

# OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 13 December 2006

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 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 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 MA LIK, G.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

**MEMBERS ABSENT:**

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

THE HONOURABLE VINCENT FANG KANG, J.P.

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

**PUBLIC OFFICERS ATTENDING:**

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

THE HONOURABLE JOSEPH WONG WING-PING, G.B.S., J.P.  
SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY

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

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

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

THE HONOURABLE AMBROSE LEE SIU-KWONG, I.D.S.M., J.P.  
SECRETARY FOR SECURITY

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

MS PAULINE NG MAN-WAH, ASSISTANT SECRETARY GENERAL

MRS VIVIAN KAM NG LAI-MAN, ASSISTANT SECRETARY GENERAL

MRS JUSTINA LAM CHENG BO-LING, ASSISTANT SECRETARY  
GENERAL

**PRESIDENT** (in Cantonese): Clerk, a quorum is not present now. Please ring the bell to summon Members to the Chamber.

(After the summoning bell had been rung, a number of Members entered the Chamber)

**PRESIDENT** (in Cantonese): A quorum is now present. The meeting now starts.

### **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>
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Air Pollution Control (Emission Reduction Devices for Vehicles) (Amendment) Regulation 2006 .....	270/2006
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#### Other Papers

No. 34 — Queen Elizabeth Foundation for the Mentally Handicapped Report and Accounts 2005-2006

No. 35 — Audited Statement of Accounts of the Director of Social Welfare Incorporated together with the Director of Audit's Report for the year ended 31 March 2006

No. 36 — Forty-fifth Annual Report on the Social Work Training Fund by the Trustee of the Fund for the year ending on 31 March 2006

No. 37 — Estate Agents Authority Annual Report 2005-2006

No. 38 — Police Welfare Fund  
Annual Report 2005-2006

No. 39 — Annual Report on the Police Children's Education Trust  
and the Police Education and Welfare Trust for the year  
2005-2006

## ORAL ANSWERS TO QUESTIONS

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

### Management of Crematorium

1. **MR WONG KWOK-HING** (in Cantonese): *President, regarding the management of Fu Shan Crematorium and Kwai Chung Crematorium under the Food and Environmental Hygiene Department (FEHD), will the Government inform this Council:*

- (a) *given that the FEHD plans to transfer in January next year the management, including such duties as receiving coffins, handling ashes and cleaning the premises, of the aforesaid crematoria to the Electrical and Mechanical Services Department (EMSD), which is currently responsible for the operation and maintenance of cremators, whether the EMSD will reconsider taking over the FEHD staff who are familiar with the above work and giving up the plan to outsource such duties; if it will not consider, of the reasons for that;*
- (b) *given that the FEHD staff pointed out recently that the new-type cremators acquired by the EMSD may have the ashes of different dead bodies mixed together, and the authorities concerned have yet to propose any solution to this problem, whether the Government has assessed if the public have confidence in the EMSD's ability, upon taking over the full duties of cremation, to effectively monitor the compliance with the relevant codes of practice by the contractors of the outsourced services, prevent bribery and avoid dead bodies being swapped or ashes being mixed together; and*

- (c) *given that the FEHD staff have alleged that Fu Shan Crematorium do not have sufficient fire escapes, of the date on which the FEHD learnt of this and why it has not yet solved the problem; what remedial measures the FEHD have and whether it will implement such measures before transferring the management of the Crematorium to the EMSD?*

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

- (a) Subsequent to taking up the additional services at Fu Shan Crematorium and Kwai Chung Crematorium by the EMSD from the FEHD, the FEHD staff of the crematoria concerned will be redeployed to other crematoria or venues. As such, there is no requirement for the EMSD to retain any of these FEHD's staff. The EMSD will arrange its technicians to take up the technical work of the two crematoria and will not outsource this work. The department has started to recruit technicians and some of them have reported duty at the concerned crematoria. The EMSD will only outsource non-technical duties of the crematoria, such as cleansing of venues.
- (b) The new cremators in Kwai Chung and Fu Shan Crematorium are designed with three chambers. Transferring of dead body or skeleton from one chamber to another is controlled by computer and monitored by staff specially assigned for the operation. After the transfer of dead body or skeleton from a chamber to a lower chamber, staff will ensure that there is no skeleton left in that chamber before handling a new dead body or skeleton. Mixing of skeleton therefore will not occur. Since the EMSD will arrange adequate manning to carry out the additional services, it is not required to outsource any of the services and there is no question of monitoring contractor in handling the dead body or remains.
- (c) The FEHD learnt of the staff's allegation that Fu Shan Crematorium did not have sufficient fire escapes at the meeting with staff union on 26 October 2006. In point of fact, when Fu Shan Crematorium



started operation upon completion of reprovisioning works in 2004, it had already been checked and found complied with the requirements stipulated by the relevant fire services and buildings ordinances, including the provision of sufficient means of fire escapes. To ensure the work safety of its staff, the EMSD recently arranged safety officers to Fu Shan Crematorium to conduct a comprehensive risk assessment on the work that it would take over. The assessment results confirm that the existing fire escapes of the crematorium are in compliance with the safety standards.

**MR WONG KWOK-HING** (in Cantonese): *Regarding the three parts of the Secretary's reply, I have to express great regret and disappointment, for the Secretary's response .....*

**PRESIDENT** (in Cantonese): Mr WONG, what is your supplementary question? Please bear in mind that according to the Rules of Procedure, Members should not express personal opinions during Question Time. Please ask your supplementary question.

**MR WONG KWOK-HING** (in Cantonese): *President, the reply of the Secretary is incomplete and untrue. Nor is it the actual fact. However, subject to the Rules of Procedures, Members can only ask one supplementary question. For instance, the problem of ashes of different dead bodies being mixed together and the problem of insufficient fire escapes have not yet been solved. But subject to the Rules of Procedure, Members can only ask one supplementary question, so my question will be on the services of crematoria. Actually, since 1 December, the services of the crematorium have been outsourced to a company called Dai Ya Company and the employees concerned did point out that the response of the Government was untrue. I would like the Secretary to respond to part (a) of my question, though the Secretary said that the EMSD would recruit technicians, it was not the actual fact, for since 1 December, the relevant work of the crematorium in question has been taken up by employees of the contractor, Dai Ya Company. May I thus ask the Secretary via the President whether his reply is untrue?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, I followed strictly the information provided by the EMSD in giving my reply. I think Mr WONG must have sufficient evidence in making such an accusation.

**MR WONG KWOK-HING** (in Cantonese): *President, I would like to respond to the Secretary that .....*

**PRESIDENT** (in Cantonese): Mr WONG Kwok-hing, you cannot make a response, for we are not in a debate now, so you can only ask a follow-up question. Has the Secretary answered your supplementary question? Has he not answered your question?

**MR WONG KWOK-HING** (in Cantonese): *President, the Secretary has not answered my follow-up question which asked whether the work had been outsourced. Actually, apart from cleansing work, the EMSD has outsourced other work, but the Secretary only gave his reply according to the report provided by the EMSD. Therefore, may I ask the Secretary whether he will conduct an investigation to confirm if the untrue reply given by the Secretary is a result of the report of the EMSD?*

**PRESIDENT** (in Cantonese): Mr WONG, please be seated. I can only regard you as expressing your opinion, but it contravenes the Rules of Procedure. Therefore, I will not ask the Secretary to give a further reply.

**MR TAM YIU-CHUNG** (in Cantonese): *President, I would like to ask the Government about part (c) of the reply which states that "the EMSD recently arranged safety officers to Fu Shan Crematorium to conduct a comprehensive risk assessment on the work that it would take over," and thus considered it safe. Why does the Government not consider requesting other relevant departments, namely, the Buildings Department and the Fire Services Department, apart from the EMSD, to inspect the crematorium to confirm whether there is any problem? Has the Government invited these departments to visit the site and conduct inspections?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, as far as I know, all government projects, from plan drawing to the completion of the projects, have to be examined by the relevant departments to confirm whether they are in compliance with the fire services and building laws. Therefore, as I understand it, the EMSD definitely has carried out these tasks and considers that the existing fire escapes are sufficient.

In this respect, I did request the ESMD to provide me with the relevant plans and photos for reference, and I thus know that four separate escapes are available at the Crematorium. That means staff can escape from the Crematorium in four different directions in case of emergency. I thus think, under such circumstance, we can be sure that the existing fire escapes of the Crematorium are in compliance with the safety standards.

**MR FRED LI** (in Cantonese): *President, I would like to ask a supplementary question in broader terms. Secretary, what are the pros and cons of the policy of handing over the Fu Shan Crematorium and Kwai Chung Crematorium to the EMSD? Will the management of other crematoria be taken over by the EMSD gradually?*

**PRESIDENT** (in Cantonese): Mr Fred LI, the first part of your supplementary question is directly related to the main question, but the second part of it does not bear any direct relevance. As to how the Secretary will answer your question, I will leave it to the Secretary to decide.

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, I think it is worth explaining in this respect to enable Members to understand the situation.

Old cremators can only process three to four dead bodies every day. But when those cremators were rebuilt, a new design was adopted so that two dead bodies located separately on the upper and lower chambers could be processed at the same time. This will cause no confusion but yet enables the processing of two dead bodies simultaneously. Therefore, with the utilization of these cremators, the number of cremations carried out has now nearly been doubled, and more dead bodies can be processed. Moreover, these cremators are

equipped with a special environmentally-friendly feature in emission control, and the amount of emission discharged by these new cremators is lesser than that discharged by old cremators. This is an advanced design. As operators must acquire the specific technique and knowledge to operate these cremators of an advanced design, we have all along assigned the operation and maintenance work to the EMSD. We consider that it is most appropriate for the EMSD to undertake both the operation and maintenance work. We have thus signed a contract with the EMSD in respect of the two crematoria at Fu Shan and Kwai Chung.

As for the third crematorium, the Diamond Hill Crematorium, the same arrangement will be made with the EMSD. As far as I know, the Diamond Hill Crematorium will come into operation in the second quarter next year. As for other crematoria, such as the Cape Collison Crematorium and the Wo Hop Shek Crematorium, we have plans to replace the cremators concerned, and we will also consider whether the same model or design should be adopted and whether other more effective management practices can be adopted. Therefore, a conclusion in this respect cannot be drawn for the time being.

**MR WONG YUNG-KAN** (in Cantonese): *President, I would like to ask about the reply to part (a) of Mr WONG Kwok-hing's main question. The Secretary said that the EMSD would not retain staff now working at the crematoria, and in his reply to another colleague earlier, he said that the same arrangement would be adopted in the case of Diamond Hill Crematorium. Though alternative arrangement will be made for the staff concerned, will the recruitment of technicians instead of retaining original staff to take up these posts result in the wastage of original staff? How can the Government ensure the job security of this group of staff?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, I think staff working in crematoria can be classified into two types: one of which is skilled workers and the other one is non-skilled workers. As far as I know, the existing staff of crematoria may also submit applications in the recruitment exercise conducted by the EMSD, and if they are recruited, they can be transferred to the EMSD. With regard to the recent case of the two crematoria, a total of 15 employees are affected, one of them is going to retire in January 2007 and the rest 14 will be deployed to different posts. Skilled workers will be transferred to technical posts while non-skilled workers will be

deployed to various posts which may or may not be posts at crematoria. In this connection, no employees will be dismissed or given a termination of employment because of the arrangement, and I believe Members need not worry about this.

**MR CHAN KAM-LAM** (in Cantonese): *President, in part (b) of the main reply, the Secretary mentioned that: "Transferring of dead body or skeleton from one chamber to another is controlled by computer and monitored by staff specially assigned for the operation." I would like to understand the operation of crematoria. The process of transferring dead bodies for cremation is supposed to be subject to very strict control, however, in the past, the mixing up of dead bodies did occur. So, may I ask the authorities, under the new system where the EMSD has never handled these tasks, how it can be ensured that these situations will not occur again?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, irrespective of which department taking over the management of a crematorium, be it the EMSD or the FEHD, all crematoria must operate in accordance with the guidelines issued by the FEHD. In response to a recent complaint, the Director has specifically announced the conditions which must be met for the opening of a coffin. Three of the most important conditions are: first, the approval of an officer at Directorate grade must be sought before any work in this respect can be carried out, and it should not be carried out at the discretion of the management of a crematorium; second, this can only be carried out when it is monitored via the closed-circuit television; and third, the most important condition of all, it must be carried out in the presence of family members of the deceased. These three conditions are newly added to ensure that dead bodies will not be mixed up. Certainly, there are other aspects which require attention. When a coffin carrying a dead body is brought to a crematorium, everyone must check that the name on the coffin tallies with that on the ashes bag and all the relevant documents before the process is started. In this respect, at present, all crematoria, no matter it is managed by the FEHD or the EMSD, must follow this procedure.

**MR LAU KONG-WAH** (in Cantonese): *President, apart from ensuring accuracy in the process of opening coffins, I think, in the process of cremation, surviving families of the deceased also do not want to see the mixing up of ashes.*

*In part (b) of the main reply, it is stated that the transfer of a dead body from one chamber to another is controlled by computer, but still it relies on the staff concerned to confirm no skeleton is left in the chamber. Since it is checked by the workers with their naked eye after all, there is always the possibility of error or oversight, and families will somehow worry about this. As specific procedures have been laid down for the opening of coffins to ensure accuracy, will specific procedures be added to ensure that ashes will not be mixed up?*

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

Madam President, in respect of this question, I have repeatedly asked about the operation of the design concerned. Regarding this three-chamber cremator, the first chamber, the chamber which coffins will be put inside, the temperature will be brought up to 650 degrees Celsius at which nearly everything will be cremated. When everything has been turned into ashes, how will the ashes be transferred to the lower chamber? For old cremators, the first chamber will be turned over to drop the ashes to the lower chamber. But now, in the new cremators controlled by computer, the first chamber will not only be turned over once but a number of times to drop all the ashes to the lower chamber. The technician in charge must check that no ashes are left in the first chamber before another coffin is carried into the first chamber. This can thus ensure that coffins or ashes of dead bodies in the first chamber and the lower chamber will not be mixed together. I think this is the most effective and secure method.

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

**MR SIN CHUNG-KAI** (in Cantonese): *President, may I ask the Secretary whether, before the services are handed over to the contractor, the contractor will be requested to improve the booking arrangement for cremation services? At present, applicants must visit the office in person to book the relevant service. Though the locations of crematoria may be checked online, advance booking can only be made in two weeks at the earliest. This is about the improvement of outsourced services. When the Government outsources its service, it hopes to improve its services, so will the Secretary require the provision of online booking service and the extension of the booking period to more than two weeks?*

**PRESIDENT** (in Cantonese): Mr SIN Chung-kai, you have been most skillful. In fact, you are asking whether this type of work is part of the services outsourced. However, the Secretary stated clearly in the main reply that only non-technical work would be outsourced. Do you think this type of work is non-technical?

**MR SIN CHUNG-KAI** (in Cantonese): *I think I should better leave it to the Secretary to decide whether the work is non-technical. (Laughter)*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, I think Mr SIN Chung-kai is referring to the booking of dates for cremation services. Work in this respect will be undertaken by the FEHD but not contractors. He mentioned two questions: First, could bookings be made online? I think we have to ensure that the documents concerned are verified before we can process it. We will consider whether we can work out a way to do this. I know Mr SIN Chung-kai prefers to look to computer for solutions, in this connection, we will examine whether this can really be done. Second, Mr SIN asked whether advance bookings could be made in more than 14 days. With regard to this question, we have repeatedly examined the possibility of doing so. However, we worry that once such practice is allowed, many people will book certain auspicious time slots or dates well in advance, and I think this may not necessarily be the fairest way to certain people. Therefore, we set the earliest time for advance booking at 14 days.

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

### **Marine Sand Loss**

2. **MR CHEUNG HOK-MING** (in Cantonese): *Regarding the press reports that the situation of marine sand loss at Cheung Sha Beach has been deteriorating since 2002, will the Government inform this Council:*

- (a) *of the data collected from monitoring the fluctuation in the sand volume of the beach and the situation of sand loss at Cheung Sha Beach in each of the past four years; if monitoring exercises have not been conducted annually, the reasons for that;*

- (b) *whether it has studied the reasons for the continuous increase in marine sand loss; of the authorities' remedial measures, the timing and estimated costs for implementing such measures; and*
- (c) *whether the authorities' plan to set up a five-star spa resort on Lantau will be affected by the problem of marine sand loss at Cheung Sha Beach or even shelved as a result?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Madam President, my reply to Mr CHEUNG Hok-ming's question is as follows:

- (a) The Leisure and Cultural Services Department (LCSD) has all along paid attention to the loss of marine sand on the beaches. The Upper Cheung Sha Beach (the Beach) was about 1 500 m in length and about 25 m to 30 m in width on average and no noticeable change was observed in the past four years. However, with the change of seasons and the ebb and flow of the tides, there may be an increase or decrease of the volume of marine sand at certain locations of the Beach in different months of the year. Waves and seasonal currents usually wash away the marine sand in summer in the middle of the year, but most of the sand will be brought back to the Beach at the end of the year. The volume of marine sand on the Beach has all along varied with the changes of seasons and tides, but it has not affected the services to swimmers. The LCSD has not discovered anyone stealing marine sand from the Beach.

However, due to the impact of Typhoon Prapiroon in early August 2006, a large volume of marine sand on the Beach was swept away by huge waves. The situation was serious as the concrete foundation of the beach building and the submerged rocks underneath the sand were exposed. Part of the beach facilities such as the passageways of the beach building and the access to the Beach were also damaged by the typhoon. In addition, the width of the Beach was diminished by about 3 m while the sand layer was reduced in depth by about 150 cm. According to the assessment of the Civil Engineering and Development Department (CEDD) after their on-site inspection, the tremendous sand loss of the Beach this time was mainly caused by the Typhoon Prapiroon since no large-scale dredging or reclamation works was found in the vicinity.



In addition to causing massive loss of marine sand to the Beach, Typhoon Prapiroon has also damaged certain facilities of the beach building, such as the tiles of the passageways and the access ramp for the disabled, which needed emergency repairs. Hence, the LCSD has closed the Beach temporarily from 4 August to 24 August 2006, and the public was advised to go swimming at the Lower Cheung Sha Beach and Tong Fuk Beach in the vicinity during that period.





After the swimming season, which is from January to March next year, the CEDD will carry out small-scale restoration works within the beach area. Such works will include an addition of marine sand onto the beach area and the beach access, and removal of stones from the beach area to facilitate the use of beach facilities by the public. The cost of the works will be about \$2 million. In addition, repair works to the affected planters, stairs and ramp will also be carried out by the Architectural Services Department during the non-swimming season this year.

According to past records, tremendous destruction had also been done to particular beaches due to the routes and wind directions of typhoons. In August 1979 and September 1983, the Deep Water Bay Beach and the Castle Peak Beach were hit by typhoons respectively, resulting in massive loss of marine sand and destruction of many trees. It required a long period of time for the marine sand lost to flow back gradually to the beaches concerned.





- (b) Based on the observations by the Department, except for the massive loss of marine sand at the Beach due to the impact of Typhoon Prapiroon in August 2006, there has not been significant loss of marine sand at the Beach over the past few years. However, with the change of seasons and the ebb and flow of the tides, there may be an increase or decrease in the volume of marine sand at certain locations of the Beach in different months of the year. In order to monitor effectively the movement of marine sand at various beaches, the LCSD has, in conjunction with the CEDD, monitored the situation objectively and in an advanced manner.

Madam President, a good picture is better than thousands and thousands of words — I have therefore brought some pictures to illustrate this point to Members in details. If permitted, I would like to show Members the following pictures.

## Upper Cheung Sha Beach — Stairs of the Beach Building

	
March 2002	December 2005
	
4 August 2006 (In the aftermath of Typhoon Prapiroon)	8 December 2006

## Upper Cheung Sha Beach — Lifeguard Tower

	
March 2002	December 2005
	
4 August 2006 (In the aftermath of Typhoon Prapiroon)	8 December 2006

Upper Cheung Sha Beach — The Beach Building Facing the  
Barbecue Area

	
<p>March 2002</p>	<p>December 2005</p>
	
<p>4 August 2006 (In the aftermath of Typhoon Prapiroon)</p>	<p>8 December 2006</p>

Honourable Members, we have four pictures here. The first one was taken in March 2002. We can see from this angle that there was plenty of marine sand, and this is the Upper Cheung Sha Beach. The picture on the other side was taken in December 2005, which shows that many people were playing. We can still see plenty of marine sand there.

The one below was taken on 4 August 2006, one day after Hong Kong was hit by Typhoon Prapiroon. We can see that the marine sand had all gone, leaving behind the stones only.

This one was just taken on 8 December this year. Apart from some small-scale works, such as the removal of large stones, nothing has been done by the Government, not even sand replenishment. And yet, the marine sand has generally flowed back. Therefore, the volume of marine sand actually varies with the monsoon wind, tides and typhoons. It is nonetheless a natural phenomenon for the lost marine sand to flow back.

- (c) Madam President, in 2004, the Government commissioned a Consultancy Study on the Development of Spa and Resort Facilities to identify the potential of developing world-class spa and resort facilities in Hong Kong. The study has conducted three case studies, one of which is on Cheung Sha in Lantau, to identify and demonstrate the general issues involved in the development of spa and resort facilities in Hong Kong. These examples are case studies only. The private sector may explore their own proposals on other sites. The study concludes that market demand will be the most important driving force for such development. It would be up to the private sector whether they wish to pursue the development of a five-star spa resort on Lantau. The Government should only play a facilitating role. In fact, spa and resort facilities can be built at different places, such as countryside, urban areas, and so on. Beaches are simply supplementary facilities. Therefore, the plan to build spa and resort facilities should not be affected by the problem of marine sand loss.

**MR CHEUNG HOK-MING** (in Cantonese): *Thanks to the Secretary for using both text and pictures to illustrate the situation of the Cheung Sha Beach. As evident in the Secretary's main reply, the problem prevailing in Cheung Sha was simply caused by the typhoon. In the past, the Government would handle the matter in two ways, which can be found in the last two paragraphs of part (a) of the main reply. The Government now prepares to undergo beach restoration works in Cheung Sha at a cost of \$2 million. It can be noted in the last paragraph that similar cases were also found at the Deep Water Bay Beach and the Castle Peak Beach in 1979 and 1983 respectively, when the Government adopted a waiting approach, pending the time-consuming natural restoration. I wish to ask: In relation to the beaches where marine sand has been lost — as a result of typhoon or any other reasons — will the Government purchase and replenish the lost marine sand, or simply wait for natural restoration in the future?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Madam President, both options will be considered. Why would a waiting approach be adopted? It is because marine sand loss may be caused by an abrupt change in the wind direction, but when the wind subsequently resumes its normal direction, the lost

sand will be brought back by seawater. In the case of continuous erosion, however, close supervision is required to see if the marine sand will flow back. Or, in case marine sand loss affects the safety of such important parts as the entrance or the foundation of facilities, sand replenishment and some urgent repairs will be carried out.

**MR LEUNG KWOK-HUNG** (in Cantonese): *Secretary Dr Patrick HO, you just said that the marine sand would flow back with the changes of tides and seasons, right? What an insight. But do you know that the clock tower will never come back once demolished.....*

**PRESIDENT** (in Cantonese): Mr LEUNG Kwok-hung, your supplementary question does not relate to this question, so please ask in relation to.....

**MR LEUNG KWOK-HUNG** (in Cantonese): *I see, President, I see. Yet, things have order of priority. Twenty-four pan-democrats have written to the Secretary and Secretary Michael SUEN.....*

**PRESIDENT** (in Cantonese): Mr LEUNG Kwok-hung, please ask in relation to this question according to the Rules of Procedures.....

**MR LEUNG KWOK-HUNG** (in Cantonese): *I received 278 e-mails yesterday, which expressed the wish.....*

**PRESIDENT** (in Cantonese): I will have to warn you if you continue to behave in this way.

**MR LEUNG KWOK-HUNG** (in Cantonese): *May I ask you whether you feel ashamed of the demolition of a scenic spot, the only scenic spot of Hong Kong, for no particular reason as a result of your concealing of the Environmental Impact Assessment report on the webpage?*

**PRESIDENT** (in Cantonese): Mr LEUNG Kwok-hung, please sit down.

**MR LEUNG KWOK-HUNG** (in Cantonese): *Will you convene a meeting in response to the special request made by Mr LAU Wong-fat?*

**PRESIDENT** (in Cantonese): Mr LEUNG Kwok-hung, please sit down! Or, I have to ask you to leave this Chamber because you did not follow the instruction of the President.

**MR LEUNG KWOK-HUNG** (in Cantonese): *President, alright, I see. The Legislative Council is a place to serve and speak for the people.....*

**PRESIDENT** (in Cantonese): Fine, I now suspend the meeting. Mr LEUNG Kwok-hung, you need not stay in this Chamber when I return.

11.33 am

Meeting suspended

11.39 pm

Council then resumed.

**PRESIDENT** (in Cantonese): Clerk, a quorum is not present. Please ring the bell to summon Members back to the Chamber.

(After the summoning bell had been rung, a number of Members returned to the Chamber)

**PRESIDENT** (in Cantonese): A quorum is now present. Council now resumes.

**MR BERNARD CHAN** (in Cantonese): *President, the Secretary showed us some pictures earlier. Just as he said, I can see that the greater part of marine sand had flowed back with the changes of season. But he said that another \$2 million would be spent between January and March next year for the replenishment of sand and removal of stones. However, as seen from the pictures, the volume of marine sand looks almost the same as before. Is it necessary to add marine sand there? What is the percentage of the cost of marine sand in that \$2 million?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): *Madam President, why did we contemplate a replenishment of marine sand next year? It was because the volume of marine sand flowed back is only 40% of the original level, 60% has yet to flow back. In consideration of the impact on swimmers and the foundation of the facilities, a replenishment of sand was therefore contemplated.*

At the same time, inspections will also be conducted in the hope of undertaking more intensive studies, and sonar (that is ultrasound) will be used underwater to study the seabed condition. It is hoped that we can make more accurate projections of when marine sand loss will take place and when it will not, so that we can take the necessary precautions when being hit by typhoons in the future.

**MR DANIEL LAM** (in Cantonese): *The Secretary replied that the marine sand loss at the Cheung Sha Beach was a natural phenomenon. May I ask the Secretary whether any other beaches in Hong Kong have experienced such serious loss of marine sand?*

**PRESIDENT** (in Cantonese): *Mr Daniel LAM, the main question asks the Government very specifically about the situation of marine sand at the Cheung Sha Beach, but you have instead asked about the beaches territory-wide. How is your supplementary question related to the main question?*

**MR DANIEL LAM** (in Cantonese): *Perhaps I should put it in this way: In view of the marine sand loss at the Cheung Sha Beach, will the Secretary inform us whether an assessment has been made to prevent its recurrence at other beaches?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Madam President, we have all along paid attention to the situation of marine sand loss at the 41 public beaches under the LCSD. According to the reports received, apart from Cheung Sha where marine sand loss was comparatively more serious in the aftermath of Typhoon Prapiroon, a few other beaches are also experiencing loss of marine sand, for example, the Gold Coast Beach in Tuen Mun, and the Deep Water Bay Beach and the Stanley Main Beach in Southern District. These three beaches have also recorded negligible or slight loss of marine sand, and close attention has been paid to these three beaches.

Furthermore, the Kiu Tsui Beach and the Butterfly Beach in Tuen Mun have also recorded slight loss of marine sand. The volume of sand loss has been closely monitored and such loss has not constituted any impact so far.

**MISS TAM HEUNG-MAN** (in Cantonese): *The Secretary just said that he has observed and paid attention to the rate of marine sand loss, and the pictures presented by him earlier showed that marine sand had been nearly absent during a certain period of time. Has he considered how the marine sand can be retained to avoid the beach being left barren? It is because this will have an impact on the adjacent ecological environment. Has the Secretary considered how this step can be taken?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Madam President, I am not an expert in the field, but there are many of them sitting beside me. I have consulted a number of CEDD experts, who opined that in order to achieve comprehensive prevention of marine sand loss, there are three points to note. First, it is the effect of the direction of wind, waves and tides. Second, whether the beach has two dykes offshore; if it has, the volume of marine sand loss will not be so serious; and even if there is sand loss, it will eventually flow back. Therefore, it is necessary to have dykes. And third, it is the seabed structure. If the seabed is like a basin, the loss of marine sand will generally not be so serious; but if it is tilted, the equilibrium of the marine sand at the seabed will vary significantly with the changes of tides. A study is being undertaken to inspect the adjoining seabed of the beach, with a view to enabling us to make more accurate projections and cope with the recurrence of marine sand loss in the future.



**MISS CHOY SO-YUK** (in Cantonese): *President, I hope that the Secretary will elucidate his reply. He stated in part (a) of his main reply that in the aftermaths of typhoons in August 1979 and September 1983, there was loss of marine sand at the Deep Water Bay Beach and the Castle Peak Beach respectively, and it required a long period of time for the lost sand to flow back to the beaches concerned. However, as shown in the pictures presented to us by the Secretary just now, nearly 70% of the marine sand has flowed back in four months. The Secretary's reply gave me the impression that it took years for marine sand to flow back. Earlier, the Secretary said that a number of inspections and a study on how marine sand would flow back to the beaches had been conducted. However, after looking at those pictures, I do not think there is a need to do so. Therefore, I wish to know what measures will be taken by the Government when marine sand is affected by typhoons. Will the Government take full precautions, or simply neglect it until such action as the purchase of marine sand is required?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Just as I said earlier, the volume of marine sand loss varies among beaches. The loss of marine sand may either be attributable to natural wastage, or it may be a result of typhoons. Why did the typhoon only affect Upper Cheung Sha but not other beaches? If we look at Lantau South alone, there are four beaches other than Mui Wo, namely Pui O, Lower Cheung Sha and Tong Fuk, but only the Lower Cheung Sha was hard hit by Typhoon Prapiroon because it lies exactly in the southwest direction. Members may recall that Typhoon Prapiroon, at its closest to Hong Kong, was in the southwest, and the beach was therefore attacked head-on and suffered serious marine sand loss. We should, of course, look into the case.

As I have just said, remedial measures like sand replenishment should be taken at once if marine sand loss affects the foundation and safety of beach buildings, make swimmers unable to swim and damage the passageways. Yet, if no significant impact has been detected and marine sand is gradually flowing back, we can wait and see. It is because we know that marine sand loss mainly takes place in summer, which is exactly the swimming season; but when winter comes and the swimming season ended, the marine sand will gradually flow back. Therefore, it is most common for marine sand to flow back in winter, and the situation is now under surveillance.

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

**MR HOWARD YOUNG** (in Cantonese): *Madam President, the Secretary mentioned the Cheung Sha Beach in the last three paragraphs of part (a) of the main reply, highlighting the remedial measures taken as a result of the loss of marine sand. It gives people an impression that it was "treating the head when there is a headache, and curing the leg when there is a pain in it". The Secretary mentioned the Deep Water Bay Beach in the last paragraph, and as far as I recall, the Government had to purchase sand for replenishment in the era of the Urban Council, with a view to improving the condition of the beaches. Therefore, I wish to ask the Secretary: Apart from waiting for the lost sand to flow back to the beaches concerned in the aftermath of typhoon hits, has the Government reserved any resources for the purchase of sand to improve the beaches, rather than to wait for the sand to flow back, with a view to enhancing the recreational function of beaches and making them scenic spots?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Just as I said in the main reply, marine sand loss is generally seasonal, and sand will flow back as a result of natural phenomenon. Therefore, the loss of marine sand should not be a cause for concern. It is uncommon for a beach to be particularly hard hit by a typhoon and have massive loss of marine sand. The case of the Lower Cheung Sha Beach, which was hit by Typhoon Prapiroon, is slightly different from the two cases of sand replenishment at the Deep Water Bay Beach and the Repulse Bay Beach. At that time, we aimed to attract tourists by improving the overall environment of the beaches. They therefore have another function, other than serving as beaches alone. And, in addition to sand replenishment, a long sand dyke had been built offshore and efforts had been made to enhance the aesthetics of the beaches. We will certainly do so when necessary.

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

### **Broadcasting Standard**

3. **MR JASPER TSANG** (in Cantonese): *President, the Implementation Framework for Digital Terrestrial Television Broadcasting, promulgated in July 2004 by the Government, stipulates that the two terrestrial television stations are required to start simulcasting both analogue and digital television services by*

2007 at the latest. The Government also advised that by the end of 2006, the two television stations would submit to the Government a proposal on the broadcasting standard to be adopted in Hong Kong, and they would adopt the European DVB-T standard if the relevant mainland authority had not promulgated a national standard on digital terrestrial broadcasting by that time. It has been reported that the relevant mainland authority promulgated in late August this year the national standard on digital terrestrial broadcasting to be adopted, and the two television stations and the relevant mainland authority are jointly conducting technical tests on the broadcasting standard. In this connection, will the Government inform this Council whether:

- (a) *it knows the progress of the two television stations in determining the broadcasting standard to be adopted;*
- (b) *it knows if the two television stations can submit the proposal to the Government by the end of this year as scheduled; if they cannot, of the submission date which the Government will specify; and*
- (c) *it has assessed if the two television stations can launch their digital terrestrial broadcasting services within next year as scheduled; if they cannot, of the time to launch the services?*

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Cantonese): President, after two rounds of extensive consultation in 2000 and 2003, the Administration announced in July 2004 the framework for the implementation of digital terrestrial television (hereafter "the implementation framework"). The two domestic free television programme service licensees, namely, Asia Television Limited (ATV) and Television Broadcasts Limited (TVB), shall launch digital terrestrial television (DTT) by 2007 and expand digital coverage to at least 75% of Hong Kong by 2008. These milestones form part of the conditions of ATV and TVB's domestic free television programme service licences.

According to the implementation framework, if the Mainland has not promulgated a national standard before the end of 2006, the Administration will adopt a market-led approach to the selection of DTT technical standard. Earlier when the Mainland did not promulgate the national standard, ATV and TVB

indicated that they would consider adopting the European DVB-T standard, which has been widely adopted internationally. ATV and TVB have tested DVB-T standard before and the testing results indicate that it is suitable for Hong Kong. In August 2006, the mainland authorities announced the national standard. Assisted by the Office of the Telecommunications Authority (OFTA), ATV and TVB have recently tested the national standard.

By end 2006, ATV and TVB shall submit their proposal for technical standard to the Telecommunications Authority (TA). After evaluating their proposal based on the merits of the proposed technical standard and on-site testing results, the TA will decide whether the proposed standard should be adopted.

Regarding parts (a), (b) and (c) of the question, my reply is as follows:

- (a) Up to now, ATV and TVB have not submitted their proposal for technical standard;
- (b) According to our understanding, ATV and TVB have just completed the initial testing of the national standard and are drafting the testing report. The OFTA is liaising with the two broadcasters. According to the implementation framework, the two broadcasters shall submit their proposal by the end of this year. Up to now, the two broadcasters have not requested the Administration to extend the deadline for the submission of technical standard proposal.
- (c) Since we announced the implementation framework, the implementation of DTT has made good progress. The Broadcasting Authority and the TA have approved ATV and TVB's proposals for DTT programme services and network rollout plans respectively. The two broadcasters are embarking on network planning, design and construction, as well as testing the transmission and reception of digital signals.

According to the progress mentioned above, our assessment is that the two broadcasters will be able to launch DTT within 2007 in accordance with the implementation framework, regardless of which technical standard is adopted.

**MR JASPER TSANG** (in Cantonese): *The question of whether or not DTT can be launched as scheduled depends on whether the technical standard of broadcasting can be determined in a timely manner and whether the technical problems of adopting the technical standard for broadcasting can be overcome.*

*According to the Secretary's reply, the DVB-T standard has been tested earlier and the results indicate that it is suitable for Hong Kong. Regarding the national standard selected by the Mainland currently, the two broadcasters are still conducting tests and the initial testing has been completed. However, it is now mid-December and no report has been submitted by the two broadcasters so far. In the reply, the Secretary said that the TA, after receiving the report, would evaluate their proposals and decide whether the proposals would be adopted. May I ask the Secretary how much information has been obtained by the TA and the authorities regarding the national standard which has been announced? How should this standard be evaluated on its suitability for Hong Kong? For instance, has the standard been tested in the Mainland and what is the result? I would like to know whether the SAR Government has grasped any relevant information.*

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Cantonese): President, the TA is certainly able to grasp the basic information on the national standard. He is also aware that the two broadcasters are now testing the national standard and has maintained contact with them. Meanwhile, according to the information we have got, although it is now mid-December, we have noted that the two broadcasters will submit proposals concerning which standard be adopted by the end of the year as scheduled. After they have submitted their proposals, the TA will conduct a more in-depth assessment on the basis of their proposals and the final decision is expected to come out in early 2007. The assessment will certainly include the situation of transmission and reception when the standard is adopted. This will certainly be a detailed assessment. In other words, according to the timetable I just mentioned, the two broadcasters will submit proposals by the end of the year. We will come up with a decision early next year or in the first quarter. Our preliminary plan that DTT will start to launch in 2007 and the coverage will be extended to 75% of the territory in 2008 will be implemented as scheduled. We are confident about this.

**MISS CHOY SO-YUK** (in Cantonese): *President, I would like to ask a question on the two studies mentioned by the Secretary in the main reply. If the European standard is adopted, since the two broadcasters will also broadcast in the Mainland, will this affect the coverage in the Mainland? If the national standard is adopted, will the degree of maturity of the technology affect the quality of local broadcasting? May I ask the Secretary how a balance will be struck?*

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Cantonese): *President, basically, I think our current position is that we need to have the proposals submitted by the two broadcasters first. In other words, they have to propose which standard be adopted. For instance, will the European standard, the national standard or Japanese standard be adopted? After specific proposals have been submitted, we will evaluate the technical feasibility, which of course, refers to the impact on local transmission and reception. However, basically, our assessment will not include impact on places outside Hong Kong. Our main concern is whether the launch of DTT in Hong Kong is feasible in the market and whether consumers will most benefit from it in terms of reception. This is the basis of our assessment.*

**MR LAU KONG-WAH** (in Cantonese): *President, the users may need to replace their television sets when the new standard is adopted. But after such a new standard has been adopted, will such new television sets be available in the market in a timely manner? The Secretary said that the plan would be implemented as scheduled. But when the latest standard is launched or the service becomes available, can the users, according to the Secretary's estimation, be able to buy the television sets for receiving such service?*

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Cantonese): *President, this is precisely a very important consideration in our future assessment. In other words, the question is whether reception devices are launched as scheduled and what the effect will be when the new standard is adopted. Precisely because of these factors, a thorough assessment is necessary before we can decide which standard should be adopted for DTT. What Mr LAU just said is perfectly right. I have previously pointed out in a paper that it is necessary to change cables (Appendix 1) and all users are required to purchase a DTT decoder. However, it is necessary to do these two things regardless of the technical standard to be adopted.*

Of course, when the new standard is launched, it is necessary to conduct further studies and assessments on whether more mature standards have been widely used in other places and whether reception devices are available. When a decision is made in the future, this will certainly be a very important consideration.

**MISS TAM HEUNG-MAN** (in Cantonese): *President, just now the Administration indicated that the two broadcasters would be invited to submit proposals. May I ask the Government, apart from the two broadcasters' proposals, what procedures will be adopted in order to determine the adoption of the technical standard for DTT? How can the procedures ensure that the most suitable technical standard is chosen by the public in an equitable manner so that public interest will not be jeopardized?*

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Cantonese): *President, basically, I have answered the question. According to the two broadcasters' proposals, the TA will conduct an assessment and public interest will absolutely form the basis of such an assessment. The most crucial element of public interest is, firstly, whether DTT can be received and clear; secondly, whether relevant reception devices are available in the market; thirdly, whether there is interference and coverage is up to 75% as we said. So, to a certain extent, the assessment is entirely based on the interest of consumers and the public. We will not and are not required to conduct any public consultation on these technical issues.*

**MR HOWARD YOUNG** (in Cantonese): *President, during the past couple of years, a lot of cases concerning incompatibility among different standards have occurred in the audio-visual industry. In particular, PAL and NTSC were initially incompatible before television sets compatible with both standards were launched. Consumers who had bought Beta and VHS suffered a lot of financial loss while Beta, which was procured by users at an early stage, had almost been totally eliminated.*

*In the light of the consumers' financial loss, may I ask whether the authorities have estimated the prices of hardware for the European DVB-T or national standard? Are the prices of these two standards more or less the same*

*or one of them is very expensive? Have the authorities assessed whether television sets which can receive broadcasts of both standards as those which can receive PAL and NTSC at present are available but the price is very low?*

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Cantonese): Basically, there are two questions here. First, as I just said in my reply, our assessment will certainly cover reception including whether there are devices for such purpose and whether such devices will be produced as scheduled. Besides, what are the quantity and price of such devices? What is the direct impact on the consumers? All these will be included in the assessment. As to whether it will be better to adopt a more mature standard, it is certainly our consideration.

Besides, regarding more technical issues, such as whether there are devices for receiving broadcasts of both standards, just like PAL and NTSC in the past, this is possible after a period of time. Up to now, there is no such device for DTT. However, will technological advancement make it possible to receive broadcasts of both DVB-T and American standard? Theoretically, technical development will make it possible. But in fact, is there any incentive for the market, including the providers, to engage in transmission of two different standards? Regarding the consumers or the television users, as the price will be more expensive, why do they buy a device for both standards in order to receive programmes of similar quality? So, I think this is a rather theoretical question. We hope a decision can be made after considering the two broadcasters' proposals. However, up to now, this is a purely theoretical question. I do not think any consideration will be given to this.

**PRESIDENT** (in Cantonese): We have spent more than 16 minutes on this question. Last supplementary question.

**MR JASPER TSANG** (in Cantonese): *President, according to a press report, the current national standard will merge two different standards studied by the Tsinghua University and Shanghai Jiao Tong University. According to some critics, there are still a lot of technical problems in this fusion. May I ask the Secretary whether he knows that such report is correct? What information does the Government have regarding the degree of maturity of the national standard which has been announced?*



**PRESIDENT** (in Cantonese): Mr Jasper TSANG, please sit down first. I suggest you rephrase your supplementary question somewhat. Do not ask the Secretary whether the report is correct because this is not in line with the Rules of Procedure. You can ask the Secretary whether he is aware of any technical problems in respect of the standards studied by the two universities. Do you agree?

**MR JASPER TSANG** (in Cantonese): *President, in the light of such a report, may I ask the Secretary whether he is aware that there are technical problems yet to be overcome in respect of the standard currently announced by the State?*

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Cantonese): President, according to our understanding, Tsinghua and Jiao Tong Universities in the Mainland have developed some DTT standards, which are the DMBT and the ADTB respectively. The current national standard is an evolution from these two standards. In other words, lots of elements in the national standard have also originated from these two standards. So, technically speaking, this is not a brand new standard.

There is a merit in this approach. In respect of the future reception device, according to our understanding, the relevant authorities of the State will announce the reception standard in a couple of months because Tsinghua and Jiao Tong are conducting testing on many analogue reception devices. In other words, when the standard of future reception device has been determined, it will be easier for the mainland manufacturers to grasp the broadcasting standard and technology. They will then be able to engage in commercial production of these devices. If there is such a demand in the market in the future, I think it will be much easier for the mainland producers to launch reception devices which are compatible with the national standard as they have got a certain degree of understanding of the standards developed by the two universities.

**PRESIDENT** (in Cantonese): Members and public officers, next Miss CHOY So-yuk will ask the fourth oral question.

**Tree Trimming**

4. **MISS CHOY SO-YUK** (in Cantonese): *It has been reported that quite a number of trees have been damaged or have withered as a result of improper trimming. Moreover, I have learnt that in a paper provided to the Sha Tin District Council on the construction of Trunk Road T4, the Government proposes extensively trimming four trees along Chung Ling Road in Sha Tin which have been listed on the Register of Old and Valuable Trees compiled by the Government. In this connection, will the Government inform this Council:*

- (a) *of the measures it has taken, including whether guidelines have been formulated, to enable people who are engaged in tree care or tree trimming to acquire the relevant knowledge and skills; if there are no guidelines, of the reasons for that, and whether it will formulate such guidelines;*
- (b) *how the Government promotes tree care knowledge among owners' associations and property management companies, and the expenditure incurred in this respect last year; and*
- (c) *whether prior approval is required for any person to trim any tree already listed on the Register of Old and Valuable Trees; if so, of the vetting and approving authority and procedure?*

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

- (a) Trees are valuable resources of Hong Kong and are important to the quality and landscape of our living environment. As such, government departments responsible for tree care and pruning, such as the Leisure and Cultural Services Department (LCSD) and Agriculture, Fisheries and Conservation Department (AFCD), have put in place departmental guidelines. In drawing up such guidelines, apart from making reference to international arboriculture standards such as the "British Standard 3998 — Recommendations for Tree Work", departments have also taken into account of the local conditions of Hong Kong as well as their own operational needs.

Staff responsible for tree care have to comply with the guidelines on tree pruning in their daily work. To avoid damaging the form and affecting the healthy growth of trees, they have to have a clear understanding of the purpose of pruning as well as possess the required skills before performing the work. Furthermore, for outsourced pruning work, the contractors involved have to provide supervisory staff with expertise knowledge in horticulture and tree care.

- (b) On the front of promoting tree care knowledge among owners' associations and property management companies as enquired by Miss CHOY, the Government has placed greater emphasis on the overall promotion of greening. Relevant departments have in this respect organized a wide range of promotional activities such as tree planting, Greening School Subsidy Scheme, Green Volunteer Scheme, talks on horticulture, horticulture education exhibitions, greening of public housing estates, and so on, to enable members of the public to participate in greening work. We are also pleased to see that many voluntary agencies, schools and community organizations have actively participated in these activities. In the past year, a total of around 1.2 million people have participated in greening promotional activities organized by the LCSD.

The Government has not specifically allocated resources for educating owners' associations and related associations about tree care since such parties generally hire their own landscaping contractors to take proper care of the plants including trees, and so on, under their management. We do not detect any major problems encountered by them.

- (c) As for pruning of trees listed in the Register of Old and Valuable Trees, we need to understand that generally pruning is a normal step in tree care, mainly because it helps trees to stay healthy and ensure that they would not cause problems to users in the vicinity. According to this principle, pruning of trees, including Old and Valuable Trees, is thus permitted in accordance with departmental guidelines.

However, should any capital works involve the pruning of registered trees, we require the departments concerned to assess all feasible options during the planning stage and consult tree maintenance departments and listen to the views of the public to minimize adverse impacts on these trees as far as possible. Furthermore, during the course of works, we also require contractors to appoint independent qualified tree experts to conduct investigations and soil tests for the registered trees, including assessment of their health and adoption of related protection/monitoring measures. This is to ensure that the registered trees are properly cared for and that their growth will not be adversely affected or damaged by the works concerned.

**MISS CHOY SO-YUK** (in Cantonese): *President, it seems that the Secretary has made a very good point in the last paragraph of the main reply in saying that the old and valuable trees would definitely not be adversely affected. President, the Camphor Tree, which was mentioned in the question just raised, is a very valuable tree and has been listed on the Register of Old and Valuable Trees. However, half or 40% of it has been felled so far. Obviously, even though the tree may survive the felling, I believe it will fall, and the whole tree will fall. Since 40% of the tree has been lopped, further lopping must be stopped promptly. President, insofar as this case is concerned, the Secretary has completely failed to tell me the procedures leading to this eventuality in the main reply. Who has given approval to the lopping in question?*

**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS** (in Cantonese): I have stated in the main reply that a number of departments are responsible for the pruning of old and valuable trees, which include the Lands Department and AFCD. Before a final decision is made, they have to conduct an in-depth study on the viable options and consult the public. The measures taken for the greening of the T4 section are, in fact, preliminary designs proposed by our consultant. At that time, the consultant said that due to geographical constraints, the alignment of the flyover along Chung Ling Road of road T4 was subject to great limitations, which would certainly have caused different degrees of impact on four to five old trees. This is why it came up with that proposal. In respect of the preliminary design, our colleagues are prepared to submit the relevant report to the District Council for consultation, in

the hope of gauging public views as early as possible. I can say that this is not the final decision. Since the Civil Engineering and Development Department has received many divergent views, the overall design will be reconsidered in terms of the road alignment, the height and the flyover along Chung Ling Road, to see how these four trees can be protected.

**MR CHEUNG HOK-MING** (in Cantonese): *Earlier, the Secretary mentioned in her reply to Miss CHOY So-yuk's main question that a lot of promotional activities had been organized by the Government, attracting 1.2 million participants last year. Given that many infrastructure projects, road widening works in particular, have been undertaken in the new towns of the New Territories in recent years, plenty of trees should have been removed from the old roads by the Government. May I ask the Secretary whether there is a mechanism specifying when those trees should be replanted after removal? What I see now is that, though the road construction works had been completed five to six years ago, the removed trees are still left abandoned, which is too terrible.*

**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS** (in Cantonese): Since tree transplanting is necessary for large-scale public works, we have therefore established a tree depot for keeping the trees temporarily. There are rules requiring the departments concerned to expeditiously transplant the trees. I will be very pleased to know if Mr CHEUNG notices any places where tree transplanting has been delayed, and I will follow up.

**MR CHEUNG HOK-MING** (in Cantonese): *President, may I ask the Secretary what the yardstick of "expeditiously" is? If I have to cite an example, an obvious one should be Ting Kok Road in Tai Po. The previous widening works had necessitated the massive transplanting of trees, which are now being abandoned. I wish the Secretary would take note of this problem when such need arises.*

**PRESIDENT** (in Cantonese): The Secretary has nodded.

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

(in Cantonese): I have given the answer.

**MR DANIEL LAM** (in Cantonese): *Will the Secretary inform us what criteria has the Government adopted for determining old and valuable trees?*

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

(in Cantonese): There are five criteria for old and valuable trees, and trees meeting any one of them can be named old and valuable trees. First, they must be of over a hundred years old; second, they can be categorized as large trees. But what is meant by large trees? Large trees have a diameter of over 1 m, or a canopy of over 25 m or height of over 15 m. Third, they must be of historical, cultural and memorial significance; fourth, they have an outstanding appearance, and fifth, they are valuable or rare species.

**MR LAU KONG-WAH** (in Cantonese): *President, the main question asked about the knowledge and skills of tree trimming. Recently, tens of trees in the YMCA Wu Kai Sha Youth Village were lopped and shaven. I wonder if the Secretary or any departmental staff has visited the place. The trees there are in a very poor condition and this was also reported by the media. I wonder if the Secretary has visited the place and whether or not she felt heartbroken at the sight.*

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

(in Cantonese): I read from the press about the trees in Wu Kai Sha, but it is a private place. In relation to tree pruning, I just said that if my colleagues were responsible for such work, they would certainly follow the relevant guidelines. However, since the contractor employed by the private sector has little knowledge of tree pruning, the trees might have been over-pruned. As I have not seen them personally, I cannot tell to what extent the trees have been pruned. Nonetheless, I certainly hope that the process of tree pruning was up to standard and the trees were pruned on a need basis. It is because the branches must be trimmed if they have grown too dense, so as to allow air circulation. Withered branches, if any, should also be lopped to avoid hurting passers-by in case they fall. My colleagues will keep an eye on the case of Wu Kai Sha to see what the situation is like.

**MISS TAM HEUNG-MAN** (in Cantonese): *The last paragraph of the main reply mentioned that during the course of works, contractors or developers would be required by the Government to appoint independent qualified tree experts to monitor the old trees so as to ensure that they are properly cared for. May I ask the authorities whether the work of these tree experts has been reviewed. Can we really ensure that the old and valuable trees are monitored, protected and safeguarded?*

**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS** (in Cantonese): Our engineering staff or colleagues in the LCSD will closely follow up the relevant work. Just now, I said that qualified contractors must be appointed and an independent monitoring system has to be set up to impose further supervision. Supervision has already been effected.

**MISS CHOY SO-YUK** (in Cantonese): *President, the Secretary mentioned in part (b) of the main reply that the Government had not specifically allocated resources for educating owners' corporations about tree care. Mr LAU Kong-wah just quoted the example of Wu Kai Sha, and there is the case of Leung King Estate in Tuen Mun, which has also triggered great repercussions. The so-called pruning of trees is actually not pruning at all, but lopping the trees half-dead. I wish to ask: With so many cases that have aroused public rage, where a lot of trees have been pruned, will the Government or the Secretary reconsider the allocation of resources for training management companies and owners' corporations to preventing them from repeating those acts?*

**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS** (in Cantonese): In fact, in relation to the promotion and education for owners' corporations and the public territory-wide, their participation is also welcomed if they are interested. We think that if the promotion is targeted specifically at property management companies, it appears that a certain group of people is being pinpointed. Nonetheless, the owners and residents of a housing estate can also take part in the caring of plants within their estate. It is not the management company alone that has all the say. As far as we understand it, the residents do very often request tree pruning, and it would be difficult for the Government to interfere in any affairs within private areas. We will, however,

monitor old and valuable trees. As for other trees, we do not have the resources to monitor trees within private areas. Neither do we accord priority to this.

**MISS CHOY SO-YUK** (in Cantonese): *It seems that the Secretary has not clearly answered if training will be provided to them, and whether or not she is willing to do so?*

**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS** (in Cantonese): I just said that I did not think priority would be accorded to the property management companies for the time being.

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

### **New Dawn Project**

5. **DR FERNANDO CHEUNG** (in Cantonese): *President, the Social Welfare Department (SWD) launched in April this year an employment assistance trial project, which is called the New Dawn Project (the ND Project), to assist single parents and child carers on Comprehensive Social Security Assistance (CSSA), with the youngest child aged between 12 to 14, to seek employment. In this connection, will the Government inform this Council:*

- (a) *of the factors taken into consideration in determining which of the above persons should participate in the ND Project; and apart from assisting them in seeking employment to leave the CSSA net, whether the objectives of the ND Project include helping lift them from poverty; if so, of the means to do so;*
- (b) *regarding the press reports that as at August this year, more than 2 000 persons had \$200 deducted monthly from their CSSA payments by the SWD because they failed, without good reasons, to fulfil the obligations under the ND Project (such as attending Work Plan Interviews or participating in an Intensive Employment Assistance Project), whether it can provide a breakdown of these persons in table form by their background information, such as age,*



*household size and number of children, as well as the reasons for their not fulfilling the obligations; and*

- (c) *of the support it will provide to those persons mentioned in part (b) to assist them in solving their problems and fulfilling the obligations imposed by the ND Project?*

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

- (a) The Government launched the employment assistance trial project, the ND Project, in April 2006, it aims to empower single parents and child carers on CSSA with the youngest child aged between 12 to 14 to enhance their self-help capability and achieve self-reliance and social integration through employment.

To encourage the CSSA recipients to make their first step to seek employment, we only require them to engage in a paid job entailing not less than 32 hours a month, say, during the school hours of their children so as to allow them to take care of their children. The ND Project offers recipients employment assistance which includes regular Work-plan Progress Interviews, assistance to get access to up-to-date labour market information as well as other support services. In addition, single parents and child carers with no or limited work experience will be referred to join the "New Dawn Intensive Employment Assistance Projects" ("ND IEAPs") launched by non-governmental organizations (NGOs) as commissioned by the SWD. Under the "ND IEAPs", a series of intensive employment assistance services including basic skills and skills upgrading training will be provided.

Since its implementation, the ND Project demonstrated that it can encourage recipients to make the first step to seek employment, build up confidence, and become the role models for their children. The CSSA single parents and family carers who engaged in paid full-time or part-time employment can also benefit from the disregarded earnings arrangement under the CSSA Scheme and further improve their living.

(b) and (c)

Prior to its launching, the SWD had written to all target recipients and brief them on the ND Project. A leaflet was also enclosed to explain the significance of their participation, the obligations to be met, the exemption mechanism in place and the consequences of non-compliance. Since April 2006, the SWD staff have arranged interviews with the target recipients to explain to them details of the ND Project and enrol them in the Project once their ineligibility for exemption have been ascertained. For those who refused to participate in the ND Project without any exemption grounds, the SWD will deduct \$200 from their monthly CSSA payment as stipulated. Those who make the initiative to seek employment but have not yet engaged in a paid job entailing not less than 32 hours a month will not be regarded as failing to meet the requirement. We will provide them with employment assistance services until they secure employment. Temporary exemptions from the work requirement will be allowed where justified, for example, the recently bereaved and those who have recently been victims of domestic violence.

The project was launched in April this year and within a short time span of half a year, around 1 000 recipients have made their first step and secured full-time or part-time paid job through the project. The ND Project has had a very good start.

A total of 2 850 recipients (21% of target recipients) refused to join the ND Project without justification. Among them, most fell into the 40 to 49 age group, with a family size of four to five members or above (around 59% in total). The breakdown of the figures is detailed at the Annex.

Based on our initial understanding, there are a number of reasons for recipients to refuse joining the ND Project, including:

- some may find the amount of deduction insignificant, particularly in the case of those in larger families where higher overall income and CSSA payment are received;

- some are unwilling to comply with the ND Project's requirements, especially for those whose spouse is already a participant or ex-participant of the Support for Self-reliance Scheme;
- some cite the need to take extra care of their children;
- some are afraid of employment as they were never engaged in the job market before; and
- some have never been in the job market and they anticipate to leave the CSSA net after their children have completed their schooling and secured employment.

In order to facilitate the Government to consider the way forward and the improvement measures of the project, the SWD has commissioned the University of Hong Kong (HKU) to conduct a study that mainly covers the following areas:

- (i) To study the target recipients in different categories, including, *inter alia*, the social characteristics, background, psychological profile of those who have refused to join the project and those who have secured a job, and also their views on the projects;
- (ii) To study the target recipients in different categories regarding their job-seeking behaviour (such as their means, attitudes and the successful rate of securing employment) and their employment status (such as work type, wages, working hours and the successful rate of leaving the CSSA net);
- (iii) To study and analyse the factors and obstacles attributable to the "ND IEAPs" in assisting the participants to secure and stay in employment, including the views from both the participants and the staff of the projects; and
- (iv) To study and draw reference from the relevant projects implemented in overseas countries.

The HKU will conduct the study by taking a random sample of target recipients in different categories through baseline survey, main survey, in-depth interviews and focus group discussions, while drawing reference from the success stories of relevant projects implemented in overseas countries. The whole study is scheduled to complete by mid-2007. On the basis of the findings of the study, we will review the various initiatives under the ND Project with a view to improving it and providing more suitable services for single parents and child carers.

Annex

Background information of persons who opt not to join the ND IEAPs

<i>Gender</i>	<i>Number of Persons</i>	<i>Percentage</i>
Male	523	18.4
Female	2 327	81.6
Total	2 850	100.0

<i>Category</i>	<i>Number of Persons</i>	<i>Percentage</i>
Single parents	1 593	55.9
Child carers	1 257	44.1
Total	2 850	100.0

<i>Age</i>	<i>Number of Persons</i>	<i>Percentage</i>
below 30	10	0.4
30-39	590	20.7
40-49	1 782	62.5
50-59	468	16.4
Total	2 850	100.0

<i>Number of Family Members</i>	<i>Number of Persons</i>	<i>Percentage</i>
2	453	15.9
3	706	24.8
4	872	30.6
5 or more	819	28.7
Total	2 850	100.0

<i>Number of Children</i>	<i>Number of Persons</i>	<i>Percentage</i>
1	776	27.2
2	1 188	41.7
3	587	20.6
4 or more	299	10.5
Total	2 850	100.0

**DR FERNANDO CHEUNG** (in Cantonese): *Regarding the reasons for CSSA recipients refusing to participate in the ND Project, the Secretary said in his reply that the first reason was that the amount of deduction was insignificant and recipients were thus reluctant about it, particularly in the case of those in larger families. May I ask the Secretary whether he can justify this? Is this only an assumption of senior officials earning some ten to dozen thousands of dollars a month, or is the figure the findings of any scientific survey which indicates that the families concerned really do not care about this?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, mainly, this is certainly a reflection of the impression the front-line staff got from their interviews with the applicants. Members can see this from the existing level of CSSA payment. For a two-member family, the average CSSA payment is \$5,786; for a three-member family, it is \$7,753; for a four-member family, it is \$9,118; and for a five-member family, it is \$18,250 (Appendix 2). For larger families, the proportion of the \$200 deduction is certainly lesser. Figures also show that recipients refusing to participate in the Project mostly come from families with more members where all members of the family are on CSSA.

We think a conclusion cannot be drawn for the time being, and we have thus requested a university to conduct a detailed analysis on this with a view to understanding the problem they are facing and identifying ways to increase their motivation in working and other aspects.

**MR RONNY TONG** (in Cantonese): *President, may I ask the Secretary from where we can know clearly the grounds for exemption? We notice from parts (b) and (c) of the main reply that most recipients refusing to participate in the*

*Project come from families with four to five members. Though we see that only recipients with the youngest child aged between 12 to 14 are required to join the Project, should it not be justified to grant exemption to a single parent who has to take care of three to four kids?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): President, according to our information, some 2 000 recipients have been granted exemption — 3 628 persons were granted exemption upon provision of sound reasons being, *inter alia*, no time to work because they have to take care of children or other family members with disabilities, or for other reasons. The exemption granted in this respect accounts for a very large proportion. Originally, the Project intends to take care of 18 000, and the number of persons granted exemption represents about 26%, which is a rather large proportion.

**MR RONNY TONG** (in Cantonese): *President, the Secretary mentioned earlier that among the recipients refusing to participate in the Project, those coming from four-member and five-member families represent about 30% and 28% respectively. May I ask the Secretary, in the case of a single parent who has to take care of three to four children, whether this will be considered as a reason for granting exemption?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, there is no hard and fast rule on this, and it depends on whether the children concerned required special care. If their children attend school at the same time, I believe the parents concerned should have the time to work. Besides, the time we require them to work is not long, only around 32 hours a month.

**DR FERNANDO CHEUNG** (in Cantonese): *In my main question, I originally asked that apart from assisting them in seeking employment to leave the CSSA net, whether the Project would also help lift them from poverty, and if so, of the means to do so. However, in the main reply, the Secretary gave no response to this point. I would like the Secretary to provide supplementary information.*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, Members do know that on the issue of lifting oneself from poverty, there is no simple answer. However, to get employment is the first step, for this will enable them to achieve self-reliance and help those who have had no working experience long term or have no tendency towards working to return to employment. I think this is very important. Second, we also hope to take care of their children, and education is therefore also a very important part. Thus, the Project will on the one hand assist them to seek employment, and on the other teach them different basic skills, including working skills, interviewing technique and social skills. As far as we know, the present Project is certainly far more successful than the Ending Exclusion Project launched in the past. Certainly, we should not be complacent for the time being, but should decide how measures on all fronts can be further improved in the light of the situation.

If the economy of Hong Kong continues to develop, there will be more job opportunities and, coupled with the implementation of these measures, we believe more people will be given employment opportunities in the future.

**MISS TAM HEUNG-MAN** (in Cantonese): *In the main reply, the Secretary stated that 2 850 recipients had refused to join the Project without justification. Do the authorities have other plans to follow up the situation of these 2 000-odd recipients and to further encourage them to participate in this Project which promotes self-reliance, so that they will return to work?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, we definitely hope that more recipients who are unwilling to participate in the Project for the time being will join the Project. We will particularly encourage those who have successfully secured jobs to set an example for them. Moreover, the SWD will keep in contact with them and encourage them to join the Project. I also hope that Members will make an effort in this respect, encouraging more persons who have the ability and time to work to seek employment, so that they can improve their standard of living.

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

## Regulation of Vehicle Loading

6. **DR RAYMOND HO** (in Cantonese): *When heavy goods vehicles transport goods longer or wider than their goods compartments (such as iron poles, bamboo poles or heavy works machinery), such goods need to be placed at a slanting angle in the goods compartments or to overhang the vehicles and they can only be fastened with makeshift methods. This is dangerous, especially when these vehicles are travelling on steep roads. Such ways of loading vehicles pose hazards to other road users, and have caused traffic accidents. In this connection, will the Government inform this Council:*

- (a) *of the respective numbers of accidents which involved heavy goods vehicles transporting goods longer or wider than their goods compartments and the casualties resulted in each of the past two years;*
- (b) *whether it has reviewed if the existing regulation on loading of vehicles is adequate and if there is a need to strengthen such regulation; if it has, of the results of the review; and*
- (c) *whether it will consider stipulating that when heavy or huge goods are being transported, suitable goods vehicles (such as those with goods compartments longer and wider than the goods) must be used and that the goods must be fastened with proper and not makeshift methods, so as to minimize the hazards caused to other road users?*

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

(in Cantonese): In 2004 and 2005, there were two and one traffic accidents respectively involving heavy goods vehicles transporting loads of excess weight, insecure loads, or overhanging loads of excess length or width. The accidents involved two casualties each year. As regards the current year, by the end of November, no such accident has been recorded.

Currently, loading of vehicles is governed by the Road Traffic (Traffic Control) Regulations (Cap. 374G):

- (i) Regulation 54 provides that unless holding an appropriate permit, a driver shall ensure that the load of the vehicle shall not exceed the gross vehicle weight assigned by its vehicle licence.



- (ii) Regulation 55 provides that unless holding an appropriate permit, a driver shall ensure that the load of the vehicle does not extend more than 1.5 m beyond the front, or more than 1.4 m beyond the rear of the vehicle, or that the total width of the vehicle and load is not more than 2.5 m, or that the total height of the vehicle and load is not more than 4.6 m.
- (iii) Regulation 56 provides that a vehicle with an overhanging load shall carry a red flag of an area not less than 1 sq m at the rear of the load. At night time or in poor visibility conditions, the vehicle must carry a white light at each side of the foremost part of the load and a red light at the rearmost part of the load.
- (iv) Regulation 57 provides that a driver shall ensure that the load is secured to and contained on the vehicle.
- (v) Regulation 58 provides that a driver shall ensure that the vehicle is used for suitable purposes, and the weight, distribution packing and adjustment of the load shall not cause danger to any person or cause damage to the road or to public or private property.

Any person who contravenes the above regulations without reasonable excuses commits an offence and is liable to a fine of \$5,000 and imprisonment for three months on first conviction and a fine of \$10,000 and imprisonment for six months on second and subsequent convictions.

The above regulations have clearly stipulated the requirements relating to transportation of goods, including the restrictions on the weight and extensions beyond the vehicle, the need to securely fasten the loads and the requirement that the vehicle should be used for suitable purposes. The police have also been taking active law-enforcement actions in regard to these requirements on vehicle loads.

In addition, the Transport Department (TD) has published the Code of Practice for the Loading of Vehicles (the Code of Practice) in accordance with the regulations to help members of the goods vehicles industry understand the regulations and their responsibilities in transporting goods in a safe manner. The Code of Practice provides guidance on the use of appropriate vehicles for transporting goods, and sets out in detail the proper means to transport goods

safely, including goods that are heavy or relatively long or wide such as iron poles, bamboo poles and works machinery.

We will also strengthen publicity and education for the industry and continue to closely monitor the relevant traffic accident and prosecution situations, and will review the relevant legislation if necessary.

**DR RAYMOND HO** (in Cantonese): *As works machinery vehicles cannot travel on the road for they do not have a roadworthiness certificate and are thus required to be carried on the goods compartments and transported to the site. As such, I have asked in part (c) of my main question whether heavy works machinery should be fastened with proper and not makeshift methods when such loads are in transit. I recall a few years ago a fatal accident involving such works machinery being thrown to the opposite side of the road after the vehicle transporting it hit the concrete buffer in the middle of the road.*

*Can the Secretary explain in detail part (iv) of the main reply, that is, the part on "a driver shall ensure that the load is secured to and contained on the vehicle"? In this regard, does the Government have any detail guideline to let goods vehicle drivers know what should be done?*

**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS** (in Cantonese): These guidelines are set out in detail in the Code of Practice issued by the TD, such as how to ensure the heavy works machinery is secured in transportation. I do not want to read it all out, and I hope Dr HO will refer to the Code of Practice, in which guidelines are provided on each type of loads including hydraulic platforms, long bamboo poles, steel bars and works machinery.

**MR ANDREW CHENG** (in Cantonese): *President, the Secretary stated in the third last paragraph of the main reply that the police have been taking active law-enforcement actions in regard to the regulations stated in the main reply.*

*Very often we do see loads contained on heavy goods vehicles travelling on the road are on the verge of collapse. As the Secretary has stated in the main reply that the police have taken active actions, may I ask the Secretary whether*

*she has any figure regarding prosecution or penalty of successfully prosecuted cases to substantiate that the police have indeed taken active actions in the past to deal with situations of vehicle loads that have violated the regulations?*

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

(in Cantonese): How active have the police been taking law-enforcement actions? In the past three years, this type of cases accounted for a yearly average of 11 500 cases; and in 2005, there were 10 500 such cases, in which those involving mainly loads of excess weight accounted for 800 cases (about 76%); followed by about 2 400 cases (23%) of improperly secured loads, which are loads on the verge of collapse as mentioned by Mr CHENG.

With respect to the number of cases prosecuted, there were 12 000 cases in 2003, but by 2005 the cases dropped to the number I mentioned just now, that is, 10 500 cases. In the first 10 months of this year so far, there have been 6 400 cases of prosecution, indicating a continual decline in the number.

**DR LUI MING-WAH** (in Cantonese): *The Secretary has stated in part (iii) of the main reply that "an overhanging load shall carry a red flag of an area not less than 1 sq m at the rear of the load". This is where the problem is. Members may look at this handkerchief in my hand. Its length is about 1.5 ft. If it is hung up, it will look like this, which is not at all prominent. Will the Government explain how it should be hung to arouse people's attention? The flag we often see is hung like this, which appears like a thread. My belt is longer than it.*

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

(in Cantonese): Thank you, Dr LUI, for your view. I will relay it to the TD.

**DR RAYMOND HO** (in Cantonese): *The weight of loads carried by heavy goods vehicles relates not only to the safety of road users, but also to the design of roads. In foreign countries such as the European Union and the America, there are stringent requirements forbidding certain types of vehicles transporting loads exceeding a certain weight from using many roads. In this respect, does Hong Kong have any stringent requirements and are they enforced?*

**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS** (in Cantonese): At present, the weight a road can bear is defined when it is designed, that is why we are so rigorous in enforcing the law since law-breakers not only cause danger to pedestrians, but also cause damage to the road surface. I believe, in terms of engineering design, we have already factored the maximum weight of vehicles into the loading of roads. We have not, however, categorized the types of vehicles into heavy and light goods vehicles because Hong Kong is only a small place.

**MISS TAM HEUNG-MAN** (in Cantonese): *The Secretary has cited some figures just now indicating that there were 10 000 prosecutions in 2005 and over 6 000 cases in 2006. From these figures we can see that over the years there have been 10 000-odd prosecutions each year. Although the Secretary said that the situation has improved, the problem seems to remain serious. May I ask the Secretary whether she will consider raising the penalty for goods vehicle drivers who have violated the regulations so as to enhance the deterrent effect?*

**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS** (in Cantonese): In fact, the regulations set out the fines as well as the terms of imprisonment, only that the Judge has chosen not to punish law-breakers by imprisonment. Moreover, our low traffic accident rate is attributable to the sufficient prosecution work carried out, which has prevented many traffic accidents from happening because of overloading.

Insofar as law enforcement is concerned, it can certainly be more rigorous. If the Judge can impose a heavier sentence, it will have a better deterrent effect.

**MR ABRAHAM SHEK** (in Cantonese): *The Secretary has stated in the main reply that publicity and education work will be strengthened. May I ask the Secretary how publicity and education work will be strengthened so as to make the industry realize that this is a very serious problem?*

**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS** (in Cantonese): The TD has published the Code of Practice mentioned by me just now catering specifically to the industry so that members of the industry can

understand the regulations and their responsibilities. The Code of Practice has recommended some methods to transport goods in a safe manner such as showing how to secure loads and how to transport heavy works machinery. It also points out that professionals are duty-bound to ensure that these safety measures are properly carried out. The Code of Practice has been uploaded onto our website for their easy reference.

Moreover, such information is also available to the public in promotion leaflets and booklets, and meetings and seminars are held regularly with the trucking industry to promote these messages.

**PRESIDENT** (in Cantonese): Oral questions end here.

## **WRITTEN ANSWERS TO QUESTIONS**

### **District and Rural Minor Works Projects**

7. **MR LAU WONG-FAT** (in Chinese): *President, will the Government inform this Council of the titles of the District Minor Works/Rural Public Works (RPW) projects which have commenced or are scheduled to commence in the current financial year in each of the 18 districts in Hong Kong, the number of such projects which involve land resumption and the justifications used, as well as the respective numbers of projects for which the consent of the land owners concerned cannot be obtained or has been withdrawn?*

**SECRETARY FOR HOME AFFAIRS** (in Chinese): President, the Home Affairs Department carries out district minor works under the RPW Programme and the Urban Minor Works (UMW) Programme. Under the 2006-2007 programme, the titles of the projects that have commenced or are scheduled to commence in this financial year are set out by district at the Annex. The Government has launched these two minor works programmes in order to meet the needs of the local community by improving the local environment and resolving related issues more quickly and flexibly. Land resumption is inconsistent with the purposes of these two minor works programmes as it involves complicated statutory procedures which will substantially extend the time required for carrying out the projects. As such, no project under these two programmes will involve land resumption.

At the moment, none of the projects on the list attached has been unable to be carried out because of failure to obtain the consent of the land owners concerned or withdrawal of their consent. As some projects are still at the planning stage, we cannot rule out that some of the RPW projects may involve private land. In such cases, we shall try our best to persuade the land owners concerned to allow works to be carried out on their land. In cases where the consent of land owners cannot be obtained, we shall amend the project scopes as far as possible to facilitate the smooth implementation of the projects.

Annex

## 2006-2007 RPW Programme

<i>Item No.</i>	<i>Project Title</i>
	<i>Islands District</i>
1	Construction of footpath at Lo So Shing, South Lamma
2	Improvement to drainage at San Shek Wan, South Lantau
3	Improvement to the turning area near Lai Chi Yuen Tsuen, Mui Wo
4	Improvement to steps, footpath and channel in Yung Shue Long New Village, North Lamma
5	Construction of footpath at Pak Wan, Peng Chau
6	Improvement to open space at Cheung Pak Road near the Water Supplies Department's Service Reservoir, Cheung Chau
7	Improvement to footpath from Sha Po New Village to Kam Shan Terrace, North Lamma
8	Improvement to footpath near quarry site at Luk Chau, South Lamma
9	Construction of a look-out area at Hau Hok Wan, Tai O
10	Improvement to van track from Shek Mun Kap to Lo Hon Buddhist Monastery, Tung Chung
	<i>Kwai Tsing District</i>
11	Improvement to environmental hygiene conditions in Kwai Tsing District (2006-2007)
12	Beautification works in Kwai Tsing District (2006-2007)
13	Construction of rainshelter at Ha Kwai Chung
14	Reconstruction of footpath between St. Paul's Village and Broadview Garden, Tsing Yi
15	Improvement works to country trail between Golden Hill and Wonderland Villas, Kwai Chung

<i>Item No.</i>	<i>Project Title</i>
16	Improvement to steps opposite to Sheung Kwai Chung Government Secondary School, Shek Pai Street, Kwai Chung
17	Construction of sitting-out-area at Tsing Yi Fishermen's Village, Tsing Yi
	<i>North District</i>
18	Term contract for grass cutting, desilting and minor works items in Sheung Shui North, Sheung Shui South and Ta Kwu Ling areas in North District (2006-2007)
19	Term contract for grass cutting, desilting and minor works items in Fanling and Sha Tau Kok areas in North District (2006-2007)
20	Improvement works to drainage channel (near Lamp Post V5012) at Liu Pok, Sheung Shui
21	Improvement to footpath and drainage at Lin Tong Mei, Sheung Shui
22	Improvement to access road at Tong Kung Leng, Sheung Shui
23	Improvement to footpath and stream course at Kwu Tung, Ki Lun Shan, Sheung Shui
24	Reconstruction of footbridge at Sze Tau Leng, Fanling
25	Improvement to van track at Ma Tseuk Leng Ha, Sha Tau Kok
26	Improvement to van track and drainage channel near the pond at Kwan Tei North, Fanling
	<i>Sai Kung District</i>
27	Ground investigation works for RPW/RPIS projects in Sai Kung
28	Provision of solar signboards and lightings at Sai Kung Promenade
29	Term contract for minor works items in Sai Kung District (2006-2007)
30	Improvement to van track and footpath at Nam Shan, Sai Kung
31	Construction of rainshelter and footpath at Nam Wai, Sai Kung
32	Construction of rainshelter at Tso Wo Road, Sai Kung
33	Construction of rainshelter at Tseng Lan Shue, Hang Hau
34	Improvement to road condition near House No. 82, Pak Shek Terrace, Hang Hau
35	Improvement to footpath and steps leading from Hang Hau Road to Shui Bin Tsuen, Hang Hau
36	Reconstruction of footpath leading from Mang Kung Uk Village Office to Tseung Kwan O Hospital, Mang Kung Uk, Hang Hau

<i>Item No.</i>	<i>Project Title</i>
	<i>Sha Tin District</i>
37	Improvement to Kwun Ping Road, Kwun Yam Shan, Sha Tin
38	Improvement to Mui Tsz Lam Road, Sha Tin
39	Improvement to Sha Tin Country Trail leading from Tao Fung Shan Road, Sha Tin
	<i>Tuen Mun District</i>
40	Improvement to environmental hygiene conditions in Tuen Mun District
41	Construction of paving near the petrol station at Tsing Chuen Wai
42	Construction of pavilion at Yick Yuen Tsuen
43	Improvement of footpath at Wo Ping San Tsuen, Tuen Mun
44	Improvement to footpath and drainage channel at Siu Sau Tsuen
45	Improvement to handrail at Tseng Tau Chung Tsuen
46	Improvement to van track near Chung Shan at Tuen Tsz Wai
47	Improvement to stream course near Cenfa Villa at Lung Mun Trail, Lung Kwu Tan
48	Improvement to footpath and paving near Sha Po Kong and Lung Tsai at Lung Kwu Tan
	<i>Tai Po District</i>
49	Term contract for minor works items in Tai Po District (2006-2007)
50	Construction of children's playground at Tung Tsz Shan Road, Tai Po
51	Improvement to footpath at Ko Lau Wan near Ma Ying Shek, Sai Kung North, Tai Po
52	Construction of notice boards in Tai Po District
	<i>Tsuen Wan District</i>
53	Improvement to environmental hygiene conditions in Tsuen Wan District (2006-2007)
54	Provision of noticeboards and directional signs at Tin Liu New Village and Ma Wan Main Street Village, Ma Wan, Tsuen Wan
55	Reconstruction of pedestrian access at Heung Shek, Chuen Lung, Tsuen Wan
56	Provision of lighting system at Tsing Lung Tau Pier, Tsuen Wan
57	Reconstruction of footbridge at Sheung Kok Shan (near Lung Mo Temple), Lo Wai, Tsuen Wan
58	Construction of rainshelters at Da Chuen Ping Tsuen, Tsuen Wan
59	Construction of soccer pitch at Ma Wan, Tsuen Wan



<i>Item No.</i>	<i>Project Title</i>
60	Reconstruction of van track and footpath at Chuen Lung Village (near Ngai Yung Kee Masonry Factory), Tsuen Wan
61	Improvement to open nullah at Sham Tseng (near Castle Peak Road), Tsuen Wan
62	Construction of pavilion and footpath at Lung Mun Path, Chuen Lung, Tsuen Wan
63	Construction of open channel at Pai Min Kok Village (near House No. 18A), Tsuen Wan
	<i>Yuen Long District</i>
64	Improvement to stream courses and drainage channels in Pat Heung area (2006-2007)
65	Improvement to stream courses and drainage channels in Ping Shan area (2006-2007)
66	Improvement to stream courses and drainage channels in Ha Tsuen area (2006-2007)
67	Improvement to stream courses and drainage channels in Kam Tin area (2006-2007)
68	Reconstruction of drainage channel at Fan Tin Tsuen, San Tin
69	Improvement to van track at Yau Tam Mei (Chuk Tau Kok), San Tin
70	Improvement to channels and footpath at San Wai Tsuen, San Tin
71	Improvement to drainage channel at Tai Tong Tsuen, Shap Pat Heung
72	Reconstruction of drainage channel at Hung Tso Tin Tsuen (leading to Shui Chiu San Tsuen), Shap Pat Heung
73	Improvement to footpath and channel near Tai Ling, Sheung Tsuen, Pat Heung
74	Construction of box culvert near House No. 43 at Cheung Po Tsuen, Pat Heung
75	Improvement to paving at Kam Tsin Wai, Pat Heung
76	Reconstruction of van track at Sheung Cheung Wai, Ping Shan
77	Improvement to footpath at Wang Chau near Long Ping Estate, Ping Shan
78	Improvement to drainage channel and footpath at Tong Fong Tsuen, Ping Shan
79	Improvement to van track near Tai Tao Tsuen, Ping Shan
80	Reconstruction of access road at San Wai (near Sze Wang Study), Ha Tsuen

<i>Item No.</i>	<i>Project Title</i>
81	Construction of van track and paving at Sheung Pak Nai, Ha Tsuen
82	Improvement to footpath at Hang Hau Tsuen, Ha Tsuen
83	Improvement to drainage channel near Po Tei Road, Wing Lung Wai, Kam Tin
84	Improvement to drainage channel and footpath at Tai Hong Wai, Kam Tin
85	Improvement to drainage channel and footbridge in Fung Kat Heung area, Kam Tin
86	Improvement to stream courses and drainage channels in San Tin area (2006-2007)
87	Improvement to stream courses and drainage channels in Shap Pat Heung area (2006-2007)

## 2006-07 UMW Programme

<i>Item No.</i>	<i>Project Title</i>
	<i>Central and Western District</i>
88	Improvement to road surface condition and provision of amenity facilities along Pik Shan Path
89	Improvement to seafront at Western Fire Services Street, Sheung Wan
90	Improvement work at Mount Davis (Phase I)
91	Provision of notice board at Hatton Road
92	Beautification of Water Street (section between Pok Fu Lam Road and Third Street) and Rose Lane
93	Construction of sitting-out area at Man Kwong Street, Central
94	Improvement to railing of the steps near 30 Po Shan Road
95	Beautification and greening works in Central and Western District
96	Desilting works for UMW facilities in Central and Western District
97	Provision of hanging floral baskets along the Central to Mid-Level Escalator
98	Provision of planters at public areas with the participation of Owners' Corporation/Mutual-Aid Committee
99	Provision of arbours and benches at Hill Road and Bonham Road
100	Provision of fencing and improvement to bollards along Mount Davis Path

<i>Item No.</i>	<i>Project Title</i>
	<i>Eastern District</i>
101	Planting for planters, flower pots and amenity areas in Eastern District (2006-2007)
102	Provision of a pebble path for the sitting-out area in Wilson Trail, Quarry Bay
103	Provision of flower pots on roadside railings in Greig Road, Quarry Bay
104	Improvement to footpath leading from Leafy Shade Paradise to Cape Collinson, Siu Sai Wan
105	Provision of a rain shelter between Tai Tam Road and New Sai Wan Pumping Station, Chai Wan
106	Provision of rain shelters and benches at Wan Tsui Road, Chai Wan
107	Provision of rain shelters, benches and planters at Chai Wan Road near Lok Hin Terrace, Chai Wan
108	Construction of a sitting-out area adjacent to 33 Lee Chung Street, Chai Wan
109	Construction of a sitting-out area at the junction of Mount Parker Road and Quarry Bay Street, Quarry Bay
110	Beautification works at the junction of Siu Sai Wan Road and Hiu Tsui Street
	<i>Kowloon City District</i>
111	Provision of bollards at the rear lane of 26-28 Hau Wong Road
112	Improvement to fitness area and jogging track on the hilltop overlooking Fat Kwong Street and Shun Yung Street
113	Provision of arbors and benches at a sitting-out area and an adjacent vacant government land at the hillside overlooking Fat Kwong Street and Shun Yung Street
114	Greening programme in Kowloon City District (2006-2007)
115	Improvement to sitting-out area at the side lane of Po Loi Street
116	Provision of arbors and benches at Hung Hom Wan Street
117	Improvement to facilities in Kowloon City District
	<i>Kwun Tung District</i>
118	Improvement works at the abandoned fort in Pau Toi Shan
119	Improvement works at Hip Wo Street/Wan Hon Street Sitting-out Area
	<i>Southern District</i>
120	Improvement works at Big Wave Bay Village

<i>Item No.</i>	<i>Project Title</i>
121	Improvement works in Ping Lan Street and Pokfulam Village, Southern District
122	Improvement works at Ap Lei Chau waterfront promenade
123	Provision of plaques at Nam Long Shan and Big Wave Bay rainshelters
124	Improvement works at San Wai Village
125	Improvement works at the Promenade of Aberdeen
126	Provision of directional signs in Southern District
127	Provision of an information stand at Ap Lei Chau Park
	<i>Sham Shui Po District</i>
128	Improvement works at the platforms behind North Kowloon Magistracy
129	Provision of planters in Sham Shui Po District
130	Beautification works in the vicinity of Jockey Club Creative Art Centre
	<i>Wan Chai District</i>
131	Drains and channels desilting programme in Wan Chai District (2006-2007)
132	Reconstruction of rainshelter at Wong Nai Chung Gap Trail
133	Provision of information plates at Green Lane Service Reservoir Sitting-out Area
	<i>Wong Tai Sin District</i>
134	Repair and improvement to rear lanes at Fung Wong San Tsuen (2006-2007)
135	Improvement to walking trail near Ngau Chi Wan Fresh Water Service Reservoir
	<i>Yau Tsim Mong District</i>
136	Conversion of Boundary Street temporary market to a temporary sitting-out area, Tai Kok Tsui
137	Conversion of Canton Road temporary cooked food bazaar to a sitting-out area
138	Beautification of staircase and planter at Cliff Road, Yau Ma Tei
	<i>HQ</i>
139	Term contract for minor works items in Hong Kong Districts (2006-2007) <sup>Note</sup>
140	Term contract for minor works items in Kowloon Districts (2006-2007) <sup>Note</sup>

Note: To carry out minor works items such as erection of rainshelters, installation of benches and railings or desilting of drainage channels, and so on.

**Community-associated Methicillin-resistant Staphylococcus Aureus Infections**

8. **MISS CHAN YUEN-HAN** (in Chinese): *President, It has been reported that the number of community-associated-methicillin-resistant Staphylococcus aureus infections has been on the rise in recent years. In this connection, will the Government inform this Council:*

- (a) *of the respective numbers of reports on such infections received by the Government last year and so far this year, with a breakdown by month and source of infection;*
- (b) *whether the Government will classify such infections as one of the notifiable infectious diseases; if it will, of the implementation timetable; if not, the reasons for that; and*
- (c) *of the measures in place to prevent an outbreak of such infections in the community?*

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

- (a) Methicillin Resistant Staphylococcus Aureus (MRSA) is a type of Staphylococcus that is resistant to certain antibiotics (including methicillin). These infections occur most frequently among persons in hospitals and institutions. Community associated MRSA (CA-MRSA) generally refers to MRSA found in individuals who have not been hospitalized or resided in other health care facilities within the past year before infection. CA-MRSA is usually spread through direct contact and causes skin and soft tissue infections. More serious effects include purulent wound infections and pneumonia.

As of 30 November 2006, the Centre for Health Protection (CHP) received seven and 20 notifications of CA-MRSA infections in 2005 and 2006 respectively. The CHP conducts investigations into every notified case of CA-MRSA. Since the majority of infections were isolated cases, the source of infections cannot be ascertained.

In some of the cases, the infection was transmitted within family members in the same household. Monthly figures in these two years are as follows:

<i>Month</i>	<i>2005</i>	<i>2006</i>
January	0	1
February	0	0
March	0	0
April	0	0
May	0	1
June	1	4
July	3	1
August	2	1
September	0	1
October	0	5 <sup>Note</sup>
November	0	6
December	1	-
<b>Total</b>	<b>7</b>	<b>20</b>

Note

In early October this year, the DH issued a "letter to doctor" to all medical practitioners, alerting them to the local situation of CA-MRSA as well as the clinical, laboratory and epidemiological features of patients suffering from CA-MRSA infections, with a view to helping doctors in their diagnosis. This might have raised doctors' awareness of CA-MRSA infection.

- (b) We are now considering putting CA-MRSA infections as a statutory notifiable disease and plan to implement this early next year.
- (c) The Department of Health (DH) has enhanced the surveillance against CA-MRSA infections. In early October this year, a "letter to doctor" was sent to all medical practitioners, alerting them to the local situation of CA-MRSA as well as the clinical, laboratory and epidemiological features of patients suffering from CA-MRSA infections. In parallel, letters were sent to all microbiology laboratories, providing them with the updated information on CA-MRSA infections in Hong Kong. To provide further support to local laboratories, the DH provides free molecular tests to private laboratories and the Hospital Authority (HA) to facilitate the confirmation of CA-MRSA infections.

The Accident and Emergency Department of the HA launched a surveillance programme in November 2006 to enhance detection and diagnosis of CA-MRSA infections.

For every notified case of CA-MRSA infection, the DH will implement a series of public health investigation and control measures to contain the infection. The patient's close contacts will be traced and clinical specimens will be taken from them for testing. Decolonization therapy, which lasts five days, will also be given to the patient and his close contacts. Important and specific hygiene advice will be given to the patient and his close contacts to minimize the risk of transmission.

The DH provides information about CA-MRSA to the community through pamphlets and the CHP website. (<[http://www.chp.gov.hk/content390e.html?lang=en&info\\_id=5392&id=24&pid=9](http://www.chp.gov.hk/content390e.html?lang=en&info_id=5392&id=24&pid=9)>) It also provides updated information to the community through newspaper and electronic media.

### **Schooling of Ethnic Minority Children**

9. **MR CHEUNG MAN-KWONG** (in Chinese): *President, in reply to my question at the Council meeting on 6 July 2005, the Secretary for Education and Manpower said that for the Education and Manpower Bureau, "ethnic minority children" generally refer to South Asian (mainly Indian, Pakistani and Nepalese) children who currently reside in Hong Kong. Regarding their schooling, will the Government inform this Council of:*

- (a) *the number of ethnic minority students in Hong Kong in the 2006-2007 school year, and among them, the respective numbers of primary and secondary school students; and*
- (b) *the respective current numbers of secondary and primary schools in Hong Kong which admit ethnic minority children, together with the names of these schools by districts and their intake of ethnic minority children?*

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

- (a) According to the provisional information obtained by the Education and Manpower Bureau, 3 390 students studying in public-sector schools (including government, aided and caput schools) in the 2006-2007 school year have reported that they belong to the ethnic groups of Indians, Pakistanis and Nepalese. Among them, 470 are secondary school students and 2 920 are primary school students. Since we are still compiling the data of schools under the Direct Subsidy Scheme (DSS), we are not in a position to provide relevant data in respect of DSS schools for the time being.

We have to point out that in furnishing the data, each student is required to use only one "ethnicity" code. Students reportedly falling under the above ethnic groups may include those mix-raced students with one parent of Chinese or other ethnic origins.

- (b) Based on the abovementioned provisional information, the students concerned spread across 43 secondary and 141 primary schools. Since we would need time to further verify the data with individual schools and we have yet to consult the schools on public disclosure of the information, we can only present the number of schools and students by district in general terms, as below:

<i>District</i>	<i>Secondary Schools</i>		<i>Primary Schools</i>	
	<i>No. of Schools</i>	<i>No. of Students</i>	<i>No. of Schools</i>	<i>No. of Students</i>
Central and Western	2	2	5	7
Eastern	2	173	4	4
Islands	0	0	1	2
Kowloon City	1	1	8	20
Kwai Tsing	6	8	20	140
Kwun Tong	2	5	6	524
North	1	1	1	1
Sai Kung	0	0	3	3
Sha Tin	4	4	4	9
Sham Shui Po	3	5	5	660



<i>District</i>	<i>Secondary Schools</i>		<i>Primary Schools</i>	
	<i>No. of Schools</i>	<i>No. of Students</i>	<i>No. of Schools</i>	<i>No. of Students</i>
Southern	6	9	6	13
Tai Po	0	0	1	1
Tsuen Wan	1	1	7	16
Tuen Mun	4	7	23	357
Wan Chai	3	12	7	552
Wong Tai Sin	3	4	8	98
Yau Tsim Mong	2	234	11	286
Yuen Long	3	4	21	227
Total	43	470	141	2 920

### Contingency Plan for Rabies

10. **MS MARGARET NG:** *President, it has been reported that currently there is mass culling of dogs, irrespective of whether they have been vaccinated against rabies or not, in various mainland provinces in response to recent rabies outbreaks. In this connection, will the Government inform this Council of its contingency plan to deal with the cats, dogs and wild animals in both rural and urban areas when there is an outbreak of rabies in Hong Kong, and whether the plan involves culling or destroying of animals; if so, whether dogs and other pets, with valid rabies vaccination certification, will be exempted?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD:** President, Hong Kong has a very good track record of rabies control and we have been rabies-free for 19 years. The last animal rabies case was reported in 1987. The last human rabies case was reported in 2001 and the patient acquired the disease abroad.

Our rabies free status is maintained by a well established rabies control system under the Rabies Ordinance (Cap. 421) and its subsidiary legislation. According to the Ordinance, all dogs over five months of age must be licensed, microchipped and vaccinated against rabies. Hong Kong is the first place in the world that requires microchipping of dogs for individual identification as a part of the rabies control regime. The Agriculture, Fisheries and Conservation Department (AFCD) will also capture stray dogs.

Any dog that bites a person will be detained by the AFCD for observation and those which died during observation would be sent for rabies testing. To prevent the introduction of rabies by importation of animals, a stringent import control and quarantine system is in place. Countries are classified into three categories according to their rabies risk. Dogs and cats from high risk countries will be subject to a minimum of four months of quarantine, amongst a number of requirements.

In the event of a local rabies outbreak, the Director of AFCD will declare the area concerned as rabies control area under Cap. 421 and impose control measures within the area to regulate the movement of animals within such area and to prohibit the movement of animals going in or out of such area. The AFCD will conduct house-to-house search for dogs without valid dog licence (either unvaccinated or have expired vaccination certificate) and stray/wild dogs within the rabies control area. These dogs will be seized and destroyed. Dogs with valid licence will be spared.

To comply with the requirements stipulated in Cap. 421, owners of dogs over the age of five months must have their dogs licensed and vaccinated against rabies. The dogs have to be revaccinated against rabies and their licences have to be renewed at intervals not exceeding three years. Owners failing to obtain licences or renew the licences of their dogs according to the requirements in Cap. 421 are liable to a fine of \$10,000. Licensing, microchipping and vaccination service are available at Government Animal Management Centres by the AFCD staff at \$80. The services are also available at authorized private veterinary clinics at a fee charged by the clinics. The AFCD also conducts inoculation campaign targeting at dogs on fishing vessels and at villages in the New Territories.

### **Handling of Heritage Items**

11. **MR BERNARD CHAN** (in Chinese): *President, it has been reported that a train compartment with a history of almost a hundred years, which was originally arranged to be displayed at the Hong Kong Museum of History (HKMH), is placed on a derelict open site in Cha Kwo Ling. In this connection, will the Government inform this Council:*

- (a) *how it will deal with the train compartment;*

- (b) *whether it has formulated any guidelines on the handling of large heritage items, so that they will not be left unattended on open land without proper maintenance;*
- (c) *how it deals with donated heritage items which are not suitable for use as museum exhibits; and*
- (d) *whether it will consider setting up a Transport Museum for presenting the history of Hong Kong's public transport?*

**SECRETARY FOR HOME AFFAIRS** (in Chinese): President,

- (a) The train compartment was originally the property of the Kowloon-Canton Railway Corporation which is of the same model of the compartment currently on display at the Hong Kong Railway Museum. The train compartment was donated to the HKMH in 1989 and was put on display at a park of the Urban Council adjacent to the Science Museum at Chatham Road, Tsim Sha Tsui. In order to make way for the construction of the new HKMH, while there was inadequate display space in other museums to accommodate the train compartment, it was relocated to a government depot at Cha Kwo Ling where most of the transport collections of the HKMH were stored. Owing to its size, it could not be placed inside the depot. In order to provide proper preservation and maintenance, it has been covered by tailor-made PVC canvas and plastic sheets while monthly cleansing and inspection are undertaken by the museum staff.

At present, an old peak tram is stored in the depot. When the tram is put to display at the Peak Road Garden in 2007, the museum will consider storing the train compartment in the resulting vacant space. In the long run, the Leisure and Cultural Services Department (LCSD) will overhaul the train compartment and arrange for its open display at a suitable place.

- (b) At present, when considering the donation offers, in particular if large artifacts are involved, the HKMH would take into account the storage requirement. To address the shortage of collection storage

facilities and to cope with the increasing museum collection items in the long run, the LCSD has since last year studied the feasibility to build a Central Museum Collection Repository which will provide storage space for large-size collections.

- (c) In general, the HKMH would acquire artifacts in accordance with its exhibition themes and scope of collections. Hence, such situation would not arise.
- (d) The Hong Kong Railway Museum features the history of trains and railways while the HKMH covers general history on public transportation in its permanent exhibition "Hong Kong Story". Currently, we have no plan to set up a Transport Museum.

### **Harassing Sales Practices**

12. **MISS TAM HEUNG-MAN** (in Chinese): *President, I have received complaints alleging that some marketing staff of subscription television companies, after entering residential buildings on the pretext of repairing the facilities concerned, approached individual flats to conduct sales activities, causing nuisance to the residents. In this connection, will the Government inform this Council:*

- (a) *of the total number of complaints received in the past three years by the relevant authorities about the unscrupulous or harassing practices adopted in selling subscription television services, and the results of the follow-up actions regarding these complaints;*
- (b) *whether it will consider enacting legislation to curb the unscrupulous or harassing sales practices; if it will, of the details of its consideration; if not, the reasons for that; and*
- (c) *whether it will require the companies concerned to strictly monitor the practices adopted by their staff in sales activities?*

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Chinese): President, at present, the Broadcasting Ordinance (Cap. 562) and the

Broadcasting Authority Ordinance (Cap. 391) do not empower the Broadcasting Authority (BA) to regulate the sales activities of pay television licensees. However, domestic pay television programme service licensees are required to comply with the terms and conditions of their licences, including the requirements to prepare their own codes of practice for customer service, to receive and handle complaint cases, and to formulate working guidelines for their staff. Domestic pay television programme service licensees have already put in place mechanisms to strictly prohibit their staff from adopting dishonest or harassing sales practices.

Upon receipt of any complaint about pay television sales activities, the Television and Entertainment Licensing Authority (TELA) will, depending on the circumstances of the case and with the consent of the complainant, refer the case to the licensee concerned for investigation and follow-up. So far, the TELA has not received any complaints about the licensees' handling of such referrals.

Apart from the TELA, the Consumer Council also deals with complaints about pay television sales activities. The Consumer Council may refer some of its cases to the TELA for necessary follow-up action.

My replies to parts (a), (b) and (c) of the question are as follows:

- (a) For around three years between 1 January 2004 and 31 October 2006, the TELA and the Consumer Council received 137 and 2 798 complaints about pay television sales practices respectively. As the Consumer Council has referred some of its cases to the TELA for follow-up, the TELA's figure includes such referrals. However, we do not have the breakdown of complaints against sales activities conducted by pay television staff after entering residential buildings on the pretext of repairing the facilities concerned. Upon follow-up action by the TELA and the Consumer Council, all complaint cases have been satisfactorily resolved.
- (b) In general, trespassing private residential premises (without authorization by owners or residents) constitutes infringements of civil right. Owners, residents and building management companies concerned can ask the trespasser to leave the premises. If necessary, for example, in case of any suspected criminal

deceptive act, owners or residents may seek the assistance of the police.

We will consider whether or not to regulate the sales practice of broadcasting service licensees with a view to safeguarding consumers against misleading and deceptive conduct when we next review the relevant broadcasting legislation.

- (c) In view of public concerns over pay television sales activities, the TELA wrote to all domestic pay television programme service licensees in August 2005, requesting them to take heed of the complaints about their sales and promotional activities. Licensees have responded to the TELA's request and put in place their own administrative measures to address the problem, for example, contents of conversation between the salesperson and the customer to be reconfirmed through follow-up telephone calls by supervisors.

### **Regulating Pollutant Emission from Vessels**

13. **MR JAMES TO** (in Chinese): *President, a recent study conducted by the academics finds that the ambient sulphur dioxide concentration above the sea of West Kowloon opposite to the Kwai Chung Container Terminals (KCCT) is abnormally high on certain days, and the black smoke emitted from cargo ships using high-sulphur diesel is suspected to be the main source of pollutants. The Government informed the Panel on Economic Services of this Council in February this year that the Administration planned to enact three pieces of subsidiary legislation under the Merchant Shipping (Prevention and Control of Pollution) Ordinance (Cap. 413) in order to implement the requirements on regulating the emission of pollutants from vessels as stipulated in the relevant international covenants. In this connection, will the Government inform this Council:*

- (a) *as there are many screen-like buildings on both sides of the Victoria Harbour (the Harbour), whether the general and roadside air monitoring stations currently set up on land by the Environmental Protection Department (EPD) can accurately measure the concentration of pollutants over the Harbour; if not, how the Government monitors the situation of pollution over the Harbour;*

- (b) *whether the Government has studied the air pollution problem arising from the operation of the KCCT and that caused by vessels in the Harbour; if it has, of the results of its study;*
- (c) *of the earliest time the Government expects that the subsidiary legislation will be gazetted; and*
- (d) *whether, before enacting the subsidiary legislation, the Government will reduce the emission of air pollutants from vessels by administrative means?*

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

- (a) The EPD has established an air quality monitoring network with 14 monitoring stations to measure the air quality of Hong Kong. Eleven of these stations are general stations set up on roofs of four to six-storey buildings which provide information on air quality to which the public is generally exposed. Three are roadside stations which measure representative air quality at busy roads. Of the general stations, the Tsuen Wan, Kwai Chung, Sham Shui Po, Kwun Tong, Eastern and Central/Western stations are located along the Harbour and nearby areas. They can accurately monitor air quality impacts caused by air pollutants, including those from the Harbour.
- (b) The Government has not specifically studied air pollution impacts arising from the operation of the KCCT. The EPD, however, compiles inventory of air pollutants emitted in Hong Kong on a yearly basis. In 2004, marine vessels contributed 6%, 4% 17% and 0.7% respectively of all particulates, sulphur dioxide, nitrogen oxides and volatile organic compounds emissions in Hong Kong.
- (c) According to present progress, it is expected that the three pieces of subsidiary legislation to be made under the Merchant Shipping (Prevention and Control of Pollution) Ordinance will be published in the Gazette for introduction into the Legislative Council in the first half of 2007.

- (d) The Government currently controls smoke emission from vessels under the Shipping and Port Control Ordinance. The Marine Department (MD) has adopted the Ringelmann Chart as an objective standard for gauging smoke emission from vessels since October 2005. The MD officers also monitor the exhaust of vessels and conduct spot checks on vessels within Hong Kong waters. When there is sufficient evidence of excessive smoke emission, the MD will initiate prosecution under the Shipping and Port Control Ordinance.

### **Holding of International Exhibitions in Hong Kong**

14. **MR WONG TING-KWONG** (in Chinese): *President, will the Government inform this Council:*

- (a) *whether it monitors the operation and quality (such as the criteria for selecting exhibitors) of international exhibitions held by the private sector in Hong Kong; if so, of the details; if not, the reasons for that; and*
- (b) *of the assistance, provided by the relevant authorities, to local exhibitors to help them compete with their overseas counterparts for opportunities to participate in international exhibitions held in Hong Kong to promote their products and services?*

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Chinese): President, the Government is committed to developing Hong Kong as the trade fair capital and international trading centre for the Asia-Pacific region. At the same time, the convention and exhibition industry is also important for maintaining Hong Kong's position as a business hub. In this connection, the Government has invested strategically in the industry's infrastructures to provide convention and exhibition facilities of a high quality. In addition, Hong Kong's free and convenient business environment provides excellent conditions for large-scale international exhibitions, and their exhibitors and buyers. Reply to the two parts of the question is set out below:



- (a) The two major exhibition venues in Hong Kong, namely the Hong Kong Convention and Exhibition Centre and the AsiaWorld-Expo, are run respectively by independent management companies. The two management companies operate the venues and formulate their booking and licensing procedures following prudent commercial principles and market practices. As regards the exhibition organizers, they generally select exhibitors on a commercial and competitive basis taking into account their business consideration as well as market demand and supply. We believe that this should bring the most benefits in terms of increasing the flexibility and economic efficiency in the use of Hong Kong's convention and exhibition facilities. It is not appropriate for the Government nor the venue operators to intervene with individual exhibition organizers' business decisions on the types of exhibitions to be hosted and the selection of exhibitors as long as they comply with the applicable laws of Hong Kong and the relevant rules on the safe and proper use of the venues set by the venue operators, and do not engage in any anti-competitive behaviour.
- (b) The Government has been providing support to local exhibitors through the Hong Kong Trade Development Council (TDC) and the Trade and Industry Department (TID). For example, the TDC, as one of the major exhibition organizers in Hong Kong, organizes trade fairs for a wide range of Hong Kong industries on a regular basis and encourages local enterprises to participate. In addition, the TDC's general practice is to provide local enterprises participating in its international trade fairs with prominent positions as far as possible. The majority of exhibitors participating in the TDC's international trade fairs are local enterprises, and many of them are small and medium enterprises (SMEs) who lack the resources to participate at overseas trade exhibitions to promote their products and services to overseas buyers.

The TID operates the SME Export Marketing Fund, which provides funding support to SMEs for their participation in local trade fairs and exhibitions which are export-oriented, overseas trade fairs and exhibitions and study missions. As at 30 November 2006, the cumulative amount of the SME Export Marketing Fund approved is about \$680 million, benefiting up to 17 000 local SMEs.

**Sterilization of Surgical Tools**

15. **MR LI KWOK-YING** (in Chinese): *President, last month, doctors of the Caritas Medical Centre (CMC) mistakenly used surgical knives which had not been thoroughly sterilized to perform eye operations on 13 patients, and not until a few days later was the incident discovered. In this connection, will the Government inform this Council whether it knows:*

- (a) *the number of medical incidents involving surgical instruments or tools which occurred in public hospitals in each of the past three years, and the causes of these incidents;*
- (b) *the results of the investigation carried out by the Hospital Authority (HA) into the incident, and the improvement measures in this respect; if it has been assessed whether the manpower for the sterilization of medical equipment is inadequate, and whether the inadequacy has contributed to the incident; if the assessment result is that manpower is inadequate, of the solution for that; and*
- (c) *if the HA has reviewed the entire procedure for the sterilization of surgical tools; if it has, the results of the review?*

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

- (a) Apart from the recent incident involving surgical knives at the CMC, there were two other incidents involving the sterilization of surgical instruments in public hospitals in the past three years.

The first incident took place at Prince of Wales Hospital. In 2003, the hospital performed a brain biopsy on a patient suspected of having encephalitis. The biopsy result later revealed that the patient was in fact suffering from Creutzfeldt-Jakob Disease. Upon confirmation of the diagnosis, the hospital took immediate action and destroyed the surgical instruments involved. However, prior to their destruction, the instruments might have already been used in other neurosurgical operations. Although the risk of infection to the patients concerned was extremely low, in order to

avoid similar incidents from happening in the future, the HA had already revised the relevant guidelines stipulating that surgical instruments that have been used in brain biopsy had to be quarantined until confirmed diagnosis was available.

The second incident occurred in Tuen Mun Hospital. In 2004, a patient underwent a bronchoscopic examination in Tuen Mun Hospital. Subsequent to the examination, the hospital found that the bronchoscope used for the procedure had been used previously to examine a patient with pulmonary tuberculosis. Although the bronchoscope was cleansed, the sterilization process had not been completed. After the incident, the HA gave a detailed explanation to the patient and his family and followed up the patient's condition. The HA also made appropriate improvements to the checking procedures for reusable medical equipment after sterilization.

- (b) In respect of the incident at the CMC, the HA has already set up an investigation panel to look into the cause of the incident. The investigation is expected to complete by mid-December. The investigation report will be submitted to the CMC's Hospital Governing Committee as well as the HA Board for consideration. After that, the HA will make the investigation results known to the public.

As the investigation is still ongoing, the HA is not able to confirm the cause of this incident at this stage. Nevertheless, preliminary findings of the investigation suggest that the incident is an isolated case involving internal delivery procedures and unrelated to the manpower for the sterilization of medical equipment.

- (c) The HA's procedures for the sterilization of surgical instruments in public hospitals have been developed in accordance with international standards. These procedures are reviewed and improved from time to time. In the light of the recent incident at the CMC, the HA has already conducted an in-depth review of ancillary minor operation rooms with similar risk exposure in other public hospitals and reminded their staff to stay vigilant. During the review, the HA has not found any similar incidents that took place in other ancillary minor operation rooms in the past.

## Regulation of Bank Charges

16. **MR ALBERT CHAN** (in Chinese): *President, many people have complained to me that in recent years banks have continually raised their service fees and charges, and a bank has even increased its charges on dishonoured cheques thrice in a year. As the Hong Kong Monetary Authority (HKMA) has indicated openly that it is the banks' business decision to revise their fees and charges, and the HKMA is not in a position and has no right to interfere, it causes the public to worry that there is no effective mechanism to regulate the adjustment of fees and charges by banks. In this connection, will the Government inform this Council:*

- (a) *of the number of complaints received, in each of the past three years, about banks' upward adjustment of fees and charges, together with a breakdown by the banks involved in these complaints;*
- (b) *whether there is a policy on the regulation of fees and charges levied by banks; if so, of the details; if not, the reasons for that; and*
- (c) *whether it will consider strengthening the regulation of banks to ensure that they will not levy unreasonable fees and charges, thereby safeguarding the interests of small depositors; if it will, of the details; 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 Administration will continue to ensure that banks maintain a high degree of transparency with respect to their fees and charges for banking services. The objective is to provide consumers with adequate information so that they can make informed choices when selecting banking services. Our detailed responses are set out below:*

- (a) *From time to time, the HKMA receives complaints about the fees and charges of banks. Since the setting of fees and charges is a commercial decision, the HKMA would normally request 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.

- (b) As noted above, the setting of fees and charges is a commercial decision for banks. Under the existing legal framework, the HKMA does not have the authority, nor is it appropriate for it, to interfere with such commercial decisions. Nevertheless, the HKMA will 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 the level of fees and charges takes effect. These requirements aim to provide customers with adequate information so that they can select the banking service most suitable for them.
- (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.

We would also like to point out that while banks review their fees and charges regularly, they generally exempt senior citizens and social welfare recipients from deposit account charges. Some banks also provide savings accounts which do not have low-balance account charges.

### **Abandoned Babies Born to Mainland Women in Hong Kong**

17. **DR JOSEPH LEE** (in Chinese): *President, will the Government inform this Council:*

- (a) *of the number of abandoned babies born to mainland women in Hong Kong over the past five years, with a breakdown by their gender and health conditions; and*
- (b) *how the authorities take care of these abandoned babies and the relevant public expenditure incurred each year?*

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

- (a) The Social Welfare Department (SWD) does not maintain statistics on the number of abandoned babies born to mainland women in Hong Kong over the past five years. Since January 2006, medical social workers of the SWD have come across four cases of new-born babies (two baby boys and two baby girls) abandoned by their mainland parents. All the babies are found to have different levels of disability.
- (b) The SWD is concerned about the well-being of children and is committed to providing them with all appropriate services. Should a baby be found abandoned, the police or any person authorized by the Director of Social Welfare (the Director) may, depending on the individual circumstances of the cases, apply for a care or protection order from the Juvenile Court under the Protection of Children and Juveniles Ordinance (Cap. 213) (the Ordinance).

The social workers of the SWD will try their best to contact the parents, guardians or relatives of the abandoned babies on the basis of the information available (such as the residential address of the relatives). The SWD would seek assistance from the police and the Immigration Department as and when necessary. Besides, the SWD would also trace the whereabouts of the abandoned babies' parents, guardians or relatives through public notice on the press and broadcasting on radio. In cases where it appears that the parents, guardians or relatives cannot be located soon, the social workers of the SWD will submit recommendations to the Juvenile Court to appoint the Director as the legal guardian of the babies

under section 34(1)(a) of the Ordinance. The social workers will protect the best interests of the babies/children as a matter of priority, and will take into consideration the babies' physical and psychological needs. The social workers will also arrange the most suitable residential care for the babies, such as foster homes and children's homes. Also, they will keep in touch with the babies and their carers and visit them on a regular basis to ensure that the babies are in proper care.

The social workers will also work out the long-term welfare arrangements for the babies. If the social workers have exhausted all existing possible means to locate the parents, guardians or relatives of the babies, the SWD will, upon the confirmation of the rights of abode of the babies and the completion of all relevant assessments, arrange adoption of the babies as soon as possible to enable them to be brought up in a stable family environment.

Regarding the figures on public expenditure involved in helping the abandoned babies, the SWD does not have the breakdown.

### **Psychiatric Services in Public Hospitals**

18. **DR KWOK KA-KI** (in Chinese): *President, according to the Hospital Authority (HA), the attendance at the departments of psychiatry in public hospitals in Hong Kong is on the rise in recent years. Some psychiatrists have relayed to me that the resources allocated to the psychiatric services of public hospitals are far from adequate. Patients have to wait as long as one year for their first appointments but each consultation lasts for only a few minutes. The drug cost for each patient is only \$2 a day. The resources allocated to child psychiatric service are also limited. In this connection, will the Government inform this Council:*

- (a) *whether it knows the amount of funding and other resources allocated by the HA to the department of psychiatry in each public hospital in each of the past three years, with a detailed breakdown by expenditure items, including the salaries of health care personnel and other staff, as well as expenses on drugs and medical facilities, and so on;*

- (b) *whether it knows if the HA has set any limit on the cost of psychiatric drugs to be provided by each hospital; if it has, of the details of the limit;*
- (c) *whether it knows the numbers of health care personnel required for various specialties in the departments of psychiatry (including child and adolescent, psychogeriatric, community and forensic psychiatric services) in public hospitals as calculated on the basis of the needs of the current population, and how these numbers compare to the current manpower of the existing health care personnel in these specialties; and*
- (d) *of the membership list, objectives and work progress of the working group on mental health services established by the Health, Welfare and Food Bureau this year, the date of announcing the work schedule, and whether the working group will review the manpower of health care personnel in the departments of psychiatry in public hospitals?*

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

- (a) Breakdowns of the expenditure by various hospital clusters of the HA on psychiatric services for the past three years are set out in the tables below:

2003-2004

<i>Hospital Clusters</i>	<i>Staff Expenditure (\$ million)</i>	<i>Expenditure on Drugs and Other Expenses (\$ million)</i>	<i>Total (\$ million)</i>
Hong Kong East	216.2	137.3	353.5
Hong Kong West	84.0	54.0	138.0
Kowloon Central	130.3	79.2	209.5
Kowloon East	70.4	40.0	110.4
Kowloon West	541.0	207.9	748.9
New Territories East	235.5	124.1	359.6
New Territories West	491.1	225.5	716.6
Total:	1,768.5	868.0	2,636.5



## 2004-2005

<i>Hospital Clusters</i>	<i>Staff Expenditure (\$ million)</i>	<i>Expenditure on Drugs and Other Expenses (\$ million)</i>	<i>Total (\$ million)</i>
Hong Kong East	205.6	127.1	332.7
Hong Kong West	78.5	51.9	130.4
Kowloon Central	120.4	83.7	204.1
Kowloon East	69.1	35.0	104.1
Kowloon West	515.2	187.9	703.1
New Territories East	237.6	119.6	357.2
New Territories West	465.9	241.7	707.6
Total:	1,692.3	846.9	2,539.2

## 2005-2006

<i>Hospital Clusters</i>	<i>Staff Expenditure (\$ million)</i>	<i>Expenditure on Drugs and Other Expenses (\$ million)</i>	<i>Total (\$ million)</i>
Hong Kong East	210.7	117.7	328.4
Hong Kong West	76.7	62.0	138.7
Kowloon Central	122.2	84.4	206.6
Kowloon East	69.5	36.3	105.8
Kowloon West	501.1	193.6	694.7
New Territories East	234.4	131.4	365.8
New Territories West	454.5	236.8	691.3
Total:	1,669.1	862.2	2,531.3

Note: In line with adjustments in civil service pay, the emoluments of HA staff were reduced by 3% twice in January 2004 and January 2005 respectively.

- (b) It is the practice of the HA to prescribe psychiatric drugs for psychiatric patients on the basis of their clinical needs to achieve therapeutic efficacy and facilitate early recovery. The psychiatry departments in various hospital clusters follow the prescription guidelines when prescribing drugs for patients, and the cost of individual drug is not a major factor in clinical consideration. As a matter of fact, the Administration has increased the HA's recurrent subvention twice in recent years by a total amount of \$95 million a year for the provision of new generation psychiatric drugs for more patients.

- (c) In planning for its psychiatric services and manpower needs, the HA would take into account various factors including the service needs of the population, demographic changes and past trends in service demand in each hospital cluster. In fact, the HA has been increasing the manpower of its psychiatric staff in recent years. The number of psychiatrists has grown from 212 in 2001-2002 to 258 in 2005-2006 and the number of psychiatric nurses from 1 797 to 1 944 over the same period.

Since health care staff in psychiatry departments are required to take care of a number of service areas including the provision of in-patient service, specialist out-patient service and community outreach service for patients in different age groups, the HA does not have a fixed staffing establishment for each type of psychiatric service. Staff deployment within psychiatric departments is reviewed and adjusted from time to time in accordance with operational needs. The forensic psychiatric service is a special service unit. It is mainly responsible for serving the Siu Lam Psychiatric Centre of the Correctional Services Department as well as providing forensic psychiatric service support for all hospital clusters under the HA. The staffing establishment of that unit is more stable and currently consists of six medical practitioners and 73 nurses.

- (d) The main objectives of the Working Group on Mental Health Services are to:
- review the current mental health services and explore possible scope for improvement;
  - propose and prioritize new initiatives on the development of community mental health services; and
  - review the existing inter-departmental communication and collaboration mechanism.

The Working Group has already held one meeting since its establishment in late August this year. Members are now developing a framework for the future work of the Working Group

and drawing up an agenda for discussion. The Working Group is planning to meet again after the groundwork is completed.

The membership list of the Working Group is at Annex. In future, the Working Group will invite the participation of co-opted members from related sectors as and when necessary.

Annex

#### Membership List of the Working Group on Mental Health Services

Chairman:	Dr York CHOW
Non-official members:	Prof Helen CHIU
	Dr YIP Ka-chee
	Prof TANG Siu-wa
	Dr HUNG Se-fong
	Ms Deborah WAN
	Ms Kimmy HO
	Dr Timothy CHAN Wing-leung
	Ms Eppie WAN
Official members:	Ms Sandra LEE
	Mrs Mary MA
	Mr SIT Tung
	Ms Margaret TAY

#### Hong Kong WinterFest

19. **MR SIN CHUNG-KAI** (in Chinese): *President, the Hong Kong WinterFest (the WinterFest) organized by the Hong Kong Tourism Board (HKTB) from the 24th of last month to the 1st of next month features, among others, a Santa's Town at the Statue Square in Central. In this regard, will the Government inform this Council whether it knows:*

- (a) *the budget of the WinterFest, together with a breakdown of various items including, in particular, the budget of Santa's Town, and how the HKTB determined this sum;*

- (b) if the HKTB has charged advertising fees for promoting the merchandise, food premises, shops and shopping malls on the webpages for the WinterFest; if it has, of the details; if not, the criteria adopted by the HKTB for selecting the merchandise and shops to be promoted; and
- (c) if the HKTB has selected the contractor responsible for setting up Santa's Town through a tender process; if it has, of the tendering procedure, specific work to be undertaken by the contractor, and the number of bids received by the HKTB; if it has not, the reasons for that?

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

- (a) The estimated budget for staging and promoting the 40-day 2006 WinterFest organized by the HKTB is around \$17.3 million. The breakdown is as follows:

<i>Staging the Event</i>		<i>Estimated Cost</i>
(i)	Santa's Town (including decorating the Dazzling Christmas Tree, Snowy Chapel, Santa's Clock Tower, and so on)	\$5.54m
(ii)	Planning, co-ordinating and managing various activities in Santa's Town, and arranging for about 88 performances	\$1.30m
(iii)	Equipment rental and venue management (including snow-making machine, lighting and sound systems, security, daily cleaning, and so on)	\$1.70m
Sub-total		\$8.54m
<i>Promotion and Publicity</i>		
(iv)	Publicity programme and promotional materials (including advertising and publicity pamphlets, displays at airport and major ports of entry, meet-and-greet activities, mini website, in-town decorations, and so on)	\$5.62m
(v)	Special pyrotechnics for A Symphony of Lights on six evenings	\$2.94m
(vi)	Contingency	\$0.20m
Sub-total		\$8.76m
Total		\$17.30m

In estimating the budget for the WinterFest and other mega events, the HKTb took into account past experience in organizing events of similar scale and the latest business environment and cost levels.

- (b) The WinterFest offers a free promotional platform for retail, catering and related sectors. The objectives are to help build up festive ambience and stimulate visitors' spending through special offers and privileges by merchants. There are no advertising or participation fees.

Merchants participating in the WinterFest must be registered with the HKTb's Tourism Service Provider Database with no customer complaint record over the past 12 months, and are capable of providing quality service and maintaining professional ethical standards. Besides, they must fulfil the following requirements:

- (i) help build a festive atmosphere, such as displaying or distributing to visitors the WinterFest promotional materials in their outlets;
- (ii) provide incentive offers to visitors in the form of discounts, free gifts and other privileges;
- (iii) comply with the WinterFest participating merchant terms and conditions throughout the promotional period (for example, goods/services are clearly and visibly price tagged and code tagged, pricing of the goods/services are reasonable and comparable with recommended retail price, counterfeit goods or goods that infringe others' intellectual property rights must not be displayed or offered for sale, and so on); and
- (iv) provide details of special promotions during the period to the HKTb for featuring on the mega event website.

The HKTb sent invitation letters to all the Tourism Service Provider Database registered merchants in September 2006, and set out the requirements above in the invitation letters.

- (c) The HKTB selected the contractor for setting up the Santa's Town in accordance with its tendering procedures, summarized as follows:
- (i) Invitation to tender with project brief was sent to eight design-and-build contractors in September 2006. They were required to submit their bids in sealed envelopes before the closing date of 25 September.
  - (ii) A briefing session was held for interested contractors in mid-September, with a total of six design-and-build contractors attending.
  - (iii) A tender board meeting was convened in end-September to evaluate all the proposals submitted. A total of four design-and-build contractors submitted proposals.
  - (iv) The tender board rated and selected the bidders in accordance with the selection criteria and marking system specified in the tender documents. The bidder with the highest marks was selected to undertake the project.

The design-and-build contractor is responsible for supplying sufficient labour and materials as well as deploying suitable tools for the design, alteration, transport, construction, installation, decoration, lighting, repair, dismantling and removal of all the decorative items in a professional and timely manner.

### **Financial Security for Elderly**

20. **MR FREDERICK FUNG** (in Chinese): *President, regarding financial security for the elderly, will the Government inform this Council:*

- (a) *of the latest work progress, the preliminary findings and the anticipated completion dates of the two relevant studies currently undertaken by the Central Policy Unit, namely, the study on "Sustainability of the Three Pillars of Retirement Protection in Hong Kong" and the "Household Survey on the Financial Disposition and Retirement Planning of Current and Future Generations of Older*

*Persons", as well as the government departments responsible for following up the findings of the studies;*

- (b) whether it will consider providing more financial assistance to the elderly in need, for instance, by relaxing the asset limit for the elderly to apply for the Comprehensive Social Security Assistance (CSSA), raising the amount of CSSA payments for the elderly, relaxing the permissible periods of absence from Hong Kong under the CSSA Scheme and the Social Security Allowance (SSA) Scheme, and extending the coverage of the Portable Comprehensive Social Security Assistance (PCSSA) Scheme so that the elderly who have retired in places other than Guangdong and Fujian Provinces can also apply for and receive CSSA payments;*
- (c) whether it will consider providing more comprehensive retirement protection for the elderly, for instance, by implementing a universal retirement protection scheme, so that low-income labourers and housewives, who are currently not protected by the Mandatory Provident Fund (MPF) Scheme, can enjoy a financially-secure life in their old age; and*
- (d) whether it will consider adopting measures to increase the elderly's income, for instance, by allowing elderly property owners who have handed over their properties to non-governmental organizations for management on a trusteeship basis to apply for public rental housing (PRH) units for residential purpose and use the rental income from their properties to meet daily expenses, and studying the introduction of reverse mortgage schemes so that the elderly owner-occupiers can mortgage their properties to obtain cash income?*

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

- (a) The study on "Sustainability of the Three Pillars of Retirement Protection in Hong Kong", which assesses the sustainability of the three pillars of retirement protection (namely the CSSA Scheme and Old Age Allowance (OAA), a MPF Scheme and voluntary private

savings) in the next 30 years, is underway and expected to be completed in 2007. The Government will consider the findings of the study before deciding on the future course of action.

- (b) The CSSA Scheme is set up by the Government to provide assistance to meet the basic needs of those who cannot support themselves financially. It takes special care of the needy elderly through the provision of higher standard rates (ranging from \$2,150 to \$3,885 per month per elderly person), special grants (including payments to cover glasses, dentures, removal expenses, fares to hospitals/clinics, burial grant, medically-recommended diet, medical and health care appliances) as well as an annual long-term supplement. For instance, the average monthly CSSA payment for a single elderly person is about \$3,700. Under the CSSA Scheme, the asset limit for the elderly is higher than that of the able-bodied adult. For example, the asset limit for applying CSSA for a singleton elderly is \$34,000, and the value of an owner-occupied residential property is totally disregarded for elderly cases. As the average CSSA payments and asset limit for elderly recipients are already set at a higher rate than those of general CSSA recipients, we have no intention to change them at this moment.

With regard to the proposal for further relaxing the permissible limit of absence of the SSA Scheme, the Government has already relaxed the permissible limit of absence from Hong Kong under the SSA Scheme from 180 days to 240 days a year since 1 October 2005. According to the prevailing policy, the permissible limit of absence from Hong Kong under the CSSA Scheme for elders is 180 days a year. These measures, which were introduced in response to the requests of some elderly, allow them to spend more time to travel or visit their relatives and friends outside Hong Kong or take up short-term residence, while on the other hand ensures that public funds are spent on Hong Kong residents who based their long-term residence in the territory. We believe that the measures have struck a reasonable balance between the two considerations. As far as we know, for those elderly who choose to retire permanently in the Mainland, they have to take into account a number of factors such as their family and social ties in the Mainland and Hong Kong, their adaptability to the life style and the health care system in the



Mainland. Relaxing the permissible limit of absence from Hong Kong under the SSA Scheme does not constitute a significant consideration for them.

As for the Portable Comprehensive Social Security Assistance (PCSSA) Scheme, it has been relaxed since 1 August 2005 to allow the elderly who have received CSSA for not less than one year to retire permanently in Guangdong Province or Fujian Province. At present, the PCSSA Scheme covers only Guangdong Province and Fujian Province for the reason that they are the places of origin for the vast majority of elderly CSSA recipients, accounting for about 95% of the total number of elderly CSSA recipients. As at the end of October 2006, there were a total of 3 230 PCSSA recipients, of which 3 131 and 99 elderly recipients have retired permanently in Guangdong Province and Fujian Province respectively. We believe that the existing Scheme has fully addressed the needs of the vast majority of elderly CSSA recipients.

- (c) The current approaches adopted by Hong Kong in providing financial assistance to the elderly are the three pillars mentioned in part (a). The Government has also built up a vast safety net, providing special care and heavily subsidized services to the elderly in medical and housing policies. The elderly also enjoy various transport concessions. When the study in part (a) is completed, the Government will draw reference from the study result and consider other factors, such as safeguarding the traditional family values, maintaining overall economic competitiveness and a simple tax system, and ensuring the sustainable development of the existing social security system so as to enable the needy elderly (including low-income labourers and housewives) be provided with financial assistance to meet their basic and special needs.
- (d) Under the prevailing policy of the Housing Authority (HA), an applicant for PRH flat and his/her family members must not own or co-own any domestic property from the time of registration up to the time when a tenancy agreement is signed upon allocation of a PRH flat. The HA does not consider that there is adequate justification for exempting or relaxing the ownership restriction for elderly property owners such that they may apply for subsidized PRH flats.

To maintain a rational allocation of public housing resources, the HA must continue to give priority to the housing needs of some 100 000 applicants (including over 5 000 elderly persons) on the PRH waiting list. The HA therefore cannot accept the proposal. However, in an effort to address the housing problems of the elderly property owners, the HA has exercised flexibility and introduced an *ex gratia* arrangement to allow needy elderly property owners to move into Housing for Senior Citizens (HSC) on a licence basis upon recommendation by the Social Welfare Department for Compassionate Re-housing. For those elderly property owners who are found unsuitable to live in HSC for any particular reasons, discretionary arrangements will be made for them to move into self-contained PRH flats on a licence basis so as to better cater for their daily needs. In addition to meeting all the eligibility criteria of Compassionate Re-housing, these elderly property owners must have owned and lived in private dilapidated buildings without lifts for 10 years or more, and the applicants and all the family members living with them must be aged 60 or above.

According to the advice of the Financial Services and Treasury Bureau, in general, there should be market demand for reverse mortgage products in a society with an ageing population. In the case of Hong Kong, residential properties owned by elderly people who may be interested in reverse mortgage are generally very aged, and the market values of which are relatively low. In addition, the expected average life expectancy of Hong Kong people has reached 80 years. Assuming a borrower joins a reverse mortgage scheme at the age of 60, the reverse mortgage term is still rather long and will result in limited monthly payments. As such, a commercially viable reverse mortgage product is unlikely to be attractive to elderly people in Hong Kong.

## **BILLS**

### **First Reading of Bills**

**PRESIDENT** (in Cantonese): Bill: First Reading.

**Race Discrimination Bill**

**CLERK** (in Cantonese): Race Discrimination Bill.

*Bill 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): Bill: Second Reading.

**Race Discrimination Bill**

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Madam President, I move the Second reading of the Race Discrimination Bill (the Bill).

The Government of the Hong Kong Special Administrative Region (SAR) firmly upholds the principle of equality and endeavours to protect human rights. This is the cornerstone of continued prosperity and stability in Hong Kong. Hong Kong is an international metropolis, and our success is attributed to the unremitting efforts of Hong Kong people as well as people of different races living in harmony and giving play to their talents in Hong Kong. Of the total population in Hong Kong, 5% (or about 350 000 people) are of non-Chinese ethnic origin. A harmonious relationship among different races is an indispensable component of our endeavours to promote social harmony.

To be mutually accommodating and understanding is a traditional virtue of Chinese people and a main reason for the non-existence of serious or widespread racial discrimination in Hong Kong. Meanwhile, the Government has over the years continuously promoted through public education the awareness of equality for all and provided support services to ethnic minorities, with a view to helping them integrate into the local community. These measures and activities have gained enormous support and recognition in the international community.

Under the existing legislation in Hong Kong, the Basic Law and the Hong Kong Bill of Rights Ordinance prohibit the Government and public authorities from engaging in practices of discrimination in any manner on any grounds.

This has provided sufficient protection to the public. But on the other hand, these legislative provisions regulate only the practices of the Government and public authorities and are not applicable to acts of discrimination committed by private individuals and organizations. For this reason, the Sex Discrimination Ordinance, the Disability Discrimination Ordinance and the Family Status Discrimination Ordinance were enacted to provide for legal protection with greater clarity in these three areas.

On this basis, the Bill, for which I have moved to be read a Second time today, is a milestone representing one step forward made by the SAR Government in its endeavours to protect the human rights of the people. The Bill mainly targets unreasonable discriminatory practices on the ground of race, in order to protect the public from racial discrimination by private organizations or individuals. The enactment of this piece of legislation will also enable us to fulfil our international obligations under the United Nations International Convention on the Elimination of All Forms of Racial Discrimination (ICERD).

Insofar as the contents and coverage of the Bill are concerned, the Bill is modelled primarily on the three existing anti-discrimination ordinances, namely, the Sex Discrimination Ordinance, the Disability Discrimination Ordinance and the Family Status Discrimination Ordinance. The main objects of the Bill are:

- (1) to make racial discrimination and harassment in prescribed areas and vilification on the ground of race unlawful;
- (2) to prohibit serious vilification of persons on the ground of race; and
- (3) to extend the jurisdiction of the Equal Opportunities Commission (EOC) to cover racial discrimination.

Our objective is to ensure that people are protected against racial discrimination, whether by other persons or by organizations. Meanwhile, we also endeavour to balance the rights and freedoms of the different parties involved, so as to make the relevant proposals reasonable, practicable and acceptable to various sectors of the community as a proper piece of legislation and regime.

Under the Bill, "race" is defined to mean the race, colour, descent, or national or ethnic origin of a person, and this definition is consistent with that

under Article 1 of the ICERD. The Bill provides that race discrimination can include direct discrimination and indirect discrimination. Broadly speaking, "direct discrimination" occurs when a person on the ground of race treats another person less favourably than he would treat others, while "indirect discrimination" occurs when a person imposes a requirement or condition which, although applicable to all and on the face of it has nothing to do with race, will put people of a racial group at a particular disadvantage because in practice, they cannot meet the requirement or condition for reasons relating to their races, and the requirement or condition imposed cannot be shown to be justifiable by reasons not related to race. Apart from these two types of discrimination, discrimination on the ground of race of near relative, discrimination by way of victimization, racial harassment, and vilification on the ground of race are also made unlawful under the Bill.

Like the three existing anti-discrimination ordinances, the Bill as proposed applies to six specified areas of activities closely related to the people's living in both the public and private sectors. They include employment; education; provision of goods, facilities, services and premises; election and appointment to public bodies; pupillage and tenancy by, and instructions to, barristers; and membership of and access to clubs.

In respect of employment, the Bill makes it unlawful for an employer to discriminate against job applicants or employees in offers of employment, the terms of employment, promotion, transfer, training and dismissal. The Bill also proposes to prohibit racial discrimination in employment related matters, including partnership arrangements, admission to trade unions or professional/trade organizations and treatment accorded to members, conferment of qualification in a profession or trade, and in the provision of vocational training and employment agency services. In respect of education, the Bill makes it unlawful for an educational establishment to discriminate on the ground of race in respect of admission or treatment of students.

The Bill also prohibits acts of discrimination on the ground of race in the provision of goods, facilities and services to the public, or in the disposal of premises or the treatment of occupiers of premises. The Bill proposes that discrimination either directly or indirectly in these matters, discrimination in setting out the terms, or discrimination in the quality of goods, facilities and services or in the manner of providing goods, facilities and services be made unlawful.

In respect of election and appointment to public bodies, the Bill proposes to make it unlawful to discriminate on the ground of race against a person in determining his eligibility to vote in the elections of or to be elected or appointed to a public body, public authority or a public sector advisory and statutory body. Besides, like the existing anti-discrimination ordinances, in order to ensure clarity in the application of the Bill to barristers, the Bill includes specific provisions on barristers and makes it unlawful to discriminate on the ground of race in relation to the offer of a pupillage or a tenancy, or in relation to the issuing or giving of instructions to a barrister. In respect of clubs, the Bill proposes to make it unlawful for any club to discriminate, on the ground of race, in admission of members and access of members to the benefits, services and facilities of the club.

The Bill also makes racial harassment unlawful. This occurs when a person, on account of another person's race or the race of that other person's near relative, acts in such a way that constitutes unwelcome conduct and in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated that the other person would be offended, humiliated or intimidated by that conduct. It also constitutes racial harassment when a person acts in such a way as to make the environment of work, study or training hostile or intimidating for another person, on the ground of the latter's race or the race of his or her near relative.

The Bill proposes to make other discriminatory acts unlawful, including discriminatory practices (which means the application of a requirement or condition that constitutes or is likely to result in racial discrimination, direct or indirect), publication of discriminatory advertisement, instructing or pressuring another person to discriminate, and aiding an unlawful act of racial discrimination. Moreover, the Bill also stipulates that racial vilification, which is unlawful under the Bill, occurs when a person publicly incites hatred towards, serious contempt for, or severe ridicule of, another person on the ground of the person's racial or ethnic background.

A person against whom any of the unlawful acts as set out above is committed has a civil claim and may bring proceedings in the District Court. Examples of remedies are damages, a declaration or an injunction. Moreover, serious vilification on the ground of race is an offence under the Bill, because serious vilification on the ground of race involves threatening physical harm to a person on the ground of his race or inciting others to threaten physical harm toward this person or the property or premises of this person.

To facilitate effective enforcement of the legislation in future and further promote the civic awareness of racial equality, the Bill proposes to extend the functions and powers of the EOC to cover racial discrimination. In this regard, the functions or the role of the EOC as proposed in the Bill are similar to those of the EOC under the three existing anti-discrimination ordinances, including carrying out public education and publicity, promoting equality of opportunity between persons of different racial groups, conducting investigation into and providing conciliation for cases and complaints relating to racial discrimination, and formulating codes of practice to facilitate compliance with the statutory provisions by members of various sectors.

Madam President, I am glad to see that since the publication of the Bill on 29 November, the majority members of the community have agreed that the making of legislation is the right direction. However, I have also heard concerns expressed by some members of the community over the clauses of the Bill, many of which are due to misunderstanding and misinterpretation of the proposed clauses. I wish to take this opportunity to make some clarifications.

Some people are concerned that excessive exception clauses in the Bill would undermine the protection that the legislation can provide to the public against race discrimination in future. I must point out here that the prime objective of the SAR Government in making these legislative proposals is to further consolidate and promote racial equality and harmony. In this regard, we have the duty to ensure that the clauses of the Bill can effectively protect the personal rights of members of different racial groups against discrimination while maintaining respect and protection for the legitimate rights and freedoms of others. Our objective is to strike a reasonable and proper balance between them. A careful examination of the exception clauses in the Bill will readily reveal that they are supported by strong justifications. To sum up, these exception clauses can be classified into three major categories:

- (1) Clauses to ensure that special measures which are intended for bestowing benefits on ethnic minorities and promoting equal opportunities for them are not regarded racial discrimination, although these measures are targeted at particular ethnic groups to the exclusion of others;
- (2) Clauses to provide for lawful and justified protection for the legitimate rights and freedoms of others, and for other purposes which are justified on policy grounds and considerations; and

- (3) Clauses to delineate the scope of the Bill and to provide for clarity and certainty of the law in areas which were not intended to be covered by the Bill, in order to avoid confusion or unnecessary proceedings.

Members can rest assured because we have, in the course of drafting the Bill, critically examined each of the proposed exception clauses to ensure that they are reasonable and necessary, and also consistent with the principles widely adopted by international human rights authorities.

We have also heard the view that the Bill may result in a person committing an offence for making certain verbal remarks, and there is concern that after the enactment of the legislation, a person may easily be brought to Court or even put behind bars for inadvertently using such common terms or expressions as "gwai lo"(鬼佬) or "ah cha"(阿差) in daily conversations. Here, I must point out again that our legislative intent is to promote mutual respect among ethnic groups, so that they can live in harmony. I stress that we absolutely do not encourage any person to use terms or expressions which show disrespect or cause nuisance to others when they get along with other people. But on the other hand, I must clarify that "racial harassment", according to its definition in the Bill, means unwelcome conduct which makes the person concerned feel offended, humiliated or intimidated, and only in such circumstance will it constitute racial harassment. In this connection, there are similar provisions in the Sex Discrimination Bill. When interpreting the relevant provisions, the EOC and the Court will certainly adopt reasonable criteria and so, these concerns are unwarranted. The use of commonly-used terms or expressions with local characteristics should not constitute an unlawful act, let alone any liability for imprisonment, provided that they do not involve meanings that are offensive or humiliating. To put it simply, we firmly believe that we should treat each another with mutual respect and courtesy, and everyone should be treated equally without discrimination. This is the foundation of social harmony and our fundamental intent in introducing legislation.

Language proficiency and use of language has been a matter of common concern among the ethnic minorities. The Government is equally concerned about this, and we fully appreciate the difficulties faced by some members of the ethnic minorities who do not use Chinese in daily life. However, we equally recognize that it is neither practicable nor feasible for service providers, either in the public or private sectors, to use different languages or to provide translations



into different languages in all circumstances. Therefore, for the sake of clarity, the Bill proposes to provide for exemption in this regard, and we believe that this is in the interest of the community as a whole and should be acceptable to all. On the other hand, we agree that the Government should provide appropriate support to enhance the opportunities for ethnic minorities to learn the local language, in order to help them integrate into society and the learning environment. In this connection, the Home Affairs Bureau and the Education and Manpower Bureau have made a lot of efforts, and there is also a plan to strengthen the support services in this area in future. While this is not provided as a mandatory requirement in the Bill, it should not be misinterpreted as the Government washing its hands of this matter.

Discrimination against new arrivals from the Mainland has all along been a matter of concern to us. Having said that, however, we cannot agree with the view held by some members of the community that the Bill should cover discrimination against these new arrivals. It is true that we used to think a long time ago that discrimination against new arrivals can be considered in the context of legislation on race discrimination. But after further considering and analysing the justifications, we have concluded that it is inappropriate to do so, and we already stated the Government's position in the public consultation on legislation on race discrimination at the end of 2004. As almost all of the new arrivals are of the same ethnic origin as the local Chinese, we consider that they do not constitute a separate racial group under the definition of "race" in the ICERD. More importantly, the discriminatory treatment given to some of the new arrivals reflects prejudice held by a small number of people in the community towards the new arrivals, not discrimination on the ground of race. So, the case of the new arrivals and racial discrimination cannot be mentioned in the same breath. It is also inappropriate for us to address this problem of social discrimination through legislation against race discrimination.

Nevertheless, this does not mean that we have turned a blind eye to discrimination against the new arrivals. On the contrary, the Government will continue with its work in this respect, with a view to helping new arrivals from the Mainland to integrate into the local community through education, publicity and support programmes, while targeting actions at discrimination against them. Through the Steering Committee on New Arrival Services and joint conferences with non-governmental organizations (NGOs), the Home Affairs Department (HAD) will assist in the co-ordination and monitoring of various Policy Bureaux and departments in service delivery in this regard, in order to ensure that the

relevant services meet the needs of new arrivals. At the district level, District Co-ordinating Committees are established under the HAD to co-ordinate the efforts of various branches or departments and the NGOs, with a view to assisting new arrivals in integrating into society early. The HAD has also published a Service Handbook for New Arrivals to give new arrivals a better understanding of the various public services provided to them. The Handbook contains the latest information on education, welfare and employment services provided by the relevant bureaux or departments, and the HAD will review the contents of the Handbook regularly. We will continue to provide these services and measures to assist new arrivals from the Mainland in adapting to the way of living in Hong Kong. In fact, many people settling in Hong Kong or their previous generation are also immigrants who have made tremendous contribution to Hong Kong and laid the cornerstone of the prosperity of Hong Kong.

Madam President, this legal framework is formulated after extensive consultation and having considered public opinions and studied the possible implications of the implementation of the clauses in the Bill. We believe the proposed regulatory regime in the Bill will enable us to achieve the policy objective of fostering social harmony and fulfil our international obligations. It even enables us to strike a balance among the interests of different parties and so, it should be a reasonable and practicable proposal acceptable to all members of the community. As I said earlier on, apart from legislation, the Government will make sustained efforts to promote public education and introduce support services and measures to help members of ethnic minorities to integrate into society. I hope Members will support the Bill. Thank you.

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Race Discrimination Bill 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.

## **MOTIONS**

**PRESIDENT** (in Cantonese): Motion. Proposed resolution under the Dutiable Commodities Ordinance.

**PROPOSED RESOLUTION UNDER THE DUTIABLE COMMODITIES ORDINANCE**

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): President, I move that the motion under my name, as printed on the Agenda, be passed to extend the existing concessionary duty rate of \$1.11 per litre for ultra low sulphur diesel (ULSD) to 31 December 2008, with a view to implementing the proposal announced earlier by the Government.

When ULSD was introduced to Hong Kong in 2000, we set the duty at a concessionary level of \$1.11 per litre to encourage drivers to switch from regular diesel to this cleaner, but more costly, fuel. The concessionary duty rate was originally scheduled to revert to \$2.89 per litre on 1 January 2002. However, to relieve the pressure on the transport industry brought by the economic downturn, we have extended the concessionary duty rate for ULSD seven times. According to the resolution passed by the Legislative Council in December last year, the duty rate for ULSD is scheduled to revert to \$2.89 per litre on 1 January 2007.

The oil prices, while easing off somewhat in recent months, have remained high throughout the year. We appreciate the impact of high oil prices on certain industries, especially the transport industry. Taking into account the operating environment of the transport industry, the overall economic conditions of Hong Kong, and our fiscal position, the Financial Secretary has decided to propose a further extension of the duty concession for ULSD for two years to the end of 2008. We believe that this measure can help relieve the operating difficulties of the industry.

Based on the regular rate of \$2.89 per litre, the Government's yearly revenue to be generated from the ULSD duty should be about \$1.8 billion. However, the revenue generated under the current concessionary duty rate of \$1.11 per litre would only be about \$700 million a year. Therefore, we estimate that the extension of the concessionary duty rate would cost the Government about \$1.11 billion in each of the next two years.

I hope Members will support the motion.

Thank you, President.

**The Secretary for Financial Services and the Treasury moved the following motion:**

"RESOLVED that Schedule 1 to the Dutiable Commodities Ordinance (Cap. 109) be amended, in paragraph 1A of Part III -

- (a) in subparagraph (a), by repealing "31 December 2006" and substituting "31 December 2008";
- (b) in subparagraph (b), by repealing "1 January 2007" and substituting "1 January 2009"."

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

**MR SIN CHUNG-KAI** (in Cantonese): President, the Democratic Party welcomes the Administration's extension of the concessionary period by two years and I believe it is a realistic move.

However, I hope that the Government can consider one point. In the past, some members of the public, including the transport industry, have longed for a full waiver or a halving of this duty, however, the amount of money that this duty involves is really enormous. According to the information we have, this is a rather important form of tax revenue and \$700 million to \$800 million is involved. I believe that it is not at all easy for the Government to grant a waiver on this duty once and for all. However, I believe that if the Government can do something, even if it cannot grant a waiver once and for all, as long as it can lower the duty a little bit, this will still be desirable.

President, I notice that it seems the tax revenue of the Government from this source has been on the decrease in recent years. Of course, this may be attributable to the preference of members of the industry to tank up before they go through the checkpoints. In the past, the Democratic Party has proposed the establishment of a duty-free zone at the checkpoints, so that members of the industry can tank up in the duty-free zone on their way to and from the Mainland,

instead of tanking up on the other side of the boundary. Of course, even if a duty-free zone is established, the price of fuel in Hong Kong may still be higher than that on the Mainland, however, the difference will be smaller. I believe the Government should consider these measures that can allay the concerns of the industry and raise its competitiveness. The Democratic Party supports this motion.

**MR WONG KWOK-HING** (in Cantonese): Madam President, in recent years, the price of crude oil in the international market has stood at a high level and the latest retail oil price has reached \$7.6 per litre, thus dealing a serious blow to the operation of the transport industry. This Council, be it in the meetings of the whole Council or those of the relevant panel, has made the demand for an exemption from the duty on ULSD to the Government year after year and day after day, however, the Government has all along remained impassive. Even to date, the Government is still turning a deaf ear to the demands of the industry.

In fact, the industry hit the hardest by the duty on diesel is perhaps the trucking and container transport industry. At present, members of the container transport industry have to pay as much as \$3,000 monthly in fuel duty. To front-line container truck drivers, this is no doubt an onerous burden. Moreover, most container truck drivers can earn slightly more if they make more trips but generally speaking, their income is not too high, not to mention that it is also very unstable. As we all know, the survival of the container transport industry depends mainly on the shipping industry, however, in recent years, the tapering container throughput in the port of Hong Kong has also exerted pressure on the operation of the industry. At such a time, it is really unjustified for the Government to target them again, and so the offer of a temporary concession on ULSD is the least that it can do.

Madam President, on going through the information, we found that the Government has extended and lowered the duty on ULSD seven times since December 2000. The duty has been reduced from \$2.89 per litre to \$1.11 per litre at present and the duration of each concession ranged from several months to one year. This time, it will be the eighth time that the Government extends the concessionary period on diesel. I have also said on various occasions that since the Government could offer this kind of tax concession seven times in the past six years, the amount of tax from diesel can be considered negligible to the

public coffers. According to information, by extending the concession for a number of times, the coffers have received about a total of \$8.9 billion less. It seems that \$8.9 billion is a huge sum, however, if we calculate more carefully, foregoing some \$8 billion over six years means that only more than \$1 billion was foregone each year and I really cannot see why the Government cannot dispense with this amount of some \$1 billion. Even if this kind of tax is abolished, I cannot see how this will exert pressure on government finance, however, I can see that the transport industry will get some respite in its operation.

Furthermore, according to the recent announcement made by the Government, this year, government revenue from two major sources, including the Exchange Fund and the proceeds from land sales, has been satisfactory — I gathered that the Government is now considering ways to spend money and I do not know if this is true — so reducing the duty on ULSD is not at all objectionable. Here, I wish to express my appreciation for the fact that it is the very first time that the Government will extend the concessionary period for two years. Since the Government proposed a concession on ULSD in 2000, the concession was been extended for periods ranging from several months to one year. This time, the concession will be extended for two years, however, this practice is just like putting the industry on a saline drip. I hope that the Government can go one step further by putting forward a proposal to scrap this duty next time. Recently, the Government has resolutely shelved the consultation on the Goods and Services Tax (GST). It is estimated that the GST can raise \$20 billion in revenue for the Government, even so, the Government has taken on board public opinion and resolutely discontinued the consultation. In this regard, the Government has taken the right move. In view of this, why does it not lend an ear to the misery of the industry? Therefore, why is it not possible to forego the duty on ULSD, which amounts to less than \$1 billion?

In the final analysis, to keep extending the concessionary period is not the best way of assisting the industry in its operation. Moreover, the amount of duty from diesel is most insignificant, so it is preferable for the Government to scrap the duty as doing so will be more helpful than extending the concession. Madam President, I so submit.

**MS MIRIAM LAU** (in Cantonese): President, this is the eighth occasion that the Government will extend the concessionary duty rate on ultra low sulphur diesel (ULSD).

I have already used many adjectives such as "disappointed" and "helpless" before. However, given the Government's steely attitude in refusing to reduce or exempt the duty on diesel, in continuing to disregard the adverse effects of high oil prices on the transport and logistics industries and in turning a blind eye to all the consequent social and livelihood problems, other than using such words as "disappointed" and "helpless", what other adjectives can I use?

In fact, on reducing and waiving the duty on diesel, for many years, I would hold one to three meetings together with the industry and the Secretary each year. Each time, the industry would present the increasingly severe problems it was facing to the Government. However, the Government has remained impassive. In the legislature, as Mr WONG Kwok-hing said, we have had debates a number of times and, be they the debates in the meetings of the Legislative Council or the discussions in panels, the issue of duty on ULSD has been raised and we have in fact said everything. President, I do not wish to waste Members' time by repeating the problems faced by the industry, however, I wish to point out that the problems are worsening. I have noticed that apart from feeling helpless, grievances are accumulating in the industry and I am concerned that these grievances may erupt one day.

In extending the concession on duty on ULSD for two years, it seems that the Government is very magnanimous and has taken on board the views of the industry. Just now, the Secretary has also said that this is a move that shows sympathy for the industry and how much money the Government will lose in extending the concession for a couple of years. In fact, I think the Government is evading the problem and sweeping it under the carpet for two years. After two years, that is, at the end of 2008, what will happen then? Of course, the Government holds one hope and that is, it is wondering if the Members who have blasted the Government for so many years and lobbied for a reduction or waiver on the diesel duty for so many years — I am not talking about other Members, rather, I am just talking about myself — will still be in the legislature to continue to lobby for this. The Government hopes that those Members will no longer be here and it will then have some peace. However, apart from this, what else will have changed?

I have said earlier that the problems faced by the industry are worsening. All of us know full well that in the logistics industry, the competition in land transport is now extremely keen. The industry is concerned about whether it

will still get any business. Furthermore, it has to cut costs or it cannot stay competitive.

Just now, Mr SIN Chung-kai said that this duty is very important to the coffers, however, I wish to remind Honourable colleagues that the logistics industry is also very important to the Hong Kong economy. The logistics industry is one of the four major pillars of the Hong Kong economy and it is supporting the livelihood of over 100 000 people. In view of the problems confronting the logistics industry, is it not necessary for the Government to find a solution instead of sweeping the problem under the carpet?

Of course, the Government may think that by the end of 2008, if those articulate Members are no longer in the legislature, it can then have some peace of mind, scrap the concessionary duty and revert to the duty rate of \$2.89 per litre. I hope the Government will certainly not think in this way or harbour any delusion. Those Members may no longer be here but the transport industry will definitely be here. Since the transport industry is facing such a poor business environment, they will by no means accept any reversion of the duty to what the Secretary calls the regular rate. Given the prevailing conditions, this is by no means a regular rate. If the duty rate is 0% or half of what it is now, it is relatively speaking regular; however, if the rate is \$2.89 per litre, it is by no means regular.

President, having wrangled over this matter for so many years, I am also feeling very tired and I hope that after the concessionary duty rate has been extended for two years this time, the Government can really earnestly consider in the interim how this duty should be dealt with. In the past, I have said many times that the Government should conduct a complete and pragmatic review and should not shun the problem. It should consider at what level the duty on diesel should be set in view of the prevailing circumstances, so as to benefit the Government and the economy, make it fair to the industry and determine what is acceptable and affordable to the trade, then amend the legislation properly, instead of coming to the Legislative Council once every one or two years or even in a few months, such that we have to go over matters that have been discussed innumerable times again, thus wasting everyone's time. Thank you, President.

**MR WONG TING-KWONG** (in Cantonese): President, this is already the eighth extension of the validity period of the concessionary duty rate for ULSD



since the Government introduced the duty on ULSD in 2000. The DAB has also spoken on the question on many occasions. As the use of ULSD will help improve the air quality in Hong Kong, in particular, it contributes positively to alleviating the current problem of serious air pollution, therefore, the DAB is in full support of the Government's continued provision of the concession.

However, since more than a hundred thousand diesel vehicles in Hong Kong are still being affected by the soaring oil prices and commercial vehicles in particular are the first to bear the brunt, the livelihood of their operators is directly affected by the high oil prices which have led to high operating costs and a plunge in the profit margin. Therefore, apart from extending the concession, the DAB opines that the duty rate on ULSD should be further reduced and measures to help the transport industry implemented, so as to take care of the needs of everyone in the industry equitably.

We had a debate on the development of Hong Kong's logistics industry last week and Members agreed that recently, our logistics industry is facing extremely keen competition and great challenges and the high cost is one of the main reasons. We believe that without any government support in various areas, we will face even more severe challenges.

Therefore, in order to help the transport industry reduce the burden of fuel costs, we think the most direct way is for the Government to further reduce the ULSD duty rate. We understand that a reduction in the duty rate means that stable revenue for the Government will also decrease, thus directly affecting the revenue to be generated for the government coffers. However, the move will help hundreds of thousands of people working in the transport industry. At the same time, it will also help the development of the transport industry and enhance its competitive edge. Relatively speaking, this will help the development of our logistics industry. We hope that the Government can give this further consideration.

With these remarks, I support the resolution. Thank you, President.

**MR LEE CHEUK-YAN** (in Cantonese): President, concerning the Government's proposal today to extend the concession for another two years instead of scrapping the duty, the Hong Kong Confederation of Trade Unions wishes to express its extreme discontent and disappointment. Secretary, I think

the Government is really preaching one thing and practising another. Whenever the Government talks about two things, it sounds as though the Government were the paragon: Firstly, the Government will devote its full attention to economic development and the most important thing is to stimulate the economy and boost Hong Kong's competitiveness; secondly, the Government often says that "the sky should be blue". However, President, when it comes to the policy level, why is the Government totally reluctant to take into account the development of the logistics industry? Did the Government not say that it had to stimulate the economy? If a waiver on this duty is given, will this not stimulate the economy? Our competitiveness will also be enhanced after this duty is scrapped. In fact, I have read the position paper on transshipment submitted by the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) carefully. I feel most concerned about one of the points therein, that is, the high wages and costs in Hong Kong. Honestly, at present, the wages of container truck drivers and drivers in the transport industry have dropped to the rock bottom. If the wages fall any further, they will not be able to support their families or buy any food. However, the Government is still stealing from the pauper's bowl and levying a duty on fuel from them. Why does the Government not give them a breather? If they can be given a break, their livelihood will enjoy greater security.

The other issue is that of competitiveness. In view of Hong Kong's competitiveness now, any cost that can be cut should be cut. At present, oil prices are standing at a high level, yet the Government is still levying the duty from them even though oil prices and the costs are so high. President, I think that if the Government really wants to invigorate the economy, then it should waive the duty on fuel completely. Secondly, if we really want to have a blue sky, then it should not offer a very important factor in economics, that is, an incentive. The Government should try to minimize the incentive for drivers to refuel on the Mainland. If drivers can be induced to refuel in Hong Kong more often, this is in fact also helpful to the Action Blue Sky Campaign. So far, I have only talked about the economy and the blue sky. I just do not bother to talk about the situation of workers with the Government anymore because I believe the Government could not care less, so I have only adopted the language that the Government likes to use and that is, the economy and the blue sky. However, even if I only adopt the language of the Government, it should still waive the duty on fuel completely, particularly when everyone is beginning to talk about how the coffers are overflowing again. In fact, this measure is conducive to stimulating the economy, so there is really no reason for the Government not to do so.

The Secretary is very clever this time in saying that the concession will be extended by two years, however, as Ms Miriam LAU has said, in doing so, he has only avoided being chided for one year less next year, but we will not let go of this matter. I think that for the good of Hong Kong, the Government should really remove all relevant duties as soon as possible. Thank you, President.

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

**MR LEUNG YIU-CHUNG** (in Cantonese): President, many drivers of light goods vehicles have told us that although it seems the economy has now improved slightly, in fact, they have not truly benefited from it because at present, the competition is very keen in many sectors. In particular, Members all know that recently, the dispute between taxi drivers and light goods vehicle drivers is very serious, so the room for their survival is shrinking.

Of course, several Honourable colleagues have said that it is already quite good to give them exemption for two years, however, such a move is still very short-sighted. I believe that what is most important to an industry is to look at matters over the long term. If we look merely at a short span of the next two years, then what about the future? No one will feel any peace of mind. In fact, to society, what matters most is stability and peace of mind. If one looks only at such a short period of time and only considers matters relating to the next two years, one will not know what to do in the future. Therefore, I believe that it would be best if a policy can be laid down once and for all, so that everyone can see what the prospect is. This is anyway better than doing things by the year. Although this time, the Government has looked one more year ahead, still, this is not desirable. I believe that the most desirable approach is to enable people to make long-term decisions on the desirability or otherwise of making a living out of their trades. This is what matters most. Therefore, my view is the same as those of other Honourable colleagues, in that I also hope very much that the authorities can formulate a long-term policy, so that we will be able to see clearly that there will be a waiver.

President, 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 Member wishes to speak, I now call on the Secretary for Financial Services and the Treasury to reply.

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): I would like to thank the Members who have spoken. Let me give a brief reply here. Mr WONG Kwok-hing said that the Government had been impassive to the demands of the industry. However, as we can see, all Members welcome the Government's proposal today to extend the period of the concessionary duty rate for ULSD for two years. In other words, the Government has heard the voices of the industry as echoed by Members. We also have had meetings with the industry in order to understand their situation and have also put forward this proposal. Therefore, I wish to say that the Government has heard the calls of the industry. We have also achieved equilibrium among a number of factors, including the difficulties confronting the industry and the pollution problem mentioned by Mr LEE Cheuk-yan just now. In fact, when this concession was introduced in 2000, that is, in reducing the duty from \$2.89 to \$1.11, the aim was also to improve our air quality. This is already the eighth extension, so it can be seen that in this regard, the Government is concerned about the industry.

However, of course, several Members have expressed dissatisfaction with the Government for not offering a greater reduction and even granting a full waiver. However, when considering this issue, the Government has to take into consideration many factors. Earlier on, I have already mentioned factors such as environmental protection, the industry's difficulties and government revenue. Without this duty, the Government will in fact receive \$1.8 billion less a year. Even at the current concessionary duty rate, the Government will receive \$1.1 billion less a year. Of course, whether this is a big or small sum is open to lengthy debate. However, this tax revenue of \$700 million is still very important to the Government.

Moreover, Mr LEE Cheuk-yan mentioned refueling on return to Hong Kong. As we all know, the current retail price is about \$8.56 and the duty

actually accounts for only 13% of it. I do not mean that it is insignificant. I just want to point out that even if this duty is cancelled, fuel prices in Hong Kong will not be any cheaper than those on the Mainland. In other words, drivers may still, as suggested by Mr SIN Chung-kai, refuel on the Mainland before returning to Hong Kong. This is the reality. Nevertheless, I wish to point out that the Government proposes to extend the period of the concessionary duty rate for two years this time because it has heard the voices of the industry. I would like to thank a number of Members for reflecting to the Government the situations of their respective industries. Therefore, I wish to assure Ms Miriam LAU that when formulating policies, the Government will certainly learn about the situations in various industries from Members of the Legislative Council and this will not change because of any change in the membership of the Legislative Council. I believe that there will not be any change insofar as she is concerned, but even if there is, it will not affect government policies. Thank you, President, and I hope Members will support our resolution.

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

(Members raised their hands)

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

(No hands raised)

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

**PRESIDENT** (in Cantonese): Is it a point of order?

**DR FERNANDO CHEUNG** (in Cantonese): Yes. Thank you, President.

President, I hope to seek your permission to move, without notice, a motion under Rule 16 of the Rules of Procedure to adjourn the Council for the purpose of discussing the incident relating to the demolition of the clock tower at the Star Ferry Pier. I consider this an issue of urgency, as well as an issue of public importance. President, do you require my explanation here?

**PRESIDENT** (in Cantonese): I do not think that I need your explanation for the time being. Please sit down.

**DR FERNANDO CHEUNG** (in Cantonese): Fine.

**PRESIDENT** (in Cantonese): I believe your request is made in accordance with Rule 16(2) of the Rules of Procedure. According to the Rule, a Member may move a motion to adjourn the Council without notice. However, the President must be satisfied that the motion seeks to facilitate Members in discussing an issue of urgent public importance. I now suspend the meeting to further consider your request.

1.44 pm

Meeting suspended.

2.08 pm

Council then resumed.

**PRESIDENT** (in Cantonese): Will the Clerk please ring the bell. A quorum is not present now.

(After the summoning bell had been rung, a number of Members returned to the Chamber)

**PRESIDENT** (in Cantonese): A quorum is now present. We will now continue with the meeting.

Just now, I returned to my office after the meeting had been suspended, and read the written explanation submitted by Dr Fernando CHEUNG for his request. To the public, the issue is important. The question is whether or not the issue is urgent. Dr Fernando CHEUNG indicated that "the demolition is currently in progress, but the Government has not yet provided the findings of the investigation survey, and as the demolition will result in an irreversible situation, an immediate debate has become imperative." I have also browsed the Internet on which I saw a photograph showing the condition of the clock tower at the Star Ferry Pier. It is true that if Members do not get the chance to debate the issue and express their opinions today, it will be meaningless to wait till next week to discuss the issue because by then the clock tower at the Star Ferry Pier might no longer exist. Hence, under the circumstances, I am satisfied that the topic is urgent.

According to Rule 16(2) of the Rules of Procedure, I have no authority to request the Government to designate a public officer to reply at this adjournment debate. I have, however, notified the relevant Bureau. The relevant Bureau very much hopes to take part in this debate, but the Secretary has to chair a meeting and he has to finish his work at hand before he could come over. Staff in his Bureau will listen to the speeches made by Members through direct broadcast. The Secretary has promised to come over without delay to respond to the views expressed by the Members.

I now give permission for Dr Fernando CHEUNG to move the adjournment motion. Dr Fernando CHEUNG.

**THAT THIS COUNCIL DO NOW ADJOURN**

**PRESIDENT** (in Cantonese): Adjournment debate.

**DR FERNANDO CHEUNG** (in Cantonese): President, in accordance with Rule 16 of the Rules of Procedure, I move that the Council be adjourned for the purpose of discussing the incident relating to the demolition of the clock tower at the Star Ferry Pier.

President, can I continue to speak? And, how much speaking time do I have?

**PRESIDENT** (in Cantonese): You have up to 15 minutes.

**DR FERNANDO CHEUNG** (in Cantonese): Fifteen minutes? Thank you, President.

**PRESIDENT** (in Cantonese): Every Member who speaks on this motion has up to 15 minutes.

**DR FERNANDO CHEUNG** (in Cantonese): President, to begin with, I am very grateful to you for permitting the conduct of this urgent motion debate. This motion debate is indeed very important because we are discussing a landmark that is of immense nostalgic value to the people of Hong Kong. From the perspectives of heritage and collective memory, the clock tower of the Star Ferry Pier is truly a source of boundless nostalgia for many Hong Kong people.

Today, we see that the clock tower is being demolished by the Government. The public are extremely worried. Actually, they have all been expressing their concerns through various channels over the past few weeks. Just yesterday, a group of people concerned about the incident even entered the site of works, voicing their disapproval of the demolition. And, their action resulted in the suspension of demolition works.

Throughout the process leading to demolition, the Legislative Council has conducted discussions on various occasions. Last week, Miss CHOY So-yuk asked a written question, and Secretary Dr Patrick HO already gave a reply. However, I find that two points in his reply are open to question. First, the Government claims that years back, the Antiquities Advisory Board (AAB) did not oppose the demolition of the clock tower at the Star Ferry Pier. But according to recent media reports, there was in fact no direct discussion on whether or not the clock tower should be demolished, nor was any vote taken on this. To be exact, I should perhaps say that discussions were conducted, but there was no formal voting. In other words, the AAB simply did not give its members any chance to express approval or disapproval. Therefore, we can basically conclude that the Government has been playing with words. The Government claims that no one raised any objection at that time. But the truth



is that there was simply no voting at all. In that case, how could there be any objection? We may also listen to Mr Albert CHAN, who was a member of the AAB at that time. Having read the record of a meeting in 2002, he noticed that there was one member who said that the demolition of the clock tower would arouse his concern. But there was no voting at that time.

Another Legislative Council Member, Prof Patrick LAU, who is not present now, was also a member of the AAB then. He has stated very clearly that there was no voting whatsoever on the issue of demolition. Therefore, the Government's claim, the claim that the decision of demolition was based on the absence of any objection from the AAB members, is seriously flawed. It is just playing with words.

Second, the Government in fact commissioned an expert to conduct an inspection at that time. To be precise, it should be a survey, which is something like an environment impact assessment. The report released in February 2001 was written by an expert named Peter CHAN. President, with your permission, I would like to quote the fifth paragraph of the report, that is, the paragraph on the historical value of the Star Ferry Pier and the clock tower: "The present pier was built in 1957. It has now served the community and tourists for over 43 years. Its golden days were in the late 1950s through the early 1970s before the introduction of public transport making use of the Cross-Harbour Tunnel completed in 1972. Although its age alone could not qualify itself to meet the minimum requirement of the historical building, it merits itself of great significance in her role played in Hong Kong's transport history of modern era. The pier, especially its clocktower, is a visually important landmark in Hong Kong. It is an eye-catching icon within the beautiful Hong Kong Harbour particularly for tourists and locals crossing it via Star ferries from Tsim Sha Tsui. It is also impressive for tourists as crossing the world famous harbour via Star ferries is a must on their itinerary. No other ferry pier along the harbour could possibly perform such a symbolic function as this clocktower pier. The removal of the Star Ferry pier to Piers 4-7, leading to its destruction, would likely raise public objection and dismay." End of quote. This report was written by an expert commissioned by the Government itself. Obviously, the part quoted by me can highlight the importance of the clock tower. And, the recommendation of the report can be found in paragraph 6.1.1, and I quote, "Its future home in Piers 4-7 proposed is entirely not

welcomed. Consideration should be taken to relocate the clocktower, if not the whole pier building, to a new home suitably in harmony with its surroundings."

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

Deputy President, according to the report, the Government's proposal years ago on relocating the Star Ferry Pier to Piers 4-7 was not welcomed at all. The report also says that even if the whole pier building is not to be relocated, consideration should at least be given to relocating the clock tower to a new home, a new site, suitably in harmony with its surroundings. Both the actual discussions in the AAB and the report of the expert do not mention that the clock tower at the Star Ferry Pier should be demolished today.

Furthermore, it seems to me that the Government has tried to hide the expert's report from public attention. The report should have been uploaded onto the Internet, but when people tried to gain access to it, they failed to get any information. In the end, some concerned parties approached the Environmental Protection Department and managed to get a copy of the report. They then found that it was not recommended to demolish the clock tower in this way. Therefore, we can notice that the Government's decision-making process relating to the demolition of the clock tower is actually marked by very obvious flaws.

We therefore hope that the Government can suspend the demolition and let the AAB reopen its discussions, so that more experts can discuss the protection and conservation of the clock tower in a more in-depth and detailed manner. We also hope that the Legislative Council Panel on Planning, Lands and Works can convene a meeting as soon as possible and invite the relevant government authorities to offer an explanation on the issue. The public want to preserve the clock tower and accord suitable protection to this landmark of such nostalgic and historical value.

Deputy President, I so submit.

**Dr Fernando CHEUNG moved the following motion: (Translation)**

"That this Council do now adjourn for the purpose of debating the following issue: Demolition of the clock tower at the Star Ferry Pier."

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

**DR KWOK KA-KI** (in Cantonese): Deputy President, first of all, I wish to express my thanks to Dr Fernando CHEUNG for moving this motion.

Yesterday, Dr CHEUNG and I visited the works site. I seldom have any chance of visiting any works site because I am a medical doctor and do not know where to find any works site. However, Deputy President, why did I go to the site? The reason is that some people at the works site saw the demolition of the clock tower. They knew that it was the most critical moment, so they had no alternative but to stand in the way of the bulldozers.

Deputy President, the situation yesterday was very dangerous. They might think that the environment was already safe enough for taking such actions. But I still maintain that standing in the way of bulldozers may not be the most appropriate tactic. However, why did members of the public still do something like that? Perhaps, a long time ago, during the colonial era, Hong Kong people all considered themselves as mere sojourners, so they might not have such strong affection for Hong Kong. But when we now see people taking such actions, should we adopt the same attitude as that of the Government, thinking that these people are just trying to stir up trouble? Or, should we be happy, happy to see that so many Hong Kong people have come to regard Hong Kong as their home and some broken buildings with no commercial value as treasure? But these buildings are true treasure indeed.

When we visit other major cities in the world, such as London or other European cities, we will not bother so much to look at all the skyscrapers there. Probably no one will pay a special visit to the Canary Wharf to see all the new buildings there. But we will certainly visit the old city areas — the old city areas of Prague, London, and so on. We will invariably visit the old city areas of various places. But when the local people or visitors try to identify things in Central that can give them a sense of pride or that are worth preserving, they will find that all the historical relics have already been destroyed by the Government's bulldozers.

Let us re-examine this issue. What are the justifications for demolishing this pier? On 5 June 2002, the Finance Committee approved a funding request.

At that time, the justifications put forward by the Government were basically about the construction of road transport facilities, the Airport Railway Extended Overrun Tunnel and some necessary nullahs. Actually, why must the Star Ferry Pier be demolished? It is also because of these three reasons. I suppose no one nowadays will object to infrastructure construction and the making of progress in Hong Kong. No one will oppose the construction of an overrun tunnel. No one will say that we should not construct nullahs to drain water into the open sea. What we oppose now is just the Government's decision of destroying a historical relic which all Hong Kong people want to preserve.

I can remember, Deputy President, that you and I were both on the last sailing that night to commemorate the closure of the pier. Actually, all the onlookers and ferry passengers there, including me, were very sorry. Our feelings at the moment when all the lights went out really begged any description. This is something that is well worth preserving, but under the existing mechanism, it cannot be preserved. I think many Hong Kong people all had a strong urge to do something at that moment, wondering, "Why are we unable to do something more? Is it really impossible to preserve it?" I think this message has already reverberated continuously through the whole city.

Yesterday, some demonstrators forced their way into the site. Actually, it was not the first time that they took such an action. Deputy President, you may not be aware that this Monday, that is, two days ago, 24 Legislative Council Members wrote a letter to Secretary Michael SUEN. We were no seers, so we could not foresee what would happen the following day, that is, yesterday. But we were very sure that many people were extremely concerned about the preservation of the clock tower. Unfortunately, however, the Government has remained silent all the time over the past two days, that is, the 11th and the 12th. It has remained silent on whether or not it will meet with these 20 or so Members. Yesterday, many demonstrators still pleaded with the Government on two requests: first, a meeting with Secretary Michael SUEN; and, second, the suspension of demolition works before the meeting with him.

It is a pity, however, that their requests will not be entertained. We made many telephone calls yesterday (I myself also made many telephone calls just this morning), but Michael SUEN has not bothered to make even one single reply. What must we do before we can see him? Deputy President, since you have

been staying in this Chamber all the time, you may not be aware of what has been happening. Earlier on, we were told that he would see the press at around noon. For this reason, 10 Members hastened to the Government Secretariat despite the rain. They all stood foolishly beside the journalists, in the hope that after the press conference, he would spare some time to meet with them. We do not mind having to do so, but we also think that it is shameful for the Government to adopt such an attitude towards the public and Members, because it is simply not true that the Secretary has had no time at all. Besides, we have not asked him to accommodate himself to our schedules either. Our only hope is that he can see us, or even give us a simple telephone call, at any time he likes. But the Government is not even willing to do so.

The public may look at this incident in two ways. First, they may also want to preserve the structure. Second, however, they may question why the demonstrators should be so extreme in their actions. But if Members can see things from the demonstrators' perspective, they will understand why. Do these demonstrators have any channels of voicing their aspiration? Besides taking such actions, what else can they do to make the Government listen to them? They have no power and no channel, and they do not have any opportunity of meeting with principal government officials, including Secretary Michael SUEN. We are luckier in this respect, because if we can stand there stupidly for a while, and he may agree to see us, or he is obligated to see us in the presence of the press. However, ordinary members of the public will not have any opportunity of seeing government officials. It is impossible for them to get in touch with any principal officials. For this reason, they must take such actions to deliver their strong message. I can appreciate their action.

When we met with Secretary Michael SUEN just now, he kept repeating two points. And, even now, I still find such repetition regrettable. First, he claimed that the issue had been discussed twice in the Public Works Subcommittee, and he thought that there was no objection. Actually, at the meeting in October, Mr Alan LEONG did move a motion with no legislative effect, demanding the Government to stop the demolition of the clock tower and the ferry pier. The motion was passed by the Members who were present. When the Government attended the meeting in November, it reported only on the progress. At that time, many Members, including me, all told the Secretary that we did not approve of the demolition. But today, he has simply distorted the fact, claiming that we never raised any objection.

I find the Government's attitude unacceptable. I can understand why Dr CHEUNG made all those quotations and I sympathize with him. Some members of the AAB have chosen to make their positions public because they know how the Government does things. Unless it has signed an agreement with us which reads "I (name) did raise my objection before you on (date)", our objection will be disregarded. If the word "objection" is not mentioned, if there is no voting, all will be disregarded, and it may even be said that there is support. What kind of attitude is this? Then, the authorities will argue, "Since there was no objection from you, we now have every justification for actions." Apart from saying "it's not fair" and expressing our outrage, there is nothing else we can do.

The Government may have started its bulldozers while we are still holding our discussions. But it must not be happy too soon. What it is going to pull down is not a concrete structure but the hearts of Hong Kong people — their trust and good faith in the Government. Once the Star Ferry Pier is bulldozed to the ground, people who once had any good faith in the Government, people who cherished any unrealistic expectations for it and thought that it would protect our heritage and historical relics must realize one fact — the Government will never do so.

Deputy President, the document was written by the Government in February 2001. They have deliberately refrained from uploading the document onto the Internet. And, after reading all the documents of the Public Works Subcommittee and the Finance Committee in 2002, I can find no mention of this matter. If we can have access to this document ..... Dr CHEUNG has already quoted it, and I do not intend to do so again. But I still wish to raise one point again. Regarding the Star Ferry Pier, the document mentions that its relocation to the new pier sites will not be welcomed. The recommendation is very clear. The best option should be preservation. If this is not possible, relocation should be considered, and nothing like what is being said is mentioned in the document (I cannot help laughing after hearing some of those ideas). They say that after shattering the pier, after demolishing it, they can make use of the so-called 3-D laser technology. What they mean is that laser beams can be emitted, and people can then be shown the Star Ferry Pier right before their eyes for their remembrance. All is just air, but the Government claims that this is possible.

If we look at the cities near us, such as Macao, Singapore and many other cities, we will observe that whenever such places are identified, they will invariably treasure them very greatly. When did we ever see the local people and even foreign visitors express such a great desire for the preservation of something after all? Many Members and I attended various assemblies relating to the Star Ferry Pier, in a bid to voice our views. Sometimes, we talked to foreign visitors. I can remember that the last time, I talked to a visitor from Boston.

Members all know that there is also a harbour in Boston. The visitor, who happened to be an architect, exclaimed, "Are you sure? You mean the Government wants to demolish the pier?" He said that in Boston, people would certainly exert their very best effort to protect something like this. Because of what he said, I tried to find some information about the waterfront facilities in Boston. I now know that what he said is indeed true. In a bid to protect the harbour, the people there spent billions on excavating the Big Dig. As Members all know, the people in Boston have suffered immensely as a result of the Big Dig. The reason is that the traffic there was plunged into absolute chaos and all road traffic had to be diverted underground. So, there are all those people who are so stupid as to spend billions on protecting their harbour. Constrained by its own mindset, the Hong Kong Government will certainly find all this impossible to understand. It will think that all these people must be insane and wonder why they have spent so much money for the purpose.

However, why do people want to visit Boston? People visit Boston because they want to see the harbour and all the historical relics there. Deputy President, now that everything has been demolished, what else in Hong Kong are still worth seeing? A couple of days ago, members of the Public Works Subcommittee visited the site, but we were all terrified by what we saw. We saw that an 18-storeyed building was to be erected next to Piers 5-6. The building will block the sightline from Piers 5-6, and the only thing visitors can see after boarding a ferry will be this 18-storeyed building. The two sides of the harbour will all be lined by tall buildings and shopping arcades. I cannot help asking, "How can this be possible?" Which countries' people will like to visit a place just for seeing its shopping arcades, commercial buildings and hotels? Which countries' people have never seen all these things before? Why must the Government be so myopic, killing the hen for its eggs?

The Government has distorted some facts. Secretary Dr Patrick HO has said that nothing has been distorted, only that not the whole story has been told. He has been saying that nothing has been distorted, only that something has not been disclosed clearly. What he means is that no one should accuse him of lying simply because he has not told the whole story. If government officials are to run Hong Kong with such a mentality and attitude, what will become of us?

Just now, some said jokingly to me that in this incident, even the principal officials did not have any final say. Actually, they did leave behind a hint. They said, "Sir<sup>1</sup> is watching." This means that the man with the highest authority in Hong Kong is watching. I do not know whether this man is watching the live broadcast of this meeting. In case he is, I wish to implore the Government, on behalf of Hong Kong people, to drop its cleaver. The people's request is very modest. They request the Government to preserve it, and if this is not possible, they hope that ways can be worked out to relocate it. This is technically feasible.

We now wish to put forward a request. I do not know whether Michael SUEN will reply to it an hour or two later. Earlier on, 10 Members met with him and told him that before experts could discuss how the whole structure could be relocated or preserved, before our Public Works Subcommittee made any final decision, the pier must not be demolished. He did not promise us anything. But he said that he would give us a reply. Later on, he may come back and reply to us.

We must put forward the request to the Government once again. Both Michael SUEN and Donald TSANG must realize that what the Government's bulldozers will tear down will not be a mere concrete structure. Its bulldozers will also shatter the people's hearts. When this happens, the people will lose their trust and faith in the Government, thus rendering its governance deficient in integrity.

I so submit. Thank you, Deputy President.

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<sup>1</sup> This form of addressing a man in authority is a legacy of Hong Kong's colonial past.



**MR LEE WING-TAT** (in Cantonese): Deputy President, first of all, I would like to thank Dr Fernando CHEUNG for proposing this adjournment debate. I would also like to thank members of the public who risked being arrested when they entered the site last night and staged a protest in civil disobedience to arouse public concern for the matter. Their action made it possible for us to hold a debate here today.

With respect to this issue, I have a feeling that, in the course of my contacts with the Government, it is a bit upset. It often says that the work being done has gone through all the statutory procedures. Last month in the relevant meeting of the Public Works Subcommittee, I did not query this claim of the Government that it had gone through all the established statutory procedures, the Town Planning Board, the District Councils and that approval was gained from the Finance Committee of this Council for funding a reclamation project and that a consequence of that reclamation project was that the place had to be pulled down.

On that occasion, I said to Mr Michael SUEN, the Secretary for Housing, Planning and Lands, that as a Director of Bureau, he should not be paying no attention to the changes in society during these few years past. As far as I can remember, no one had ever uttered the words "protect the Victoria Harbour" before the year 2000. Now even children know about what "protect the Victoria Harbour" means. Why? Because in 2002 and 2003, there appeared a movement to protect the Victoria Harbour and the case was brought to the Court. This is why the people of Hong Kong now attach great importance to protecting the Victoria Harbour.

In the past, we used to think that almost every building could be torn down if they could make way for commercial high-rise buildings of 50 or 60 storeys. A few years ago, the Kom Tong Hall was not a statutory monument and the residents of the Central and Western District as well as many members of the public said that it should not be pulled down. Instead, it should be renovated as in the case of the quarters of the Central Police Station. So both at that meeting and now I am saying the same thing, that the Government should realize that there has been a complete shift in people's attitude towards protecting the Victoria Harbour and conservation of antiquities and monuments after these few years.

The people think that economic development is not the only consideration in urban planning. They are of the view that protecting the harbour and built

heritage are more important than just economic development and constructing high-rise buildings. Of course, every member of the public knows that when we say this, everyone will have to pay a price and that means the taxpayers and the Government alike. The price is that public revenue will be less if old things are not pulled down and the land is not put up for sale. But I think in these few years, the people have indicated their choice very clearly, that is, they would rather not sell the land, not pull down the old buildings and have less public revenue. They want to protect these old buildings.

These old buildings may not matter so much to some young people. But for middle-aged people like us, we would remember the Star Ferry trips we took to the other side of the harbour, the many meetings we held there — those pro-democracy meetings and the marches and protests. Mr LEUNG Yiu-chung and Mr LEE Cheuk-yan once staged a 50-hour hunger strike there in 1997 on the repeal of some law. All these collective memories cannot be measured in money terms. At times people would say, "Since these cannot be measured, so why should these people care so much about them?" Actually, Deputy President, more and more such things appear and their social value cannot be measured in money terms. Such things relate to views shared by the public. They are part of the collective memory the people share. They are some common value preferences. The Government must never take these lightly.

So in any case, I would still advise and hope that both the Secretary and the Chief Executive would think over the point that this issue has become a major social incident on which divergent views exist between the public and the Government and there is even a rift between them. If the Government still wants to force its way through, this will become something quite beyond any remedy. I agree with what Dr KWOK Ka-ki has said, that the Government might have the power to pull down the clock tower at the Star Ferry Pier but the move would destroy the heart of the Hong Kong people. I read an article in *Ming Pao* today written by a certain "LEE the Prophet" (that was of course not a real name) on this issue with headlines in Chinese which meant "Outcry caused by clock tower demolition plan, CE enraged and orders three Bureaux to fight back". I think strong governance does not necessarily have to mean doing things in a high-handed manner and it is not the same thing as when people have any views, such discontent should be nipped in the bud as what Premier LI Peng said in 1989. At times the Government may do as it has done with the introduction of sales tax that when people voiced their strong opposition, the proposal was withdrawn and the matter would be shelved for second thoughts. The Government has my appreciation for taking such an approach.

Maybe the officials and Directors of Bureaux — who could be people I know — find it rather hard to swallow since the matter has been raised for consultation for so many years — consultation was done in 1999, 2000, 2001 and 2002 — and there was no opposition from the people all through these years and now suddenly when it is about to be demolished, the people would come out to oppose it. Bystanders will sense this kind of nervous and upset feelings. Michael SUEN once displayed his being upset about the matter right in front of me.

I must advise Mr SUEN that the people actually have a different way of thinking from his. The general public works by day and rests by night and how can people be expected to have read the Gazette on-line in 2001 and learnt that the Star Ferry Pier was involved. Actually, there was no mention of the Star Ferry Pier at that time and all that was said was the reclamation project at Central. How could the people know that there was a plan to demolish the Star Ferry Pier and how could they be expected to voice their opinion on that? This is something never easy. I only hope that he can be more open about it to see if there can be some room for manoeuvre in this.

I also hope all the more that Chief Executive Donald TSANG can be more tolerant. I hope this LEE the Prophet was wrong — please stop sowing discord — but let me first assume what he wrote was true. When people express a different view, you do not have to press it to death with your thumb like what you do to an ant so that you can have your way. Grievances can build up in the people. Of course, you can bulldoze the clock tower level, but why can you not tell the people that you have tried your best and considered many ways and means, but unfortunately, nothing can be done. I think the people would take this into their consideration.

More so I do not hope, as the article says, that it is precisely because the people hold a different view and many green groups and political parties want to take on this matter that the Chief Executive will want to pull it down sooner so that these people will have nothing to complain about. I hope the Chief Executive can think it over. This is because when so much is done to go against public opinion, it is the Government which is going to pay in the end. Of course, this Government will not have to step down because of this matter, for it is not elected by the people. But it will find its governance harder than ever. The people and the middle class will remember this. I do not know if in the elections held on last Sunday, that even for elections in such a small circle as the Election Committee, the results had displayed public grievances or discontent

with the Government. It may be the case, or it may be not. If it really is, the Government will surely have to think it over.

Deputy President, I think there is something which touches a deeper level. Last time during a panel meeting I voiced my opinion on that, that our law on antiquities and monuments is very backward. The backwardness of our law is that only one consideration is given and that is, the age of the building is crucial to whether or not it should be regarded as a historical building. There are, of course, a further classification of Grade I and Grade II. However, many of these historical buildings may not be more than 50 years old but there is strong public demand for their conservation. One such example is the Star Ferry Pier.

Another example is the Government Headquarters on Government Hill. It is also a building with an age of less than 50 years and this is no different from the Star Ferry Pier. I hope Secretary Michael SUEN and Chief Executive Donald TSANG will never do it again. If Government Hill is to be demolished, there will be far greater public outrage. We have pointed this out in advance and so please do not say that we have not said it.

Looking ahead, the lesson which the Government should have learned in all these many cases of heritage conservation is that it should take the initiative and come out and say that the law on antiquities and monuments should be put under a full-scale review. The policy on heritage conservation in Hong Kong should likewise be subject to a full-scale review. That piece of legislation has not been reviewed for so many years. There is no turning back for many heritage buildings in Hong Kong which have been pulled down. For these buildings, I do not think we should debate on them or blame anyone anymore. What we should do is from this day onward, we should be able to see this consensus among the people, that they realize very well that they will have to pay a price in financial terms, but they are still willing to do it. We should make it a policy for society and the Government, and whenever we will come across such things, we would subject them to some sort of examination. There is an environmental impact assessment under our laws and for works projects. Why can an assessment not be made of antiquities and monuments for their collective memory among the people? This can be done. In foreign countries, I know that a gender impact assessment is also undertaken to see if the policy concerned would constitute any discrimination against the male or female sex. So this can be done. With respect to policies and works projects, if we are clear about our direction, we would not make the same mistake.

At times a crisis can be turned into an opportunity. If Mr Donald TSANG wants to be on the side of the people, he should come forward and say today that he would rethink on the project. He should tell the people that he will try his best not to pull down the clock tower and he will make changes to the Central reclamation project and the alignment of the P2 road. Or he may tell the people whether or not he will try his best to see if the clock tower can be relocated in its entirety and intact in some other place. I am saying this because according to the Government, it wants to demolish the clock tower and then revive it as a three-dimensional laser projection image. I do not think this is what the people really want. If the Chief Executive can really listen to the people and take their views, I do not think he will be unaware of that matter.

That LEE the Prophet says that this past Monday, the very first thing which the Chief Executive raised when he convened the morning assembly with the Secretaries of Departments and the Directors of Bureaux was not whether Mr Alan LEONG would be able to get the 130 nominations to qualify as a candidate for the Chief Executive election. The first thing he talked about was the Star Ferry affair. I hope what this LEE the Prophet has said is true, for it shows that the Chief Executive is very concerned about this matter. But his conclusion is that Donald TSANG wanted to put out the flame at once. That would not be a good thing. As a Chief Executive of the people and though he is not elected by the people, if he acts against public opinion, it would certainly be bad for his governance in the long run.

I hope Donald TSANG — if he cannot hear that himself, his secretary would certainly be able to hear that — can think over the point that if too much is done against public opinion, the Government will lose the support of the people. Thank you, Deputy President.

**MR ALBERT CHAN** (in Cantonese): First of all, I would like to thank Dr Fernando CHEUNG for proposing this motion topic and the President for allowing this debate to be held. I would also like to thank members of the public who are at the site of the Star Ferry clock tower. They have used their bodies to stop the demolition work yesterday and today. I wish to pay them my greatest respect.

At last, the people of Hong Kong have come forward and they are doing something now to oppose a decision which is unreasonable and against the will of the people. The people are gradually awakened. In the times of TUNG

Chee-hwa, half a million people took to the streets on 1 July 2003. In this demolition exercise, though the number of people taking part is not large, it is an unusual and refreshing example of social resistance in our history. I hope more people will join in today so that the people's mind can be stimulated and they can wake up to the fact that they must stand up and fight for their rights. This is because not only are the Hong Kong people deprived of their democratic rights, but also public opinion is often distorted and the freedom of expression curtailed. What is more outrageous is that the collective memories of the people are always being erased by the Government. It may be that all totalitarian or undemocratic governments will want their people to have no thinking and it would be great if the people have to work hard to sustain a meagre living. It is like what some Members in this Council have said, "The people only want a rice bowl but not a vote." It would be the best if the people will work like a robot and cannot think. They will do what the Government tells them. The ideal way to govern is by fooling the people.

The strongest ground put forward by the Government for demolishing the clock tower is that it does not meet the requirements of a monument. The building does not have any special value in architecture, that is, it does not have any architectural merit which calls for its conservation. But we must know that if only by looking at the definition of a monument, this clock tower may not meet the relevant criteria. However, this building itself has got historical value and social value as well. The people are sentimentally attached to many buildings and so with respect to this building which is part of our collective memory and has got historical value, the Government cannot treat these factors lightly and go ahead with the demolition plan.

What is most outrageous is that the consultancy hired by the Government has also pointed out in its study that an overwhelming majority of the people cherish the clock tower and want to preserve it. But this report has not been allowed to see the light of day and it is only until very recently that it is disclosed. Unfortunately, this Government of ours which lacks integrity has gone to the extreme of covering up the relevant part of the report. If this Government has to resort to such trivial tactics and unscrupulous means to mislead the people and fabricate public opinion, it only shows that it does not have the slightest trace of integrity at all. Actually, the officials concerned should take the blame and resign because of the use of such shameless tactics. I think such tactics are in the same vein as the car purchase incident of Antony LEUNG. A Secretary of Department or a Director of Bureau who uses such mean tactics is not fit to stay in such office.

Deputy President, on this occasion and during the entire process, the Government has pointed out many times that consultation was conducted a number of times with respect to the outline plan and many studies on the project. I wish to point out an objective fact and that is, what the Government has said is not entirely wrong. However, I wish to point out one thing, consultation exercises conducted in past are mainly about the entire area of the zone and about the land use and planning in the outline plan. All the papers concerned have never mentioned whether or not the clock tower is to be torn down. The people have never been consulted on this. The worst thing is that as I said just now, had the Government disclosed everything in the reports earlier on and if the view of the consultancy on the demolition of the clock tower is clearly set out in the report, I believe Members of this Council would not have omitted the issue of the demolition of the clock tower back in 1999 and 2002. The reason is that past discussions only focused on land use in the planning of the Central and Wan Chai waterfront. Nothing was touched on the preservation of the clock tower and the Government did not hold any consultation on that issue, right? The case is like in studying the design of the airport, there was not any discussion on the size of the toilets in the airport. This is why after the commissioning of the airport at Chek Lap Kok, it was found that the toilet compartments in some toilets were too small. Hence the toilet compartments had to be pulled down later by the Airport Authority and the facility had to be redesigned to give greater convenience to toilet users.

Of course, when there are omissions in the consultation process, those Members of the Council at that time cannot shirk their responsibility entirely. But nothing was mentioned at all in the discussion papers of the authorities and the part of the report on the clock tower was deliberately erased and covered up. This is really unforgivable. The situation is like that of a football game, the Government is playing foul and it touches the ball with its hand in the penalty box. Only that the referee did not see it. Then the ball gets into the goal and it is considered a score. This is nothing to be proud of even if the team wins the game in the end. The Government is right when it says that it has gone through all the statutory procedures. But it definitely did not act properly in considering this issue.

With respect to this issue, the Government — be it the Director of Bureau, the Chief Executive or our Chief Secretary for Administration — holds the

consistent view that the clock tower does not have any conservation value. These three officials who have handled this issue are in fact technocrats in the conventional sense and they can only view the issue from the perspective of technocrats and from the approach taken by conventional administrative officers in policy formulation and execution. They will never say they are sorry or they are wrong, and they will never change. They will just act according to this "three never" principle. They will only bring the issue to a dead end and cause more conflicts and anger among the people of Hong Kong. I hope they will never make the same mistakes of the technocrats again.

Mr Donald TSANG called himself a statesman when he announced his plan for re-election. If he considers himself a statesman, he should never allow himself to be fettered by the narrow thinking of the technocrats to such extent that he is strangled to death. He should ponder over the issue with the mentality of a statesman and make a political decision with the wisdom of a statesman.

If this issue of the clock tower at the Star Ferry Pier is not handled properly, it may evolve into something that resembles the Spring of Prague movement. That is to say, as the people are gradually awakened to their sense and as they take steps to press the Government into action, this may well be a very special issue that unfolds the mighty tide of pro-democratic movement in Hong Kong. This is because the value of collective memory in history can never be measured in money terms alone. This collective memory can never be erased by a few sweet words or cracked down by high-handed tactics. I call upon the Government to mend its way and make a rational and wise decision. I also call upon all the people of Hong Kong to come forward and use their voices, bodies and actions to show their support for the preservation of this item of collective memory.

**MR WONG KWOK-HING** (in Cantonese): Deputy President, I am very grateful to Dr Fernando CHEUNG for proposing this emergency debate to enable us to debate on this motion today. I am also very grateful to the President for seeing the urgency of the case and realizing that the clock tower may be gone forever once it is pulled down and for giving approval to hold this adjourning debate. I wish to thank all the more a group of people who have such strong feelings for Hong Kong that they are fighting for the preservation of the clock tower at the Star Ferry Pier.



Does the Government have no other alternative but to demolish the Star Ferry Pier? Can the Government not at least consider the issue from a number of factors to meet public demand and accede to their request?

First of all, let us review the last 10 to 20 years to see which building in Hong Kong that had a considerable history could have evoked such fond memories in people so that tens of thousands of them would come before the building was demolished to reminisce, bid farewell and pay their last tribute? I think that the only building that could command such behaviour of the people is the Star Ferry Pier. On that night, as I had some public service function to attend, I did not go there to pay my last tribute. But when I passed the Star Ferry Pier, I could just see crowds of people, people coming along with the old and the young members of their family and bringing all sorts of photographic equipment to record the most memorable moment. Those who did not have a camera were taking photos with their mobile phones and put the historic moment on record. It was so very moving and I was much moved. I thought that some sort of a carnival was taking place, but it was not. It was just thousands of people who flocked to that place, bringing their old and the young ones. They all came there by themselves and all they wanted was to leave some endearing and enduring memories.

We see that these people have such a strong emotional attachment to Hong Kong which is their native place. Just imagine over the past few decades, which building in Hong Kong could have evoked such lasting memories among the people? No. It is not that there were none in the past, but they have all been torn down. Nothing can be done about them now. Like the former General Post Office in Central, the Tsim Sha Tsui Railway Station, and so on. For the Tsim Sha Tsui Railway Station, all that is now left is a clock tower for the people to reminisce about. From what the people have done of their own accord at the Star Ferry Pier and the fond memories they have for it, it is evident that there are deeply entrenched sentiments in the people. But why does the Government fail to sense these sentiments? That really baffles me.

Second, if it is said that something will only have conservation value after 50 years, the clock tower at the Star Ferry Pier has a history of 48 to 49 years already and so it is just a question of when one starts to count, whether it is from the planning stage, or from the date of completion or from the time it was first used. All this is hair-splitting and so why should we stick to the 50-year requirement? Is this age requirement the only concern when it comes to the

question of whether a building is to be preserved or not? If this is the way the Government thinks, would it be too rigid? The clock tower at the Star Ferry Pier really carries collective memories of Hong Kong people. When I was young, my deepest impression of the Star Ferry was when the Star Ferry increased its fare by five cents, it caused an uproar in society. Such collective memories are a good illustration. Likewise, there are also many fond memories in our life. On the last night of the Star Ferry Pier, I saw many people taking the last ferry ride. On the newspapers the next day, I read about how people came to meet their better halves on the ferry.

I also have some personal memories of the Star Ferry. Deputy President, in those days in order to court the woman I love — she is now my wife — I would ride the first ferry of the Star Ferry on Sundays to the other side of the harbour and then got on a tram to Shau Kei Wan. Therefore, I have very fond memories of the chimes from the tower as the clock strikes the hours. However, I did not share these memories with my friends on that night. I believe people of about the same age as ours and those people of Hong Kong who have lived in those times will certainly have some unforgettable memories of the Star Ferry Pier and its clock tower. I have some unforgettable memories. The people have their memories and this is something the Government wishes to see. It shows that we all love Hong Kong. What is wrong to keep that clock tower which is a symbol of our love for Hong Kong? I just fail to see why.

(THE PRESIDENT resumed the Chair)

Third, for antiquities and monuments, apart from conserving and maintaining them, can the Government not think about how they can be revitalized? If they can integrate with the local culture and economy and be revitalized, more cultural, economic and social activities can spin off from them. These will not only become notable landmarks and teaching materials for the Government, the public and also in terms of the history of Hong Kong. In the summer, I went with some Honourable colleagues to Taiwan for a study tour and I saw how the Taipei Government conserve its monuments and how they are revitalized. These antiquities and monuments are integrated with the community and with the enterprises through the efforts of the local government. These places have become attractions for the people, drawing huge crowds there to pitch in and hence imbuing vitality to the economy and culture there. What we should do is to revitalize, not to bury, eliminate and outlaw them.

The most well-known example is — I do not know if many people in Hong Kong have ever heard of it — is the Taipei Story House in Taipei. It is located in a building built by some tea merchants before the Japanese occupation. It was a place where commercial activities used to take place and now with the passage of time the owner has not pulled it down for redevelopment. Now the owner runs the place himself and holds many cultural activities there, such as storytelling and an exhibition of the history of Taiwan. Many local groups and artistes are permitted to use the place to tell the history and culture of Taiwan to the visitors. So for this small place of the Taipei Story House, one can get a glimpse of the cultural scene in Taipei.

Hong Kong has such a good place as the Star Ferry Pier which has got a clock tower which the people love so much, why can it not be preserved, revitalized or relocated to another place so that it can fully play its part and thus prevent the confrontations that are now taking place?

President, you have really done the right thing. Now we can still see the clock tower online. But if no discussion is held today and if it is postponed till tomorrow, by then the clock tower may have been pulled down. President, you have really done the right thing. I believe this move will go down in history.

Despite all these, can our discussions today make the Government change its mind? I am really worried. In the speeches made in this debate, I think the demands of the people are very humble indeed. First, they hope that the demolition can be postponed, that is, no demolition is to take place for the time being. Second, the relevant bodies such as the AAB should be given time to discuss the matter. But why is this favour not given? Third, is there any other and better way to dispose of the clock tower?

Such humble demands are actually three points and there is no such talk as revitalization that I have just talked about. If the Government does not accede to such humble demands from the people and if it cannot give thoughts to them in a sympathetic manner, then I would really feel most sorry for it. My worries are not unjustified. President, when the first oral question was being raised today, I was so furious that I was close to being lost for words. Why? Because the reply given by the Secretary to my question did not tally with the truth. I do not wish to say that he was lying. It is because I know that he has just come back from Beijing and he may not know the matter very well or he may

not have a good grasp of the information given to him by his subordinates. Indeed his reply has deviated from the truth. I have my proof and evidence. People on the public gallery heard him make those remarks. The fact was that the remains of deceased persons had been mixed up. How can it be said that no such things happened? There was no fire escape in the workplace and it certainly was. Why was it said that there was a fire escape? It is perfectly clear that workers on outsourced contracts reported duty on 1 October, but he said that there was no such thing.

Why am I citing these examples? This is because I am doubtful if those people at the top-most echelons of the Government, those at the decision-making level, know about what is happening in the people. Do they know the truth? Do they know what the reality is like? I am very much worried. President, I do not wish to use other adjectives to criticize and I do not wish to sound sensational. I just want to tell the truth. If those at the top-most decision-making echelons of the Government fail to see what is happening among the people and if they are misled and blind to the truth and so they are bent on having their way, this would lead to catastrophic outcomes. A much greater row may erupt. This is the last thing that people who love Hong Kong would wish to see.

So, President, I am not "polishing your shoes", but you saw two photographs of the clock tower on the Internet and came to the view that the matter was so urgent and discussion should be held no matter what would be the outcome of such discussion. You know what should be done. But when the Secretary gave us a reply this morning, did he go to the scene and inspect it? I bet he did not. If he did, how could he say that there was a fire escape there? It is a simple black-and-white answer to say there is or there is no fire escape there, right? People cannot be cheated this way.

I have cited this example because I feel very sorry and I am very upset. The clock tower at the Star Ferry Pier may actually be a trivial matter, but I hope those at the top echelons of the Government who make decisions will not just listen with their ears. They should study into the issue like the President, try to know more and feel the pulse of the community. It is only then that they will know what the people are thinking and so no wrong decision will be made as there can be no turning back for a wrong step taken will certainly lead to a storm that could otherwise be averted.

President, I have made these remarks from the bottom of my heart. Thank you.

**MR RONNY TONG** (in Cantonese): President, every year I would go for a trip in the United Kingdom. I enjoy visiting some of the old mansions there as the United Kingdom is abundant in articles of historical and cultural interest. When I went to the United Kingdom this year, I could see many people there taking an active part in a social movement known as History Matters. I was much moved then and felt that the United Kingdom is a place with a rich historical background, though its history is admittedly not as long as that of China. However, there are many places with very strong historical and cultural background and that is something admirable. We can see that they attach such great importance to history and the people there are doing the best they can to fight for a better preservation of their collective historical memory.

Though Hong Kong is a tiny place, it has a very colourful past. Why is it so difficult to find a building dating back to the colonial times in Hong Kong? Does our Government think that our past is a disgrace and it is not something we can take pride in and so this accounts for the lack of a determination and sentimental attachment to buildings which represent our past?

President, I think that it is only when a place has history that it can be regarded as a place of culture, a place with any depth and attraction to people. A lot of people think of Hong Kong as nothing but a concrete forest and if in this concrete forest we can find one or two buildings that would evoke our recollection of the past, it would rightly give a touch of life to this otherwise drab and lifeless concrete forest. But when the Government is to make a choice between preserving historical buildings or developing the economy, it would always choose the latter. It seems that developing the economy is the only option that is highly deemed and our culture and history are to be dumped behind our back.

When we discuss today about the clock tower at the Star Ferry Pier, I think that the issue is more important than preserving history and culture. Earlier on Mr WONG Kwok-hing mentioned that he liked to ride the Star Ferry when he was young. I would also like to share my personal feelings for the Star Ferry Pier. I believe every one of us here and many people in Hong Kong who

were young during the 1960s and the 1970s would remember that the clock tower at the Star Ferry Pier was the place where many young people liked to meet their friends. I think many people in Hong Kong grew up with the clock tower and they all have very fond memories of it. Hence the people of Hong Kong are emotionally deeply attached to this clock tower. This is not only an object of history and culture, or a building with historical value, but it is also a building which has very close ties with our past, one that has been with us from the days when we were young.

The clock tower will not necessarily have to be pulled down to make way for the Central-Wan Chai Bypass. As far as we know, there is at least one proposal that would enable the clock tower to co-exist with the Central-Wan Chai Bypass. The question is whether or not the Government is determined to do something to prevent things that will hurt the feelings of Hong Kong people.

President, a government which turns a blind eye on the people, which ignores their feelings and collective memory cannot be considered a government which is people-centred. I hope very much that the Government will respect the feelings of Hong Kong people and keep this important part of our memory intact.

Thank you, President.

**DR YEUNG SUM** (in Cantonese): Madam President, the Government thinks that, with a blitzkrieg approach, it can speed up the demolition works of the Star Ferry Pier, and the people will soon forget the whole thing. Since the very day when the plan to pull down the clock tower at the Star Ferry was announced, as many as 150 000 people have shown up near the Star Ferry Pier and delve deep into the labyrinth of their mind for some memory common to them all. Ever since, people have used all sorts of ways and even their bodies to try to stop the Government from carrying out the demolition works. From this it can be seen that Hong Kong is really in for a mature civil society. If only the people of Hong Kong feel that there are some unreasonable government policies, they would voice their opposition by some peaceful means and they would keep on doing it. I hope the Government can hear their voice. I think with their effort, plus the motion moved by Dr Fernando CHEUNG today, Members from various political parties and groups can express the views of the public on that matter.

I think we do share a common view and, that is, to demand that the Government should stop demolishing the Star Ferry Pier and request the Government to re-examine some sound option and let experts undertake a review of the question of how our built heritage should be disposed of. So before a decision is made, the authorities must stop the demolition works at once. Many Members from the democratic camp have spent some time earlier to talk with Secretary Michael SUEN to ask him to make a decision as soon as possible. We are still waiting for a reply from him. Our unanimous view is that we hope, firstly, that the Government must stop the demolition works at once and secondly, that experts should be called in to re-examine the relocation arrangements to come up with a sound solution.

Madam President, the Government often says that protracted consultation has been conducted on this matter and there has no distinctive dissenting voice. It asks why all of a sudden some people are voicing their opposition and we put up a demand for the demolition to stop and even for sound arrangements in relocation. I think the greatest reason for that is in recent years the people of Hong Kong have developed a greater respect for the conservation of built heritage and for collective memory. An example is the Kom Tong Hall and at that time I was involved in handling the case as well and at last the Government agreed to allocate funds to purchase the building from the church concerned. The original idea was to use a plot of land in exchange, but later as no suitable plot could be identified, the Government eventually made the decision to purchase the building. Now the Dr SUN Yat-sen Museum is soon to be opened and there is also a Dr SUN Yat-sen Heritage Trail. All these would be beneficial to the work in the protection and conservation of heritage and even to the economy and tourist industry.

After the Kom Tong Hall, and the Central and Western Police Station, there is also the case of an external wall of the Hollywood Road Police Quarters. The wall has become a cause of concern because it is the outer wall of the school which Dr SUN Yat-sen once attended. The wall is kept to this day because the Government wants to preserve it. Now the Central and Western Police Station remains intact and nothing is done to demolish or relocate it. Recently, in view of the plan to relocate the Government Headquarters, the Democratic Party put forward the idea that Government Hill should be preserved. All these show that the Hong Kong people have attached great importance to their collective memory. In the past when Hong Kong was a colony, it was a borrowed place in

borrowed time. But after 1997 when Hong Kong was reunited with China and when China resumed its sovereignty over Hong Kong, Hong Kong then becomes truly a home of Hong Kong people and they have an increasingly greater sense of belonging. It can be rightly said that heritage conservation and collective memory have become part of our social capital. I think the Government must not look at the matter strictly from a market economy perspective.

The Chief Executive sounded a warning in the policy address, saying that Hong Kong should not pose any obstacle to its economic development because of heritage conservation or attaching great importance to certain historical buildings. Madam President, I have enormous reservations about this view expressed by the Chief Executive. Why do economic development and heritage conservation necessarily have to be mutually exclusive? We should try to look at places like the old areas in Prague and Quebec and we can see that basically.....Madam President, Mr James TO has just passed a note to me and it says that the police are now clearing up the Star Ferry Pier. Madam President, from this it can be seen that even if we ask Secretary Michael SUEN to stop the demolition and re-examine the relocation arrangements, as what is written on the note passed by Mr James TO to me says, the Hong Kong police are clearing up the Star Ferry Pier and drive away those who are staging a sit-in there. Do these acts of the Government serve to highlight the strong governance idea of the Chief Executive? Such acts are in fact overturning the pledge made by the Chief Executive to be people-centred.

Why does the Government look at things only from an economic perspective and nothing else? Why does it not attach great importance to antiquities and monuments from the perspective of collective memory and heritage conservation so that the people's collective memory can pass on from one generation to the next? This is much to be regretted. I also regret very much that the police have not heard the request we have put forward to Secretary SUEN earlier and they are now taking action to clear up the place.

Madam President, if we look at the consultancy report submitted by the AAB at that time (Members may not need to hear me speak, they can go to the scene to lend their support to the demonstrators), basically, the consultancy report points out that the Star Ferry Pier is an important landmark of collective memory in Hong Kong. After the riot in Kowloon in 1966 caused by the incident at the Star Ferry Pier, the Government compiled a report on the Kowloon riot and it was recommended that district administration should be



improved and community facilities be offered to improve the relationship between the people and the Government. All these were actually triggered off by the fare hike of the Star Ferry in 1966. The first social movement in which I took part was an incident that occurred in 1971 about some blind people in Tokwawan. It was in the middle of one night that year that a senior dorm mate at the university dormitory told me that a group of blind people were staging a sit-in at the Star Ferry Pier — now Secretary SUEN has arrived, Madam President, I wish to tell Secretary SUEN that the police are now clearing up the Star Ferry Pier and I do not know if the Secretary knows about it — it was late at night at that time, we took biscuits, woollen blankets and warm water to the Star Ferry Pier and helped the blind people in their sit-in. That incident was actually about some labour dispute. The account books of some managers were not tidy and there was some corruption and these blind people staged a sit-in at the Star Ferry Pier with the help of some social workers. That occasion was the first time when I took part in a social movement. On the morning of the next day, we led the blind people to march from the Star Ferry Pier to a place near the Lee Theatre, that is, near the present-day Lee Garden Hotel, where the Social Welfare Department was housed and we asked the Government to intervene. At that time, we raised a considerable sum of money and a fund was set up for the children of the blind people. So the first social movement that I took part started from the Star Ferry Pier. Then we protested against the conservative political reform package found in the Basic Law and it was also staged at the Star Ferry Pier. At that time we had more than three persons holding an assembly and the police were not informed, so the police laid charges against Albert HO, CHEUNG Man-kwong, LEE Wing-tat and me. Then it was only after we had lodged an appeal that we were acquitted.

Regardless of whether it was the kind of romantic initiation experienced by Mr WONG Kwok-hing or the expression of one's beliefs in political incidents, the Star Ferry Pier is a silent witness to a great number of cultural and historical changes in Hong Kong. Hence the consultancy report at that time gave a warning that public outrage would be instigated if the Star Ferry Pier was removed or demolished. Prof Patrick LAU who is a member of the AAB also wrote articles in the newspaper, stating that he had never dreamed that the forewarning given by the report would really come true and in the way as what is happening right now when the police are clearing up the Star Ferry Pier. Even if the demonstrators are dispersed, there would only be more public outrage. I hope Secretary Michael SUEN would really bear in mind that strong governance does not mean going against public opinion. What they get is only

administrative convenience, but will the matter be settled after the police have dispersed those people who are staging a sit-in? I am afraid this would only intensify grievances among the people.

As I have said just now, Hong Kong is no longer a borrowed place in borrowed time. We can never look at the issue of heritage conservation here only from a market economy perspective. We need to approach the issue from a macro and long-term perspective, taking into account the factor of collective memory, so that the history of Hong Kong our home can pass on through each tile and brick we conserve. Apart from protecting the Victoria Harbour, I also hope that the Secretary can give due respect to this piece of our heritage.

Madam President, let me repeat, I hope the Secretary can stop all demolition action at once. He should consider whether or not it is possible to remove the entire structure of the Star Ferry Pier without having to tear it down. An option is to remove it to a location near the City Hall in congruence with the architectural style of the buildings there. If this can be done, then our future generations or visitors to Hong Kong will be able to know about our past and have confidence in our future. Thank you, Madam President.

**MR HOWARD YOUNG** (in Cantonese): Madam President, I could see from the face of Mr James TO that he was very nervous while Dr YEUNG Sum was delivering his speech and he even handed him a note that read "the police are clearing the site". In my personal opinion, we had better tell the demonstrators that the matter is being debated in this Council rather than clear the site for maintaining order. It might be even better if the demonstrators can go upstairs and listen. Although I have not joined the Panel on Planning, Lands and Works of this Council or previous discussions on this matter, it is good if we can have a chance today to discuss the matter in a rational and calm manner.

Madam President, a lot of reports in the newspapers I read today said that the matter had been discussed by the AAB in 2002 with no objection raised and questioned whether it was necessary to bring up old scores again. In my personal opinion, the AAB surely has its statutory authority. It has to act within its ambit in declaring monuments. Back in 2002, however, Hong Kong economy had yet to recover from the financial turmoil. Although the territory was not yet hit by SARS at that time, the amount of public money required to preserve the clock tower might be unacceptable to many. As Hong Kong's

economic conditions have now turned for the better with the revival, the people may probably say they did not propose using public money to save the clock tower because they dared not spend money indiscriminately years ago, but this can be done now since things have changed.

Madam President, as this matter has become a focus of attention today, it will be perfect if the Government can readily accept good advice by suspending the demolition of the clock tower and then come up with a proposal which can balance the demands of all parties for the matter to be resolved. Madam President, lots of precedents of demolishing and redeveloping monuments or old buildings can actually be found in Hong Kong. I recall the Urban Council spent a lot of money years ago to dismantle Murray House brick by brick and buried it under the ground because it was not yet decided where the building should be relocated. Today, the Murray House rebuilt in Stanley has become a most popular tourist destination. Last week, a performance was staged at the Maritime Museum there to mark its first anniversary. The Murray House restaurants are very popular too.

I also recollect that many people joined the call for preserving the entire railway station when the Tsim Sha Tsui station of the Kowloon-Canton Railway was about to be demolished years ago. I remember Mrs Elsie TU was standing in the front to fight for the preservation of the clock tower, and the Government eventually agreed to preserve it. Today, the clock tower has become yet another landmark in Tsim Sha Tsui. Some people said at that time that the clock tower was simply incompatible with the new cultural complex and doubted the point of keeping the railway station and the clock tower. Now, I will bring my friends there and tell them that the building used to be a railway terminal and it has now become some sort of memory.

Madam President, besides locals, overseas visitors also have their collective memory. I recall there was an epic English novel called *Noble House* (one of its Chinese title was 華貴洋行) during the period between the '70s and '80s. Having an exciting plot, it tells of a stock market crash in Hong Kong in the '70s when the general public had to rely on the Star Ferry to cross the harbour. According to my recollection, the Star Ferry was called Moon Ferry in the novel. I still remember this because I was requested to address a group led by an overseas tourist agency to hold an annual conference in Hong Kong. The conference was held in Kowloon but they stayed on Hong Kong Island. I

began my speech in this way: I believe all of you must have the experience of crossing the harbour by ferry, that is, the Moon Ferry in *Noble House*, but it is really called the Star Ferry. For overseas tourists, the Star Ferry Pier and the Star Ferry is a landmark (as what is being debated at the moment) and certainly forms part of their valuable memories. Such collective memory is not confined to Hong Kong people; overseas visitors are deeply impressed by it too.

I remember the Star Ferry clock tower has often appeared as a landmark in a lot of movies. During the era of the Hong Kong Tourist Association, the clock tower was often printed on the promotional leaflets of the Association.

Madam President, Hong Kong actually lags behind Macao when it comes to monument preservation. Both Hong Kong and Macao are favourite tourist destinations for many overseas tourists. Many tourists, especially those from Europe, like to visit Macao because they can find abundant Portuguese monuments there, and the cultural streets in Macao are well preserved. In contrast, many buildings in Hong Kong have been either demolished or relocated over the years. Unlike Macao, it is simply impossible for us to preserve an entire street where we can reminisce about the history of the place.

Regarding relocation of antiquities, Members should have heard a long time ago that London Bridge was bought by Americans in a bid to reconstruct the story about London Bridge in a desert in their own country. However, the United States actually made a mistake for the London Bridge was mistaken for Tower Bridge. Anyhow, the entire London Bridge was bought and reconstructed in the United States and treated as a special tourist attraction.

I was told that I had to visit Sydney Old Town during my trip to Sydney a couple of years ago. There are actually two Sydney Old Towns, with one of them located at the seaside near a pier. Over the past couple of years, redevelopment has been carried out there smoothly with the preservation of many old buildings. What did another Sydney Old Town I visited more than a decade ago look like? It was located in a suburb in Sydney, a 100% artificial theme park reflecting Australia's customs and traditions in the last century. It is thus evident that people have to rely on monuments or old buildings, in addition to the scenery, to create collective memory for the purpose of developing tourism. All of them actually have their own historical value and value for cultural promotion and therefore merit our consideration.

Christmas is drawing in. Members can see the Santa's Town organized by the Hong Kong Tourism Board (HKTB) nearby. Actually, the HKTB has been doing the same thing for several years in a row. The Town can be considered as an artificial memory of more than two millenniums specially created to attract visitors. Generally speaking, apart from serving the purpose of continuous cultural promotion, the Town has positive significance in terms of providing a good place for locals or expatriates to evoke their memory, have fun or spend time too.

It has often occurred to me that, buildings aside, some trivial matters can also manifest the respect of a place for history and how the place can benefit from the residual value of history. I will very often come across people from abroad and join other Members to meet parliamentary members or politicians from abroad. Many of them who pay a visit to the Legislative Council will ask me about the most significant difference before and after 1997. My standard reply is: Hong Kong can be described as totally different before and after 1997. The most significant difference can be seen in our mail boxes which are now painted green instead of red. The colours are totally different.

Madam President, when I passed by Central yesterday, I saw a mail box, though painted green, has a crown emblem on it. I hope the emblem will not be removed by someone who heard what I said. Historical memories like this have value in existence. The memory brought about by trivial matters actually has positive significance.

Madam President, the Legislative Council has never had a suitable chance to express views on this issue. Today's discussion is good for Members because they can express their views on the issue. However, I do not wish to see Members (especially certain Members) describe this issue in their speeches as reflecting whether the Government is capable of pursuing strong governance, competent or incompetent. This is simply not so. It is only that people's current attitude towards preservation of old buildings should be different from that held a couple of years ago because of the changing economic environment. Years ago, many people might have an opinion if public money was to be spent to undertake these tasks, for they would be reluctant to spend in the light of the serious financial deficit and heavy burden at that time. Now, the public might probably hold different views.

Therefore, I hope the Secretary will, after listening to the speeches delivered by Members, look at the matter from a positive angle. Given that the matter has been raised for debate today, it would be better to tell people that the debate is in progress in this Council and invite interested persons to come to listen to the debate, instead of letting "the police clear the site", as stated by my colleague earlier. I hope the Secretary can give a response. I feel that the clearance operation should at least be deferred so that we can identify a proposal that will not affect the transport and other development needs in Central while preserving our collective memory. Personally, I would like to relocate the clock tower to a suitable place (I do not mean to preserve the entire clock tower, but at least its original look should be retained as far as possible). However, it is not my wish that it would end up like the relocation of the Murray House from Admiralty to Stanley, and we have to travel a long distance to see it. We should be able to come up with a proposal that can balance the needs of all parties and address the issue by readily accepting good advice. I so submit.

**MISS CHAN YUEN-HAN** (in Cantonese): It was raining cats and dogs when I came back, but still a group of young people fighting for their cause were making their last-ditch efforts. Over the past seven or eight years, many conservation campaigns of this sort were launched, as we insisted that a city should have its life and the life of a city comes from its history. As a result, we got to know or meet these young people in different places.

I received a telephone call last night from one of them soon after I had returned from the airport — he was very anxious to discuss this issue with me. They have been going to different places to preserve what all of us would very much like Hong Kong to keep.

Hong Kong economy has been faring badly since the reunification in 1997, making it difficult for wage earners to seek employment. I find that many places in Hong Kong can actually be further developed, thereby creating a large number of openings for job-seekers. We are fond of visiting places like these where our roots can be traced. Over the past eight to 10 years, we were offered plenty of opportunities through many such activities. During the same period, from the time I was fond of these places to later when these places were pegged with my "rice bowl", I have also done a lot of "stupid" things.

For instance, the 29th Da Jiu Festival was held in Nga Tsin Wai Village on Saturday, the day I took the plane. The Festival was celebrated once every 10 years, and the tradition has lasted more than two centuries. Since the end of the '80s, when Nga Tsin Wai Village was still a village, the then village head and I have been making joint efforts to preserve the old village of more than 500 years old, and our opponent has changed from the Land Development Corporation to the Urban Renewal Authority. If Members care to visit the place for a look, they would find that the beautiful village is now nowhere to be found. We as lobbyists really feel sorry for this.

We can also see a lot of places we wish to preserve, including the old factory buildings "Uncle SUEN" and I have visited. I was advised by my smaller brother that I should take a look at 798 in Beijing, a recently preserved Russian-style factory building in China and now internationally known as a place where cultural workers can give full play to their creativity. It is right to say that mood is essential to Hong Kong in developing its creative industries. I have to go to such places as Home for Spinsters in Macao and places where there are a lot of monuments before creativity can be developed. Creativity hinges on mood.

This explains why I find Sophie's mention of an old factory zone in Cheung Sha Wan a pretty good idea. If you ask me, I would naturally wish to retain the several old factory buildings in San Po Kong for industrial development, as I am still very fond of my constituency, that is, San Po Kong, for its excellent mood, and because of the development in Southeast Kowloon. Therefore, Sophie and I once talked a common language concerning this issue. While she expressed her desire to develop manufacturing industries in the old factory zone in Cheung Sha Wan, I indicated mine of preserving two buildings in San Po Kong for the development of creative industries. Both of us wish that "preservation" can be carried out. However, I have again failed in promoting these "stupid" ideas.

Fine, recently, I would come back to the Star Ferry — President, you have looked in my direction several times. I guess I had better come back to the Star Ferry. From the time I watched television last night to this morning, I had some strong feelings while I was watching those young people. Their actions have touched the hearts of Hong Kong people in a way similar to my proposed preservation of San Po Kong and Nga Tsin Wai Village — the cannon fired one more shot there than in Humen when the Manchurian Government was fighting

against British invasion. Now, the Government is prepared to build public housing blocks of more than 40 storeys there. I was criticized when my proposal was raised. At that time, "Tai Pan" was still working as a radio host. When I was confronted by some people why I preferred building low-storey buildings instead of more than 40 blocks of public housing, I said that Nga Tsin Wai Village and the old airport were connected and could form a perfect century-old monument complex. They are important history of Hong Kong, only that the Government has yet to decide how to go about it. I was condemned by many on radio. However, I did not take it seriously because society is public property.

When I argued with someone about plot ratio years ago, some people in the neighbourhood said, "Miss CHAN, what is the point of doing so?" Nevertheless, I have now noticed some changes. The lowering of the plot ratio in Yau Tong by the Secretary has been well received as speculation of land prices has proved to be impossible. Have Members noticed the growing support for the Star Ferry Pier? There is indeed tremendous support. The support is so strong that each family develops a feeling when watching television in the same way as I vowed to protect monuments and heritage for 10, seven or six years. There has been a change in culture. Even when the Secretary attended the previous meeting held by the Panel on Planning, Lands and Works, he indicated his willingness to relocate the Star Ferry Pier. I think this can be considered.

However, I was soon advised by my friend that this was not possible. He considered the proposal unsatisfactory for it was like relocating Murray House to Stanley. Likewise, my family members take issue with this because they think that Murray House no longer has its soul after the relocation. Why should Murray House, previously situated in the heart of the downtown area, be relocated there? Members will find that Hong Kong people have changed. They are increasingly fond of collective memories. They think that town planning as a whole must take into account public opinion. Every of us must have a say in town planning. This has now become our slogan, the slogan of non-government organizations. Today, this way of thinking has blossomed and will continue to do so.

This morning, my elder sister and I had breakfast at home while watching television. She is no longer thinking in the same way as she did a couple of days ago because she has been moved by those young people. I am saying all this because I wish to tell the Secretary (I nearly fell on the ground when I



entered the Chamber because I was anxious to tell the Secretary) that we have to wait and stop for a while, and not to proceed with the demolition and clear the site today. Give us more time so that we can discuss the matter in a more objective manner. I feel that only in doing so can we make the hearts of Hong Kong people stay with the territory and make Hong Kong people love Hong Kong even more.

At half past six every day, a streamer will be broadcast by Television Broadcasts Limited in the hope that every Hong Kong people loves the country and this city. I have many friends, including a few professors from the architectural faculties of different universities, who think that the Star Ferry Pier is indeed an excellent subject for national education to raise the enthusiasm of Hong Kong people for the things around them.

Among them are our rich and abundant collective memories. I did write in my column about how Hong Kong had struggled all the way and how it had looked like back then — back in those years, the Star Ferry Pier was a favourite meeting place for dates. The sight of the Pier alone by many of us will already evoke our memories. Many of those who are in their fifties or sixties have become increasingly fond of things like this. Hong Kong as the Pearl of the Orient was established by the generation of people (or even generations of people) from the post-war period to present. Today, we feel frustrated. Besides our efforts, there are many more things that can make us remember each and every thing, such as we have once met there, the topics of our discussions, the places we have visited, and so on. Only in this way can this city become more vibrant and colourful.

The Chief Executive remarked in this year's policy address that economic development and environmental/cultural conservation may easily be seen as mutually exclusive. As my focus of concern about this year's policy address is minimum wages, I have not mentioned this point. Actually, I disagree with the point raised by the Chief Executive. Except for those who live like floating weeds with no roots, we all wish to express our views in the course of building up Hong Kong. Now that I have a feeling, hopes and my own views on this place, I would like to pause for a while and consider whether it should be returned to the people.

I have often mentioned two excellent examples. One concerns Southeast Kowloon (I have no idea how things will develop as the matter has not come to

the end) and the other concerns West Kowloon. Members may find that the opposition to Southeast Kowloon is much less vocal. I have no idea about the recent development of West Kowloon as nothing has yet been done lately — it was a focus of controversy a couple of years ago. The issue has been discussed according to our own feeling. Three seminars were held at The Hong Kong Polytechnic University in the past three months, with the last one being held on the 12th of this month. Our discussion on Southeast Kowloon has led to further discussions on the development of three districts. One of the topics discussed therein concerns how views are solicited by the Planning Department.

When attending our seminar in November at our invitation, Raymond LEE, District Planning Officer of the Planning Department, said that consultation had not been carried out initially when the airport was developed in 1993. After receiving some 700 or 800 letters of objection, a full consultation was carried out and it was found that people would like very much to retain the airport runway — for instance, people like me might ask the Government not to blow up the runway. I have once paid a visit to the beautiful runway with some journalists. A signboard of more than 80 years old was erected there. I have also brought some people up the hill to appreciate the beautiful scenery from the ridge. I later found that — I do not know whether it was John TSANG or Gordon SIU — had agreed not to blow up the runway.

Although we know nothing about planning and we were new comers in the 1990s, the Government still took our views seriously and even agreed to preserve some items. Now, after so many years, the entire Southeast Kowloon project has still not been finalized. This has nothing to do with us. If not for the reclamation issue, the project should have commenced a long time ago — preliminary consultation has to be started afresh because of the ordinance on reclamation — this is what I wish to add.

We have recently gone into action again. In connection with the cruise terminal, a funding application has to be made and endorsement sought for the related works. I suppose no one will have any views. I believe there will not be any views when development is carried out in the future because many of our views have been taken on board, and the size of the population has been reduced from more than 300 000 to around 80 000. Furthermore, full consultation was carried out throughout the process and it has been decided that the entire runway and the seaside be preserved. If I am asked today whether I still have any dissatisfaction, I would say there is still some. On the whole, however, it is

OK. What more do I want now that even the stations at To Kwa Wan and Kowloon City have been abolished and the plot ratio has been reduced from 50-odd to 30-odd storeys? I will certainly strike a balance.

Today, I would like to share with "Uncle SUEN" a story about the 300-odd hectares of land in Southeast Kowloon. Although I still have some dissatisfaction, I have nevertheless accepted it after hearing Members say that they find it OK. Furthermore, I have to thank the former Director of Planning, Bosco FUNG, who retired in July, and Y S WONG, the incumbent Deputy Director of Planning. They are really prepared to listen.

I would also like to say a few words on a few incidents in which the Government, which had originally no intention to heed our advice, suddenly changed its mind for reasons unknown and agreed that ventilation is essential for one of the Shatin to Central Link stations. The station was originally located opposite Sung Wong Toi, acting like a wind screen like the Great Wall. The Government has recently decided to scrap the station after Hong Kong people have started to realize the importance of wind — the Government has indeed done a good deed. It has also done another good deed by reducing the height of buildings to be constructed in Kowloon City and To Kwa Wan from 50-odd to 30-odd storeys. This is good because the ridgeline of Lion Rock has already reappeared. "Uncle SUEN", I initially thought that this was impossible. However, you all listened to us in the end. I have to point out that there are some proposals we are anxious to put forth, while some others were already raised a long time ago. But still, I feel that the Government will listen to our views in the end.

I do not deny that the Star Ferry incident might have put "Uncle SUEN" in a difficult position. However, I very much hope that he heard Mr WONG Kwok-hing heap praises on the President for allowing Members to proceed with the debate. Many young people outside still wish to make their last-ditch efforts. Let the Legislative Council decide what they will finally get today. This is also what they have repeatedly said on television. I earnestly hope that "Uncle SUEN" can give us a bit more time today by refraining from launching any site-clearing or clearance operation. How can a balance be struck? I would like to point out once again that public opinion has all along been taking shape in society. Young people are now pondering how Hong Kong people should look at Hong Kong's town planning and what Hong Kong people want and think.

Some people might probably think that the actions are too violent. However, some others have started to realize the changes in public sentiment from this morning, afternoon to evening. How can we go with public opinion? This is what the Government has been striving to achieve and my personal wish too. I earnestly hope that the Government can refrain from making a hasty decision today.

If a lot of people are annoyed by today's decision, more and more radical people in society might come forth and lead anti-government movements. I am speaking all this from the angle of the Government. As I am a long-time social activist, what I want the Government to do the most is to tear it down, so that I would be able to engage in social activities to provoke the Government.

However, it is also my earnest hope that our "one country, two systems" can succeed. Therefore, I hope that the Government can really listen, pause for a while and take a break. In the past, society did not show much concern about these. Very often, the thinking of Hong Kong people was led by real estate projects. However, the value of contemporary society has changed. People's aspirations are no longer the same. While members of the public hope to take part in town planning and preserve collective memory and history, I hope the Government will not make a wrong decision at this critical moment. A city should have its life and the life of a city comes from its history. If Hong Kong is to preserve its root, these things must be preserved too. Only in doing so can we love this place even more and devote ourselves to the development of the territory with greater vigour.

Thank you, President.

**MR ALAN LEONG** (in Cantonese): Madam President, at a special meeting held on 20 September this year by the Panel on Planning, Lands and Works (the Panel) to deal with agenda items and planning issues relating to the reprovisioning of the Star Ferry Pier in Central, the Panel endorsed a motion moved by me and seconded by Dr KWOK Ka-ki. The wordings of the motion are as follows: "That the Panel urges the Government to defer its plan to demolish the existing Star Ferry Pier and its clock tower in Central and to incorporate, upon extensive public consultation, the existing clock tower together with the relevant building structures into the future new development plan for the

Central District, with a view to preserving, on a people-oriented basis, the historical traces that form part of the collective memory." While I understand that the motion is not binding, it was carried with the consent of all Members attending the meeting that day.

At the meeting held by the Panel on 14 November, that is, the meeting frequently mentioned by Secretary Michael SUEN lately as giving the green light for the demolition of the clock tower today, I raised a number of questions. I still remember very clearly that, at the meeting, the Secretary misunderstood Members' remarks and thought that Members no longer opposed the Government's clearance operation. For record purposes, Dr KWOK Ka-ki requested to clarify that the conclusion attempted by the Secretary had deviated greatly from the proceedings of the meeting. I still remember very clearly the words of Dr KWOK on that day.

Madam President, the Panel was actually treated in the same way as the AAB. We have heard the experiences of Mr W K CHAN quoted by Dr Fernando CHEUNG earlier. The Government has never ever pointed out clearly in the AAB in a focused manner whether the Star Ferry Pier and its clock tower will be demolished for the AAB's discussion and decision. It has merely said that some papers are laid before them, and they are taken as giving approval as they have never raised any objection.

I wonder if the Secretary had adopted the same mentality in understanding the procedures of the meeting held by the Panel under this Council on 14 November. Given that the authorities have not specifically asked him to make a decision, the purpose of his speech was apparently to enquire about such issues as logic, time sequence, the timing of demolition, ways to preserve the clock tower after demolition, the intention to preserve the clock tower, and so on. According to the Government, the clock tower will be incorporated into the Central layout plan, but it turns out that the layout plan will not be discussed until after the demolition. By then, it will be too late, for the clock tower would have been turned into debris. We have raised a lot of questions like these, and I thought the Panel was supposed to serve this purpose.

The Government presented us a two-page letter, followed with some vague remarks, and asked us to raise questions. We did not realize at that time that raising questions was treated as tacit consent. Could the issue been handled in such a frivolous manner? Must the Government evade public opinion in this

manner? Must it evade an advisory board and a panel? Only a weak government will adopt such an attitude.

Madam President, our colleague earlier quoted a report compiled by a conservation expert, Peter CHAN Shui Shan, in February 2001, under the commission of the AAB. As Dr Fernando CHEUNG has quoted the content of the report, I do not intend to repeat it here. However, there is something strange about the report in that it could not be found on the Internet until three days ago — with the exception of the report, the relevant environmental assessment reports and all annexes can all be found on the Internet. It has been explained that Members could not find the report because of a technical mistake, and the mistake has immediately been rectified.

I do not wish to venture any speculation here and let us accept that, by sheer coincidence, a report proposing preservation of the clock tower is missing from a large number of annexes. However, it is an objective fact that members of the public could find the report on the Internet only three days ago. Hence, should they be given more time to digest, understand and carefully study the report? Why can we not wait a little longer? Why was it that while Secretary Michael SUEN promised Members that a reply would be provided within two hours during a meeting with 10 Members this morning, the clearance operation had already commenced before three o'clock?

Madam President, I could not help having a lot of feelings when I saw such scenes. Government officials holding public office and exercising their authority should not regard themselves as the largest stakeholders because they, including the Chief Executive and Directors of Bureau, should administer the Government on a people-oriented basis and seek to serve the people of Hong Kong, instead of striving for their own satisfaction or manipulating the power in their hands. When they find that they have become the largest stakeholders and take to heart whether a policy can be implemented according to their timetable and regard this as their personal success or failure, I suggest that they should step down from their posts.

Madam President, we once heard the Administration make such remarks: "Consultation on the relevant Central outline zoning plan was commenced in 1999 and three letters of objections were received, with two ultimately withdrawn. In September 1999, the plan was submitted to the Town Planning Board for processing and for approval by the Chief Executive in Council in

February 2000, and no objection was raised at that time. Now that the demolition has to be carried out, Members have chosen to arouse public attention to them, hijack public opinion, and threaten the Government." What was the Administration talking about? If the Government really adopts a people-oriented objective in governance, it should really consider whether society has developed a new mentality and sense of value towards conservation of historical heritage during the period between 1999 and 2006.

Many colleagues have mentioned that the judgement by the Court of Final Appeal in 2003 on reclamation has changed the mentality of many Hong Kong people — actually, "focused" should be used instead of "changed". Even the President may have noted that many people have started talking about screen-like buildings. Many people have started saying, "Taking a walk on the streets is now impossible given that the buildings are so tall and packed. Lighting is poor and there is no fresh air. We do not want these tall and packed buildings." Unfortunately, the Government regards people preferring low-density buildings, green environments or preservation of historical heritage as opposing the idea of construction! This is because money is essential to construction. Money has all along been regarded as the value leading town planning in Hong Kong.

From the historical perspective, this might be right. I believe this might not be entirely correct if an assessment is carried out on 13 December 2006 because Hong Kong people and our civil society have started insisting on the networks among the original residents in redeveloped districts, open space and quality living environments. Furthermore, they have started developing a new understanding of conservation of historical heritage. If the Government still bases itself on the so-called statutory consultative process in 1999 or 2000 without regard to the public opinion today, it will be making a great difference with a false step.

Furthermore, the consultation in 1999 or 2000 was carried out through the gazettal of the Central outline zoning plan. Hong Kong people were so busy that they would not bother to obtain a Gazette to inspect the plan even if they were free. Moreover, no one would ask themselves whether the clock tower was full of their romantic memories. However, the focus has started to gather as demolition is soon to be carried out. Are the people asking too much to propose conserving the clock tower at this moment?

Madam President, we are merely requesting the Government to defer its plan to demolish the clock tower today. We can hold an expert meeting tomorrow and the Panel on Planning, Lands and Works can hold an urgent meeting the day after tomorrow before deciding what to do. How difficult will it be for the Government to do so? Why did Secretary Michael SUEN or the Chief Executive not meet with these people if the Government is really adopting a people-oriented approach in governance? What big deal can there be in meeting with these people? Thank you, Madam President.

**MISS CHOY SO-YUK** (in Cantonese): President, I believe officials of the planning department definitely think that I am always against the Government, and that I would certainly be speaking against the Government whenever I rise to speak. From my objection to reclamation, my call for the preservation of monuments and relics, objection to the sale of the Central Police Station Compound, protection of old and valuable trees from felling by the Government to even the protection of the Nga Tsin Wai Village as mentioned by Miss CHAN Yuen-han earlier on, I always supported the people and I was on their side, and it is true that I had opposed the Government on those occasions. But indeed, I was not opposing the Government for the sake of opposing. I was only upholding a principle and, that is, with regard to our monuments and relics or cultural heritage, while it is easy to destroy them, their rebuilding is almost impossible. All I hope is that we will not regret only when it is too late.

The other day I had the opportunity to inspect the piers in Central with officials from the Planning Department. President, on the very small site between the Four Seasons Hotel and the 10 ferry piers, it is outrageously planned that two skyscrapers will be built there, one with 28 storeys and the other 18 storeys. President, the site is indeed very small in size, and the buildings are not planned to be built on the lawn. I found it strange as to why the authorities do not plan to do anything with the lawn but they have plans for this very site which is so small in size. Why do they not do anything with the lawn? Then I found out later that the lawn is private property. In recent years, I have said to officials responsible for planning work that as they are all married with children, they should preserve something for their next generation, rather than demolishing what we have now, selling whatever can be sold and destroying whatever can be destroyed, just as what is happening to the Star Ferry Pier.



Earlier on in the Dining Hall I heard a Member say that discussions were held but no decision was made. But now, we have to discuss first and make a decision later. That said, I think this may not necessarily be a case of holding discussions first and making a decision later, for it depends on how the discussion will be held and who will be making the decision. As regards the decision to demolish the clock tower at the Star Ferry Pier, I have not heard Members suggest its immediate demolition. Perhaps some people may think that it must be demolished and this, I do not know. But at least when I attended the meetings of the Panel on Planning, Lands and Works and the Panel on Home Affairs, and even when I asked questions at the meetings, I had not heard Members say that a consensus had been reached on the immediate demolition of the clock tower. On the contrary, what I have heard is many more voices calling for its preservation, whether *in situ* or in other ways. So, this decision is a decision unilaterally made by the Government. As the Government does not need to seek our funding support for its demolition, there is no question of endorsing any application from the Government. What have been endorsed are just motions proposed by Members on the preservation of the Star Ferry Pier and the clock tower.

I would like to explain why I support discussing this issue in this meeting today. Yesterday, I asked Secretary Michael SUEN to hold a meeting with some Members. Had he agreed to meet with us earlier, it would have been unnecessary for this issue to be discussed by all the 60 Members in a way as it is now. At that time, I hoped that the Secretary would discuss this with a number of political parties. But the way that it is dealt with now is even better, for it enables the public to know the views of Members. In fact, is it really the case that as the Government has said, a decision has already been made, that discussion has been completed and so, no further discussion is necessary?

President, I think further discussion is necessary for a number of reasons. Firstly, there are indeed some new arguments. Mr Alan LEONG put forward some new arguments earlier, and I wish to put forward another new argument. I remember that at a meeting of the Legislative Council (I do not remember which meeting it was), the Government told us that the clock tower at the Star Ferry Pier could not be preserved, for it had a history of less than 50 years. According to the requirements for the declaration of monuments, only those with a history of no less than 50 years will have value for preservation. I remember that at that time, I was almost begging the Government to preserve it,

considering the fact that it was only a few months short of the requirement, as the clock tower had a history of 49 years and a few months at that time. I said that its history was only a few months short of the requirement, and it would meet the 50-year requirement if its demolition could be deferred for a few months. At that time, I thought that the Government would be doing us a favour if it acceded to our request but if it did not, that was still justifiable, for the reason was on their side. But I was almost begging the Government to do so, hoping that it could preserve the clock tower and declare it as a monument.

However, in response to a written question raised by me last Wednesday, the Government said that the construction of the clock tower commenced in 1955. In other words, if we count from the commencement of its construction, the clock tower has a history of over 50 years. That is why the Government has ceased saying that its history is less than 50 years. Rather, it said that the clock tower might not necessarily be preserved despite it being 50 years old. This, I agree. While some old buildings have a history of 50 years, they should not be preserved if they have little value in preservation. However, the Government's view that the clock tower has no historic value for preservation is open to question. If the Government said at the outset that the clock tower, though having a history of 50 years, was not of any historic and conservation value, I think we could discuss this point here. But the Government gave us the impression that discussion should be closed because the clock tower had a history of less than 50 years. So, since I have a new point, I certainly have to raise it for discussion.

Second, is there really so much urgency for its demolition? Road P2 will be built at where the clock tower is located now, but I think this Road P2 will not be built there in the next three to five years. So, why should its demolition be urgent? If we can put this off to three to five years later, the clock tower would certainly meet the 50-year requirement for conservation. So, this has aroused suspicions about why there is such urgency for its demolition. It is not because of the construction of Road P2 or the need to make preparation for its commissioning or the need to commence construction works or to do something immediately, and after all, it is still necessary to undergo a lot of reclamation works. So, I think its demolition is completely unnecessary whether at this point in time, in a month or even within a year. I am aware of the demands put forth by the organizations concerned, and I said the same to Secretary Michael SUEN yesterday, hoping that the Government could give them two months for

discussion and temporarily put off the date of demolition, so that we can sit down and talk. It is because, according to some experts, the *in situ* preservation of the clock tower actually will not affect the construction of Road P2, as long as Road P2 can bend a bit more. However, some government officials told me that some transport experts considered this not feasible and that the preservation of the clock tower *in situ* would cause dangers on that Road. I said that it was not a problem, because surely some people would consider it dangerous while others would not. So, why do we not bring experts on both sides to the discussion table, so that they can explain their reasons in a sensible and rational manner? Personally, I am not saying that the Government must not demolish it, come what may. But we must discuss how it is going to be demolished, which part of it will be demolished and whether its demolition is necessary. I really do not hope that we will regret only when it is too late, for there is no way to rebuild it after it is demolished.

Moreover, at the meeting of the AAB yesterday morning, some members suggested that the Government should preserve the greater part of the clock tower, although we know that the underground foundation can hardly support it. But concerning how it should be preserved and to what extent it should be preserved, the AAB has already spoken and I do not see why today — just now I saw on television that the police were removing protesters from the site. President, why should we hasten to push the people too far? Why should this be done with such urgency? Why can we not sit down and discuss the justifications of different sides and the concerns that have been expressed on this matter? Even if it is going to be reprovioned (I did hear government officials say so), and Secretary Michael SUEN also said at a previous meeting of the panel that reprovioning would be an option and in his written reply to me, he also stated that photographs of the clock tower had been taken and that the clock tower would be preserved properly and could be reprovioned. But some government officials said that the clock tower could be reprovioned in the Disneyland and some suggested its reprovioning in Ocean Park. They did not really mean it, did they? They are just kidding, are they not? What exactly does the Government want? I think this is a cultural heritage jointly owned by the public and all Hong Kong people. Can we have the right to take part in discussion? Is it that what a few government officials have said can be taken as the decision? So, if it will be reprovioned, will it be reprovioned at the Queen's Pier? Will the Queen's Pier be preserved? The AAB said that the Queen's Pier should be preserved. I hope the Secretary can tell us later.

To conclude, I hope that we can be given some time, whether three months or two months, and I hope that during this period of time, we can provide statistics and put forward justifications. I am not suggesting that the organizations are unreasonable. Nor do I think that they are unreasonable. In fact, these organizations very much wish to talk with the Government but very often, they feel very helpless. I met them at 10.00 pm last Friday, and they did feel helpless. They do not wish to break the law or do anything against the law. They only hope to have an opportunity to sit down and talk with the Government and the Secretary. Therefore, here, I call on the Secretary to give them some time and hold discussions with them.

On the need to preserve the Star Ferry Pier, President, I certainly consider its preservation necessary. As for the reasons for its preservation, I have actually explained them on many occasions, and I have for many times taken part in protests and sit-ins at the Star Ferry Pier, explaining at length to reporters and members of the public. There is one point that government officials always do not understand and that is, why do people say "No" to anything it does, opposing demolition works here and opposing the sale of buildings or structures there, while this had never happened before in the past? Obviously, it is because the Government has carried out too much demolition works and sold too many things. Nothing has been left now; very little has been left now. Only a little bit has been left, and if we do not pay serious attention to this, even this little bit would be gone as well.

When I visited Rome in Europe for the first time, I realized that I should be saddened by the pulling down of our city gates, gate towers and city walls in Beijing. We did not realize it before, but when I saw what others have done in conservation, I realized that I had never known before that this is what should be done. Today, fortunately, many more people in this city of Hong Kong have awakened, and many more young people have realized this. Concerning the Star Ferry Pier, these young people actually do not feel as deeply as we do and yet, they can feel our attachment to cultural heritage. No matter how deeply they feel about it, they know that it should be preserved and they have taken part in campaigns for its conservation. Now, many old buildings or structures of cultural significance are gone. The old Hongkong Bank building is gone; the hotel at Repulse Bay is gone; almost all the walled villages are gone; the bazaar in Sheung Wan is gone and even the bazaars in Tai Yuen Street and Cross Street will be killed. In a word, anything old, anything good and anything related to the local community culture will continuously be killed, sold, downsized, and

demolished. I cannot understand all this. Many friends have asked me why this would happen, and I said that I do not understand why the Government would do this.

President, yesterday I received an e-mail from a friend who came to Hong Kong from London, and I read the reasons why he opposed the Hong Kong Government. He is very rational, and he said that he had consulted many experts in London, especially those who know the incident of the clock tower at the Star Ferry Pier. He said that this type of clock tower is already very rare in the world and this clock tower is one of the very few left and so, he considered that the clock tower has all the value for preservation. On the question of whether or not the value of the clock tower merits preservation, I hope that we can sit down for a proper discussion with the Government.

President, I so submit.

**MS MARGARET NG** (in Cantonese): President, I believe that the motion debate today is important and there is little doubt about its urgency. On hearing Miss CHOY So-yuk's remarks, I was really moved and her agitation is justified. In particular, she pointed out that it was easy to destroy but difficult to rebuild. The artifacts that we can cherish are diminishing. If we go on demolishing them one by one, we really will have nothing left. I believe Miss CHOY So-yuk's speech also reflects the heartfelt voices of many members of the public. In speaking in defence of the Star Ferry Pier, she was not simply talking about the Star Ferry Pier but was also expressing that sense of urgency and the thinking that if this building is demolished, it will be gone and there will be one such building less. This mood is easily understood.

President, today, I wish to talk about this matter from another angle in particular. If we look at the whole matter, what is the nature of this incident? It is about how the Government should treat its people and what the Government's way of administration should be. President, we still remember and it is still fresh in our memory that, in paragraph 70 of the policy address — we have discussed this in the Chamber before and we have raised this many times — the Chief Executive points out that one major challenge at present is that although development is very important to Hong Kong, a group of people is always anti-development and thinks that all kinds of development are destruction. He believes that this problem has to be solved.

President, in fact, development and the opposition to some kinds of development may not necessarily be conflicting and the two can co-exist. This incident involving the clock tower of the Star Ferry Pier is a case in point. Many groups have voiced their hopes on how it should be handled and they have also drawn pictures for everyone's reference. These groups are not intent on preventing the authorities from relocating the Star Ferry Pier, nor are they intent on preventing the construction of Road P2. The two can co-exist. It is only necessary to re-align Road P2 slightly for the clock tower to be preserved in another way. As regards whether the experts' proposals are correct, just as Miss CHOY So-yuk said just now, the Government's response was that it would not be feasible, and there were potential dangers. However, President, you can see that one point is beyond doubt, that is, what these experts want to do is not to oppose the relocation of the Star Ferry Pier or the construction of the road, rather, they hope that the authorities can consider solutions that will lead to a win-win situation. Why can the Government not consider these proposals? When we encounter such instances, why is the Government bent on having its way, why does it not pay any heed to whether the experts are right or not and why does it believe that the Government is always right and they are wrong, that their proposals are infeasible and they are branded as the opposition by the Government? Should the Government look at this matter in such a way, or should it not adopt an attitude of being open to discussion and deal with this matter according to the demands of the public?

A key factor that we have mentioned is whether the clock tower of the Star Ferry Pier has any conservation value. Is it a historical monument? Who actually has the say over whether something has historical value and is worth preserving? On this, we have to go back to the question of how the Government treats its people. When it is necessary for experts to make decisions, what the Government is the best at doing is to adopt the attitude of "your government knows best", that is, "as Big Brother, I know everything". It knows what is good for you and everything is done for your good. Should it adopt such an attitude? Or should it let the people decide whether something has historical value? Before making decisions, it is at least necessary to consult everybody. For example, in some instances, what the Government thinks is no good, that is, what the Secretaries, the Executive Council and the Chief Executive think is no good may be considered desirable by the public, so whose opinion should prevail? I believe this depends on the kind of attitude the Government believes it should take in dealing with its people.

Another issue is that the Government said that it had conducted many rounds of consultation and no one had voiced any objection. However, people are voicing their objections only now and surely, the authorities cannot discuss without making decisions and make decisions without taking action, so it must proceed. President, one can say that such a view is very much behind the times. Members may still remember that in the British-Hong Kong era, that is, several decades ago, the approach in doing any work was that efficiency mattered above all else. For example, when clearing squatter areas, the first step was to evict the squatters or to rehouse them, raze the squatter area, then build something new. This was how the former Government went about its work. The authorities believed that efficiency mattered above all else and such an approach was also the least costly. Even though some members of the public voiced their objections, this did not matter because in the final analysis, what was done was good for society as a whole. If the objections voiced by members of the public were not too strong, since what was done could not be undone, the voices of opposition would then wane without traces. Such was the approach of the Government then and it did not think there was anything amiss. I am not saying that the Government was always wrong, however, the approach nowadays is different because in the past, the view that those who wanted to carry out development and those who opposed it could achieve a win-win situation did not exist. However, since such a view exists now, the Government should be flexible. Even if we do not say that the Government is wrong — some Members said that the consultation carried out by the Government had been inadequate and a lot of matters had not been raised for discussion — even though the Government did carry out a consultation, the authorities have overlooked one thing that the authorities believe has no value. When it is about to really knock it down, a lot of people may feel very pained and reluctant to let it go, thinking that even though it is very ugly and is not considered to be a work of art in the eyes of other people, still, they cherish it very much and are reluctant to see it go. In these circumstances, what should the Government do? Should it stop at this point and say to these people, "I am really sorry. I have no idea that you attach such great importance to it. In that case, perhaps I should stop and consider what should be done." Or should it say, "When I asked you just now, you did not say anything. Now it is too late and no matter how pained you are, I will still go ahead and demolish it." Should it behave in such a way?

Therefore, President, be a material object such as the Star Ferry Pier, which cannot be rebuilt after demolition, or the relationship between the

Government and its people and the way in which the Government works, we can see that such things are easy to destroy but difficult to rebuild. The past practice of emphasizing efficiency has fallen behind the times and the expectations of the public are different nowadays. They have developed a greater sense of belonging to Hong Kong, their self-confidence is greater and they have travelled and seen more. They think that sometimes, they should not just focus on the necessities of life but should also care about the quality of life and attach importance to culture and their own history. These things are also very important to them.

This is also the global trend. It is not just in Hong Kong that such demands relating to clock towers and monuments have sprung up, apparently for no reason. In fact, such demands can also be found in many places in the world. In the past, perhaps only rare works of art would be treated in this way, however, nowadays, people's views on folk arts and things of special social or historical significance are different. If a little more public money (To whom does the money in the coffers belong? Does it belong to the Government or to the public?) is spent on the construction of a road and a win-win situation can thus be made possible, is it money well spent? The Government may think that it is not. However, if the public believes that it is, then whose word should be given greater weight? It is worthwhile for the Government to ponder this.

Now that this incident has erupted and just now, we could see on the television out there that the police are carrying people away in clearing the scene. I really think that that is a very dumb thing to do, giving the public a very bad impression of the Government. President, I hope the situation will not deteriorate and that this urgent motion for the adjournment of the Council will have the positive effect of making the Government really stop, desist from going any further and work out a win-win solution with members of the public and Members of the Legislative Council before it proceeds again. This should be the most desirable solution. This is because what is at stake is not just this matter but also the two issues that I raised at the beginning, that is, how the Government should treat its people and what the Government's way of administration should be. If the SAR Government deals with this matter properly today, this can perhaps be considered a good starting point and the approach adopted in future will see some improvement. Therefore, President, the reason that we have heard the sincere exhortations from a number of Members is that they have done so out of their goodwill for Hong Kong and they



all hope that the public and the SAR Government can maintain a good relationship. Therefore, just like other Honourable colleagues, I ask the Government to conduct careful deliberations, withdraw its order and proceed only after having discussed with us and a correct approach readily acceptable to all parties has been found. Thank you, President.

**MR CHEUNG MAN-KWONG** (in Cantonese): President, I am not the spokesman for the Democratic Party on environmental protection. I merely wish to focus on one point today, that is, the Government's clearance by force resulting from the demolition of the clock tower. Insofar as the demolition of the clock tower is concerned, I think that the young people merely wish to meet with Secretary Michael SUEN, and the Legislative Council merely wishes to debate this issue clearly and reassess public opinion on the disposal of the clock tower. Under no circumstances should the site be cleared and the young people be subject to force when everything is not yet settled and a dialogue has not yet begun.

We all were young once. When I was young, I often took part in protests and even occupied government buildings by a variety of peaceful means to voice the views of young people and the public. I have also experienced clearance of sites by force on many occasions. Today, as a Member of this Council, I was overwhelmed with mixed feelings when I saw many young people being removed from the Star Ferry Pier site. I feel that I have reasons, and I am obligated, obliged to speak for them. Why do they have to protect the clock tower? They are not seeking to stir up troubles for no reason. Only that they miss the place and land more than the previous generations did.

In the past, Hong Kong people and even the territory were often described as a borrowed place in borrowed time, and Hong Kong people were described as people in transit. Our ancestors might not cherish many of the monuments and antiquities deserve to be cherished because they knew that they might not be able to stay in this place for long. This was indeed a wartime mentality. Young people today, however, cherish this piece of land where they were born and raised. Furthermore, they love the Victoria Harbour, monuments and their environment. Any government should treasure these young people for having such a sense of value. From the angle of education, this is something that can never be taught.

Nevertheless, how did you treat them? I hope you can protect the clock tower, the collective memory in their hearts and their value. Is it impossible for you to listen to their voices, discuss with the Legislative Council and refrain from dwelling on so many procedural matters? I certainly am aware that consultation has been carried out and, according to you, no objection was raised at that time. In spite of this, there have been changes in public sentiment and value over the past couple of years. Can you re-examine the situation to ascertain if there is room for compromise, improvement, acceptance, audience and dialogue? When all these have yet to be done, the site has already been cleared. Do you think that the young people's dissatisfaction with the Government can be dispelled with the clearance operation? Do you think that people's anger over the clearance of the site by force can be removed upon the demolition of the clock tower? You must be dreaming.

Actually, a wide range of opinions have emerged throughout the process on the disposal of the clock tower. They include demolition, as proposed by the Government, relocation, and even transfer to a place of value for the sake of bringing back people's memory. All these can indeed be resolved through discussion. However, the young people must be respected. Their rights to the clock tower and their opportunities must be protected. You may probably say: "It is the young people who have done it wrong in the first place by entering a public site and impeding the demolition of the clock tower. Clearance is a dead certainty, for they have failed entirely to show due respect to the Government. This is strong governance."

What these young people can do is merely putting up weak resistance. Neither can they meet with you nor explain to you their grounds. You have paid no attention to them either, even though they have laid a wreath at the entrance of your office. Despite everything they have done to attract your attention, you simply treat them as if they do not exist at all. In the end, they can do nothing but enter the site and tell you their aspirations on the television. Only the weak would have put up resistance in this manner. As the saying goes, "Those with favus of the scalp surely would like to have it shielded with their hair." If they were allowed to open a dialogue with you, as the 10 Members did, why would they have to climb to the top of the bulldozer? Do you think they found it very enjoyable spending the night braving the elements?

I actually wish to cite an example. We will invariably see groups of children picking up stones and fleeing immediately after hurling the stones during the Israeli crackdown on Palestine. Very often, such an act of throwing stones was described as an act of violence. However, were there other options? It is certainly not right to hurling stones. Who does not wish to wear a tie and talk politely? They hurled stones because they were confronted with force a hundred times stronger than they were, and there was nothing they could do but put up such resistance. Sometimes, they were forced to act in that manner. This explains why I hope the Government can seriously examine its act of crackdown by force. Will the young people arrested by you be released? Not only do you have to release them, you have to open a dialogue with them, too.

I wish to tell the Government that such acts of bullying young people or suppressing them by force will always bring about sequelae. Any form of resistance, if dealt with in such an uncivilized manner, will be like the grass on earth which "cannot be burned out by a prairie fire but grows again with the spring breeze". You are merely adding fuel to fire before the angry people, including those angry youngsters, thereby burning the Government's backyard. Actually, you will not find these young people who wish to open a dialogue with you frightening. Sometimes, you might even find them lovely and full of righteous ardour and sincerity, only that you choose not to act in this manner. Actually, they are not pirates or rioters. With the sense of value and ideals cherished by young people, they hold no transients' mentality. Here in Hong Kong, they cherish all the values of the place where they were born and raised. In what way have they offended you?

Therefore, I hope the Government can understand that the act of the young people in protecting the clock tower merely reflects changes of time and changes in value over time. If you are determined to drive them into a dead corner, you will merely be creating more social discontent and resistance. Under no circumstances are you doing anything helpful to the so-called social stability and harmony. I have no idea how the Government will deal with those young people who have been arrested. However, I sincerely hope that the Government will release them and, what is more, conduct a dialogue with them as well as initiating a new dialogue with society. The demolition of the clock tower should be shelved. We have to come up with a more rational, feasible solution which will make all parties happy and society satisfied. Thank you, President.

**MR LEE CHEUK-YAN** (in Cantonese): President and Honourable Members, let me now report to Secretary Michael SUEN that the police have already cleared the site according to his instruction. Is he satisfied? Does he think that what he has done is an expression of strong governance?

President, I think what we have witnessed today is not the strong governance of the Hong Kong Government, but downright tyranny. Why has the situation turned so bad? Actually, when we requested a meeting with him at around noon today, our only hope was precisely to prevent a situation like this. Are all these people guilty? Honestly speaking, we should thank them all, because even at the last minute, they still tried to preserve the collective memory of Hong Kong people.

I very much agree with Mr CHEUNG Man-kwong that during the colonial years, when Hong Kong was regarded as "a borrowed place in borrowed time", no one would treasure any heritage because all people thought that they would reunite with the Motherland or emigrate elsewhere sooner or later. Actually, the actions of all these young people today are proof of their love for Hong Kong. The Secretary may think that their actions amount to vandalism, and others may even describe them as trouble-makers. But I must say that they are people who have a true love for Hong Kong and our collective memory. Why does the Secretary refuse to give them some allowance?

If the Secretary thinks that these people are guilty of vandalism, I must tell him that the demolition of the clock tower is true vandalism. The demolition will destroy Hong Kong people's collective memory and heritage. Some argue that since the history of the clock tower is not long enough, not as long as 50 years, it cannot be regarded as any heritage. However, President, one must bear in mind that what is not as old as 50 now will become so in time. Sorry, President, I know that you are as old as 50 now. Heritage can enable the present generation and our future generations to reminisce things from the past. Therefore, why should they refuse to preserve our heritage? Speaking of vandalism, I must say that the Government itself, instead all those young people, are guilty of such an act. Those young people have simply tried to protect the heritage. In contrast, the Government has sought to destroy it.

Another cause of my discontent with the Secretary is that when we put forward our two demands during the meeting at around noon today, he replied

that he would consider the demands. We demanded, first of all, that an experts' meeting should be convened immediately to discuss this issue, because he claimed that following discussions, experts had concluded that re-alignment was impossible. During the meeting, we also pointed out that the term "rebuilding", which he used during the press conference, was in fact wrong. He therefore clarified that he should have used the term "reconstruction" instead of "rebuilding". Reconstruction is largely meaningless because it will not be the original clock, and different technologies may also be adopted. The clock may be an electronic one. I do not know what the case will be, but as pointed out by Miss CHOY So-yuk, the old clock should be worth preserving. Reconstruction will result in the loss of the old clock.

We pointed out that in case re-alignment was really impossible — further exploration is actually required in this respect — relocation should be considered, so that the whole clock tower could be lifted and relocated to another site. President, as Members can see, such technology of heritage preservation is already available in other countries, and it is nothing new to relocate a building in its entirety. Why did the Secretary refuse to consider such a possibility? He claimed that he was not sure whether it was technically possible. In that case, there is all the more reason for us to hold discussions, to let experts talk about the matter face to face. Therefore, our first demand was that experts should be allowed to talk with one another face to face. We hope that we can make a last-minute effort of preserving this collective memory of Hong Kong. I do not know what the Secretary's final decision is. But Mr LEE Wing-tat said just now that he had already rejected the idea. If this is really the case, I really wonder how much room is still left for Members to find out any ways to do something for Hong Kong, to preserve the clock tower and our collective memory. If the Secretary even refuses to listen to the experts' advice, what else can still be done? I hope he can make a clarification later on.

Our second demand was that a special meeting of the Panel on Planning, Lands and Works be convened. Our hope is that within the one or two days after the meeting, further explorations can be conducted to ascertain whether there are any alternatives. However, President, now that we have put forward the demand (I have heard from Mr LEE Wing-tat that the Secretary has acceded to our demand), why has he still ordered the clearing of the site while we are all trying to save the clock tower? His action of clearing the site by force before we can even hold any discussions shows that he does not have any real intention of discussing the matter.

The Secretary may say that he simply does not want any discussions, and that there is actually no possibility of any reversal. He may say that he has agreed to hold a meeting simply because of our insistence. He may say that he simply does not want to hold any meeting, and that he is just forced by us to do so. He may well say so. But is this strong governance? Does strong governance mean that once the authorities have made a decision, it must be enforced in total disregard of public opinions and the heritage and values treasured so much by Hong Kong people? If the answer is "yes", we will have nothing more to say. If the Government wants to ignore the "five-cent incident", just let it do so. What was the "five-cent incident"? The greatest collective memory associated with the Star ferry Pier is the "five-cent incident". What consequences did this incident lead to in Hong Kong? We do not want to see a repeat of the "five-cent incident" in Hong Kong. But if the Government continues to be so high-handed and insists on going ahead forcibly, it will lose the people's faith. In the end, the people will be forced to rebel.

Actually, the recent incident is already a good example of how the people have been forced by the Government to rebel. They have no alternatives because the Government does not want to discuss anything with them. Although the Legislative Council has already passed a resolution demanding the suspension of demolition and the formulation of solutions, although the motion has been passed within the political establishment, the Government has still turned a blind eye to it. Since every possible means within the political establishment has been exhausted, they are left with no alternative. They are forced to enter the works site in order to protect the clock tower. And, the Government is just the destroyer in this case. President, I hope the Secretary can tell us why he still wants to clear the site after agreeing to hold discussions. This shows that he is not sincere at all.

Lastly, I must call upon the Secretary not to arrest all those people. They just want to do good to Hong Kong and preserve our collective memory. The Government must not tell the police to arrest them and charge them for vandalism. If the Government wants to prosecute anyone, it must prosecute itself. It is the only one who is guilty of vandalism.

Thank you, President.

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

**MR JAMES TO** (in Cantonese): President, I will not repeat what other Honourable colleagues have said.

Just now, I have been watching the television in the Ante-Chamber and I felt very angry about one thing. Although the President of the Legislative Council considers this matter to be of urgent importance and has, in a rare move, approved the moving of a motion for the adjournment of the Council, so as to immediately discuss how to determine the fate of this clock tower, even as we Members are still speaking and the Secretary has yet to give a reply, I can already see the police beginning to remove the protestors.

I have a bad feeling about this because Mr LEE Wing-tat said just now that LEE the Prophet had expressed the view in the *Ming Pao Daily* that the Chief Executive, Donald TSANG, in thumping on the table for emphasis, believed that in order to show strong governance, a counter-attack must be launched, the protestors must be removed and the clock tower must be demolished as soon as possible. I have the foreboding that a bulldozer will probably move in tonight, so perhaps we will see no more of the clock tower tonight. If one bulldozer is not enough, two more can be deployed.

Last evening, a presenter of a programme asked why so many people had attended the farewell ceremony and had gone there to take photos to commemorate the occasion and such people numbered more than 100 000, yet it seemed that only 15 people had shown up to wage a struggle and a campaign. My premonition is that unless several thousand people would go to the Star Ferry Pier before this evening and several thousand or 10 000 people would tell the Government that we are very concerned, so much so that we have come even after work, that we will not let the Government demolish this clock tower tonight, I am afraid the clock tower will become history tonight.

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

**MS AUDREY EU** (in Cantonese): President, since many Honourable colleagues have given detailed accounts of the history of this matter, I only wish to talk about several points briefly. Firstly, I find this matter most regrettable because at about noon today, several Members and I went to see Secretary Michael

SUEN to raise our demands with him and other Honourable colleagues have already talked about this. The Secretary said that he would come to the Legislative Council to respond to our demands, however, before he has done so, I can already see on television.....even as we are debating this issue in the Legislative Council, the police are already clearing the scene by force. I find such a course of action extremely regrettable.

In addition, I also wish to raise one point. I am very worried because as far as we understand it, this clock tower is more than 40 years old and it has an antique and unique clock. At the moment, only the clock face has been dismantled but the mechanical parts have not yet been removed because they are housed behind the walls, so they are still intact. I am worried that in order to get the job done quickly, the Government will expel the protestors as quickly as possible within the next few hours and then demolish this clock tower forcibly or quickly. Such a move will be irreparable because if the clock tower is demolished in such a way, any reconstitution of it, including the concrete and the parts inside, is impossible, no matter if one calls such a move reconstruction or relocation. Even if it is possible to rebuild a clock tower at some other location nearby or at any other place — now I am no longer talking about preserving it *in situ* — no matter if we call this relocation or reconstruction, to remove the parts is an irreparable act. This also explains why the ferry company maintained from the very beginning that it was not possible to move the clock tower to the new ferry pier and that is precisely because the parts are very special.

When I met with Secretary Michael SUEN just now, quite a number of people from civic groups told me that the experts hired from the United Kingdom had told them that if this kind of clock tower was to be demolished, it was imperative that experts be present and it would not do to find just any worker to smash the concrete if this clock tower is to be dismantled and preserved. Therefore, regardless of the Government's claim that it will be reconstructed or relocated, I am worried that such a hasty method of demolition would leave nothing intact and in that event, nothing could possibly make up for the loss.

President, I hope Secretary Michael SUEN can explain in his reply later as to why, on the one hand, he met Members but on the other, before he has given Members any reply, the police have already entered the site to forcibly remove the protestors. For one thing, I hope the Secretary can explain to us why,



although a motion, though not binding, was clearly passed by the Panel on Planning, Lands and Works of the Legislative Council, our demand made to the Secretary to suspend the demolition has been completely ignored by him and the work has gone ahead. Today, I have heard a number of Members speak, including those representing the DAB, the Democratic Party and the Civic Party. I have also heard Mr Howard YOUNG of the Liberal Party speak and I have even personally asked Mr James TIEN of the Liberal Party of his opinion. The voices that I have heard are unanimous. No one agrees that the Government should demolish this clock tower now. They hold that the Secretary should suspend the work and conduct careful deliberations on this matter to see if there is a way that can lead to a win-win situation. I have also heard many experts from either the planning, architectural or engineering sectors say that there are many ways that can achieve the best of both worlds. However, it is most regrettable that the Secretary was not willing to agree to the requests made by Members this afternoon, that is, to hold an expert conference. Furthermore, despite these developments, he went further — by calling in the police immediately to forcibly remove the protestors.

I hope the Secretary will respond to these points later. Thank you, President.

**MR MARTIN LEE** (in Cantonese): Madam President, I visited the scene just now with a number of Legislative Council Members and I felt very upset. I saw with my own eyes how the police used limited force to carry two young people down from a construction vehicle, or a bulldozer. They did not put up a struggle but merely held on. The several of us saw this down there but could not help them in anyway even though we would dearly love to. Each and every cell in my body urged me to join them, however, as a Member, I know I should not do so. I could not obstruct the police in the discharge of their duty, so I could only stand there and look on as the two young people were lifted by police officers. The police officers also told us beforehand that the two would not be arrested or charged because they had not committed any offence. Later on, I saw them come out, for the police officers had released them.

Madam President, why did I go there? In fact, today, while I was sitting here listening to the question put by "Long Hair" and the President's remark that he should not ask the question in such a way — Madam President, your decision

was entirely correct — I wondered why we did not conduct a debate on a motion for the adjournment of the Council. Consequently, after discussing this with a number of Members, eventually, we resorted to this approach so that we can debate this matter in the Council today. Other Members are also thankful to the President for granting us this opportunity.

Originally, I did not intend to speak, however, while I was listening to Dr YEUNG Sum giving his speech, I got news from Mr James TO that Cable TV was taking some footage of us. I went out to take a look immediately. Cable TV was making a live broadcast and one part of the screen was showing the debate in the Legislative Council while the other part was showing how the police were removing protestors from the scene. I thought, "How can this be? Surely the Government is not going to do that?". While Members were having a debate, the Government was already clearing the scene. We are now still having a debate, however, the clearance has almost been completed. The two young people have been carried off the bulldozer. Several other young people are still on the rooftop but I gathered that they would also be carried away from the scene.

In fact, it is possible for the works to start tonight. Is it necessary for the Government to adopt such a policy, such a measure on this matter? Why can it not spend a couple of days to debate with us? Is it not possible to do even such a thing? Does strong governance mean bullying "kids"? Can the Government be considered "terrific" because it has done such a thing? I wish to ask our Chief Executive what sort of message he wants to deliver to the Central Government. Is it that when dealing with the affairs in Hong Kong, although he could not accomplish some of the tasks, he can score full marks in the demolition of the clock tower? Is this what he means? Is he going to pay no heed whatsoever to the collective memories of the public and Members and the beautiful recollections of Mr WONG Kwok-hing and his wife? Is this what he wants to do? Will the leaders of the Central Authorities clap their hands on learning about this, saying that the Chief Executive of Hong Kong is truly great in managing to remove all protestors from the scene and demolish the clock tower? Will he get credit for that? Can he secure another term by doing so? Madam President, he said that he has to be people-oriented, so is this collective memory of so many members of the public and Members going to be completely demolished tonight or tomorrow due to strong governance? What sort of Government is this, Madam President?

Members have made a lot of comments and I do not want to repeat them, however, I know that the say does not rest with the Secretary. Frankly speaking, I do not believe he has the say. I think our Chief Executive has the say. No matter how he wants to handle this issue, he still has the time to do so. I do not believe that the Chief Executive does not have any recollections of his own on hearing the chimes of that clock, nor do I think that his relatives and friends have no recollections relating to it. However, is it absolutely necessary to take such a move because of strong governance? In fact, what matters most in practising strong governance is to win the support of the people and then implement the relevant policies. Only by doing so can one be people-oriented, not by using legal force to expel the protestors because there are police officers at the scene and the number of protestors is small, so that one can show that the Government is a great one.

When I left, some petitioners at the scene said that even Members could not resolve the matter. I felt ashamed on hearing that. In fact, Members are not in a position to resolve this matter. We have done what we should do and what we should do is to hold a debate in this Council. However, apart from this, what other measure can we resort to? Must all 60 Members except the President transform themselves into "Long Hairs" and clash with the Government the way he does? None of us want to do so, however, has it ever occurred to the Government that it is in fact forcing us down such a path?

Therefore, Madam President, I am really dissatisfied. While we are holding a debate in this Chamber, the Government is paying no heed to it and has already begun to take action. The Government often says that it wants to improve the relationship, however, I myself do not agree that the relationship between the executive and the legislature has to be improved because we should enforce accountability. How should we make the Government accountable to us? Is doing so being accountable? Even if we concede that the relationship has to be improved, is this a good course of action? Although I am looking at Secretary Michael SUEN, Madam President, I have already said that the final policymaker is the Chief Executive, Donald TSANG.

I hope that the other candidate running for the Chief Executive office in this Council can tell us his approach in dealing with this issue. If he has already done so, that will be fine and the public can make comparisons to see how being

people-oriented is really like. As regards a Chief Executive who is not elected by "one person, one vote" and who does not have the popular mandate, all of us can see clearly how this matter is being dealt with by him.

Thank you, Madam President.

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

**MR FREDERICK FUNG** (in Cantonese): President, the Star Ferry Pier also forms a part of my memory because I am already middle-aged and it was part of my life as a young person. Since the mass transit railway had not yet been built then and taking a ferry was cheaper, so when I had to cross the harbour, I would usually take the ferry. In particular, I also know Mr SO Sau-chung, who was the person involved in that incident relating to the Star Ferry that happened in that year, as he was the younger brother of my teacher in primary school. Therefore, whenever the Star Ferry is mentioned, it reminds me of the younger brother of the primary school teacher whom I respect, so this is another kind of recollection for me.

Of course, the Star Ferry and the City Hall are in fact related because if one wants to borrow books or cross the harbour, one always has to go past them. In fact, the design as a whole is also somewhat related because the same architectural style was adopted for the City Hall and the Star Ferry. The architectural style in the United Kingdom at that time was introduced into Hong Kong. In particular, the City Hall was the only building that was built in such a style. Therefore, I am worried that now, the Star Ferry is going to be demolished and in the future, it may be the turn of the City Hall.

When I learned that the Star Ferry Pier would be demolished, the memories of my younger days in which the Star Ferry Pier featured prominently kept flashing back. Of course, I also have another kind of memory of what happened 20 years ago, in the 1980s. As Members all know, at that time, when we in pressure groups staged petitions or protests, we would often stage sit-ins and sleep rough at the Star Ferry Pier in Central, that is, the ferry pier to Tsim Sha Tsui, and I have slept rough at the ferry piers on both sides of the harbour on quite a number of days. Other instances involved fund-raising activities and making appeals for donations from the public at the Star Ferry Piers. To people

like us, who organized civic movements and pressure groups in the '70s and '80s, these memories are very valuable.

Of course, we are not saying that the ferry pier must continue to be used, however, if we destroy it after it is no longer in use, this will really be some kind of a loss to people who went through and have memories of that era.

In fact, when I knew that the Star Ferry Pier would be demolished, I also took my son along on a day trip to the Star Ferry Pier, that is, my son and I were among that crowd of 150 000 people. We made our way from the City Hall to the Star Ferry Pier, then crossed the harbour to Tsim Sha Tsui and then took the ferry from Tsim Sha Tsui back to the Star Ferry Pier. Then we went up the car park opposite it and I led my son to a vantage point to look at the Star Ferry Pier. At each step of the way, I told my son what I did back in those years. I thought that I would be the only person to do so, however, it turned out that there was a sea of people there and we had to queue up for nearly an hour before we could pay \$1.2 to cross the harbour, so it could be seen that a lot of people also wanted to take a walk down memory lane.

I thought that only that crowd numbering more than 100 000 would do such a thing, however, I came across my acquaintances from childhood, my friends whom I became acquainted with when organizing the activities of pressure groups, who slept rough, raised funds and made petitions together with me, either on the ferry or at the pier. I felt as if that scene on its last day had carried me back to two or three decades earlier and renewed my attachment to the Star Ferry Pier. I believe it is not just me or the more than 100 000 people who had such a feeling. I believe that people who grew up in that era all have such a feeling.

Therefore, I wonder if we should draw a line at 50 years insofar as this kind of feeling is concerned. Should we set the line at 50 years and retain those buildings which are over 50 years old, whereas those less than 50 years old do not have to be preserved? Or should we set the line according to whether a building is related to the experience and memory of a lot of people, whether the building itself can be considered a historical building, or what is more, whether any significant event has occurred at that place, so that the people involved in it have a great deal of memory relating to that place or building and make our judgement accordingly? Or should the line be drawn rigidly at 50 years when deciding whether to retain a building or not?

The demolition of the Star Ferry Pier conjures up a great deal of thoughts and feelings in me because that is tantamount to demolishing part of my memory. President, concerning the demands made by some young people to retain the Star Ferry Pier, other thoughts and feelings have struck me because even we, who feel so much about it, did not lead the charge — however, this is probably because the ways in which we make our demand to save it are different. We are making the demand to officials here in this Council and we lack the impulsiveness that we had in our twenties or thirties — when we were in our twenties or thirties, the only approach we knew was to stage sit-ins and protests and sleep rough. After two to three decades, some other young people in their twenties and thirties are again resorting to such an approach.

In fact, our lament is that our attachment to the Star Ferry Pier should be even stronger than this dozen of people who are staging a sit-in if we judge according to the experience we had back in those years, so I think they deserve our admiration because they have the will and perseverance in demanding the preservation of these buildings. In fact, the impression that the younger generation gives us is that they are usually materialistic, do not care about current affairs, still less about tradition, history, culture, and so on. Now that there is such a group of people, I think they deserve the appreciation of society.

Therefore, on the action taken by the police today to remove the protestors, I hope the Secretary can look at this group of young people in a positive light. I know that one of them has been arrested, however, I hope they will not be charged with offences such as causing damage, other criminal offences or any violation of the law because their motive is not devious. I hope the Secretary or the Government can consider their motive and think about how to deal with this issue from other angles.

President, I also wish to raise another point. On this incident, I was in fact one of the Legislative Council Members who met with the Secretary at noon. Concerning the demand made by us then, since some Honourable colleagues have already mentioned it, I am not going to repeat it and it had to do with giving us two days' time. I was waiting for the reply from the Secretary and hoped that he could give us a reply in two hours, that is, we would get a reply at about two or three o'clock. I have all along thought that if his reply was in the affirmative, we could then have 48 hours and even if the reply was in the negative, still, the Secretary would tell us that the demand could not be met only after four o'clock, after which we could see whether the Government would take

any further action. However, while I was waiting, I learned suddenly from the television screen that actions were being taken and realized that the protestors were being removed. My Honourable colleagues told me to watch the television quickly to see how the Government was removing the protestors.

I am feeling very unhappy and the Government — including the Secretary, and I am talking in particular about the action taken by the Secretary — has in effect given the Members who met with him this morning several slaps in the face. The Secretary is shaking his head, however, he can tell us later why this is not so but I think this is. We had a discussion with him and he also said that he would give us a reply two to three hours later and we were waiting for his reply. However, before he had given us any reply, he started to remove the protestors and take further action. This is tantamount to giving us a reply if it pleases him, otherwise, he will not do so and in reality, the Government had already planned other moves. In saying that a reply would be given to us two hours later, the Government was just trying to fob us off, so that we would leave after talking for about an hour. This is the impression that he gave me, so I am feeling most unhappy. I think the 10 Members who met with him were each given several slaps in the face and this is how I feel. "Ah Yan" has just demonstrated how it is like. I hope the Secretary can explain why he did not give us a reply first when he responds later. In particular, since we are now holding a debate and we have to watch how they remove the protestors while having a debate, I am very saddened and to me, the injury is great.

I do not know how to chide people but I only want to tell the Secretary that demolishing the Star Ferry Pier is already regrettable and this makes me very unhappy. Together with today's incident and the reply that the Secretary gave us 10 Members, my unhappiness has doubled.

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, the time for Members to speaking now ends. I now call on the Secretary to speak in reply.

**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Cantonese): I am very grateful to Members for speaking so enthusiastically today on this motion, which is not on the Agenda. They have voiced their views in the light of the latest developments, and I am also given an opportunity to reply.

I actually want to deliver a message to the public through the Legislative Council. But I shall leave the message aside for the moment. I first want to answer the questions which several Members have asked me because I think replying to these questions is also very important. According to two Members, when I met with them this morning, I undertook to give them a reply two hours later. They therefore wondered why I took certain actions before offering any reply. I think Members should remember that before I left this morning, I already told them very clearly whom I would inform because I knew that I must come here for this meeting but I could not be here right at the beginning of the debate. President, as I explained to you, since I could not have foreseen that I had to come here for this meeting, I must finish a number of meetings and attend to some other business before this. What is more, I already made it very clear that I could not telephone each and every Member. Actually, all Members were in the Chamber at that time. I said that I would ring Mr LEE Wing-tat and tell him whether we could do it or not. I therefore gave him a telephone call on this matter beforehand, and it was only after I had done so that my government colleagues were allowed to take actions. I hope Members can understand my point. I do not have any authority or intention of slapping Members across their face, nor have I ever actually done so. How would I ever do so, right? This is the first point.

The second point I must clarify is that, as several Members have pointed out clearly, we have in fact been conducting consultation throughout the whole lengthy process. The consultation has never been bogus. Rather, it has been genuine. Different Members may have different interpretations, and some Members have passed a fair comment on us — we did try to gauge people's views clearly at that time. Naturally, I can appreciate that times have changed, so the situation may be somewhat different now. President, I think once the consultation exercise was over, we must make a decision. In particular, we must not regard the Star Ferry Pier reclamation project as an isolated incident that started only this year.



Our present decision must not be conceived as being unconnected with what we did in the past and what we will do in the future. I have said on many different occasions that the reclamation projects concerned and the relocation of the Star Ferry Pier all have a history of 10 years. The whole project actually started as early as 10 years ago with the Island Eastern Corridor (IEC), Rumsey Street Flyover, and so on. All these are components of one whole project. Years back, in the 1980s, in order to solve the congestion problem, the Hong Kong Government ..... I think Members can all remember vividly how congested King's Road was at that time. We all looked forward to the early completion of the IEC. One section of this road is still missing middle along the way. Was any allowance made at that time? Allowance was of course made, but this is the usual problem with reclamation works — they must be undertaken in several phases, spanning many years, as long as 10 to 20 years. What we are talking about now is precisely the middle section.

The middle section has met various setbacks and obstacles. After reclamation, the project was put aside for quite some time because of the legal proceedings. After completing the proceedings, we have now got everything ready again and want to re-launch the project. Therefore, we must not ignore all these historical factors. People must not say that our consultation in the past did not take account of continuity. Besides, I have also mentioned on various occasions that all the underground facilities are connected, so we should not look only at Road P2 at grade. Many people have mentioned various alternative locations for Road P2. Different people may of course have different considerations. But they may have overlooked other relevant aspects. I have explained this many times and I do not intend to dwell on it any further.

In brief, we have always been very sincere in our consultation. And, one must realize that many government decisions actually come as a whole package. We cannot behave as if we were taking our picks or doing shopping, selecting one combination for the first article, another combination for the next and yet another combination for the last article to come. We cannot, for instance, ask for different combinations for the middle and rear portions of something that we buy. In some cases, we must make a choice. When doing so, we must take account of different people and different stakeholders. The Government must be equitable by all means. As some Members have pointed out, we must ascertain where the balance should be struck. Therefore, the Government will not lightly decide what to do or what not to do. We must consider many factors.

I do not think that there will be any strong opposition to our reasoning from Members up to this point. Actually, what is the focus now? Members have all been talking about this on different occasions. They know (and the Government also knows) what the public want. We will respond to the public aspiration as far as possible. But our approach is slightly different. All is just a matter of degree. This is of course due to the various factors mentioned by me just now.

To sum up, there are actually two options now. One of them is *in situ* preservation, as proposed by some, but not all, Members.

**DR KWOK KA-KI** (in Cantonese): President, a point of elucidation.

**PRESIDENT** (in Cantonese): You want to ask .....

**DR KWOK KA-KI** (in Cantonese): The Secretary has just referred to various factors. Can he clarify what those factors are?

**PRESIDENT** (in Cantonese): Yes. Secretary, you may choose to reply to this question, or you may choose to continue with your speech.

**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Cantonese): President, I believe Members can all understand what I mean. If he cannot see what those factors are, he may consider the whole context of my speech to find them out. Thank you, President.

Therefore, we can see that there are two different options. One is the *in situ* preservation of the whole structure. Alternatively, people can accept our conclusion (as explained by the Government many times) that due to many technical and other problems, we must reconstruct the clock tower elsewhere instead of preserving it at the original location. Actually, in regard to the second option, we have already reached a consensus with Members on different occasions. We are prepared to do so. We have also said that the Planning Department will undertake this task. We have commenced the work and are

right now having dialogues with stakeholders to identify locations in the future reclamation area that can be considered for reconstructing the clock tower. To pave the way for reconstruction, we have already conducted some advance work, including the application of laser technology to record the measurements of the existing clock tower for the purpose of constructing an exact replica in the future.

At this juncture, I also wish to respond to the second question asked by Ms Audrey EU — the question of whether or not we will damage the clock. Actually, we already removed the face of the clock yesterday. We only removed the face of the clock because the Government is not supposed to remove the innards of the clock. They are the properties of the Star Ferry Limited. It will remove the parts and carry them to the new pier for exhibition. It also proposes that alternatively, it can place the parts in any one of the government museums for public display. We will consider all alternative possibilities and decide what should be done.

President, as for collective memories, we will explore as many ways as possible to achieve their preservation. Is our present scheme entirely satisfactory? I think many other ideas can of course be considered. However, when it comes to the proposal on *in situ* preservation put forward this morning, I must draw Members' attention to a number of simple and fundamental principles. First, the clock tower is not built on land. Rather, it is built above the sea, and it is not supported by any pillars that reach the seabed. Precisely, it is built on a podium, which is why once the podium is demolished, the clock tower will collapse. If we want to preserve the clock tower, we must find out ways of strengthening and stabilizing the podium underneath. Some Members argue that we can relocate the clock tower after stabilizing the podium, and that such technology is already available in foreign countries. But, where can the clock tower be relocated? There is no location in Central for the clock tower. This morning, some Members proposed to relocate it to places such as the West Kowloon Reclamation area. But how are we going to put the clock tower onto a barge? I raised all these questions this morning, but having made detailed enquiries into such technical issues during the meeting in the afternoon, my colleagues and I have come to the conclusion that it would be misleading for anyone to claim that this can be done. Given the existing constraints and the limited time available, I myself cannot say that this can be done.

Therefore, President, what we are talking about now .....

**PRESIDENT** (in Cantonese): A point of order?

**MR LEE CHEUK-YAN** (in Cantonese): A point of order. I would like to seek an elucidation from the Secretary.

**PRESIDENT** (in Cantonese): Secretary, are you prepared to take this question and then make an elucidation?

(The Secretary for Housing, Planning and Lands shook his head)

**MR LEE CHEUK-YAN** (in Cantonese): I wish to ask the Secretary why he said that there are "limits in time", "limits in circumstances".....

**PRESIDENT** (in Cantonese): The Secretary already said that he did not wish to elucidate.

**MR LEE CHEUK-YAN** (in Cantonese): But I still have to say this. There is no reason for the Secretary not to make an elucidation.....

**PRESIDENT** (in Cantonese): Please sit down. The Rules of Procedure.....

**MR LEE CHEUK-YAN** (in Cantonese): .....what does he mean by limits in time?

**PRESIDENT** (in Cantonese): Mr LEE Cheuk-yan, you have to comply with the Rules of Procedure, even if you are not happy with it. Secretary, you may go on.

**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Cantonese): President, this is a debate, and I have my own speaking time. This is not oral

question time. If this were the case now, I must of course sit down and listen to Members' questions before giving a reply.

**PRESIDENT** (in Cantonese): Under the Rules of Procedure, Members are permitted to seek elucidation. However, the speaking public officer or Member may also decide whether to give a reply or continue with the speech. Since you have chosen to continue with your speech, please do so now.

**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Cantonese): Thank you, President.

By delivering my speech in the Chamber today, I wish to strike home one message to the public. Like all members of the public, we also treasure our heritage and would very much want to preserve it. We must realize one point. In their speeches just now, some Members questioned whether the Government had ever preserved any built heritage. I think that is not a fair question. Just earlier this week, a couple of days ago, there was one preservation project, the Kom Tong Hall. The many study halls in the New Territories are another kind of preservation. There are still many other similar examples. In this regard, there are statutory procedures and various criteria for us to follow. And, we have been doing so all along. Therefore, people must not say that we in Hong Kong will never preserve any heritage. What is more, we will not ignore the significance of history. As for the clock tower of the Star Ferry Pier, some Members pointed out just now that it had a history of only some 50 years, so they wondered whether it should be regarded as built heritage. This is actually a question for experts to answer. After the inspection last time, some experts said that it might not be appropriate to classify it as built heritage. Admittedly, the incumbent chairman has said that more thoughts may be given to the whole thing again if an opportunity arises. I must say that this is just a matter of personal opinion. But in any case, people must not say that we have never given any consideration to the matter.

**MR LEE CHEUK-YAN** (in Cantonese): I wish to seek an elucidation.

**PRESIDENT** (in Cantonese): Yes. Please go ahead.

**MR LEE CHEUK-YAN** (in Cantonese): Can I seek an elucidation? I would like the Secretary to elucidate this: Is it the policy of the Government that anything with a history less than 50 years can be demolished? If that is the case, would it not develop to a state where there will never be relics of historic significance?

**PRESIDENT** (in Cantonese): Mr LEE, you may sit down. Secretary, you can choose whether to answer this question or continue with your speech.

**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Cantonese): President, you know that I will continue with my speech.

**MR JAMES TO** (in Cantonese): Does it mean that he is not going to answer the question?

**PRESIDENT** (in Cantonese): Mr James TO, please observe the rules.

**MR JAMES TO** (in Cantonese): I only want him to answer the question.

**PRESIDENT** (in Cantonese): You cannot yell in your seat in the course of a speech by any Member or public officer. This is wrong. The Rules of Procedure does not allow you to do this. Do you understand?

**MR JAMES TO** (in Cantonese): My apologies. I cannot control myself. I will try my best to control myself.

**PRESIDENT** (in Cantonese): You certainly have to, and being a Member, you must be able to exercise self-restraint. Secretary, please go on.

**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Cantonese): Thank you, President. I have spoken for 14 minutes, and I do not want to take up too much of Members' speaking time.

Through the Council, I wish to reiterate the Government's position on this issue. We fully understand and accept the public aspiration that the old Star Ferry Pier is part of their collective memories. All along, we have been holding adequate discussions and exchanges on this issue with Members at different meetings in this Chamber. And, we have come up with one scheme. Although it does not command the support of all Members, the fact remains that it is one of the schemes we have worked out following our negotiations with Members. We in the Government, as I have just explained, have decided to adopt this scheme as a means of responding positively and actively to the public aspiration.

President, I hope .....

**MS MARGARET NG** (in Cantonese): President, I hope.....

**PRESIDENT** (in Cantonese): Is it a point of order?

**MS MARGARET NG** (in Cantonese): Yes, it is a point of order. The Secretary said that he had a scheme. I demand that he clarify on that. Does the scheme include demolishing the clock tower tonight?

**PRESIDENT** (in Cantonese): Secretary, do you wish to continue to speak?

**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Cantonese): No, but I do wish to clarify one point because it is important .....

**PRESIDENT** (in Cantonese): Yes.

**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Cantonese): If I do not make any clarification, the public may think that my scheme is really like the one described by Ms Margaret NG. It is certainly not.

My scheme is that we will follow all specifications ..... We have commenced our work and joined hands with various stakeholders to consider where in the new reclamation area .....

**DR KWOK KA-KI** (in Cantonese): Point of order.

**PRESIDENT** (in Cantonese): Dr KWOK Ka-ki, is it a point of order?

**DR KWOK KA-KI** (in Cantonese): President, I would like to ask the Secretary through you how he will continue to discuss with the stakeholders. How will he do it? He does not even meet with them, how can he discuss with them?

**PRESIDENT** (in Cantonese): Secretary.

**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Cantonese): We will continue to work with various stakeholders to identify suitable locations and consider different possibilities for the reconstruction of the Star Ferry clock tower. Naturally, President, when it comes to having communications and contacts with the public, we cannot be expected to have direct dialogues with each and every member of the public. Members are the representatives of the people. Very often, they will speak for the people in this Chamber. I hope that they can actively perform their role as a bridge. I am talking about a two-way bridge. They are supposed to relay the people's opinions to us.

**PRESIDENT** (in Cantonese): A point of order?

**DR FERNANDO CHEUNG** (in Cantonese): Yes, it is a point of order. I hope the Secretary can clarify what he means by reconstruction. Does it mean demolishing the entire existing clock tower and build a new clock tower? Does this mean reconstruction?



**PRESIDENT** (in Cantonese): Secretary.

**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Cantonese): It is clear enough. Earlier on I said that the existing building could not be allowed to continue to remain at that location. We would tear it down and consider how it could be reconstructed in some other place according to the relevant specifications.

This is what I wish to say. Thank you, President.

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

Before votes are cast on this motion, I would like to remind Members that if the motion is passed, in accordance with Rule 16(3) of the Rules of Procedure, I will declare that this Council do now adjourn. Will those in favour please raise their hands?

(No hands raised)

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

(Members raised their hands)

**PRESIDENT** (in Cantonese): I think the question is not agreed by a majority of each of the two groups of Members present. I declare the motion negatived.

## **MEMBERS' MOTIONS**

**PRESIDENT** (in Cantonese): Member's motion. Motion with no legislative effect.

Release of CHING Cheong.

**RELEASE OF CHING CHEONG**

**MR JAMES TO** (in Cantonese): President, I move that the motion standing in my name on the Agenda be passed.

Mr CHING Cheong has already lost his freedom for one year and eight months. His friends and family have written numerous appeal letters; people from various groups have lent a helping hand; and various sectors of society have also launched campaigns to support CHING Cheong. However, what is the response from the Central Government? During the Asia Pacific Summit, when asked about the CHING Cheong case by the media, the reply from the Foreign Minister, LI Zhaoxing, was: "Who is CHING Cheong?" This is indeed disheartening.

The grievance borne by CHING Cheong is beyond imagination. The CHING Cheong case has put his friends and family through immense torture. It broke the hearts of Hong Kong people through and through. The CHING Cheong case has already aroused great concern in Hong Kong society and even in the international community. They are concerned not just about the personal suffering of CHING Cheong, but also the meaning behind the CHING Cheong case and its far-reaching repercussions.

Are the trials and judicial proceedings in the CHING Cheong case fair, just and open? Many unreasonable points can be found if we examine the arrest, the trial and court decisions relating to the CHING Cheong case from a macro perspective or examine the judgement or the legal grounds in detail.

Before the first trial of the case, the Xinhua News Agency announced that CHING Cheong had engaged in intelligence gathering activities on the Mainland, to collect information relating to the State including military intelligence and even concluded that CHING Cheong had accepted money in return. However, at that time, the case had not even entered the prosecution stage. Little wonder that CHING Hai, elder brother of CHING Cheong, said that the play script had been written and the tone had been set before trial.

Be it during the first trial or the second trial, the Court failed to take into consideration the argument of the defence counsel and CHING Cheong's self-defence in any way. In view of the fact that it took the Court only 20 minutes to conclude the second trial, can we believe that the judicial proceedings

were fair? Can we imagine that CHING Cheong had any chance to defend himself?

The trial of the CHING Cheong case was not open. The people allowed into the Court during the trial were few and far. Do the people find such a trial behind closed doors convincing? If it is alleged that the case could not be open to the public because it involved state secrets, this is even more absurd because shortly after the verdict, the judgement that involved state secrets was already circulating extensively on the Internet.

The judgement is full of muddled logic and doubts. Is the Foundation of International and Cross-Straits Studies an espionage organization, or a cover for espionage? If there are only doubts about the nature of the Foundation, how can he be described as "knowingly committing the crime"? When there is confusion about Taiwan's National Security Council and National Security Bureau, which are two organs of different natures, how could a conviction be made?

The naval fleet's visit to Hong Kong was an open event. How could a mere request for a photograph of the fleet lead to the conclusion that the other party was an espionage organization? And how could that be regarded as an acceptance of an espionage mission? Are our state secrets really so cheap that top secrets can be purchased at a sum of S\$300? Or are there so many state secrets that even the state is not sure what secrets are?

The judgement made no mention of the dealings among WANG Ying, LU Jianhua and CHING Cheong. There is no mention whatsoever in the judgement even of the important point of how CHING Cheong bought state secrets from them. How can that be convincing? More ridiculously, for a long period of time, CHING Cheong had been asking both of them to provide information for publication. If they had known in advance that the information would be published, why would they have continued to provide what they believed to be confidential information? If even WANG Ying and LU Jianhua themselves did not believe the information was confidential, how could one prove that CHING Cheong knew that the information was confidential?

Of the more than 170 articles commissioned over a period of four years, only a few were later confirmed by the authorities as secrets. This proves conversely it is possible that CHING Cheong had no knowledge whatsoever.

Therefore, in CHING Choeng's statement, it is stated that "All the charges brought against me have in fact been disproved by the evidence offered by the prosecution."

When the Court on the Mainland put CHING Cheong on trial using the above logic, in fact, in a reversal of roles, the impartiality of the Court on the Mainland was also put on trial by the people at the same time. Actually, did the country betray CHING Cheong or did CHING Cheong betray the country? After the CHING Cheong incident, all Chinese people and the international community have got a clearer picture of our civilized Motherland. The legal system and the operation of the rule of law in China are laid bare before the eyes of the people. What do law and justice amount to in China?

That CHING Cheong is a patriot is common knowledge. From the time CHING Cheong was arrested to his final trial, people who know him in various sectors and friends who have known him for a long time have consistently given his character very high evaluations. They described CHING Cheong as an honest and simple patriot who does everything only in national interest; and he was a downright pure and faithful patriot. Many people even swear upon their integrity that CHING Cheong definitely would not do anything harmful to the country.

However, it is ironical that many commentaries coincidentally concluded that this happened to CHING Cheong precisely because he was too patriotic. Unreserved patriotism will only bring troubles or even invite disasters to oneself. Is this what our leaders want to see and hear?

What is even more shocking is that I heard Mary LAU, CHING's wife, say, "Does it mean that if one is not a Chinese but a foreigner, one will be released earlier?" I believe that if she was not feeling extremely disappointed with our country at that time, she certainly would not have made that remark.

On the same day when CHING Cheong's original verdict was upheld when his appeal was heard, he published a statement through his family in which he said, "I implore the Central Government to take into consideration the special position of Hong Kong and the actual situation that the legislation on Article 23 has not yet been enacted.". I have thought about this remark for a long time. It is not easy to understand it. CHING Cheong has actually thought about questions in the very deep end.

CHING Cheong's main place of activities was Hong Kong. The legislation on Article 23 has not been enacted here yet. If the facts of this case can bring about a conviction, then carrying out journalistic and research work or exercising one's rights legally in Hong Kong can result in one being arrested and sentenced on the Mainland. The principle of "one country, two systems" will be undermined and our freedoms will be challenged. How can Hong Kong people not worry about this?

On the Mainland, the definition of state secret is really too broad. What is considered secret? Perhaps even the Central Government has no clear idea. As the exchanges between people in Hong Kong and the Mainland and the flow of information increase, members of the public will easily come into contact with "state secrets" inadvertently.

Let us consider this: A lot of Hong Kong people travel between the two places every day and come into contact with numerous people. Someone among them may have many different identities. If he mentions some information and you are not sure if it is state secret, then you may fall foul of the law unwittingly and become another CHING Cheong.

People engaged in research work will inevitably become extremely nervous and sensitive because of the CHING Cheong case — I am not the originator of this view, rather, this is what a senior researcher of the Hong Kong Policy Research Institute Limited chaired by Mr IP Kwok-wah said. Be it commercial or academic research, a researcher must collect a large quantity of statistics, facts and data. How can they be in a position to tell whether the data would involve the vast number of state secrets? Even if they honestly believe that their data are not secret, can this be a defence?

Research employees will almost surely come across different organizations that commission them to conduct some research and rewards may be involved. Is it possible for them to tell which organization is an "espionage organization" in every instance?

In future, when the legislation on Article 23 is enacted, this kind of instances of unwittingly falling foul of the law may be more serious. It will deal further blows to the flow of information and academic exchange in society.

Now that the CHING Cheong case has been concluded, the unjust trials and the frailty of the rule of law have made a patriot lose his freedom, his innocence. Not only did the State struck down with its own hands an experienced journalist, a current affairs commentator, a social researcher, it also buried a faithful and patriotic heart. Is it not the loss of our country? Is it not a tragedy for the nation?

With these remarks, President, I hope that Members can support my motion demanding the release of CHING Cheong and demanding that the Government and other people assist in bringing about the release of CHING Cheong.

**Mr James TO moved the following motion: (Translation)**

"That this Council urges the Hong Kong Special Administrative Region Government and other persons to make every effort to assist in bringing about the early release of CHING Cheong."

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

**PRESIDENT** (in Cantonese): Mr Howard YOUNG 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 Howard YOUNG to speak and move his amendment to the motion.

**MR HOWARD YOUNG** (in Cantonese): Madam President, CHING Cheong, an experienced Hong Kong-based chief China correspondent for Singapore's *The Straits Times*, was alleged to have gathered what is called "top secret" on the Mainland for Taiwan's National Security Bureau. He made an appeal, but it was rejected by the Beijing Higher People's Court late last month and his five-year prison term was upheld in the second trial.

In fact, since the arrest of CHING Cheong in April last year on the Mainland came to light, the incident immediately aroused great concern in various sectors in Hong Kong and it even became international news. CHING Cheong's family and good friends have been going all out to find ways to secure his release. The reason for such uproar over the CHING Cheong case is probably the impression that CHING Cheong has always given the outside world, that is, he is an experienced and patriotic journalist who loves his job. Regarding why CHING Cheong has violated the law and landed in prison, different people have offered different explanations. Some people believe that he has violated criminal law, however, some people still have great doubts about the CHING Cheong case.

Since the appeal lodged against the CHING Cheong case has been rejected and the facts of the case involved sensitive espionage charges, I think it will be very difficult for outsiders to comment on the rights and wrongs of this case based on the existing limited information. In fact, the discussion today is not intended to vindicate CHING Cheong and overturn the verdict of the mainland Courts. As Mr ZHOU Junming, deputy director of the Liaison Office of the Central People's Government in the HKSAR, said before the verdict on the appeal lodged by CHING Cheong was known, if CHING Cheong's family has any view, it will be conveyed to the Central Authorities faithfully, however, everything must be done in accordance with the law. I think it is necessary for us to respect the judicial system on the Mainland. I am sure the mainland Court must have considered the case thoroughly in upholding the original verdict passed on CHING Cheong.

Madam President, as the saying goes, "Justice has to be tempered with mercy". CHING Cheong's wife, Mary LAU, and his family disclosed that the physical condition of CHING Cheong is deteriorating and he has lost more than 20 pounds since his detention. After CHING Cheong's appeal was rejected, Mary LAU pointed out that in prison, CHING Cheong is suffering from abdominal pain and insomnia each night. Moreover, as he had chronic illnesses such as hypertension, arrhythmia and fatty liver and could not meet his family, CHING Cheong has been subjected to a great deal of mental stress and his health has reached a critical state after 20 months in jail.

Just like many Hong Kong people, the Liberal Party has great sympathy for the disturbance that CHING Cheong's family endured as a result of the CHING Cheong case. Since CHING Cheong is a permanent resident of Hong Kong, the Liberal Party hopes that the SAR Government can offer all possible

assistance to him and his family. Earlier on, the Secretary for Security, Mr Ambrose LEE, also promised publicly that the Hong Kong Government will offer assistance to CHING Cheong's family as far as possible under "one country, two systems". It has also conveyed the requests made by the CHING family to the Central Government, including the request to grant him medical parole. We consider the action of the Government appropriate.

Madam President, from the foregoing descriptions given by CHING Cheong's family and his wife, Mary LAU, we understand that CHING Cheong's illness is very serious indeed. Therefore, Members of the Legislative Council from the Liberal Party have also signed a joint letter in support of the campaign to secure the release of CHING Cheong on medical parole on humanitarian grounds and hope that the SAR Government will convey this to the Central Government.

Therefore, regarding today's motion, the Liberal Party supports urging the Central Government to accept the application made by CHING Cheong's family for medical parole on humanitarian grounds, taking account of the fact that CHING Cheong is suffering in poor health.

At the same time, CHING Cheong was sentenced to five years of imprisonment and he has served more than one third of his sentence by now, that is, 20 months. According to experts on China law, the requirement of the State is that if the examination by the medical officer in prison confirms that he is suffering from serious or acute illnesses, it is possible for him to be granted medical parole. As long as CHING Cheong is genuinely ill, his family can ask the authorities in Beijing to show leniency and grant him medical parole.

Madam President, as regards the request that the SAR Government offer assistance in bringing about the early release of CHING Cheong, in view of the principle of respecting the mainland legal system, the Liberal Party considers that the wording is not appropriate as the appeal against the CHING Cheong case has been rejected, so it is difficult to ask for the release of CHING Cheong on grounds of legal procedure. However, we believe that since CHING Cheong is ill, he should be granted medical parole on humanitarian grounds. Moreover, there are definitely precedents of medical parole, so I hope the SAR Government can make a greater effort in conveying this message to the Central Authorities.

With these remarks, Madam President, I propose the amendment.



**Mr Howard YOUNG moved the following amendment: (Translation)**

"To delete "in bringing about the early release of " after "to make every effort to assist"; and to add "in obtaining medical parole on humanitarian grounds" immediately before the full stop."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr Howard YOUNG to Mr James TO's motion, be passed.

**MISS CHOY SU-YUK** (in Cantonese): President, when I initially heard that CHING Cheong was suspected of having committed espionage charges that endanger national security, I was very astonished. I could hardly believe it. Because I have known CHING Cheong since my university days and we know each other very well. Moreover, for a period of time, he and I were good friends and we got in touch with one another frequently. In my impression, he is very concerned about the country and its people, enthusiastic about social affairs and it seems that he always has endless things to say when it comes to important national affairs and the discussion always evolves around making contribution to the Motherland, developing the country, and so on. As regards his life style, it is one of simplicity. Members are probably familiar with the account of how, after graduating from university, he chose to join the *Wen Wei Po* and the *Contemporary* magazine as a poorly-paid reporter instead of finding a high position and a well-paid job. Therefore, I can only conjecture that the reason CHING Cheong went through all these was probably due to the different standard he has on what amounts to state secret, or in his capacity as a reporter, he unwittingly fell foul of the law.

However, the past is gone just like smoke and ultimately, we have to come back to the reality that the CHING Cheong case has been concluded. In the one and a half years when the case was being processed, the judicial organ on the Mainland found CHING Cheong guilty of espionage in the first trial and sentenced him to five years of imprisonment, and the second trial also upheld the original verdict. This verdict, it is impossible for us to deny it because under "one country, two systems", Hong Kong cannot, nor should it, interfere with the independent operation of the judicial and executive organs on the Mainland.

However, just like some Hong Kong people, we are very worried that it will be difficult for CHING Cheong, who is nearly 60 years old and is in poor health, to endure five years of prison life. Therefore, earlier on, when the DAB made a visit to Beijing, it already relayed the worries and concerns of Hong Kong people to the leadership and I myself have written to the leaders of the Central Authorities, both when CHING Cheong was put on trial and after the second trial, in the hope that leniency could be shown in his case on condition that the judicial system on the Mainland is respected.

Since the Chief Executive has promised that, concerning the requests made by CHING Cheong's family, he will definitely offer assistance as far as possible, therefore, we urge the Chief Executive and the SAR Government to convey our message to the Mainland and offer all possible assistance, in the hope that the mainland authorities can take into consideration humanitarian grounds and allow CHING Cheong to return to Hong Kong to receive treatment on medical parole at an early date. According to the laws on the Mainland, CHING Cheong can apply for medical parole on health grounds, so it is lawful and also justified on humanitarian grounds for the SAR Government to assist his family in making such an application.

Ever since CHING Cheong's detention in April last year, he has so far not been seen publicly, however, it is an indisputable fact that his health is deteriorating. According to his family who visited him earlier on, CHING Cheong's health is poor and each night, he has abdominal pain and insomnia. Moreover, he also has hypertension, arrhythmia and fatty liver. In addition, in the petition letter issued earlier on by *The Strait Times* in Singapore, for which CHING Cheong works, it is pointed out that the medication for hypertension taken by CHING Cheong was prescribed according to his condition before his detention and after 20 months, his illness could only get more serious. In particular, when we heard his wife say that CHING Cheong was now very thin and looked much older, as though he has been through a serious illness, this makes us feel all the more worried that CHING Cheong will not be able to endure the hardship of imprisonment. Therefore, the views in Hong Kong society are just like ours in that they all hope he can be released from prison as soon as possible, so that his medical condition will not worsen.

Apart from medical parole, we also hope that the SAR Government can make all possible endeavours, including following the wishes of his family and

assist them in applying to the mainland authorities for transferring CHING Cheong to another prison and arrange for him to serve his sentence in the south, for example, in Guangzhou or Shenzhen, so as to prevent the cold weather in Beijing from aggravating his condition further. At the same time, this can make it more convenient for his family to cross the border and visit him.

I wish to mention in passing that recently, a newspaper said that I must have known that the Central Authorities had relaxed its policies and this was why I had taken part in the signature campaign opposing the demolition of Star Ferry Pier, the candle-light vigil against the large-scale culling of dogs in Beijing and even this joint signature campaign to save CHING Cheong. President, I must clarify here that I am only an insignificant person whose words carry little weight, so I did not receive any news from the senior hierarchy, still less do I have any insider knowledge concerning the Central Authorities. Of course, I hope that the Central Authorities can really tell me to do so and certainly this is what I hope for most of all. However, I really do not have any insider knowledge — only that if I think something should be done, I will just do it. I hope this will not cause too many unrealistic interpretations and associations because that will not do any good to anything.

President, it is only recently that I learned from the newspapers that the birthday of CHING Cheong falls on the winter solstice, that is, 10 days later. In the past, the CHING family would also celebrate CHING Cheong's birthday on winter solstice. I sincerely wish that this year, he can be reunited with his family and will not have to celebrate his birthday alone in prison. The New Year is coming and it symbolizes the passage of winter and the onset of spring, as well as the thriving of all living things. At a time that is filled with hope, I sincerely hope that the CHING Cheong incident can be resolved satisfactorily as soon as possible, so that he can return to Hong Kong for family union at an early date.

President, I so submit.

**MR LAU CHIN-SHEK** (in Cantonese): President, I have known CHING Cheong since the early 1970s. At that time, he was working for a newspaper and we had dealings occasionally. The first time that I had the chance to have a long talk with CHING Cheong was during my first visit to Beijing. On that occasion, due to matters relating to the drafting of the Basic Law, the State

Council invited a group of people from the religious sector to Beijing to meet with JI Pengfei, Chairman of the Basic Law Drafting Committee. I was invited in my capacity as the Associate Director of the Hong Kong Christian Industrial Committee. At that time, CHING Cheong was the Beijing reporter of the *Wen Wei Po*. On my arrival, he made an appointment to meet me at the place where he was staying, that is, the then Hua Qiao Building. The place that CHING Cheong was staying was a very cramped and basic room filled with books, magazines and newspapers. That night, we talked for a long long time and he believed the fact that we could express our views to Beijing presented a chance to make a breakthrough. The next day, I arrived at the meeting venue early and the first and only reporter I saw was CHING Cheong.

President, after going through a lot of things and the 1989 pro-democracy movement, CHING Cheong switched from working for the *Wen Wei Po* to the *Contemporary* magazine. In 1996, he again switched to working for Singapore's *The Straits Times*. It so happened that I went to Singapore that year to attend an international labour conference. CHING Cheong came all the way to the labour union centre to meet me and that was the second time I had a long talk with him. He knew that I had contacts with the political circle in Taiwan, so he focused on the issue of the peaceful reunification of China. At that time, he was also very concerned about the direction that Hong Kong would take after 1997 and he believed that it was desirable for China and Hong Kong to have more exchanges.

After that, he returned to Hong Kong and when people from Beijing came occasionally, he would try actively and very hard to arrange for everyone to meet, so I was impressed by his commitment to promoting interaction between China and Hong Kong.

In my interactions with CHING Cheong, I found that he only had one topic and one concern and, that is, the future of the country, the welfare of the people, cross-strait peaceful reunification and positive interaction between China and Hong Kong. Over the decades, it has never changed. In talking to CHING Cheong, one would find that he is very candid and would talk about anything. Not only would he ask for your opinion, he would also express his own opinions from time to time, for example, often, he would stress that in dealing with issues, it was necessary to consider the views and interests of different parties and do things in a "sensible, useful and orderly" manner, foster mutual understanding

and make mutual accommodation, so that a win-win situation can be achieved. He would never publish the things that you talked about with him on newspaper, therefore, both of us could put our minds at ease and exchange views. In my opinion, CHING Cheong is a genuine patriot, an upright Chinese. For the sake of the country, he would neither complain nor feel any regret and he would make unqualified commitment at all cost.

This time, in looking at the CHING Cheong case, I do not care what the truth of this case is. Even if he has really violated any law or regulation on the Mainland in any way, I strongly believe that what he has done must be for the good of China; I also strongly believe that he would definitely not do anything intentionally to jeopardize national interests. CHING Cheong's family has already said that his health is deteriorating and some Honourable colleagues have also described the present health condition of CHING Cheong, so I am not going to repeat here. However, I very much hope that Beijing will grant him medical parole. I believe that for one thing, this request complies with the relevant legal requirements; for another, it is also in line with humanitarian considerations. I particularly wish that the relevant authorities can consider this seriously, whereas the SAR Government, and the Chief Executive in particular, should also take the lead in making all efforts to express to the Central Authorities the wishes of CHING Cheong's family and the majority of Hong Kong people, so as to secure the early return of CHING Cheong.

Thank you, President.

**MR RONNY TONG** (in Cantonese): President, the journalist of Singapore's *The Straits Times*, CHING Cheong, was convicted of espionage charges by the Beijing No. 2 Intermediate People's Court on 31 August this year and sentenced to five years' imprisonment. Upon appeal, the Beijing Higher People's Court upheld the verdict on 24 November. President, it is most regrettable to see a Hong Kong resident who has been a patriot for the greater part of his life come to this pass.

What is even more regrettable is that we could not see any fair and open trial for CHING Cheong. President, the basic principle of the rule of law is that justice should be seen to be done. In this regard, be it the very brief trial behind closed doors or the contents of the judgement delivered by mainland Courts, the

principle of justice being done was violated. It is disappointing indeed. In particular, the judgement is characterized by flawed logic and feeble evidence. Even an ordinary member of the public who has absolutely no knowledge of law will find it slipshod, full of doubts and very unconvincing.

President, I want to cite some examples here. It is pointed out in the judgement that the only concrete evidence for the espionage charges against CHING Cheong was that XUE Hong-yi of Taiwan's Foundation of International and Cross-Strait Studies (the Foundation) asked CHING Cheong to provide photographs of the naval fleet of the People's Liberation Army (PLA) that visited Hong Kong. The naval fleet of the PLA visiting Hong Kong has always been a highly transparent event. It was even partially open to the public and the media for taking photographs. If even these photographs are considered state secrets, does it mean that many Hong Kong people are in possession of state secrets in their photo albums at home?

The judgement also pointed out that CHING Cheong had engaged in espionage intentionally and he has saved in his computer data concerning state secrets in a document file with the file name of Tw, the abbreviation for Taiwan, and, he offered to ask someone to take the notebook computer from Hong Kong to the Mainland to assist in the investigation. If CHING Cheong really intentionally engaged in espionage, why would he offer to surrender such so-called criminal evidence? Would a spy save confidential data in a file with a name whose meaning is obvious to all?

Moreover, the Foundation was determined as an espionage organization. However, the only evidence offered by the prosecution was a confirmation letter submitted by the Beijing National Security Bureau. As regards what sort of espionage activities the Foundation specifically involved, this was not mentioned in any way in the judgement. Members of the Foundation were allowed to engage in activities freely on the Mainland and Prof XU Chongde, a well-known mainland professor on law, has also led a delegation to visit the Foundation. If the Foundation is really an espionage organization as claimed by the judgement, how can it have such intimate exchanges with mainland scholars so easily?

The judgement also mentioned that a person-in-charge of the Foundation has joined Taiwan's National Security Council, therefore, it concludes that the Foundation is an espionage organization. Such logic is really absurd and

ludicrous. If such logic can hold water, then, as Anthony CHEUNG, the former Vice-chairman of the Democratic Party, has joined the Executive Council, does it mean that the Democratic Party has become a government organization? Even Mr LAU Kong-wah, who enjoys the status of being the present Vice-chairman of the DAB, was also a member of the United Democrats of Hong Kong, from which the Democratic Party has evolved. According to this logic, does it mean that the Democratic Party is an affiliated organization of the DAB?

The judgement even pointed out that CHING Cheong was entrusted by the Foundation to buy state secrets from LU Jianhua and WANG Ying. According to the judgement, CHING Cheong was paying WONG Ying a fee of S\$300 per article but it was not disclosed how much LU Jianhua had received. If S\$300 (that is, about HK\$1,500) can already buy state secrets, then, to put it in a vulgar way, it seems that our state secret is really too cheap.

In fact, there are numerous examples of similar doubts in the judgement. Under the two-tier trial system of the judicial system in the Mainland, the judgement of the Beijing Higher People's Court is final. Now, the only feasible way to secure the early release of CHING Cheong so that he can return to Hong Kong is to apply for medical parole and his family has also expressed such a wish.

President, under Article 214 of the Criminal Procedure Law of the People's Republic of China concerning the provision on the temporary service of sentence outside prison, if a criminal is seriously ill, if he does not injure himself or make himself disabled, and if he does not constitute any danger to society, he may be released on parole for medical treatment.

According to CHING Cheong's wife, Mary LAU, CHING Cheong was suffering from abdominal pain and insomnia in prison, and he also had illnesses such as hypertension, arrhythmia and fatty liver. He had lost a lot of weight but could not get appropriate treatment in prison. If this situation continues, CHING Cheong's health condition is really a cause for concern.

In the past, a number of people involved in the pro-democracy movement, spies and offenders who committed the offence of the theft of state secrets were given prison sentences. After serving the sentence for a period of time, they were allowed to apply for medical parole even though they were not seriously ill.

CHING Cheong has already been detained for about 20 months since April last year, when the imprisonment commenced. He did not just lose his personal freedom but was also subjected to interrogations and investigations by the National Security Bureau and his health is deteriorating. Most importantly, we believe that even if CHING Cheong is guilty, from all viewpoints, CHING Cheong is qualified to apply for medical parole.

Therefore, President, I hereby implore the Government to make every effort to assist in bringing about the early release of CHING Cheong on medical parole, so that he can return to Hong Kong for family reunion early. I believe it is not just the wish of a number of Honourable colleagues in the Legislative Council but also that of the majority of Hong Kong people.

I so submit. Thank you, President.

**MR CHEUNG MAN-KWONG** (in Cantonese): President, CHING Cheong has been a patriot throughout his life, however, being patriotic has become a crime, and even the serious crime of espionage. This is the greatest humiliation of all for a patriot and attests to the tragedy of unrequited love portrayed by the writer BAI Hua, "I love my country, but does my country love me?" This is a heartbreaking but also chilling story. The State is saying that "CHING Cheong has been a spy and disclosed state secrets". However, since this is a trial behind closed doors, no one knows what the motives are. Moreover, where did the so-called evidence on espionage come from? It came from CHING Cheong's own notebook computer, which he had asked, of his own accord, to be taken to the Mainland after his arrest, thus providing, of his own accord, what is called unabridged evidence and surrendering himself as a spy. In this world, how possibly can there be such an honest and gentlemanly spy who even surrendered his own computer, offered evidence against himself and incriminated himself? Simply judging from such faithfulness and frankness, how possibly could he have betrayed his country for \$300,000? How can this convince Hong Kong people that CHING Cheong is really a spy?

The CHING Cheong case has exposed the backwardness of the rule of law in China. The first trial was a black-box operation, however, one-sided allegations against CHING Cheong appeared on the Internet and CHING Cheong was not allowed to conduct his own defence in open Court. The second trial did not address the queries of the public concerning the first trial by giving any



response or considering them. It spent only 20 minutes before the judgement was read out accordingly and the original verdict was then upheld. As CHING Cheong's family said, the play script, and even the ending, had been written in advance. In fact, the CHING Cheong case is yet another tragedy for the patriots in China and a black-box trial that has again injure the hearts of the Chinese people. May I ask how possibly can such a standard of the rule of the law win the trust of the people, serve the causes of reform and opening and reunification with Taiwan, set an example for Taiwan and contribute towards the peaceful rise of China?

In the course of CHING Cheong's trial, what struck me most is not just the backwardness of the rule of law in China but also the resignation of the Chinese people and their fear for power. Each time when CHING Cheong's family went around crying for help, each time when public opinions spoke in support of this righteous cause, each time when the public rallied to make peaceful petitions and each time when various sectors in society issued joint statements, there would always be some kind-hearted and well-intentioned friends who reminded us that we should not adopt a high profile as that would only do harm to CHING Cheong. However, the result of 20 months of staying low is that in the first trial, he was found to be a spy; in the second trial, he was also found to be a spy. The view that one should not adopt a high profile was but well-intentioned wishful thinking. If we dare not even point out the injustice done to him, if we are afraid of saying something in justice for him, this is tantamount to aiding and abetting tyranny. Why does a country strike such fear into its people's hearts? Why are its Courts of law like a shady political apparatus and the public can only bear its slings and arrows meekly but cannot clamour against the injustice done to them? This country, in which exercising even the feudal right to redress a wrong is considered high profile, is devoid of its modern Judges and the rule of law, as well as the ancient Yamen (official court of law in ancient China) and Judge PAO. What else in it is worthy of its people's love? This is why CHING Cheong cannot resign to this state of affairs no matter how long he stays in prison and why the indignation of Hong Kong people cannot be allayed.

Today, I choose to show disdain for the verdict given by the State and I choose to show disdain for the conviction of espionage charges by the Court and I want to speak out against the injustice endured by CHING Cheong. Even though the law Courts of the State have judged him a spy, in the legislature of the SAR, I still want to throw doubts on the espionage charges brought against

CHING Cheong. I doubt the allegation that he disclosed state secrets; I doubt the sentence of five years' imprisonment; I doubt the espionage reward of \$300,000 and I doubt such groundless charges — because I cannot see any strong evidence, because I did not see CHING Cheong defending himself openly, because I believe in the integrity of CHING Cheong and because I know how the fidelity of a patriot is like. However, I also know that I cannot change China's rule of man and the verdict. I can only make the most humble cry and enlist assistance for CHING Cheong as far as I can.

I have asked Members to sign a joint petition calling for a fair trial for CHING Cheong and secured the support of 35 Members; I have also sought Members' signatures again in an attempt to seek medical parole for CHING Cheong and secured the support of 45 Members, that is, three quarters of all Honourable colleagues in the Legislative Council. I thank them for their sincerity and friendliness from the bottom of my heart. Members who signed the joint petition come from various political parties and the process of signing the joint petition was smooth. This shows that CHING Cheong has profound support from the public and signing the joint petition to win CHING Cheong's freedom is also the public's wish. Whether the joint petition appears to be a high-profile, low-profile or medium-profile move, it is ultimately the mainstream opinion in the Legislative Council and it reflects the most sincere and humanitarian voices and wishes in society. I hope very much that the Chief Executive can pass on this letter and I also hope very much that the Chief Executive can say something in fairness for CHING Cheong. I hope even more dearly that CHING Cheong can return to Hong Kong on medical parole before the winter solstice. In the final analysis, CHING Cheong is really suffering from serious illnesses and the lengthy jail term would only further aggravate his condition. I implore the State to allow CHING Cheong to come back to Hong Kong on humanitarian grounds, so as to untie this legal and political deadlock.

Finally, I wish to send my warmest regards to CHING Cheong and his family. Although I am a Member of the Legislative Council, I still feel somewhat ashamed and sorry because I cannot say more and do something more to help. However, down in my heart, I am always with you and CHING Cheong, who is in prison, and I hope he can be back on the winter solstice.

**DR KWOK KA-KI** (in Cantonese): Madam President, I do not know CHING Cheong and apart from a report about him, the only thing I know about him is an

article on an interview with his brothers and sisters that I read recently. They said that they also did not know CHING Cheong very well before reading the articles written by him over the years. According to that article on the interview, his younger brothers and sisters wept after reading his articles, saying that they were unaware that their brother was such a patriot. All along, their impression of their brother was that he was a rather silly person. In those days, university graduates had many ways to climb up the social ladder, either by working as a bureaucrat or doing business, any way, there were far more channels to earn more money. Regarding the alleged gain of \$300,000 for espionage, I believe that the monthly salaries of many of his alumni must be more than that. Can we believe that a person who has been patriotic and loyal to the country over the years would do such a thing? Of course, there is always a very strong ground, namely, that we should never doubt the judicial organ. Given this, we have to ask what sort of judicial organ that is. Just now, Mr Ronny TONG, as a barrister, has pointed out many unconvincing arguments.

I believe that our country is a powerful one, at least in terms of its economy, and our foreign exchange reserve ranks number three in the world. Our productivity is very high and in the future, we may be a major economic power in Asia and even in the world. However, if we look at the development of the legal system and politics in our country, we as Chinese will feel somewhat ashamed. In Hong Kong, we can see a lot of people who have suddenly turned patriotic. Their aim is perhaps just to obtain economic benefits and there is in fact no patriotic sentiment in these people. Their intention is perhaps just to do business and obtain benefits in business. However, these people are heavily rewarded: They become Deputies of the National People's Congress (NPC) or committee members of the Chinese People's Political Consultative Conference (CPPCC), or are given Bauhinia medals. However, CHING Cheong will not get anything. He will not have the title of committee members of the CPPCC; he will not become a Deputy of the NPC; he will not be given any Bauhinia medal; he will not get rich; and he will have nothing at all. The only thing that he has is his experience, that is, his experience of being called an agent, a spy and a taste of prison life.

When we look at the CHING Cheong incident, it conjures up a great deal of lament. If he has really been an agent or a spy through and through, perhaps we may feel a certain way. However, this incident happened to someone who has been serving the country continuously ever since his graduation. He has

given up well-paid jobs and a lot of other opportunities to work as a reporter and a journalist for a meagre income. If he were to work as a spy, he would have been better paid. For money, he needs not work in such a trade at all.

At this stage, whatever we say is in fact useless because in fact, we all know that the second trial is final. Some people may say that CHING Cheong was too headstrong. It is reported that had he been willing to admit to wrongdoings, do some self-reflection and sign a statement of repentance, he would have returned to Hong Kong already. I believe it is this integrity of his that we admire. He did not think that he was at fault, therefore, up to now, he still insists that he is not a spy. Perhaps it is because he did not sign any statement of repentance that he is not granted medical parole to return to Hong Kong. His actions inspire even greater admiration in us.

Now, this motion of the Legislative Council or this request that the Legislative Council is making to the Government is also very humble. We only hope that through feasible channels, the SAR Government can assist CHING Cheong in getting medical parole. Be it from the perspective of the Hong Kong public or from the perspective that he has done a lot for journalism and the country, it is the ultimate responsibility of the SAR Government to offer him assistance. Therefore, I hope that when the Secretary speaks later, he would tell us some of the follow-up actions taken by the Government and even give us some good news and inform us that progress is being made in this matter.

I believe the effects of the CHING Cheong case are very far-reaching. Anyone who still have some sentiments for our country or Motherland, or anyone who still wants to see our country fare well instead of wanting to obtain interests and benefits from it will in fact know what to do after seeing what befell CHING Cheong, that is, they should abandon their lofty patriotic sentiments and find some practical ways to donate money to officials and serve as consultants. In this way, perhaps they will probably become NPC Deputies or committee members of the CPPCC.

The Government may tell us that the SAR Government in fact does not have the ability or opportunity to discuss such sensitive issues with the Central Authorities at all. However, if even the Government gives up trying, we will be deeply disappointed.

Finally, we only wish to see the early return of CHING Cheong to Hong Kong. I really hope that his health will not deteriorate any further.

Thank you, Madam President.

**DR YEUNG SUM** (in Cantonese): Madam President, it is with a heavy heart that I rise to speak in support of the original motion and the amendment.

I became acquainted with CHING Cheong when I was studying in the University of Hong Kong (HKU) in the 1970s. He was a senior in the university and graduated a year before I did. He lived in the Old Halls whereas I lived in the St John's College. Both of us took part in the student movement at the same time. However, according to the differentiation in those days, CHING Cheong was considered to be someone belonging to the so-called "patriotic faction", that is, people who were patriotic and it is beyond doubt that he has loyalty and pure sentiments. Basically, he has all along been a leftist since his formative years and not someone who changed tack half-way and became a patriot. Recently, a prominent figure in the political field has passed away. He is someone who became a patriot all of a sudden, however, since he has already passed away, I do not wish to say too much. I am only comparing him to CHING Cheong. CHING Cheong has basically been a leftist since his formative years and he did not change tack half-way and became a patriot due to some special considerations.

He has always been a plain and sincere patriot all his life. His wife said that his personality has influenced his whole life and she is probably right. If a spy could hand his computer to the authorities, thinking that his conscience was clear, that he would definitely receive fair treatment and that he was only leading an honest and simple life, there definitely could not possibly be any article in his computer that could lead to his imprisonment.

After the 1970s, we would meet with each other from time to time and we all know what happened after the 4 June incident. His integrity of character is admirable. If it is said that this person has betrayed his country for monetary gains and become a spy, based on my long acquaintance with him, I definitely will not accept such a claim. Therefore, insofar as the CHING Cheong that I know is concerned, I can say unequivocally that I do not believe CHING Cheong is a spy and I also said so in my last meeting with Mr ZHANG Dejiang because

often times, personality is shaped during one's period of schooling. We grew up together and at that time, he often reminded us to love our Motherland passionately, whereas we said that we had to come out of the ivory tower and be concerned about society. Although our political views are different, in fact, I always have great respect for him and he really is a very plain and sincere patriot.

I wish to recap several things that happened between him and me. Very often, he said to me that in campaigning for democracy, the pro-democracy camp had to argue with strong justifications and must show restraint and self-control and this was very important. However, he also said that it was necessary to give China some time because the wheel of history was always rolling forward and the same things would not repeated themselves all the time. History was like waves that surge forward one after another and what happened in the past or during the Cultural Revolution would not be repeated. If we gave our country some time, with its modernization and opening, it would surely go onto the international arena and take strides towards a better tomorrow. I also hope what he said is true. However, we can see from his conviction that in the course of opening, there is still a lot of cultural virus of the past in our country that has not been cleansed even now.

The second point is that, after the 1 July rally, he took along LU Jianhua, another person convicted in this case, to meet with me. He said that some of his friends were very concerned about the future of Hong Kong and asked why so many people had taken part in the rally and what the prospect of the pro-democracy camp in elections was. At that time, LU Jianhua said, "Mr YEUNG, the impression that I got is that you people are anti-communist and anti-China.". Before I could answer, CHING Cheong had already assumed the role of being my defence counsel and said, "What do you mean by anti-communist and anti-China? Do you know that YEUNG sum is one of the first group of people who had come forward to support China in recovering its sovereignty?" The newspapers at that time, in particular, English-language newspapers, all said that we must be communists or people belonging to the Communist Youth League, or secret members of the Communist Youth League, otherwise, there was no reason that someone who graduated from the HKU would support the resumption of sovereignty over Hong Kong by the Communist Party that practised one-party dictatorship. However, at that time, in talking about sovereignty, we did not mean that it belonged to a certain political party, rather, it is something that belongs to our race, our culture, our land and our people, not to a political party. Several thousand years ago, some political

parties made themselves infamous to posterity but others left a good reputation forever. At that time, he even conducted a defence for me, saying that we were the first group of people who had come forward to support the resumption of sovereignty by China but lobbied for a high degree of autonomy and queried why I was described as anti-communist and anti-China. He said that it was because the leftists had blockaded us that this group of intellectuals, that is, people who supported the resumption of sovereignty by China, had experienced a period of complete freeze in their relationship with China and both sides had no opportunity to make contacts. I found it rather odd. I had no opportunity to open my mouth and he just went on and on. He spoke at length during the meal and of course, no one was eating anything but was listening to him speaking all the time. Despite our hunger, everyone still wanted to listen to him speak because he explained everything very clearly.

Madam President, the third point is that we in the Democratic Party or the United Democrats of Hong Kong would often make overseas visits to talk about the developments in Hong Kong, its human rights situation and how the army clamped down on students in the 4 June incident. He made a point of saying to me, "YEUNG Sum, I highly respect your quest for democracy, but can you stop making overseas visits? This will make people think that you are leveraging on foreign powers to affect the democratic development of our country." Up to now, I still remember this remark made by him. At that time, I said to him, "The main reason that we make overseas visits is that the Sino-British Joint Declaration is an international document and it has been registered in the United Nations, therefore, the international community has the duty to monitor this document to ensure the full implementation of this document. When there is any deviation, it is desirable to arouse the concern of other countries. However, we are not inviting foreign countries to exert influence on our own country, that is, to influence what it is concerned about.". He said that the development of democracy would have to depend on the efforts of the people in Hong Kong and China.

Madam President, I only wish to reiterate that basically, my position is that I hope CHING Cheong will be released as soon as possible because neither the trial nor the treatment are fair. However, since things have come to this pass, I believe all of us should also support this amendment which cites health grounds and demand that the party concerned release CHING Cheong as soon as possible. According to the description in an article written by his elder brother, "Cheong was wearing the woollen sweater and the yellow pants we had brought

him. Since he had lost more than 20 pounds, the clothes no longer fitted him and his haggard look made him look much older than his actual age.". Therefore, on health grounds, I support the amendment and hope that the party concerned will release him on medical parole as early as possible, so that he can be reunited with his family members in Hong Kong before the winter solstice or on his birthday.

Thank you, Madam President.

**MS EMILY LAU** (in Cantonese): President, I speak in support of Mr James TO's motion.

As a former journalist, I feel infinitely indignant that such things have happened to a journalist who is so highly respected in Hong Kong. I believe that this matter has also brought great shame upon our country because for the past several years, our state leaders have given the people in our country and the international community the message that China is now changing, that it respects the rule of law, human rights and that the judicial system is improving all the time.

Let us look at those human rights lawyers and this one here to whom I have respect, Mr Albert HO — he goes on a hunger strike every Wednesday — now, on this case relating to CHIING Cheong, when was he arrested, President? It was on 22 April last year. It was not until August this year that CHING Cheong was prosecuted and he was convicted on 31 August, then he lost his appeal on 24 November. As Mr Howard YOUNG said, all legal channels have been exhausted, therefore, an amendment has to be proposed. Frankly speaking, I do not know what sort of channel he is looking for. I only find this to be a complete mess.

President, if China wants to bring itself on par with the international community, I believe greater efforts have to be made in the rule of law and judicial independence. Now, instead of doing something desirable, it has come out with a case that has sent shockwaves through the international community. As a result, there is no need for people to use any magnifying glass to be able to see how lousy the judicial system in China is and how it is totally devoid of justice and lacking in impartiality.



President, this is an open letter issued by the Ching Cheong Incident Concern Group at the beginning of this month to the National People's Congress Chairman, Mr WU Bangguo, when he visited Hong Kong. What can I find in it? What are they saying to the Chairman? They said that an experienced journalist in Hong Kong, CHING Cheong, had been convicted of espionage charges by a Court in Beijing and his appeal has been rejected. They and various communities in Hong Kong and overseas found it incomprehensible and unconvincing that the appeal court had upheld the verdict, ignoring the fact that there was insufficient evidence to support the conviction. They said that CHING Cheong was a patriot who has adhered to his convictions steadfastly and unrelentingly without the least reservation for several decades and they fully supported the appeal of CHING Cheong. They also said that CHING Cheong has always been thinking about strategies for the country's future and he had no deliberate intention to harm the country in any way. Objectively speaking, he has not come into contact with or given away any state secret papers. They hoped that the state leaders could understand this and under the principle of "one country, two systems", accept the appeals made by CHING Cheong and his family, so that his good reputation could be restored and justice could be done in our country, so that this matter would not send a chill down the spine of patriots throughout the world.

President, this remark of "a chill down the spine" is aptly said. I believe many Hong Kong people have also felt a chill down the spine, particularly journalists and people doing research on mainland affairs. However, President, they have been so chilled that they dared not come forward to say anything. Often, when we held forums and wanted to invite some people to come and discuss the effects of some incidents, nobody was willing to do so and only very few people dared come out to say something. However, can the Central Authorities see all these matters? All these have a negative influence. President, I fully support Mr James TO's motion and hope that the SAR Government and everyone — that is, all who can be considered human beings — can assist by all means.

It is written in the "Song of Righteousness" of WEN Tianxiang, "Virtue is manifested at times of adversity, and the virtuous ones are all painted on the portraits". To CHING Cheong and his family members, if he has been imprisoned for nearly 20 months, I believe things have really come to a dire strait and I believe they also know who their real friends are. However, at this time, we have to appeal to those people who are capable of influencing the

Central Authorities for help. Although I used to be a journalist, I am not well-acquainted with CHING Cheong. However, when we find that people from the left, middle and right of society are speaking in favour of him, I believe it is very hard to believe that he has really committed any crime.

In fact, the SAR Government is certainly in the best position to help CHING Cheong. I read a report on 9 December. President, what does it say? The report says that the brother of CHING Cheong, CHING Hai — when I was working in TVB, CHING Hai was my colleague — they have requested the Beijing People's Intermediate Court through the Beijing Office to release CHING Cheong on medical parole and made an application for him to serve his sentence in Guangdong Province. However, CHING Hai said that the Court on the Mainland said that it had not received any paper, so he was puzzled. He thought that it was the most secure method to do things through the SAR Government or through the Beijing Office, however, now it is unknown as to what has happened. I hope the Secretary can tell us what has happened later on.

The Secretary or the authorities should not always hide behind the pretext of "one country, two systems" and say that we cannot do anything to help him. Even if you people have no query about the way he was dealt with by the Court, you can still tell the Central Authorities that CHING Cheong had very strong support from people from the left, the middle and the right in society of Hong Kong and that the ruling has caused great shockwaves. Can the SAR Government relay this and request the Central Government — as Honourable colleagues have put it — to grant him medical parole on humanitarian grounds? Honourable colleagues have asked if it is possible to allow him to come back to celebrate the winter solstice and his birthday. We hope that this can be done and I believe the SAR Government has an absolutely unshirkable responsibility over this incident.

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

**MS MARGARET NG** (in Cantonese): Deputy President, after the CHING Cheong case came to light, each of us has spoken a lot and one can say that there has been an outpouring of words. Up to this day, we only have one goal. What has driven us to say so much is our sense of justice, and our goal is to see CHING Cheong released at an early date and return to Hong Kong.

Today, I think we should listen to CHING Cheong's own statement as published. After his conviction had been upheld in the second trial, he published a statement through the help of his family and I think it should be put on our record. He said, to this effect, "(1) I have never had any subjective intention to perpetrate any spying act and I have never given any paper that involved state secret to the Foundation on International and Cross-Strait Studies. All the charges pressed against me have in fact been disproved by the evidence offered by the prosecution. (2) I implore the Central Government waive my criminal liability, taking into consideration the special position of Hong Kong and the actual situation that the legislation on Article 23 has not yet been enacted. (3) I am thankful to people in various sectors for their concern and I can tell everyone responsibly that I have not let down people who have shown trust, understanding and support for me." This is what CHING Cheong himself said and we have no reason to doubt these remarks made so clearly by this person.

Deputy President, I am grateful to Ms Emily LAU for giving us a booklet on this incident relating to CHING Cheong and it contains many articles. I think it is very worthwhile for Members to have a look. It is most worthwhile to read the entire judgement on the CHING Cheong case, that is, the entire judgement for the first trial. It is really the most powerful evidence overturning his conviction, as CHING Cheong has said. First, we can see on page one what the alleged facts are. All these facts happened in Hong Kong. As regards on what evidence the Court based its conviction, Members can learn about this therein and then make their own judgement.

We can find the editorial of the *Ming Pao Daily* in the booklet. In it, it is pointed out that the relevant judgement is "very unconvincing" and the editorial of the *Hong Kong Economic Times* also pointed out that the judgement "only casts more doubts and believes that the charge is either wrong or too serious". Mr ONG Yew-kim is an authority on the Chinese legal system and law. After reading the judgement, he published an article in the *Apple Daily*, which says to the effect that "the author believes that the evidence in the CHING Cheong case is inadequate". In addition, we can also see that another scholar in law, Prof Johannes CHAN, has made a number of analyses after reading the judgement and said, to this effect, "The Judgement is full of rash statements with loopholes everywhere. Many aspects are unconvincing, and one simply cannot find sufficient proof to support a conviction. The justice administered by China's judiciary is still remaining at a disheartening level." We can also see that Mr DING Wang — he is a very experienced researcher on issues relating to China

and everyone admires the facts he relates about the legal and political systems in China — he pointed out in an article published in the *Hong Kong Economic Journal* to the effect that "Between last August and now, the Beijing authorities have announced twice the presumption of CHING Cheong's 'crimes', in which there is a considerable discrepancy.". What does it mean by "considerable discrepancy"? He said, again to the effect that ".....it shows that the handling of the case was obviously affected by the 'presumption of guilt'..... in the concept of 'presumption of guilt', the negative impact on CHING Cheong is something that warrants attention.".

I myself have also published several articles and they include long ones, short ones, sentimental ones and analytical ones. I wish to mention one of them, in which I mentioned a forum with the topic "From the CHING Cheong case to the China Information Traps" and I wrote down what I had said then in this article. I want to highlight in particular the issues relating to Article 23 because there were great controversies when this Council dealt with the legislation on Article 23. I said when giving a speech on that occasion, "Be it under the existing Official Secrets Ordinance or the scope of criminal liability as extended by the legislation on Article 23, if the CHING Cheong case was heard in Hong Kong, it is not possible to convict CHING Cheong.". To me, this point is very important because all the acts he was accused of all took place in Hong Kong. "His arrest and conviction have great significance to our understanding of 'one country, two systems'.". What is the significance? That is, even if the legislation on Article 23 cannot be passed in Hong Kong, this will not make any difference. Even though there is no extradition agreement, it is still not possible to protect Hong Kong people. For crimes they committed in Hong Kong — although they are not considered crimes in Hong Kong, according to mainland laws, they have committed crimes, so they can still be found guilty by mainland Courts. To us, this is a very important message and a great challenge to "one country, two systems" as "it will reduce people's confidence in maintaining various freedoms in Hong Kong and also undermine the development in the Mainland in future."

Deputy President, today, this amendment proposed releasing CHING Cheong on medical parole. In my humble opinion as a lawyer, I believe this is wrongful imprisonment and CHING Cheong is a victim of politics. His conviction is unconvincing. However, if we say that the judicial system and rule of law in China still has a long way to go, then I am willing to accept this release on medical parole since this will enable CHING Cheong to come back at an early date. Thank you.

**MR LEE WING-TAT** (in Cantonese): Deputy President, today, I speak in support of Mr James TO's motion.

The verdict handed down by the Court on CHING Cheong this time is very heavy and this has made a lot of people heart-broken because in convicting him, the legal procedure of adducing evidence has not conformed to the stated principle of our country, that gradual standardization and enhancement of transparency should be achieved in promoting the rule of law. A number of colleagues have already given many grounds in rebuttal, so I am not going to repeat them.

Why do I think that this conviction has broken the heart of Hong Kong people? Because Mr CHING Cheong, who was a senior schoolmate of mine as we went to the same secondary school, was known to many people in the so-called patriotic camp. After graduating from secondary school, I went to university and I remember that I also recognized him and knew that he was leading a simple life — to put it in a more vulgar way, he was a "daft". After graduating from the University of Hong Kong (HKU), of all jobs, he chose to work as a reporter for a patriotic newspaper, earning a meagre income. What is he doing that for?

Members must remember that in the late 1970s, certain people would look at people working in a leftist organization in a special light. At that time, after graduating from the HKU, he was willing to take up such job, so one can see that he had his own views, that is, he had visions and hopes for the development of the country. He worked in the *Wen Wei Po* for a long time and was gradually promoted from an ordinary reporter to a higher position. I learned from his book that between the mid-1980s and the late 1980s, he interviewed many state leaders and accompanied them in visiting various countries. Frankly speaking, no ordinary reporter could work in those positions and not just any reporter of the *Wen Wei Po* or *Ta Kung Pao* would be chosen and posted to Beijing, and not just anyone could be picked to accompany the Premier on overseas visits. In other words, in the patriotic camp, he was considered a trustworthy person. Of course, after 1989, he resigned from the *Wen Wei Po* together with Mr LI Zi-song and published his own magazines. He then became an independent journalist.

After learning about the events in the entire process, from CHING Cheong's arrest to his conviction, I can by no means believe that he has

committed those crimes for monetary greed. The CHING Cheong that I know eats very ordinary fare and often wears shorts and sandals when going out. In fact, his habits in life do not quite resemble those so-called middle-class or well-off people in Hong Kong. Given more opportunities to meet him, you will find that his attires and behaviour are somewhat different from ours because he leads an extremely simple life. I often wonder for what he would accept the money. If he really wanted to make money, why did he work for the *Wen Wei Po* after graduating from the HKU in the late 1970s? Why did he toil for some 10 to 20 years for such a meagre salary? Therefore, when some people criticize him in various ways, I hope they will in no circumstances say that he did that for money. I believe no one will believe that.

Deputy President, what we can do today is to appeal to people's conscience and hope that through the Secretary, we can say to Mr TSANG — it is said in the newspapers that the Chief Executive might go to Beijing on a duty visit at Christmas, however, that is only tentative and has not been confirmed yet — that we hope he can discuss this matter with our state leaders.

Many Honourable colleagues have said that everyone on the left, in the middle and on the right says that CHING Cheong is a patriot, someone who insists on his ideals and leads a simple way of life. It is really difficult to understand why it is said that he committed those espionage offences because of his greed for money or article fees? If the Chief Executive can get this matter done, I believe we will be thankful to him. I also hope that through the efforts made by various parties, CHING Cheong can come back early.

In the course of many years, did our country ever make any mistakes when putting people on trial for espionage charges? Yes, it did. There is hardly any need to talk about the Cultural Revolution. It was only a few years ago that the conviction of Mr HUANG Xian on espionage charges in 1981 was described as a mistake. However, Secretary, regrettably, he had been imprisoned by the State for many years. Mr LUO Fu is also a patriotic newspaper publisher and the editor-in-chief of the *Xin Wan Bao*. In the mid-1980s, he was also convicted of espionage charges but he was subsequently released. It can be seen from a lot of evidence that those patriotic newspaper publishers charged with the so-called espionage were often victims of political incidents or political struggles, however, there is no knowing what sort of political struggles they were.

As I have said, I earnestly hope that the Chief Executive can discuss this matter with our state leaders during his duty visit, so that CHING Cheong can be reunited with his family at an early date. This will also be a kind of consolation to his wife Mary, his brothers and sisters, his parents and all of his family members.

Thank you, Deputy President.

**MR ALAN LEONG** (in Cantonese): Deputy President, as we all know, it is no easy feat to secure the agreement of more than 40 Members of this Council in doing something. However, last Wednesday, 45 Members from various political parties and groupings who represent various interests and social strata jointly signed a petition, for submission to President HU Jintao and Premier WEN Jiabao, to request medical parole for Mr CHING Cheong who is still in jail. Of these 45 persons, some did so because they have known Mr CHING for many years and they are willing to pledge their honour to prove that it is absolutely impossible that Mr CHING is a spy who betrayed his country; others because they are very dissatisfied with the procedures by which the mainland authorities dealt with this case and believe that this runs directly counter to the principle of "ruling the country according to law" as advocated by President HU; whereas others are very concerned about the consequences of the case involving Mr CHING and are worried that such a verdict will hinder the normal flow of news and academic exchanges between three territories across the Straits.

Deputy President, no matter what was in the mind of Members who signed the joint letter, the very act of signing the letter together already demonstrates that, based on the justifications for the verdict and the information on the case released by the authorities, it is really not possible to put the mind of the general public in Hong Kong, who always abide by the rule of law, at ease and make them feel satisfied. People who know CHING Cheong or feel indignant with what befell CHING Cheong surely cannot accept his imprisonment for a single day or a single night more. Even people who only have a nodding acquaintance with Mr CHING or who do not know him at all believe that the official version cannot completely answer the doubts surrounding this incident.

In fact, there are several doubts that are particularly obvious. The first is that Mr CHING had been detained for as long as 16 months before a sentence was imposed on him. Is there any legal basis for doing so? Which section and

which subsection of the Criminal Procedure Law of the People's Republic of China on the Mainland permits such extremely protracted detention? During this period of detention, the National Security Bureau once referred the case to the Procuratorate but it was rejected by the Procuratorate. Does it mean that the National Security Bureau in fact did not have sufficient evidence? However, if there was no evidence, why was the case not closed and the defendant released and instead, the detention continued?

Deputy President, the second doubt has to do with the so-called confessional statement released by the Xinhua News Agency. The Xinhua News Agency all along claimed that Mr CHING has given an account of the facts of the case frankly. However, if the Xinhua News Agency's report in August last year is compared with the one in August this year, we will find that the accounts of the facts of the case given by Mr CHING are contradictory. For example, the organization he worked for in carrying out espionage changed from the National Security Bureau to a certain Foundation and his purpose in adopting a pseudonym changed from gathering information to receiving remuneration, whereas the amount of remuneration fell drastically from several million dollars to \$300,000. Are these signs of a forthright confession? Or is it the case that Mr CHING has never admitted his guilt, as Mrs CHING said?

Deputy President, the third doubt has to do with whether the people and organizations involved in this case were involved in espionage. A document circulating on the Internet which is purportedly the judgement pointed out clearly that some members in the Foundation involved in the case had joined the National Security Council in Taiwan and these two persons asked Mr CHING Cheong to provide information and photos, so it can be seen that Mr CHING knew full well the Foundation was involved in espionage. However, these two arguments are based on information that is known to everyone and it contains no secret or anything illegal in it. If the conviction of espionage charges is based solely on these two pieces of information, then this is not simply making groundless accusations, rather, it smacks of the fabrication of charges, something that could be seen during the Cultural Revolution.

The fourth doubt has to do with what the details of the so-called secrets are. On the Mainland, a land brimming with state secrets, many academics and journalists have fallen foul of the law due to reports on financial policies, the movements in the leadership and even instances of local corruption and abuse of



power or calamities. It is rumoured that the papers disclosed by Mr CHING mainly involved such matters as politics in Eastern Europe, China's international relations and cross-strait relations. To a country not engaged in any war, how can such information jeopardize national security and interests, so much so that a heavy sentence of five years of imprisonment must be imposed? This is also a question that has no answer.

Deputy President, the scanty reports by the official media and the mystifying rumours on the Internet are not adequate in convincing the public that a journalist who is a patriot for most of his life will degenerate into a spy. If Mr CHING had made any mistake, judging from the facts of the case provided by the authorities, 20 months of detention would not be a light punishment. If the authorities consider it inappropriate to discuss this case anymore because it has been heard in two trials and concluded, then they should release Mr CHING as soon as possible so that he can return to Hong Kong. We also hope that the SAR Government and people in various sectors can make greater efforts on this matter, so that Mr CHING can be granted medical parole.

With these remarks, Deputy President, I support the original motion and the amendment.

**MR ALBERT CHAN** (in Cantonese): Deputy President, the conviction of CHING Cheong of espionage charges can be considered a tragedy in modern China. This is also a tragedy for patriotic intellectuals in the past two decades, and CHING Cheong is the protagonist in the tragedy on this occasion. That this tragedy has come about is obviously attributable to political persecution and political reasons.

Firstly, on behalf of a Member from the League of Social Democrats (the League), "Long Hair", I would like to extend my heartfelt sympathy to CHING Cheong and his family members. Some time ago, in this Chamber, "Long Hair" was prohibited by the President from coming back today, so he cannot speak here. I personally do not know CHING Cheong and his family members but "Long Hair" knows them better. Therefore, he bade me a number of times that I had to express his open and heartfelt sympathies here and also express the loftiest respect to all the people imprisoned due to their struggle for democracy, human rights and the rule of law.

It is very easy to engage in high-flown talk in this Chamber and when Mr CHEUNG Man-kwong talked about clamouring against injustice, he seemed to be filled with righteous indignation. It is very simple to say such things in this Chamber, however, on the vast Mainland, campaigning for human rights and the rule of law under the highly oppressive rule of the Communist Party of China is not so simple. Therefore, the pressure and hardship they face on the Mainland is a thousand times, tens of thousand times and even millions of times greater than what we encounter in campaigning for democracy in Hong Kong. Therefore, in view of this, we must express our utmost respect to them for being able to make such tremendous sacrifice despite such a situation.

Deputy President, on the conviction of CHING Cheong on espionage charges, many Members have pointed out that the relevant judgement was ridiculous and slipshod. I only want to point out one thing mentioned in the judgement which says that in May 2004, when the crime was being committed, CHING Cheong "knew full well that the Foundation on International and Cross-Strait Studies and several of its members belonged to intelligence organizations.....". Deputy President, I know that in this Chamber, quite a number of Members have come into contact with a number of trust funds of Taiwan before and they have had various degrees of contact with Taiwan's Foundation on International and Cross-Strait Studies. I believe before the judgement was made public, no Member knew that the Foundation was an alleged espionage organization. Members did not have any information on this.

I do not know if the Security Bureau of the Hong Kong Government has any information and intelligence relating to that Foundation or whether any foundation or other organizations with which Hong Kong maintains contact are espionage organizations. If the Government has but it does not provide this sort of information to Members, that means the Government knows full well that Members are in touch with these espionage organizations but does not provide any information. In that event, it is at even greater fault. In other words, the Government knows full well that Members have contact with these espionage organizations but does not inform them, so this is tantamount to making us do something wrong, as a result, it is also possible that we will be dealt with by our great Motherland in the same manner as in the CHING Cheong case. Of course, we may not ask for \$300,000 because we will not do so much work for them. However, in having contact with those organizations, it is possible that a lot of information would be exchanged. Often, various foundations will visit us and

ask about such things as the elections in Hong Kong, matters relating to the Chief Executive and the operation of the Hong Kong Government. We have quite a lot of exchanges on matters in this regard. I believe Members here have attended quite a number of such seminars.

In addition, what I want to point out is that, insofar as Taiwan's Foundation on International and Cross-Strait Studies is concerned, some well-know people, academics and members of the Basic Law Drafting Committee, such as Mr XU Chongde, on the Mainland have also played host to the members of this Foundation, and they have also taken part in the exchange activities of this Foundation. I do not know if this sort of communication that "Master XU" has engaged in only touched on inconsequential matters but never on politics in China. If there has never been any exchange of views on political developments in China, were horse racing and dancing all that was talked about? If any analysis of the political situation in China is involved, does this amount to providing information to those espionage organizations? Why has our "Master XU" remained scot free but CHING Cheong was sentenced to five years in prison?

I believe the heavy sentence imposed on CHING Cheong is obviously a political trial designed to achieve a political end, that is, to clamp down on anyone having any dealings with the CHEN Shui-bian regime by issuing a powerful and oppressive message to them, warning them against establishing any co-operative relationship with organizations related to the government under CHEN Shui-bian.

Deputy President, I also want to talk about today's original motion and amendment. The League and I fully support the original motion, however, we have reservations about the amendment. This is not because we do not want CHING Cheong to be released early but the acceptance of the logic and wording of this amendment would mean that we are indirectly admitting that CHING Cheong is guilty. In view of this logic and viewpoint, the League will abstain from voting on the amendment. Although we also hope that CHING Cheong can be released at an early date, we firmly believe that CHING Cheong is not guilty, still less did he act as a spy for any group or organization. Thank you, Deputy President.

**DEPUTY PRESIDENT** (in Cantonese): Your speaking time is up.

**MR ALBERT HO** (in Cantonese): Deputy President, under the one-party dictatorship, a farce has again been staged in our country these days and in it, someone who has been considered a patriot by people in various sectors for many years has suddenly become a traitor. Even someone who has been regarded by the Government or ruling party on the Mainland as a comrade has suddenly become a spy. Such contradictory and paradoxical matters are really lamentable. Unfortunately, CHING Cheong has become the protagonist in this farce. Under one-party dictatorship, can power replace the truth and distort it?

Another point that makes us feel a great deal of lament is that since the CHING Cheong case has drawn worldwide attention, everyone expects the Courts in Beijing to at least write a judgement that meets the highest professional standards. Whether Members agree with it is another matter, however, it has turned out to be of such a standard. Many Honourable colleagues have said that in its reasoning, the judgement is riddled with flaws and loopholes as well as faulty logic. How can it be convincing? The examples in this regard are innumerable.

Firstly, was it necessary to conduct the entire proceeding as a black-box operation? Does it mean that there was not even any need for the officials to make the judgement public formally after a verdict had been delivered? Regarding the procedures it mentioned, including the confirmation letter, that is, the so-called confirmation of an espionage organization, does a mere piece of official paper suffice in deciding such a complicated matter? I cannot help but ask how many organizations can have confirmation letters issued on them at any time and consequently, a lot of people will become people who have dealings with espionage organizations?

Thirdly, on a lot matters that are common knowledge, we may think that they do not contain any secret in particular, however, in the reasoning of the Court on the Mainland, it can be inferred from the act of handing over information that the person doing so must know that recipient of the information is an espionage organization. One of the examples is the photos of the visit of the People's Liberation Army fleet to Hong Kong. What sort of big secret is that? Even a kid can easily take several photos of it, however, it is alleged that CHING Cheong knew that the organization requesting the photos was an espionage organization. What sort of reasoning is that?

Of course, as some Honourable colleagues have said, the arguments and reasoning in the entire judgement clearly gave people the impression that the decision was made before deductions. This cannot but make people doubt that from the beginning to the end, the principle of presumption of guilt was adopted and the final outcome cannot but make one lament that if one really wants to attribute some crime to a person, there will be no lack of excuses.

Deputy President, personally, I have known CHING Cheong for more than 30 years. In 1971, he and I were both residents of the Old Halls of the University of Hong Kong and we lived there together for three years. His most notable characteristic was that he had aspirations for and idealistic visions of Marxism-Leninism and the China led by the Communist Party at that time. The greatest difference between him and me is that throughout, and of course, it was also the case at that time, I am as critical of Marxism-Leninism and the totalitarian rule of the Communist Party as possible. Although his position was diametrically opposed to me and he frequently debated with me, he was one of the few people whom I consider worthy of respect even though he was diametrically opposed to me. I was not the only person who held such a view. At that time, we, a group of colleagues who supported democracy, freedom and human rights, also considered him an opponent worthy of respect.

He has shown pure and simple love for the country. This is not just confined to his words and actions in that period, rather, in his life in the past three decades, in working for the *Wen Wei Po*, in leaving the editorial column blank to express the heart break he felt over the clamp-down at Tiananmen in 1989, in his determination to leave the *Wen Wei Po* and publish the *Contemporary* magazine, one thing came through and that is, even though his perception of some matters has changed, it only serves to show his genuine wish to strive for a modernized and better China. This only shows that he has an ardent heart.

(THE PRESIDENT resumed the Chair)

Madam President, the way of handling the CHING Cheong case has caused a lot of serious damages. Firstly, despite the slogan of ruling the country in accordance with the law proclaimed by our country over the past couple of decades, the credibility of the legal system in China has been

completely razed and it has suffered the greatest damage. Secondly, there are serious doubts about the international image of our country and serious damage has also been done to it, particularly given that China will soon host the 2008 Olympics. This makes a lot of people doubt if, given such a situation in human rights, our country is the right candidate in hosting this major event? Hong Kong people, in particular, workers in the literary field, are feeling the chill and people on the left are heart-broken. One last point is that CHING Cheong (*the buzzer sounded*).....

**PRESIDENT** (in Cantonese): Your speaking time is up.

**MR ALBERT HO** (in Cantonese): Thank you, Madam President.

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

**MR FREDERICK FUNG** (in Cantonese): President, since April last year, CHING Cheong has been detained and imprisoned by the National Security Bureau on the Mainland. In August this year, he was put on trial by the Beijing Second Intermediate People's Court and accused of gathering intelligence on China for a Taiwan espionage organization in return for several million Hong Kong dollars. CHING Cheong was found guilty of espionage charges and sentenced to five years of imprisonment and one year of deprivation of political right, as well as confiscation of personal property worth RMB 300,000 yuan.

After the verdict on the CHING Cheong case, the CHING Cheong Incident Concern Group and a number of local and international organizations of journalists, as well as some political parties in Hong Kong, all pointed out vigorously that this verdict will have a silencing effect on press freedom because the definitions for spy and state secret are unclear in the criminal law on the Mainland and journalists can fall foul of the law very easily, so press freedom has been dealt a serious blow. Dr ONG Yew-kim also said that legally, the CHING Cheong case has violated the time period for lawful arrest, investigation, prosecution and trial as provided by the Criminal Procedure Law of the People's Republic of China and to detain him longer than the stipulated length has violated the legal personal rights of the person concerned.

After CHING Cheong's family had decided to lodge an appeal, the Beijing Higher People's Court conducted a second trial on 24 November this year and the Court upheld the verdict of the first trial, claiming that the conclusion that CHING Cheong was a spy was correct and the sentence of five years of imprisonment and the fine imposed were appropriate. Therefore, CHING Cheong's appeal was rejected and the sentence of five years of imprisonment was upheld.

After the verdict of the second trial, CHING Cheong issued a statement through his counsel reiterating that he had never acted as a spy, nor had he handed any confidential paper to the Foundation on International Cross-Strait Studies. He refuted the allegations made by the authorities when he spoke in his own defence and implored the Central Government to waive his criminal responsibility in consideration of the "one country, two systems" principle and the fact that legislation on Article 23 of the Basic Law has not been enacted. CHING Cheong thanked people from various sectors in Hong Kong for their concern and he felt that he had not let down people who had shown trust, understanding and support for him. For the family of CHING Cheong, they were shocked by the verdict of the second trial and found it difficult to accept.

President, I am not a member of the legal profession and of course, I am not well-versed in those so-called provisions of law. However, if we simply look at the judgement, I think logically, there are many contradictions in the judgement. More importantly, it cannot produce any fact that can be considered irrefutable as evidence to substantiate that CHING Cheong has really worked as a spy. Therefore, it is difficult to make Hong Kong people, or at least, I believe it is difficult to convince Members of this Council that this is the truth.

I have known CHING Cheong for some time and it was during the period straddling the 4 June incident that I became acquainted with him. Because of the 4 June incident, he had to go everywhere to gather news and I was one of the people interviewed by him. When talking to him, I felt that although he might hold certain views on the 4 June movement at its beginning, no matter if he agreed with the students' course of action or not, from what he expressed in each article on an interview or what he conveyed in the course of an interview, I cannot figure out why he would become a spy 20 years later. Perhaps this is because the impression he has given me was that he was very much a leftist and a patriot. He has impressed me as such a reporter.

Of course, after the 4 June incident, I could also see another kind of reaction from him, that is, he was very resentful of the actions taken by the mainland authorities at that time and I have also met with him for a discussion. However, even though he was resentful, he was still patriotic — I could also not see any intention of his to overthrow the People's Republic of China or topple the Communist Party of China. We also mentioned a lot of issues about the Mainland, including the exercise of governmental power, the problems of the system, the problems relating to the rule of law, and so on, and he also pointed out some problems. In the course of exchange of views, I felt that behind such resentment, he also hoped that progress and reforms could be seen on the Mainland.

Although his attitude had changed, however, as far as I understand him, I still could not observe that kind of change, namely, that he was prepared to take another radical path, that is, that of acting as a spy. Of course, Members can see that after the 4 June incident, CHING Cheong left the *Wen Wei Po* and carried out a lot of studies on the Mainland thereafter and also maintained contact with his acquaintances on the Mainland. Even after he has become a Singapore reporter, he also went to Taiwan, got acquainted with some people there and kept in touch with them.

In fact, after the 4 June incident, in the early 1990s, he also took his mainland friends along — I cannot remember if there was anyone from Taiwan — to meet and communicate with me, so that people on the Mainland could understand the political views of some political figures in Hong Kong. Of course, in this process, I also gained some understanding of the situation on the Mainland. Therefore, these instances made me think that he was doing something for the communication between the Mainland, Hong Kong and Taiwan. I also found that this kind of work was helpful to the relations between the three territories across the Straits and even to the peaceful reunification of China.

Therefore, I think that the conclusion and verdict in this instance is most unfair to the CHING Cheong that I know. In addition, I think that to those who have all along..... I am not going to dwell on whether this is to rule the country according to the law or whether it will have a silencing effect on the media — I think the greatest impact is that this will make intermediaries, who are still trying to facilitate communications between the three territories across the Straits or who hope that the two or three sides can sit down for talks to enhance mutual



understanding, feel very worried because they do not know when and which department is an espionage organization, which department is the National Security Bureau or which one is the public security bureau. People on the Mainland may not know how things are like in Taiwan and people in Taiwan may not know how things are like on the Mainland. However, I think that apart from reporters, the intermediaries who are doing this sort of work can also easily step on a landmine. I think such people are all patriots and many of them may even be leftists. Therefore, I think we, and the Central Government in particular, have to address this.

However, I think that apart from our discussion here, the SAR Government is in the best position to help CHING Cheong. I hope that the SAR Government can really lend him a helping hand, be it in securing medical parole or a pardon for him.

Thank you, President.

**MISS TAM HEUNG-MAN** (in Cantonese): Madam President, I believe that Honourable Members here will not voice any disagreement if Mr CHING Cheong is described as a "patriotic media worker". Although I do not know Mr CHING personally, it can be seen from the joint letter signed by 45 Members of the Legislative Council that regardless of the political background of Members, in pleading for leniency from the state leaders, they all trust his character and patriotism.

Everyone, including Mr CHING's acquaintances in the media trade, his family and friends, holds similar regard for him. He is someone who puts his country in the first place and cares little about fame and fortune. However, this journalist worthy of our respect has ended up in prison in his most beloved Motherland. This is a tragedy indeed.

Yesterday, I was going home late at night and when I passed by the MTR station exit at Prince's Building, I suddenly came across a very familiar face — it was Mr CHING Cheong's wife. Her drooped head and her listless and haggard look moved me so much that I had to greet her, "Mrs CHING, how are you?" I had to call her several times before she turned round to look at me. I introduced myself, then chatted with her and asked, "How is your husband? How is his health in prison?" After we had started talking, she said, "My husband is not in

good health. He is having abdominal pain every day." In fact, Mr CHING has had abdominal pain many times, not just once. Initially, he did not tell his wife because he did not want her worry about him. He just said that it was fine on the whole. However, recently, his abdominal pain has become more serious. Mrs CHING is very worried about her husband's condition because he may have cancer.

As we all know, Mr CHING is still in prison and it is difficult for him to go out to seek medical treatment. Moreover, the standard of health care on the Mainland is inadequate, and the condition of the detention centre is not satisfactory, thus it is very much hoped that Mr CHING can be released on medical parole as soon as possible, so that he can return to Hong Kong to receive medical treatment. Although the chat I had with Mrs CHING lasted as short as 10-odd minutes only, I could tell that Mrs CHING had no confidence in seeking medical parole. She was afraid that her husband might have to stay in prison for a much longer time and was worried about his health, in particular, she feared that he might have cancer. When one knows or is afraid that one has cancer, one will definitely go to a doctor and want to receive the best possible medical care. However, Mr CHING is now in prison and there are no medical facilities available on the Mainland to assist. It is very difficult for him every day, not knowing whether he has cancer. If he is suffering from cancer, he will of course want to receive the best medical treatment, however, Mr CHING is now in prison and his family longs for his return to Hong Kong for medical treatment. Therefore, here, I call on the SAR Government and various sectors in society to lobby the Central Government to allow Mr CHING to be released on medical parole on humanitarian grounds.

In fact, the unfortunate experience of Mr CHING, apart from arousing concerns about press freedom and the rule of law, may also affect our country's efforts to attract talents and investors. A hundred percent patriot like Mr CHING can have the crime of being a spy slapped on him for no apparent reason. If patriots can come to such a pass, how possibly can people, who are working, doing business or making investment on the Mainland, not shudder with fear and be worried about when they might step on a landmine?

In China, efforts are being constantly made to develop the economy and improve the living of its people. However, it is necessary to build a society that respects the freedom of speech, promotes a democratic political system and attaches importance to the rule of law and human rights at the same time,

otherwise, overseas talents or capital will in the final analysis still harbour misgivings about this country and this will be counter-productive to economic development.

Madam President, there are still three weeks to go before we enter 2007. One of my new-year wishes is that Mr CHING can return to Hong Kong and be reunited with his family as soon as possible. I call on the SAR Government once again to assist Mr CHING and his family in all possible ways. I so submit. Thank you, Madam President.

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

**MR MARTIN LEE** (in Cantonese): Madam President, I wish to talk about this issue from the angle of the spirit of the rule of law.

What Hong Kong people cherish the most is our rule of law and our legal system. In the past, I would often say that there was the rule of law in Hong Kong but no democracy; in Taiwan, there was democracy but not the rule of law, whereas there was none of both on the Mainland. In fact, Taiwan has now made some progress. If we look at CHEN Shui-bian and his wife, the authorities in Taiwan said clearly that they had violated the law, however, as the President could not be prosecuted, so only his wife was prosecuted. Now, MA Ying-jeou is also under investigation. Can the Mainland do such things?

Of course, Hong Kong people understand that the legal system on the Mainland is different from that in Hong Kong. However, even if we look at this matter from the angle of the judicial system on the Mainland, has CHING Cheong been given a just verdict? In this Chamber, not a single Member thinks that he has been given a fair judgement. A number of Members have said that the judgement concerned is not convincing in any way and the grounds are not convincing at all. In these circumstances, how can Hong Kong people feel convinced? Apart from this question of being convinced, I believe that those people who are described as "loving our country and Hong Kong", or who profess to love our country and Hong Kong are in fact very scared. If such an incident could happen to CHING Cheong today but they remain silent and do not say something in fairness for CHING Cheong, incidents of the same nature can

also happen to them or other people in future. In the end, who can guarantee that such incidents will not happen to Members of this Council who are described as or who profess to be patriots who love Hong Kong? If even CHING Cheong can be a spy, anyone else can be a spy?

Therefore, the SAR Government has to understand clearly the feelings of Members of this Council and the feelings of those people who profess to love their country and Hong Kong, as well as the feelings of the Hong Kong public. I know that on this matter, the Hong Kong Government must have made a great deal of effort, however, the problem is that the public does not know about it. The public could not see what the Government has done and whether the Chief Executive has said anything. I believe he did, however, the public does not know this and their feeling is that the Government should do more. I do not know what the Government should do, however, if it does not handle this matter properly, it will become a very serious problem.

Of course, some people would say, "He has committed crimes of espionage and was sentenced to only five years' imprisonment. He should be very happy about this because the sentence is very light." However, the problem is that if he is not a spy, if you do not have any good ground to convince Hong Kong people that he is really a spy, then it is wrong to sentence him to one day in prison, still less five years. Therefore, Madam President, on this matter, the position of this Council is very clear. The position of the Democratic Party is that CHING Cheong should be released because even according to the legal system in China, I fail to see that his conviction is reasonable, justified and lawful. Even according to the mainland legal system, we do not find that there is sufficient evidence to convict him. Thank you, Madam President.

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

**DR FERNANDO CHEUNG** (in Cantonese): Earlier on, when the Foreign Minister LI Zhaoxing was asked about the CHING Cheong case, he asked in return who CHING Cheong was. This really arouses mixed feelings. In giving such a reply on such a shocking case that had aroused concern in Hong Kong and overseas, did our Foreign Minister of China intend it as an insult or was he truly ignorant?

Earlier on, in the second trial of the CHING Cheong case, as expected, the appeal was rejected and the original verdict upheld. CHING Cheong was found guilty of espionage charges and sentenced to five years of imprisonment. We are not at all surprised by such a verdict because before the trial of the case started, the play script had already been written. From the first trial, the appeal to the verdict of the second trial, the whole process was entirely undertaken by the public security department and the Judiciary and they wrote the script, directed the show and performed in the play themselves, whereas the party apparatus stayed behind the scene to control the entire situation. The Chinese Government thinks that in using the trappings of a civilized judicial system to package naked political persecution, it can fool the whole world. However, the wrongful convictions of various magnitudes on the vast Mainland each day keep exposing the fact that despite the sweeping reforms to the judicial system, the Chinese judicial system remains corrupt. It turns out that judicial independence, as a global universal value, is non-existent in China. Without a judicial system that can uphold justice, China appears to be powerful, however, it will only end up projecting a specious political image of being apparently powerful but actually weak inside. I believe every Chinese finds this with bitterness and disgust.

In a totalitarian society in which information flow is restricted, any news material can become the so-called "state secret". Journalists may fall into this political pitfall at any time or they will be detained and investigated by the authorities. As the chief China correspondent for Singapore's *The Straits Times*, CHING Cheong had all along been responsible for the gathering and editing of news relating to both sides of the Taiwan Strait. It is understood that in some reports or commentaries, CHING Cheong had offended people of power in the power nexus at the highest level, and consequently, he was dealt a merciless blow by the party concerned. The charge slapped on CHING Cheong is that he has conspired with a suspected Taiwan espionage organization called "Foundation on International and Cross-Strait Studies" and the evidence produced is no more than a confirmation letter issued by the National Security Bureau in which it is stated that the evidence on the collusion between CHING Cheong and the Foundation on International and Cross-Strait Studies is that the two had dealings regarding article fees and articles. However, what sort of state secret was involved in these articles? The National Security Bureau did not state clearly what amounted to state secret, nor did it give any objective definition. As regards this Foundation on International and Cross-Strait Studies which was defined as an espionage organization, the authorities did not state

clearly things like what sort of espionage activities it has been engaged in or how it has collected intelligence in the country. It seems that any normal reporting and editing can become the confidential intelligence that the Procuratorate and the Judiciary in their terms and constitute an excuse for inculping journalists.

In the entire process of the trial of the case, the strongest evidence supporting authorities' allegation was merely a confirmation letter from the National Security Bureau, however, does this confirmation letter mean adequate evidence? The National Security Bureau is not an independent statutory organization at all, it is just an official organization. This confirmation letter is not a conclusion drawn on careful scientific evidence from experts and the authorities also did not make public the so-called evidence in the case. At best, this sort of examination result can only be sort of a one-sided claim from the National Security Bureau. How can this possibly be convincing? Worse still, not only was the National Security Bureau responsible for examination in this case, it also performed all roles in the investigation and the trial. It can be described as a "super investigation agency" that can actually deal with certain citizens in any way it likes, so this really makes people feel a chill down the spine.

The Hong Kong China News Agency reported that the authority upheld the verdict in accordance with the law because "the dignity of the mainland legal system is inviolable and our national interests are of the utmost importance.". However, if "the dignity of the mainland legal system" has to keep in view "national interests", what dignity can the laws possibly have? When we see that the investigation of the CHING Cheong case took more than three months, thus seriously exceeding the statutory length of detention, and when the second trial only took 20 minutes for the case to be dealt with perfunctorily and his family was even not notified in time, how can we claim to the outside world that the Chinese Judiciary is capable of handling political cases such as the CHING Cheong case in a fair and impartial manner?

The tragedy that happened to CHING Cheong is the tragedy that happened to numerous patriotic intellectuals in new China. Recently, we read about all sorts of repressive tactics employed by the Communist Party of China on people in the pro-democracy camp as described in the *The Last Aristocrats* by ZHANG Yihe. It is beyond our imagination that in dealing with an old-time patriot like CHING Cheong, who is all on his own, the Communist Party of China still mobilized the entire state machine to hurl scathing criticisms at him? Why should such a typical tragedy of Chinese intellectuals, which is just like a vicious curse, keep recurring time and again in the past decades?

When a citizen faces the oppression by such a huge state machine and there is not a strict and impartial judicial system to protect him, the power of the individual is quite weak. In the face of the vague allegations made by the Chinese authorities, all of us here may not be able to prove the innocence of CHING Cheong, however, at least, it is certain that under such a judicial system, no one (including Hong Kong under "one country, two systems") can possibly expect to be stay aloof and unaffected.

President, when a country repeatedly takes such unjust actions, it will only make its people extremely and deeply distrustful and a government that cannot win the trust of its people will never have any peace.

With these remarks, President, I support Mr James TO's motion and hope that the SAR Government can help secure the early release of CHING Cheong. Thank you.

**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 call upon Mr James TO to speak on the amendment. You have up to five minutes to speak.

**MR JAMES TO** (in Cantonese): President, throughout, CHING Cheong has maintained his innocence, that he has not betrayed the country in any way, and that he is worthy of everyone's trust and support for him. This is the statement he issued after learning that the verdict was upheld in the second trial. I tell myself that if Honourable colleagues here and I believe that CHING Cheong is innocent, we should demand his release and right the wrong he has suffered. I believe that unless he is willing, otherwise, we may not have the right to only demand that he be released on medical parole because this may indirectly prevent the wrong he suffered from ever being righted, whereas our insistence does not amount just to an insistence on the truth but is also a kind of encouragement to him. However, I know that the thinking and wish of his family are that at least, there can be a voice in the Legislative Council that can achieve some effect. Therefore, on this ground, I will support the amendment.

Mr Marin LEE said that for wrongful imprisonment, one day is too many. A dozen professionals in the United States — many of them are graduates of The Chinese University of Hong Kong and many of them are scholars — wrote a letter to President HU Jintao in October and submitted it through the Ambassador in the United States. They hope that I can read out one of the legal viewpoints. These people include Prof Frankie LEUNG Fook-lun of the Stanford University and Prof MA Tai-loi, Librarian of the East Asia Library in Princeton University. The letter points out that according to the definition in Chinese law, for what is called an espionage offence in law, the defendant must be serving or acting as a spy for another sovereign state before he can be convicted of espionage charges. Therefore, if he is guilty of the charge on this occasion, they are worried that this can mislead people into thinking that the People's Republic of China has formally recognized Taiwan as another sovereign state. According to what they say, it will be easy for some ambitious people who want to split the country to keep publicizing the CHING Cheong case and this will be most unfavourable to the reunification of the country.

In fact, Dr Fernando CHEUNG has also asked why, when our foreign minister was asked about the CHING Cheong case, asked in return who CHING Cheong was. I think this kind of comment in fact amounts to contempt. What the foreign minister had in mind was in fact very simple. That amounts to saying: What do you think CHING Cheong is? Recently Mr LO Tak-shing has passed away. He once lamented that he had hoped to serve the country, however, he knew that the country's policy was that after a person had been exploited, the country could discard him like toilet paper. This is something that he felt deeply.

Recently, I read an article written by a military and intelligence commentator of *Asia Weekly*, Mr PING Ke-fu. Since he is well versed in global military intelligence — as far as I know, he and MA Ding-sheng are both well versed in information in this area — his conclusion is that if we merely look at the judgement of this case, if CHING Cheong could be convicted of espionage charges in this way, then it would be possible to arrest at least over a hundred Chinese spies in the United States or Europe each day. This is because if such normal activities acquiring, news reporting and information gathering can become acts of espionage, in that case, how loose is the espionage charge or the law on the protection of state secrets? Can this situation fall in line with the major global trend and the relevant international human right standards?



**SECRETARY FOR SECURITY** (in Cantonese): Madam President, on behalf of the Government of the Hong Kong Special Administrative Region (SAR), I would like to respond to the motion moved by the Honourable James TO, the amendment proposed by the Honourable Howard YOUNG and the remarks made by other Members.

The SAR Government is deeply concerned about Mr CHING's case. We are also aware of the concerns expressed by many individuals and organizations in Hong Kong over Mr CHING's case, and understand the feelings of Mr CHING's family. In this incident, we have assigned dedicated officers to maintain contact with his family, in order to provide all practicable assistance, such as relaying to the Central Government the requests and appeals of his family and making arrangements for family members to visit Mr CHING on the Mainland. We have also reflected to the Central Government the views expressed over the case by various sectors in Hong Kong, including this Council. Besides, Mr CHING's family and a number of organizations have from time to time expressed their views over the case through various media.

Although the SAR Government is very concerned about the statutory rights of Hong Kong residents, including Mr CHING, who are detained, imprisoned or sentenced on the Mainland, I wish to recapitulate that the prime principle of "one country, two systems" must be respected and complied with when we render assistance to these residents and their families. Under the principle of "one country, two systems", the SAR Government does not interfere with the law enforcement and judicial systems on the Mainland. Neither do the mainland authorities interfere with cases under the jurisdiction of the SAR.

Although the SAR Government will not comment on individual cases, we will definitely convey our wish to the mainland authorities that the cases be dealt with timely and fairly in accordance with the mainland laws. While assistance-seekers may submit their appeals or views through their mainland lawyers, the SAR Government stands ready to provide assistance in relaying their views to the relevant mainland authorities under the established mechanisms.

Now that the mainland Court has handed down a judgement on Mr CHING's case, the SAR Government, acting in observance of the principle of "one country, two systems", is not in a position to comment on the details of the case or the court judgement.

The SAR Government has relayed the appeals of Mr CHING's family to the mainland authorities concerned, including their requests for granting Mr CHING release on medical parole or a transfer to a Guangdong prison to serve the sentence. We have also forwarded to the mainland authorities concerned the letter jointly signed last week by over 40 Members of the Council. The letter pleads for consideration be given to granting medical parole to Mr CHING on humanitarian grounds, so that he can return to Hong Kong to receive medical treatment.

In any case, the SAR Government will continue to maintain contact with Mr CHING's family, keep in touch with the mainland authorities with a view to updating Mr CHING's family with the latest developments, and render all practicable assistance to Mr CHING and his family.

Madam President, I so submit.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the amendment, moved by Mr Howard YOUNG to Mr James TO's motion, be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

**PRESIDENT** (in Cantonese): Mr James TO, you may now reply and you have five minutes 31 seconds.

**MR JAMES TO** (in Cantonese): President, in fact, today, there is a news report today that happens to be very relevant to today's debate. A lawyer called GAO Zhicheng — he is a human rights lawyer on the Mainland — was also charged with inciting subversion. What has he done? The reason is that he had represented students of the Falun Gong movement and conducted defences for them. In fact, when Members look at such a piece of news, will they become lost for words? Of course, to us lawyers, our feeling may be particularly strong because conducting defence for other people may end up being slapped with charges of inciting subversion.

Just now, the Government responded that based on the "one country, two systems" principle, we should not interfere with affairs in the Mainland and the Mainland will also not interfere with affairs in Hong Kong. However, it seems the Central Government has also commented on the judgements of the SAR Government. Not only did it comment on them, it can even let the Standing Committee of the National People's Congress make interpretations and overturn the judgements of the Court of Final Appeal in Hong Kong.

Finally, I think there is one thing that I myself believe in. Mr LI Yi has made an analysis of the true nature of the whole incident and I also believe that this is the true nature of this incident. What is the true nature of this incident? As CHING Cheong is too patriotic and too zealous in collecting views for LU Jianhua, who is a close aide of President HU Jintao, plus he had a lot of views on the Central Government's policies towards Taiwan and Hong Kong, he was innocently drawn into the internal struggles of the Communist Party of China. President, I personally believe that this is the truth behind the whole incident.

Anyway, I hope and wish that CHING Cheong will be released soon, no matter if he is released on medical parole or because he was found not guilty. Or as other colleagues said, it is best if he can be released as soon as possible — perhaps tomorrow but preferably before the Spring Festival at the latest.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That Mr James TO's motion, as amended by Mr Howard YOUNG, be passed.

**PRESIDENT** (in Cantonese): Will those in favour please raise their hands.

(Members raised their hands)

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

(No hands raised)

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

### **NEXT MEETING**

**PRESIDENT** (in Cantonese): I now adjourn the Council until 11.00 am on Wednesday, 20 December 2006.

*Adjourned accordingly at nine minutes to Eight o'clock.*

**Appendix 1**

**REQUEST FOR POST-MEETING AMENDMENT**

**The Secretary for Commerce, Industry and Technology requested the following post-meeting amendment in respect of a supplementary question to Question 3**

**Line 5, fifth paragraph, page 26 of the Confirmed version**

To amend "..... it is necessary to change cables" as "..... it is necessary to change the antenna systems" (Translation)

(Please refer to lines 7 and 8, fourth paragraph, page 2936 of this Translated version)

**Appendix 2****REQUEST FOR POST-MEETING AMENDMENT**

**The Secretary for Health, Welfare and Food requested the following post-meeting amendment in respect of a supplementary question to Question 5**

**Line 4, second paragraph, page 37 of the Confirmed version**

To amend "..... \$18,250." as "..... \$10,825." (Translation)

(Please refer to line 6, second paragraph, page 2951 of this Translated version)