in situ*. This is a technical issue which has to be dealt with by relevant experts. Indeed, our professional works departments have held four expert meetings with four relevant professional bodies, namely the Conservancy Association (CA), Hong Kong Institution of Engineers (HKIE), Association of Engineering Professionals in Society (AES) and Hong Kong

Institute of Architects (HKIA). The outcome of these meetings was reported in detail to the Panel on Planning, Lands and Works (the Panel) at its meetings on 27 March 2007 and 23 April 2007 respectively.

To facilitate the non-panel Members' understanding of the issue, please let me brief you on the four proposals that have been examined by experts.

The first proposal is *in situ* preservation by shifting the alignments of the planned infrastructure which are in conflict with the Pier. Three infrastructure will be affected, including the Airport Railway Extended Overrun Tunnel (AR EOT), the extension of an existing drainage box culvert at Man Yiu Street and Road P2. These three infrastructure form one single project. Failure to deliver any one of them will result in failure of the whole project. Some Members imply that all the issues will be resolved if one of the three infrastructure is implemented. This is not true.

The second proposal is also *in situ* preservation, which entails filling the void underneath the Pier by sand or grouting; constructing the underground EOT and drainage culvert by underpinning and tunnelling method; and constructing a temporary road to buy time for completing the statutory procedures for the amendment scheme of Road P2 so as to preserve the Pier *in situ*.

The third proposal is *in situ* reinstatement by rolling the superstructure (the roof and 34 columns) away for construction of the underground infrastructure and rolling it back upon completion of the construction; and shifting Road P2 away from the Pier.

The fourth proposal is to preserve the above-ground structure of the Pier as far as practicable for reassembling in close proximity to its original location or at other appropriate location. In brief, this proposal includes preservation of the retainable parts of the above-ground structure of the Pier, transportation and storage of the preserved parts to/at a temporary location, strengthening of the preserved parts and reassembling of the Pier in future.

Among these four proposals, the first and second ones, which are *in situ* preservation, are in conflict with the planned essential infrastructure as I have just mentioned, that is, the AR EOT, the extension of an existing drainage box culvert at Man Yiu Street and Road P2. Technically speaking, these two

proposals are not practical and this view has been unanimously agreed by the four professional bodies.

The third proposal, which is the rolling method, was put forth by the CA. Both the HKIE and AES consider that this proposal would be highly risky and would involve significant additional time and costs. Taking the project risks into consideration, we agree with these professional bodies that we should not try such a risky proposal.

We note that the AES has released an article in the press presenting in detail their reasons for not supporting the first three proposals from an engineering perspective. Just now Dr Raymond HO has also spoken on these three proposals from the engineering angle. I believe that Members will appreciate the difficulties and risks involved in these proposals.

The remaining proposal, that is, the fourth proposal, is the most reasonably practical one. Technically speaking, we are confident that this proposal is achievable, with minimum delay caused to the Central Reclamation Phase III (CRIII) project which would be in the range of four months and with relatively lesser additional cost. The HKIE and AES have presented their written submissions to the Panel in support of this proposal. The CA has also expressed no objection to this proposal.

At the Panel meeting held on 23 April 2007, Dr KWOK Ka-ki moved a motion to request the *in situ* preservation of the Pier. The motion was voted down. We proposed to the Panel to submit a funding request of \$50 million to the PWSC for taking forward the fourth proposal to preserve the Pier. The funding proposal was supported by the Panel. The scope of the works has been explained in detail in the PWSC paper for discussion at its meeting to be held on 9 May 2007. It comprises the careful preservation of the retainable parts of the above-ground structure of the Pier; proper transportation and storage of the preserved parts at a temporary location; and suitable strengthening of the preserved parts for reassembly of the Pier at a later date.

Some Members and the HKIA said we have not specifically undertaken to include reassembly of the Pier at its original location in the fourth proposal. However, we have said repeatedly on various occasions that we remain open-minded about the site for reassembling the Pier. It has been clearly stated

in the PWSC paper that reassembly of the Pier at its original location is one of the options that we will explore.

We do not wish to decide on the location for reassembling the Pier at this stage because we have heard different public views on this issue. Some prefer reassembly at the original location, some prefer reassembly in proximity to its original location, and some wish it to be reassembled at the new waterfront to revive the marine function. It is normal that there are varied opinions about the issue given that Hong Kong is a diversified society. We wish to decide on the location through an open and transparent process with public engagement. Accordingly, we will extensively consult the public, professional bodies, the Legislative Council, District Councils, and so on, under the Central Reclamation Urban Design Study (the Study) being conducted by the Planning Department before deciding on the site for reassembling the Pier. We believe Members of this Council would agree with us that we should engage the community in the discussion about this matter of public concern before we make the final decision.

In his original motion, Mr Alan LEONG demanded the Government to adopt the "Principles for the Conservation of Heritage Sites in China" (the China Principles) approved by the Central People's Government in 2000 with "conservation *in situ*, minimal interference, preservation of the original condition and protection of the heritage environment" as the principles for formulating and expeditiously implementing the most effective proposal for preserving the Pier *in situ*. I would like to draw Members' attention to the fact that Article 18 of the China Principles — Mr LEONG has mentioned a number of Articles just now except Article 18 — does not exclude the arrangement of relocating heritage in their historic condition to another site for conservation. In fact, a set of guidelines is provided under Section 13 of the "Commentary on the Principles for the Conservation of Heritage Sites in China" on the basis that relocation is allowed for the purpose of preservation. Our proposal for preserving the Pier, that is, the fourth one which I mentioned above, is in line with these guidelines.

In fact, as stated in our PWSC paper, the whole process of the preservation works would be carried out with reference to the relevant international charters and guidelines as well as the relevant guidelines of the China Principles. We will carefully preserve the above-Pier structure. Measured drawings and photographic records of the existing condition of the Pier would be taken, collected and retained and the entire reassembly process

will be documented as part of the effort to ensure that the Pier can be reassembled with precision in future. Works projects are usually solely administered by relevant works departments. However, in implementing this project, we have specifically requested the Director of Architectural Services to appoint a government architect with adequate seniority and proven experience in building preservation to advise and supervise the carrying out of the project. This is also a special arrangement made in response to the suggestion by the CA and HKIA. With these arrangements, we are confident that we can ensure the proper handling of the works relating to the demolition and reassembly of the Pier.

Members have suggested that we should formulate and expeditiously implement the most reasonable, practical and effective proposal for preserving the Pier so as to minimize the impact on the CRIII works which are underway. I fully subscribe to this. The CRIII project is needed to provide land for essential transport infrastructure including the Central-Wan Chai Bypass, Road P2 network, the AR EOT and the North Hong Kong Island Line. The traffic congestion problem in Central and its vicinity is familiar to every one of us. We need to complete the reclamation as soon as possible before we can take forward the Central-Wan Chai Bypass works. We believe that it is the wish of the majority of the public that the Pier issue should be resolved effectively as soon as possible so that the infrastructure projects in the Central reclamation area can be implemented early.

I have emphasized just now that the site will be selected through an open and transparent process with public engagement implemented under the Study recently conducted by the Planning Department. Apart from site selection, the design concept is another issue of public concern. Some members of the public have raised the idea of adding water feature to the design of the vicinity of the reassembled Pier. The subjects of the Study I have just mentioned cover not only the issue of site selection but also the discussion on the design concept. Extensive public engagement is a significant feature in the study process. I am glad to inform you that we have already embarked on such work. The first stage of the public engagement exercise under the Study undertaken by the Planning Department will be launched this week. Concepts on reassembly of the Pier at various locations will be included for public discussion, including the options of reassembling the Pier at its original location and at alternative sites. I believe the views expressed by Members of this Council, the community and professional bodies on this issue will be adequately discussed under the Study being conducted by the Planning Department.

I would like to reiterate that the *in situ* preservation of the Pier is technically not reasonably practical and this is based on professional grounds. I therefore wish Members of this Council would vote against Mr Alan LEONG's original motion. The Government hopes to preserve the Pier in accordance with the fourth proposal which I have just introduced, because this proposal is the most reasonably practical and effective way in preserving the Pier. At the same time, it allows the CRIII project to continue to proceed and can minimize the impacts on the works underway. It is in line with the principle of maintaining a proper balance between preserving the Pier and urban development. In proceeding with the relevant preservation works of the Pier, we will refer to relevant mainland and international principles, and the preservation and reassembling works will be precisely conducted under the supervision of an experienced and qualified architect. We have started the extensive public consultation on the site for, and the design concept of, the reassembled Pier. We do not have any preset option and we keep an open mind about reassembling the Pier at its original location and other alternative locations. Our hope is to deliver a reassembled Pier which will be accepted by the majority of the community. I thus hope Members of this Council will support the amendment proposed by Mrs Selina CHOW and the amendment to Mrs CHOW 's amendment proposed by Mr CHEUNG Hok-ming.

Thank you, President.

PRESIDENT (in Cantonese): I now call upon Mrs Selina CHOW to move her amendment to the motion.

MRS SELINA CHOW (in Cantonese): President, I move that Mr Alan LEONG's motion be amended.

Mrs Selina CHOW moved the following amendment: (Translation)

"To add "recently" after "grave concerns expressed"; to delete ", and for the effective conservation of" after "the Queen's Pier in Central" and substitute with "and their discussion on the four proposals put forth by the Government for dealing with"; to delete "adopt" after "immediately" and substitute with "make reference to"; to delete "and to undertake to adopt

'conservation *in situ*, minimal interference, preservation of the original condition and protection of the heritage environment' as the principles for formulating" after "in 2000" and substitute with "to formulate"; to delete "implementing" after "expeditiously" and substitute with "implement"; to add "reasonable, practical and" after "the most"; to delete "*in situ*, including proper adjustments to the current works projects and designs of future projects to avoid damaging the existing structure of the Queen's Pier" after "preserving the Queen's Pier"; and to delete "of works projects on the present site of the Queen's Pier" after "minimize the impact" and substitute with "on the Central Reclamation Phase III works which are underway, and to commence as soon as possible discussion involving public participation on the site and design concept for the relocation of the Queen's Pier". "

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mrs Selina CHOW to Mr Alan LEONG'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 Alan LEONG rose to claim a division.

PRESIDENT (in Cantonese): Mr Alan LEONG has claimed a division. The division bell will ring for three minutes, after which the division will begin.

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, Mr Bernard CHAN, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr Howard YOUNG, Ms Miriam LAU, Mr Timothy FOK, Mr Abraham SHEK, Ms LI Fung-ying, Mr Tommy CHEUNG, Mr WONG Kwok-hing, Dr Joseph LEE, Mr Daniel LAM, Mr Jeffrey LAM and Mr Andrew LEUNG voted for the amendment.

Ms Margaret NG, Mr CHEUNG Man-kwong, Mr SIN Chung-kai, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Prof Patrick LAU and Miss TAM Heung-man voted against the amendment.

Geographical Constituencies:

Mr James TIEN, Mrs Selina CHOW, 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 for the amendment.

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

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 24 were present, 17 were in favour of the amendment and seven against it; while among the Members returned by geographical constituencies through direct elections, 23 were present, eight were in favour of the amendment

and 14 against it. 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 CHEUNG Hok-ming, you may now move your amendment.

MR CHEUNG HOK-MING (in Cantonese): President, I move that Mr Alan LEONG's motion be amended.

Mr CHEUNG Hok-ming moved the following amendment: (Translation)

"To delete "immediately adopt the Principles for the Conservation of Heritage Sites in China approved by the Central People's Government in 2000 and to undertake to adopt 'conservation *in situ*, minimal interference, preservation of the original condition and protection of the heritage environment' as the principles for formulating" after "urges the Government to" and substitute with ", under the principle of striking a proper balance between the conservation of valuable buildings and urban development, formulate"; to delete "implementing" after "expeditiously" and substitute with "implement"; and to delete ", including proper adjustments to the current works projects and designs of future projects to avoid damaging the existing structure of the Queen's Pier, so as to minimize the impact of works projects on the present site of the Queen's Pier" after "*in situ*" and substitute with "or nearby, so as to facilitate the community's sustainable and balanced development"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr CHEUNG Hok-ming to Mr Alan LEONG'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 Alan LEONG rose to claim a division.

PRESIDENT (in Cantonese): Mr Alan LEONG has claimed a division. The division bell will ring for three minutes, after which the division will begin.

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, Mr Bernard CHAN, Mr WONG Yung-kan, Mr Timothy FOK, Mr Abraham SHEK, Ms LI Fung-ying, Mr WONG Kwok-hing, Dr Joseph LEE and Mr Daniel LAM voted for the amendment.

Ms Margaret NG, Mr CHEUNG Man-kwong, Mrs Sophie LEUNG, Mr SIN Chung-kai, Dr Philip WONG, Mr Howard YOUNG, Ms Miriam LAU, Mr Tommy CHEUNG, Mr Jeffrey LAM, Mr Andrew LEUNG, Dr KWOK Ka-ki, Dr Fernando CHEUNG and Miss TAM Heung-man voted against the amendment.

Prof Patrick LAU abstained.

Geographical Constituencies:

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 for the amendment.

Mr James TIEN, Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mrs Selina CHOW, Mr James TO, Mr LEUNG Yiu-chung, Dr YEUNG Sum, Ms Emily LAU, Mr Andrew CHENG, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Mr Alan LEONG, Mr LEUNG Kwok-hung and Mr Ronny TONG voted against the amendment.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 24 were present, 10 were in favour of the amendment, 13 against it and one abstained; while among the Members returned by geographical constituencies through direct elections, 23 were present, six were in favour of the amendment and 16 against it. 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 Alan LEONG, you may now reply and you have two minutes three seconds.

MR ALAN LEONG (in Cantonese): President, after listening to the speech delivered by the Secretary, I find that the Government is still unable to reflect on itself. What is the disappointment felt by the civil society regarding its expectations for conservation? There was no positive response at all from the Secretary when I mentioned that the alignment of Road P2 could be amended, the Mass Transit Railway did not have to be built and the drainage box culvert could be completed at a cost of \$65 million. He still considered the works essential. This was how he addressed the problem. He also mentioned earlier Article 18 of the Principles for the Conservation of Heritage Sites in China (the China Principles). He might have probably got my words not too clearly. I did say that this proposal of *in situ* conservation was somewhat exceptional. An exception will be allowed if there is a natural disaster or the nation has to undertake a massive project. I wonder if the Secretary was suggesting that Road P2, the construction of the drainage box culvert and the Airport Railway Extended Overrun Tunnel could be compared to the Three Gorges Projects and the River Nile project mentioned by Mrs Selina CHOW earlier. I hope this was

not what he meant. Regarding the Temple of Niangniang² mentioned by me earlier, even an Olympics project has to give way to it. This is how the China Principles are actually implemented in China.

To set the record straight, moreover, I would like to point out that the Secretary asked Members not to support me on the ground that my proposal was not technically feasible. However, the Secretary did not rule out the possibility of realignment of Road P2. This seemed to be contradictory in logic. Furthermore, Members examining the alignment of the Central-Wan Chai Bypass will find that the tunnel has nothing to do with Road P2. Therefore, the Secretary's arguments are untenable should he request Members not to support my motion because of this point. Thank you, President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Mr Alan LEONG 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 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 three minutes, after which the division will begin.

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.

² also known as Niangniang Miao

Functional Constituencies:

Ms Margaret NG, Mr CHEUNG Man-kwong, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Prof Patrick LAU and Miss TAM Heung-man voted for the motion.

Dr Raymond HO, Dr LUI Ming-wah, Mr Bernard CHAN, Mrs Sophie LEUNG, Mr SIN Chung-kai, Dr Philip WONG, Mr WONG Yung-kan, Mr Howard YOUNG, Ms Miriam LAU, Mr Timothy FOK, Mr Abraham SHEK, Mr Tommy CHEUNG, Dr Joseph LEE, Mr Daniel LAM, Mr Jeffrey LAM and Mr Andrew LEUNG voted against the motion.

Ms LI Fung-ying and Mr WONG Kwok-hing abstained.

Geographical Constituencies:

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

Mr James TIEN, Mrs Selina CHOW, 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.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 24 were present, six were in favour of the motion, 16 against it and two abstained; while among the Members returned by geographical constituencies through direct elections, 23 were present, 14 were in favour of the motion and eight against it. 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 3.00 pm tomorrow.

Adjourned accordingly at twenty-three minutes past Eleven o'clock.

Annex I

ACCREDITATION OF ACADEMIC AND VOCATIONAL QUALIFICATIONS BILL

COMMITTEE STAGEAmendments to be moved by the Secretary for Education
and Manpower

<u>Clause</u>	<u>Amendment Proposed</u>
enacting formula	In the Chinese text, by deleting “訂” and substituting “定”.
2	(a) By deleting the definitions of “business” and “review committee”. (b) In the Chinese text, in the definition of “營辦者”, by deleting “團體;” and substituting “團體。”.
3	(a) In subclause (1), by deleting everything after “qualifications” and substituting a full stop. (b) By adding - “(1A) The Qualifications Framework shall be made available to the public for inspection free of charge at such place and

in such form and at such reasonable times as the Secretary may specify.”.

4(4) (a) By adding “subject to the prior approval of the Secretary,” before “determine”.

5 (a) In subclause (3), in the Chinese text, by deleting “估評” and substituting “評估”.

(b) In subclause (4), by adding “and shall state in the notice the reason for the decision” after “body”.

7 (a) By adding -

“(3A) The QR Authority may -

- (a) correct any error in the Qualifications Register, including any omission from the Qualifications Register; and
- (b) make such amendments to the Qualifications Register as it considers necessary to record a change in the information contained in the

Qualifications

Register.”.

(b) By adding -

“(4A) The purpose of making the Qualifications Register available to the public is to enable any member of the public -

(a) to ascertain what qualifications are recognized under the Qualifications Framework; and

(b) to ascertain the particulars of such qualifications.”.

(c) In subclause (5), by deleting “(1)(e)” and substituting “(1)(e)(ii)”.

(d) In subclause (6), by adding “and shall state in the notice the reason for the decision” after “body”.

8

(a) In subclause (3), by deleting everything after “agencies” and substituting a full stop.

(b) By adding -

“(3A) The list of the names of appointed assessment agencies shall be made available to the public for inspection free of charge at such place and in such form and at such reasonable times as the Secretary may specify.”.

Part 3

By deleting the Part and substituting -

“PART 3

APPEAL BOARD

9. Interpretation of Part 3

In this Part -

“appeal” (上訴) means an appeal under section 11;

“Appeal Board” (上訴委員會) means the appeal board established under section 10(1);

“appellant” (上訴人) means an operator, assessment agency or granting body lodging a notice of appeal under section 11;

“Chairman”(主席) means the chairman of the Appeal Board appointed under section 10(2)(a);

“Deputy Chairman”(副主席) means a deputy

chairman of the Appeal Board appointed under section 10(2)(b);

“panel member” (備選委員) means a member of the panel of persons appointed under section 10(2)(c);

“presiding officer” (審裁官), in relation to an appeal, means the presiding officer referred to in section 12(1)(a).

10. Establishment of Appeal Board, etc.

(1) For the purposes of considering and deciding appeals, there is established an appeal board.

(2) The Secretary shall appoint -

- (a) a person to be the chairman of the Appeal Board;
- (b) one or more persons to be the deputy chairman or deputy chairmen of the Appeal Board; and
- (c) a panel of persons whom the Secretary considers suitable for selection under section 12(1)(b) as members of the Appeal Board.

(3) A person may be appointed under subsection (2) only if -

(a) he is a person whom the Secretary considers suitable for appointment by reason of his -

(i) expertise or experience in quality assurance or the conduct of accreditation tests; or

(ii) good standing in the field of education or training or in any industry; and

(b) he is not a member of the Accreditation Authority or of the QR Authority.

(4) A person appointed under subsection (2) may at any time resign by notice in writing to the Secretary.

(5) An appointment under subsection (2) shall be notified in the Gazette.

(6) If the Chairman, due to absence from Hong Kong or for any other reason, is unable to act as Chairman for any period, a

Deputy Chairman designated by the Chairman for the purposes of this subsection shall act in the place of the Chairman for that period.

(7) The remuneration, if any, of the Chairman, a Deputy Chairman and a panel member shall be paid at a rate that the Secretary determines.

11. Appeal to Appeal Board

(1) An operator, assessment agency or granting body aggrieved by -

- (a) a determination of the Accreditation Authority, as stated in an accreditation report;
- (b) a decision of the Accreditation Authority on the length of the validity period of a determination of the Authority, as stated in an accreditation report;
- (c) a decision of the Accreditation Authority as to the conditions or restrictions subject to which a determination of the

Authority is to have effect,
as stated in an accreditation
report;

- (d) a decision of the
Accreditation Authority
referred to in section 5(4);
- (e) a decision of the QR
Authority referred to in
section 7(6); or
- (f) a decision made by the
Accreditation Authority or
the QR Authority under
section 12C(b),

made in respect of him or it may appeal to
the Appeal Board.

(2) An operator, assessment agency or
granting body wishing to appeal under
subsection (1) shall lodge a notice of appeal
with the Appeal Board in such form as the
Chairman may specify -

- (a) within 30 days of the receipt
by the operator, assessment
agency or granting body of a
copy of the accreditation
report under section 5(3) or

the notice of the decision
under section 5(4), 7(6) or
12C(c), as the case may be;
or

- (b) within such further period as
the Chairman may allow.

12. Members of Appeal Board

(1) For the purposes of an appeal, the
Appeal Board shall consist of -

- (a) the Chairman or a Deputy
Chairman, as determined by
the Chairman, who shall
preside at meetings and
hearings held for the appeal
("presiding officer"); and
- (b) not less than 2 and not more
than 6 panel members selected
by the presiding officer.

(2) If the presiding officer who is a
Deputy Chairman or a panel member selected
under subsection (1)(b), due to absence from
Hong Kong or for any other reason, is unable
to act as presiding officer or a member of
the Appeal Board for the purposes of the
relevant appeal for any period, the Chairman

may, as the case may be -

- (a) act in the place of the presiding officer for that period or select another Deputy Chairman to act in the place of the presiding officer for that period; or
- (b) select another panel member to act in the place of such member of the Appeal Board for that period.

(3) If the term of appointment of the presiding officer or of a panel member selected under subsection (1)(b) expires before the Appeal Board makes a decision under section 12B(2)(a) for the relevant appeal, the presiding officer or panel member may continue to act as presiding officer or a member of the Appeal Board for the purposes of that appeal until such a decision is made.

12A. Procedure

(1) The Appeal Board may, with the consent of the parties to an appeal, consider and decide the appeal on the basis of written submissions only without holding a hearing to

receive oral representations.

(2) In considering an appeal, every question before the Appeal Board shall be determined by the opinion of the majority of the members of the Appeal Board voting on the question, and in the case of an equality of votes the presiding officer shall have a second or casting vote.

(3) Subject to subsection (4), a party to an appeal is entitled to be heard in person or through its authorized representative.

(4) A counsel or solicitor is not entitled to be heard before the Appeal Board unless -

(a) he is acting on his own behalf as a party to an appeal; or

(b) he is an officer or employee of a party to an appeal and is acting as the authorized representative of the party.

(5) Any hearing held in connection with an appeal to receive oral representations shall take place in public, but if the Appeal

Board after consulting the parties to the appeal is satisfied that it is desirable to do so, it may direct that the whole or part of the hearing shall take place in private and give directions as to the persons who may be present.

12B. Functions of Appeal Board

(1) For the purposes of an appeal, the Appeal Board may -

- (a) determine any matter of practice or procedure relating to the appeal where no provision governing such matter is made in this Ordinance or in any rules made under section 12E(2);
- (b) receive and consider any material, whether by way of oral evidence, written statements, documents or otherwise, and whether or not it would be admissible in a court of law; and
- (c) by notice in writing, request any person -

- (i) to produce to the Appeal Board any document or article that is relevant to the appeal and is in his custody or under his control; or
- (ii) to appear before the Appeal Board and to give evidence relevant to the appeal.

(2) After considering an appeal, the Appeal Board shall -

- (a) make a decision to -
 - (i) confirm, vary or reverse the determination or decision under appeal or substitute any other determination or decision for the determination or decision under appeal; or
 - (ii) subject to subsection

(3), direct the Accreditation Authority or the QR Authority, as the case may be, to review the determination or decision under appeal within such period as the Appeal Board may specify; and

(b) notify the Accreditation Authority or the QR Authority, as the case may be, and the appellant in writing of its decision and the reasons for the decision.

(3) Subsection (2)(a)(ii) does not apply in relation to an appeal against a decision made under section 12C(b).

**12C. Review of determination
or decision under appeal**

After receiving a notice from the Appeal Board of a decision under section 12B(2)(a)(ii), the Accreditation Authority or the QR Authority, as the case may be, shall, within such period as the Appeal Board may

specify -

- (a) review the determination or decision under appeal;
- (b) make a decision to confirm, vary or reverse the determination or decision under appeal or substitute any other determination or decision for the determination or decision under appeal; and
- (c) notify the Appeal Board and the appellant in writing of its decision and the reasons for the decision.

**12D. Protection of Chairman,
Deputy Chairman or panel
member**

The Chairman, a Deputy Chairman or a panel member, acting in good faith, shall not be personally liable for any act done or default made by him, in the exercise or purported exercise of the powers conferred by this Part or in the performance or purported performance of the functions or duties imposed under this Part.

12E. Appeal rules

(1) There is established a rules committee consisting of -

- (a) the Chairman;
- (b) all Deputy Chairmen; and
- (c) not less than 6 and not more than 8 panel members selected by the Secretary.

(2) The rules committee may make rules -

- (a) to provide for the lodging of appeals; and
- (b) generally for regulating the practice and procedure of the Appeal Board.

(3) The power to make rules under subsection (2) may be exercised at any meeting of the rules committee by a majority of its members present, and in the case of an equality of votes the Chairman shall have a second or casting vote.

(4) No rule made under subsection (2) shall come into operation before the expiry of the period within which a resolution providing for the amendment of the rule may be passed in accordance with section 34 of

the Interpretation and General Clauses Ordinance (Cap. 1).

(5) The Chairman shall preside at meetings of the rules committee.

(6) The quorum for a meeting of the rules committee shall be two-thirds of its members (including the Chairman)."

13

- (a) In subclause (1), in the Chinese text, by deleting everything from "任何" to "此限" and substituting "任何廣告如聲稱、表述或顯示從某頒授者可取得的資歷或在完成某進修計劃後可取得的資歷是在資歷架構下獲認可的，除非該廣告符合以下規定，否則任何人不得發表或安排發表該廣告".
- (b) By deleting subclause (1)(a)(i), (ii) and (iii).
- (c) By deleting subclause (4)(a)(iii) and substituting -
- "(iii) he published the advertisement in reliance on a statement made to him by the person who caused it to be published to the effect that the publication would not constitute an offence under subsection (3) and it was reasonable for him to rely on the

statement; or”.

14

By deleting the clause and substituting -

**“14. Misleading or false
statement,
representation or
information**

(1) A person who, either orally or in writing, makes any statement or representation or furnishes any information to a specified authority in connection with the performance of its functions under this Ordinance which the person knows or reasonably ought to know is misleading or false in a material respect commits an offence and is liable on conviction to a fine at level 5.

(2) In subsection (1), “specified authority” (指明當局) means -

- (a) the Accreditation Authority;
- (b) the QR Authority;
- (c) a person or an organization with whom the Accreditation Authority jointly performs a function in accordance with section 4(2);
- (d) a person or group of persons

to whom the performance of a function is delegated under section 4(3);

- (e) a person or an organization with whom the QR Authority jointly performs a function in accordance with section 6(2);
or
- (f) the Appeal Board within the meaning of Part 3.”.

18

- (a) In the heading, by deleting “, **QR Authority or review committee**” and substituting “**or QR Authority**”.
- (b) In subclause (1) -
 - (i) by deleting “, a member of any review committee”;
 - (ii) in paragraph (a), by adding “or” after the semicolon;
 - (iii) by deleting paragraph (b);
 - (iv) in paragraph (c), in the Chinese text, by deleting “、委員”.
- (c) In subclause (2), in the Chinese text, by deleting “、委員”.

- 19 By deleting "establishment of the Hong Kong Council for Academic and Vocational Accreditation" and substituting "establishment of the Hong Kong Council for Accreditation of Academic and Vocational Qualifications".
- 20 By deleting everything after "amended" and substituting "by repealing "Hong Kong Council for Academic Accreditation" and substituting "Hong Kong Council for Accreditation of Academic and Vocational Qualifications".".
- 21 (a) In subclause (3), by deleting everything after ""Council", " and substituting "by repealing "Hong Kong Council for Academic Accreditation" and substituting "Hong Kong Council for Accreditation of Academic and Vocational Qualifications".".
- (b) In subclause (6), by deleting the proposed definition of "business".
- 22 By deleting everything after "amended" and substituting "by repealing "HONG KONG COUNCIL FOR ACADEMIC ACCREDITATION" and substituting "HONG KONG COUNCIL FOR ACCREDITATION OF ACADEMIC AND VOCATIONAL

QUALIFICATIONS".".

- 23 (a) In subclause (1), in the proposed section 3(1), by deleting "Hong Kong Council for Academic and Vocational Accreditation" and substituting "Hong Kong Council for Accreditation of Academic and Vocational Qualifications".
- (b) In subclause (4), in the proposed section 3(2A) (b), by deleting "commerce, finance,".
- 25 (a) In subclause (8), in the proposed section 5(2) (e), by adding "subject to the prior approval of the Secretary," before "determine".
- (b) In subclause (14), in the proposed section 5(4), by deleting "(2) (ea)" and substituting "(2) (e) and (ea)".
- 26 (a) In the proposed section 5A(3), in the Chinese text, by deleting "估評" and substituting "評估".
- (b) In the proposed section 5A(4), by adding "and shall state in the notice the reason for the decision" after "individual".

- 34 In the proposed section 13(2)(d), by deleting "5(2)(ea)" and substituting "5(2)(e) and (ea)".
- 35 (a) In the proposed section 17B(3)(b), by deleting "commerce, finance,".
- (b) By deleting the proposed section 17C(1)(a) and substituting -
- "(a) may determine any matter of practice or procedure relating to the relevant review where no provision governing such matter is made in this Ordinance or in any rules made under section 22(2)(aa);".
- (c) In the proposed section 17C(1)(c)(i), by deleting "and" at the end and substituting "or".
- (d) In the proposed section 17C, by adding -
- "(1A) A counsel or solicitor is not entitled to be heard before a review committee unless -
- (a) he is acting on his own behalf as a party to a review; or
- (b) he is an officer or employee

of a party to a review and is acting as the authorized representative of the party.”.

38(1) By deleting everything after “amended” and substituting “by repealing “Hong Kong Council for Academic Accreditation” where it twice appears and substituting “Hong Kong Council for Accreditation of Academic and Vocational Qualifications”.”.

39 By deleting the proposed section 23A and substituting -

“23A. Misleading or false statement, representation or information

(1) A person who, either orally or in writing, makes any statement or representation or furnishes any information to a specified authority in connection with the performance of its functions under this Ordinance which the person knows or reasonably ought to know is misleading or false in a material respect commits an offence and is liable on conviction to a fine at level 5.

(2) In subsection (1), "specified authority" (指明當局) means -

- (a) the Council;
- (b) a person or an organization with whom the Council jointly performs a function in accordance with section 5(1)(b);
- (c) a committee to which the performance of a function is delegated under section 8(1);
- (d) a person or group of persons to whom the performance of a function is delegated under section 8(2); or
- (e) a review committee."

44 In the proposed item 38 of Schedule 13, by deleting "Hong Kong Council for Academic and Vocational Accreditation" where it twice appears and substituting "Hong Kong Council for Accreditation of Academic and Vocational Qualifications".

45 By deleting everything after "item 57" and

substituting "by repealing "Hong Kong Council for Academic Accreditation" and substituting "Hong Kong Council for Accreditation of Academic and Vocational Qualifications".".

47 By deleting everything after "definition of "Accreditation Council", " and substituting "by repealing "Hong Kong Council for Academic Accreditation" where it twice appears and substituting "Hong Kong Council for Accreditation of Academic and Vocational Qualifications".".

48 (a) In the English text, by deleting "Academic".
(b) By deleting "and Vocational Accreditation" and substituting "Accreditation of Academic and Vocational Qualifications".
(c) By deleting "5(2)(ea)" and substituting "5(2)(e), (ea)".

Schedule 1 (a) In Part 1, by deleting "Hong Kong Council for Academic and Vocational Accreditation" where it twice appears and substituting "Hong Kong Council for Accreditation of Academic and Vocational Qualifications".
(b) In Part 2, by deleting "Hong Kong Council for

Academic and Vocational Accreditation" where it twice appears and substituting "Hong Kong Council for Accreditation of Academic and Vocational Qualifications".

Schedule 3

- (a) In paragraph 3(b), by adding "of the Ordinance" after "section 5(1)".
- (b) In paragraph 4, by adding "of the Ordinance" after "section 8(1)(c)".

Annex II

EMPLOYMENT (AMENDMENT) BILL 2006

COMMITTEE STAGE

Amendments to be moved by the Secretary for Economic
Development and Labour

<u>Clause</u>	<u>Amendment Proposed</u>
3(1)	<p>(a) By adding immediately before the proposed section 7(1) -</p> <p>“(1AA) For the purposes of subsections (1), (1A) and (1AAA), “wages” (工資) includes any sum paid by an employer in respect of -</p> <p>(a) a day of maternity leave, a rest day, a sickness day, a holiday or a day of annual leave taken by the employee;</p> <p>(b) a day of leave taken by the employee with the agreement of his employer;</p> <p>(c) a normal working day on which the employee is not provided with work;</p> <p>(d) a day of absence from work</p>

of the employee due to temporary incapacity for which compensation is payable under section 10 of the Employees' Compensation Ordinance (Cap. 282).".

- (b) By deleting the proposed section 7(1A) and substituting -

"(1A) In calculating the daily average or monthly average of the wages earned by an employee during the period of 12 months or the shorter period -

- (a) any period therein for which the employee was not paid his wages or full wages by reason of -

- (i) any maternity leave, rest day, sickness day, holiday or annual leave taken by the employee;

- (ii) any leave taken

by the employee
with the
agreement of his
employer;

(iii) his not being
provided by his
employer with
work on any
normal working
day; or

(iv) his absence from
work due to
temporary
incapacity for
which
compensation is
payable under
section 10 of
the Employees'
Compensation
Ordinance (Cap.
282); and

(b) any wages paid to him for
the period referred to in
paragraph (a),

are to be disregarded.”.

- (c) By adding immediately after the proposed section 7(1A) -

“(1AAA) For the avoidance of doubt, if the amount of the wages paid to an employee in respect of a day specified in subsection (1AA) is only a fraction of the amount earned by the employee on a normal working day, the wages and the day are to be disregarded in accordance with subsection (1A).”.

- (d) In the proposed section 7(1B), by adding “a person who was employed at the same work by the same employer during the period of 12 months immediately before the date of notification, or, if there is no such person, by” after “by reference to the wages earned by”.

- 5(3) (a) By adding immediately before the proposed section 11A(2) -

“(1A) For the purposes of subsections (2), (3) and (3A), “wages” (工資) includes any sum paid by an employer in respect of -

- (a) a day of maternity leave, a rest day, a sickness day, a holiday or a day of annual leave taken by the employee;
- (b) a day of leave taken by the employee with the agreement of his employer;
- (c) a normal working day on which the employee is not provided with work;
- (d) a day of absence from work of the employee due to temporary incapacity for which compensation is payable under section 10 of the Employees' Compensation Ordinance (Cap. 282)."

- (b) By deleting the proposed section 11A(3) and substituting -

"(3) In calculating the monthly average of the wages earned by an employee during the period of 12 months or the shorter period -

(a) any period therein for which the employee was not paid his wages or full wages by reason of -

- (i) any maternity leave, rest day, sickness day, holiday or annual leave taken by the employee;
- (ii) any leave taken by the employee with the agreement of his employer;
- (iii) his not being provided by his employer with work on any normal working day; or
- (iv) his absence from work due to temporary

incapacity for
which
compensation is
payable under
section 10 of
the Employees'
Compensation
Ordinance (Cap.
282); and

- (b) any wages paid to him for
the period referred to in
paragraph (a),

are to be disregarded.”.

- (c) By adding immediately after the proposed
section 11A(3) -

“(3A) For the avoidance of doubt, if
the amount of the wages paid to an
employee in respect of a day specified in
subsection (1A) is only a fraction of the
amount earned by the employee on a normal
working day, the wages and the day are to
be disregarded in accordance with
subsection (3).”.

- (d) In the proposed section 11A(4), by adding
“a person who was employed at the same

work by the same employer during the period of 12 months immediately before the due day, or, if there is no such person, by" after "by reference to the wages earned by".

- 6(1) (a) By adding immediately before the proposed section 14(3)-

"(2A) For the purposes of subsections (3), (3A) and (3AA), "wages" (工資) includes any sum paid by an employer in respect of -

- (a) a day of maternity leave, a rest day, a sickness day, a holiday or a day of annual leave taken by the employee;
- (b) a day of leave taken by the employee with the agreement of her employer;
- (c) a normal working day on which the employee is not provided with work;
- (d) a day of absence from work of the employee due to

temporary incapacity for which compensation is payable under section 10 of the Employees' Compensation Ordinance (Cap. 282).".

- (b) In the proposed section 14(3)(b), by deleting "the shorter period." and substituting -

"the shorter period, but no maternity leave pay is payable in respect of a day on which the female employee would not have worked had she not been on maternity leave and for which no wages would normally be payable by the employer.".

- (c) By deleting the proposed section 14(3A) and substituting -

"(3A) In calculating the daily average of the wages earned by a female employee during the period of 12 months or the shorter period -

- (a) any period therein for which the employee was not paid her wages or full

wages by reason of -

- (i) any maternity leave, rest day, sickness day, holiday or annual leave taken by the employee;
- (ii) any leave taken by the employee with the agreement of her employer;
- (iii) her not being provided by her employer with work on any normal working day; or
- (iv) her absence from work due to temporary incapacity for which compensation is

payable under
section 10 of
the Employees'
Compensation
Ordinance (Cap.
282); and

(b) any wages paid to her for
the period referred to in
paragraph (a),

are to be disregarded.”.

(d) By adding immediately after the proposed
section 14(3A) -

“(3AA) For the avoidance of doubt, if
the amount of the wages paid to a female
employee in respect of a day specified in
subsection (2A) is only a fraction of the
amount earned by the employee on a normal
working day, the wages and the day are to
be disregarded in accordance with
subsection (3A).”.

(e) In the proposed section 14(3B), by
deleting “female person” and substituting
“person who was employed at the same work
by the same employer during the period of
12 months immediately before the date of

commencement of the employee's maternity leave, or, if there is no such person, by a person".

6(2) In the proposed section 14(7), by adding "by her employer" after "is paid".

7 By adding before subclause (1) -

"(1A) Section 15 is amended by adding -

"(1D) For the purposes of subsections (2)(b), (2A) and (2AA), "wages" (工資) includes any sum paid by an employer in respect of -

- (a) a day of maternity leave, a rest day, a sickness day, a holiday or a day of annual leave taken by the employee;
- (b) a day of leave taken by the employee with the agreement of her employer;
- (c) a normal working day on which the employee is not provided with work;

(d) a day of absence from work of the employee due to temporary incapacity for which compensation is payable under section 10 of the Employees' Compensation Ordinance (Cap. 282).".".

7(2) (a) By deleting the proposed section 15(2A) and substituting -

"(2A) In calculating the monthly average of the wages earned by a female employee during the period of 12 months or the shorter period -

(a) any period therein for which the employee was not paid her wages or full wages by reason of -

(i) any maternity leave, rest day, sickness day, holiday or annual leave taken by the

- employee;
- (ii) any leave taken by the employee with the agreement of her employer;
 - (iii) her not being provided by her employer with work on any normal working day; or
 - (iv) her absence from work due to temporary incapacity for which compensation is payable under section 10 of the Employees' Compensation Ordinance (Cap. 282); and
- (b) any wages paid to her for

the period referred to in
paragraph (a),

are to be disregarded.”.

- (b) By adding immediately after the proposed section 15(2A) -

“(2AA) For the avoidance of doubt, if the amount of the wages paid to a female employee in respect of a day specified in subsection (1D) is only a fraction of the amount earned by the employee on a normal working day, the wages and the day are to be disregarded in accordance with subsection (2A).”.

- (c) In the proposed section 15(2B), by deleting “female person” and substituting “person who was employed at the same work by the same employer during the period of 12 months immediately before the date of termination of the employee’s contract of employment, or, if there is no such person, by a person”.

In the proposed section 15AA(8), by adding “or monthly average (as appropriate)” after “daily average”.

9

By adding before subclause (1)-

“(1A) Section 33 is amended by adding immediately after subsection (4B) -

“(4BAAAA) For the purposes of subsections (4BA)(b), (4BAAA) and (4BAAAA), “wages” (工資) includes any sum paid by an employer in respect of -

- (a) a day of maternity leave, a rest day, a sickness day, a holiday or a day of annual leave taken by the employee;
- (b) a day of leave taken by the employee with the agreement of his employer;
- (c) a normal working day on which the employee is not provided with work;
- (d) a day of absence from work of the employee due to temporary incapacity for which compensation is payable under section 10 of the Employees’

Compensation Ordinance

(Cap. 282).".".

- 9(2) (a) By deleting the proposed section 33(4BAAA) and substituting -
- "(4BAAA) In calculating the daily average of the wages earned by an employee during the period of 12 months or the shorter period -
- (a) any period therein for which the employee was not paid his wages or full wages by reason of -
- (i) any maternity leave, rest day, sickness day, holiday or annual leave taken by the employee;
- (ii) any leave taken by the employee with the agreement of his employer;

(iii) his not being provided by his employer with work on any normal working day; or

(iv) his absence from work due to temporary incapacity for which compensation is payable under section 10 of the Employees' Compensation Ordinance (Cap. 282); and

(b) any wages paid to him for the period referred to in paragraph (a),

are to be disregarded.”.

(b) By adding immediately after the proposed section 33(4BAAA) -

“(4BAAAA) For the avoidance of doubt,

if the amount of the wages paid to an employee in respect of a day specified in subsection (4BAAAA) is only a fraction of the amount earned by the employee on a normal working day, the wages and the day are to be disregarded in accordance with subsection (4BAAA).”.

- (c) In the proposed section 33(4BAAB), by adding “a person who was employed at the same work by the same employer during the period of 12 months immediately before the date of termination of the employee’s contract of employment, or, if there is no such person, by” after “by reference to the wages earned by”.

- 10(1) (a) By adding immediately before the proposed section 35(1) -

“(1A) For the purposes of subsections (1), (2) and (2AA), “wages” (工資) includes any sum paid by an employer in respect of -

- (a) a day of maternity leave,
a rest day, a sickness
day, a holiday or a day of

annual leave taken by the employee;

(b) a day of leave taken by the employee with the agreement of his employer;

(c) a normal working day on which the employee is not provided with work;

(d) a day of absence from work of the employee due to temporary incapacity for which compensation is payable under section 10 of the Employees' Compensation Ordinance (Cap. 282).".

(b) In the proposed section 35(1)(b), by deleting "the shorter period." and substituting -

"the shorter period,

but no sickness allowance is payable in respect of a day on which the employee would not have worked had he not been sick and for which no wages would normally be payable by the employer.".

(c) By deleting the proposed section 35(2) and substituting -

"(2) In calculating the daily average of the wages earned by an employee during the period of 12 months or the shorter period -

(a) any period therein for which the employee was not paid his wages or full wages by reason of -

- (i) any maternity leave, rest day, sickness day, holiday or annual leave taken by the employee;
- (ii) any leave taken by the employee with the agreement of his employer;
- (iii) his not being provided by his employer with

work on any
normal working
day; or

- (iv) his absence from
work due to
temporary
incapacity for
which
compensation is
payable under
section 10 of
the Employees'
Compensation
Ordinance (Cap.
282); and

- (b) any wages paid to him for
the period referred to in
paragraph (a),

are to be disregarded.”.

- (d) By adding immediately after the proposed
section 35(2) -

“(2AA) For the avoidance of doubt, if
the amount of the wages paid to an
employee in respect of a day specified in
subsection (1A) is only a fraction of the

amount earned by the employee on a normal working day, the wages and the day are to be disregarded in accordance with subsection (2).”.

- (e) In the proposed section 35(2A), by adding “a person who was employed at the same work by the same employer during the period of 12 months immediately before the employee’s sickness day or first sickness day (as appropriate), or, if there is no such person, by” after “by reference to the wages earned by”.

- 10(3) In the proposed section 35(4), by adding “by his employer” after “is paid”.

- 12 (a) By adding immediately before the proposed section 41(1) -

“(1A) For the purposes of subsections (1), (2) and (2A), “wages” (工資) includes any sum paid by an employer in respect of -

- (a) a day of maternity leave, a rest day, a sickness day, a holiday or a day of

annual leave taken by the employee;

(b) a day of leave taken by the employee with the agreement of his employer;

(c) a normal working day on which the employee is not provided with work;

(d) a day of absence from work of the employee due to temporary incapacity for which compensation is payable under section 10 of the Employees' Compensation Ordinance (Cap. 282).".

(b) By deleting the proposed section 41(2) and substituting -

"(2) In calculating the daily average of the wages earned by an employee during the period of 12 months or the shorter period -

(a) any period therein for which the employee was not paid his wages or full

wages by reason of -

- (i) any maternity leave, rest day, sickness day, holiday or annual leave taken by the employee;
- (ii) any leave taken by the employee with the agreement of his employer;
- (iii) his not being provided by his employer with work on any normal working day; or
- (iv) his absence from work due to temporary incapacity for which compensation is

payable under
section 10 of
the Employees'
Compensation
Ordinance (Cap.
282); and

- (b) any wages paid to him for
the period referred to in
paragraph (a),

are to be disregarded.”.

- (c) By adding immediately after the proposed
section 41(2) -

“(2A) For the avoidance of doubt, if
the amount of the wages paid to an
employee in respect of a day specified in
subsection (1A) is only a fraction of the
amount earned by the employee on a normal
working day, the wages and the day are to
be disregarded in accordance with
subsection (2).”.

- (d) In the proposed section 41(3), by adding
“a person who was employed at the same
work by the same employer during the
period of 12 months immediately before
the employee’s holiday or first day of

the holidays (as appropriate), or, if there is no such person, by" after "by reference to the wages earned by".

(e) In the proposed section 41(4), by adding "by his employer" after "is paid".

14 (a) By adding immediately before the proposed section 41C(1) -

"(1A) For the purposes of subsections (1), (2) and (2A), "wages" (工資) includes any sum paid by an employer in respect of -

- (a) a day of maternity leave, a rest day, a sickness day, a holiday or a day of annual leave taken by the employee;
- (b) a day of leave taken by the employee with the agreement of his employer;
- (c) a normal working day on which the employee is not provided with work;
- (d) a day of absence from work of the employee due to

temporary incapacity for
which compensation is
payable under section 10
of the Employees'
Compensation Ordinance
(Cap. 282).".

- (b) By deleting the proposed section 41C(2)
and substituting -

"(2) In calculating the daily
average of the wages earned by an
employee during the period of 12 months
or the shorter period -

- (a) any period therein for
which the employee was not
paid his wages or full
wages by reason of -

- (i) any maternity
leave, rest day,
sickness day,
holiday or
annual leave
taken by the
employee;
- (ii) any leave taken
by the employee

with the
agreement of his
employer;

(iii) his not being
provided by his
employer with
work on any
normal working
day; or

(iv) his absence from
work due to
temporary
incapacity for
which
compensation is
payable under
section 10 of
the Employees'
Compensation
Ordinance (Cap.
282); and

(b) any wages paid to him for
the period referred to in
paragraph (a),

are to be disregarded.”.

- (c) By adding immediately after the proposed section 41C(2) -

“(2A) For the avoidance of doubt, if the amount of the wages paid to an employee in respect of a day specified in subsection (1A) is only a fraction of the amount earned by the employee on a normal working day, the wages and the day are to be disregarded in accordance with subsection (2).”.

- (d) In the proposed section 41C(3), by adding “a person who was employed at the same work by the same employer during the period of 12 months immediately before the employee’s day of annual leave, the first day of his annual leave or the date of termination of his contract of employment (as appropriate), or, if there is no such person, by” after “by reference to the wages earned by”.

- (e) In the proposed section 41C(4), by adding “by his employer” after “is paid”.

New

By adding -

“15A. Requirement to keep wage and employment records

Section 49A(1) is amended by
repealing "6 months" and substituting "12
months".

- 16
- (a) By renumbering the proposed section 75 as proposed section 76.
 - (b) In the proposed section 76(2)(c), by adding "or (4C)" after "section 33(4BA)".
 - (c) In the proposed section 76(2), by adding -
"(ca) any sum payable to the employee
under section 40A(2);".

Appendix 1**REQUEST FOR POST-MEETING AMENDMENT**

The Secretary for the Environment, Transport and Works requested the following post-meeting amendment in respect of a supplementary question to Question 3

Lines 1 to 3, third paragraph, page 27 of the Confirmed version

To amend "It is stipulated in our law that we shall take prosecution actions against them." as "After the Government has enacted the relevant subsidiary legislation and implemented the standards prescribed in Annex IV to the MARPOL in Hong Kong, the Marine Department will prohibit vessels from using fuel with a sulphur content of more than 4.5% m/m." (Translation)

(Please refer to lines 2 to 7, third paragraph, page 6293 of this Translated version)

Appendix I**WRITTEN ANSWER****Written answer by the Secretary for Financial Services and the Treasury to Mr Albert HO's supplementary question to Question 2**

As regards whether a bankrupt's pre-bankruptcy conduct will be considered when an objection raised by a trustee or creditor to the automatic discharge of the bankrupt is determined, section 30A(4) of the Bankruptcy Ordinance (Cap. 6) provides for a set of relevant grounds on which an objection can be made to the Court for the automatic discharge of a bankrupt either by the trustee in bankruptcy or by a creditor. These grounds include the one set out in section 30A(4)(d), namely "that the conduct of the bankrupt, either in respect of the period before or the period after the commencement of the bankruptcy, has been unsatisfactory".

As mentioned in the third and eighth paragraphs of the main reply, the objection raised by a trustee or creditor will be considered by the Court which may extend the bankruptcy period of a bankrupt when satisfied that a valid objection has been made. The relative weight that a Court, when determining whether the objection is valid, places on the bankrupt's pre-bankruptcy conduct depends on the facts and circumstances of each and every case.

Appendix II**WRITTEN ANSWER****Written answer by the Secretary for the Environment, Transport and Works to Mr WONG Kwok-hing's supplementary question to Question 4**

As regards information on the cost and manpower required by the Electrical and Mechanical Services Department (EMSD) for implementing the cooling tower inspection programme from 2001 to 2005, during the above programme period, the EMSD has hired four contractors in phases to implement the inspection programme by collecting information on and taking water samples from the cooling towers and testing their bacterial content of *Legionella pneumophila*. The cost was about \$8.5 million, about 50% of which was to pay for the testing of water samples conducted by the laboratory. The EMSD did not have additional manpower to conduct this inspection programme. Tasks including preparation of contract, monitoring of contractors' performance, analysis of data collected and writing of report were all taken up by its existing staff.

Appendix III**WRITTEN ANSWER****Written answer by the Secretary for the Environment, Transport and Works to Mr LAU Kong-wah's supplementary question to Question 5**

As regards the timeframe for the MTRCL to retrofit platform screen doors (PSDs) at the eight MTR at-grade or aboveground stations which do not have the PSDs at present, we have followed up with the MTRCL. According to the Corporation, it will complete the feasibility study in relation to platform loading relating to retrofitting Automatic Platform Gates (APGs) at these stations by the end of 2007. Once the technical solutions are identified and funding arrangements are resolved, it is estimated that it will take approximately five years to complete the construction of the APGs at these eight stations thereafter.